

**PROCEEDINGS OF THE  
ATLANTIC STATES MARINE FISHERIES COMMISSION  
ATLANTIC HERRING MANAGEMENT BOARD**

**The Westin Crystal City  
Arlington, Virginia  
April 30, 2019**

**Approved October 28, 2019**

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1. **Move to approve agenda** by Consent (Page 1).
2. **Move to approve proceedings of February, 2019** by Consent (Page 1).
3. **Move to approve the following options for Addendum II to the Atlantic Herring FMP:**
  - **Option C: GSI30 Trigger Value = 23 under Issue 1: GSI30 trigger values**
  - **Option B: Five Week Initial Closure under Issue 2: Spawning Closure Length**
  - **Option A: Sub-Option 2: 20% or more mature herring under Issue 3: Re-closure Protocol**(Page 5). Motion by Doug Grout; second by David Borden. Motion amended.
4. **Motion to Amend**  
**Move to amend to replace Option B with Option C: Six Week Initial Closure under Issue 2: Spawning Closure Length** (Page 4). Motion by David Pierce; second by Dennis Abbott. Motion carried (Page 8).  
  
**Main Motion as Amended**  
**Move to approve the following options for Addendum II to the Atlantic Herring FMP:**
  - **Option C: GSI30 Trigger Value = 23 under Issue 1: GSI30 trigger values**
  - **Option C: Six Week Initial Closure under Issue 2: Spawning Closure Length**
  - **Option A Sub-Option 2: 20% or more mature herring under Issue 3: Re-closure Protocol**Motion carried (Page 8).
5. **Move that states implement Addendum II no later than August 1, 2019 and move to approve Addendum II as modified today** (Page 8). Motion by Doug Grout; second by Steve Train. Motion carried (Page 9).
6. **Move to approve the 2019 Atlantic Herring FMP Review, state compliance reports, and de minimis status for New York** (Page 17). Motion by Doug Grout; second by Ray Kane. Motion carried (Page 17).
7. **Motion to adjourn** by Consent (Page 18).

Proceedings of the Atlantic Herring Management Board Meeting  
April 2019

**ATTENDANCE**

**Board Members**

Pat Keliher, ME (AA)	David Borden, RI (GA)
Steve Train, ME (GA)	Eric Reid, RI, proxy for Sen. Sosnowski (LA)
Sen. David Miramant, ME (LA)	Justin Davis, CT (AA)
Rep. Jay McCreight, ME, Legislative proxy	Bill Hyatt, CT (GA)
Doug Grout, NH (AA)	Maureen Davidson, NY, proxy for J. Gilmore (AA)
G. Ritchie White, NH (GA)	John McMurray, NY, proxy for Sen. Kaminsky (LA)
Dennis Abbott, NH, proxy for Sen. Watters (LA)	Joe Cimino, NJ (AA)
David Pierce, MA (AA)	Tom Fote, NJ (GA)
Raymond Kane, MA (GA)	Adam Nowalsky, NJ, proxy for Sen. Andrzejczak (LA)
Sarah Ferrara, MA, proxy for Rep. Peake (LA)	Terry Stockwell, proxy for T. Nies, NEFMC
Bob Ballou, RI, proxy for J. McNamee (AA)	Allison Murphy, NMFS

**(AA = Administrative Appointee; GA = Governor Appointee; LA = Legislative Appointee)**

**Ex-Officio Members**

Jeff Kaelin, Advisory Panel Chair	Renee Zobel, Technical Committee Chair
Michael Eastman, Law Enforcement Representative	

**Staff**

Robert Beal	Kirby Rootes-Murdy
Toni Kerns	Jessica Kuesel

**Guests**

Dave Bard, ECS/NOAA	Loren Lustig, PA (GA)
Victoria Brown, MD Watermen	Patrice McCarron, MLA
Peter Burns, NMFS	Mike Millard, USFWS
Don Frei, NOAA OLE	Derek Orner, NMFS
Joseph Gordon, PEW Trusts	Mike Ruccio, NMFS
Dee Lupton, NC DMR	Monica Scheremann, Potomac River Watermen

The Atlantic Herring Management Board of the Atlantic States Marine Fisheries Commission convened in the Jefferson Ballroom of the Westin Crystal City Hotel, Arlington, Virginia; Tuesday, April 30, 2019, and was called to order at 8:30 o'clock a.m. by Chairman Patrick C. Keliher.

#### **CALL TO ORDER**

CHAIRMAN PATRICK C. KELIHER: Good morning everybody. We'll call the Atlantic Herring Management Board to order. My name is Pat Keliher, Chair of the Board. I want to welcome everybody. I noticed my Maine contingent is not here, with the exception of Representative McCreight.

Representative McCreight, if you would like to join us at the table, Senator Miramant will be here. If there are no objections, Representative McCreight knows that she can't speak to issues, but I thought I would invite her up as an opportunity to learn sitting at the table instead of the back of the room. Are there any objections to that? Seeing none; thank you. Here is the Senator, here is my Maine contingent.

#### **APPROVAL OF AGENDA**

CHAIRMAN KELIHER: Item Number 2 is Board Consent regarding Approval of the Agenda. Is there any objection to the agenda, anything that needs to be added under Other Business? Seeing none, the agenda is approved without objection.

#### **APPROVAL OF PROCEEDINGS**

CHAIRMAN KELIHER: Approval of the proceedings from the February, 2019 meeting, did everybody have a chance to Wordsmith the minutes from February, 2019? Are there any additions, any comments on that? Seeing none, we'll approve the proceedings from February, 2019.

#### **PUBLIC COMMENT**

CHAIRMAN KELIHER: Nobody has signed up for Public Comment. Does anybody have any?

Is there anybody from the public even here? Hello! It looks like we have nobody from the public here, so we will skip public comment. If anybody does come in, we'll allow them to potentially speak on issues as we go through the agenda.

#### **CONSIDER ADDENDUM II FOR FINAL APPROVAL**

CHAIRMAN KELIHER: Item Number 4 is Consider Addendum II for Final Approval. We will have a final action on this item. Up first is to Review the Options and Public Comments, so Kirby, if you could go through that please.

#### **REVIEW OPTIONS AND PUBLIC COMMENT**

MR. KIRBY ROOTES-MURDY: As mentioned, I'm going to go through the Draft Addendum II that's for Board review today, and I'll cover the public comment that was offered up on the document. Just an outline, I'll review the statement of the problem, go through an overview of what the options are that are in the Addendum, and then the public comment summary, and take any questions.

Statement of the problem, as you all are aware, the 2018 Stock Assessment showed reduced levels of recruitment of Atlantic herring over the last five years. In response, the Board initiated Draft Addendum II to strengthen the existing spawning protections for Area 1A. The Addendum considers measures that include the GSI30 trigger value that has been in place since Amendment 3, the closure period length and the reclosure protocol. As you are probably all aware by this point, these three issue items are connected to each other. The first being what the GSI30 trigger value is.

This is where the sampling of Atlantic herring helps us determine whether a closure needs to occur, followed by the question of the length of

that closure. Currently we are operating under a four week closure period. The third, which is connected to obviously the previous item, is regarding a reclosure protocol.

While there is a closure that's occurring, moving towards a point where they can open up the fishery again, sampling is happening, and that sampling helps inform whether spawning is continuing, and whether a reclosure is needed. The current framework we've been operating under allows for a reclosure based on the results of those samples.

We went out and did public comment over the last month and a half. Public hearings were held in three jurisdictions, Maine, New Hampshire, Massachusetts, 21 attendees approximately, came and provided comment at those meetings. In terms of written comment, there were a total of 9 that was offered up, 4 from individual stakeholders, and 5 from organizations.

I'll go through the management issues and the alternatives now. As I mentioned, the first issue item is the trigger value. There are four options under the trigger value alternatives. Option A would maintain us at status quo, the current trigger value of 25, which is equivalent to about 25 percent of the population of spawning.

Under this option we have a default closure date of August 28 in eastern Maine, October 4 in western Maine, and October 4 in Massachusetts/New Hampshire area. Option B while a similar trigger value as Option A has data that's updated through 2017, and therefore the default closure dates that I just read off. Those would be changed based on that updated information.

Option C would move to change the trigger value to a value of 23, which corresponds to about 20 percent of the population of spawning. It's a lower level that would trigger a closure based on sample counts. Option D would lower that trigger value even further to

22, which corresponds to about 15 percent of the population spawning.

As you can see on the slide, there are connected default closure dates that are adjusted slightly under each of those. In terms of public comment that was offered, a total of 4 individual were in favor of Option A explicitly. None were explicitly in favor of Option B, 3 were in favor of Option C, and 2 were in favor of Option D.

I want to make clear that when we were collating, pulling together the public comment, we found that we actually missed one, in terms of the document that went out to you all to review. We've updated this table to reflect that. In addition to what we have listed here as people who came, spoke on the record explicitly in favor of a specific option. There were 3 that were in support of a trigger value of 25 at the New Hampshire public hearing, but they were undecided between Options A or Option B. It's important to look at between Option A and B there is a total of 7 people who are in favor of that trigger value. Some additional comments were specific to reducing the trigger for spawning closures in the Gulf of Maine. One individual used a percentage shut down in the eastern closure area. When purse seining they recommended to take a sample, for example a five-gallon bucket, and have spawning closure triggers set at 20 percent, and if you have a 20 percent spawning individuals in the seine, you would dump the catch and contact the State Department of Natural Resources for that closure.

We had additional comments that supported no options for trigger values; they preferred going back to the old system that was in place, using a 20 percent catch tolerance. They believe that spawning closures from 0 to 200 nautical miles is the most effective way to conserve the fish. Those are some of the additional comments we received on this issue item.

The second issue item was regarding the closures length. As mentioned, the default right now or the status quo is four weeks. Option B moves to increase that closure period to five weeks, Option C to six, and Option D to eight weeks. Again, the increase in the closure length is trying to find, basically the best way to cover the spawning season, and ensure that the closure is most effective in helping protect those spawning fish.

In terms of public comment, there were 5 individuals in favor of the status quo, Option A, 2 in favor of moving to a five-week closure, 1 in favor of a six-week closure, and 1 in favor of an eight-week closure. We did receive some comments that were in support of shorter spawning closure periods, and again at the New Hampshire hearing we had 2 individuals who indicated they could support either Option A or B, which makes it a little bit difficult to count those and tally them up.

The last issue item for this Addendum is the reclosure protocol. Currently, as noted, there is the ability to reclose the fishery up to two additional weeks, if samples taken during a spawning closure indicate that a significant number of herring are spawning. Sub-Option 1 would maintain the significant number being 25 percent of more mature herring.

For the reclosure, we're not just looking at female herring; it's also males, so 25 percent or more of mature male or female herring. For Sub-Option 2, it would reduce that level down to 20 percent or more mature herring, and Sub-Option 3 would reduce it even further to 15 percent. Again, the lower you go the more likely you are to trigger a reclosure, potentially.

Option B would move to do away with the reclosure protocol, so there would be no reclosure once a spawning closure has happened. In terms of public comment that was offered on this. There were 9 individuals who indicated their support for Option A, status

quo, and 1 in favor of doing away with the reclosure.

Specifically, in terms of the sub-options, there were 4 in favor of maintaining 25 percent as the significant number, 3 that were in support of moving to 20 percent, and 2 that were in support of moving to 15 percent. Some additional comments that were offered up that didn't pertain to any specific issue item or alternatives, was the need to consider measures that are consistent with the federal FMP, and allow the fishery to utilize optimal yield for this fishery, specifically looking to have shorter spawning closures and more flexibility with the reclosure protocol.

There was opposition to further restrictions on the Area 1A fishery, and recommended postponing action on this Addendum. Additional comments focused on the fact that they think the current sampling of the fishery in Area 1A is not sufficient that there is a need to have quicker closures, as well as longer closure periods.

Additional comments offered up focused on how the midwater trawlers, in their opinion, have a disproportionate impact on the resource, and then others indicated that low recruitment is being driven by other issues in the fishery, including available food sources for larval fish. Lastly, protecting spawning in the Gulf of Maine needs to have reciprocal protection on Georges Bank.

Obviously, these are from a variety of different people. They are not all the same, because some of them are contradictory to each other. But these were the comments we received on this Addendum. With that I'll take any questions, thank you.

#### **ADVISORY PANEL REPORT**

CHAIRMAN KELIHER: Are there any questions for Kirby? This will go quick. Seeing none, why don't we go right into the Advisory Panel Report? Jeff Kaelin, are you ready to go, Jeff?

MR. JEFF KAELIN: Yes sir, thank you. Good morning everybody. I'm Jeff Kaelin with Lunds Fisheries in Cape May, and I have the privilege of being the AP Chair. We had a call on the 16th. Kirby and I worked together to put this summary together, the list of participants on the call, eight Advisors on the call are here.

I can't remember if Ray was on the call or not, Mr. Kane, but I think he was listening in. Anyway, we've broken it up by issue relative to the management program. Issue Number 1, the GSI trigger value, 3 AP members were in favor of maintaining the status quo, Option A, with a 25 percent value. One member indicated the support for Option B, the 25 percent with the updated data, and 1 indicated support for Option C, value 23.

The reason cited in supporting the status quo were numerous, most notably concern that the current spawning program has only been in place for three years, and while spawning samples have been collected from 2005 to 2017, the current version of the program has not been in place long enough to justify adjusting it further.

Additional reasons in support of the status quo included the need to collect more spawning samples over time, and the potential negative impacts to the fishery from extended closures, on top of the already reduced quotas for 2019, actually for the next three years likely. Reasons cited in support of Option C were of course the need to provide greater protection to the herring population when spawning is occurring.

On the closure length, a similar kind of breakdown, 3 AP members were in favor of maintaining the status quo value of four weeks, 1 member indicated support for the five week, Option B, and 1 indicated support for Option C, the six week closure. The reasons cited in favor of status quo, again included the need for additional years of data from the current program, and additional negative impacts on the fishery, in addition to the reduced quotas.

Then reasons cited in support of B and C was that the current closure period length has not been in place long enough to cover the spawning season, and extending the closure length may address this better. Reclosure protocol, 3 AP members indicated status quo support again, 2 members indicated support for Option A, the 20 percent value. The reasons were very similar to those I just outlined in both cases.

Then I'll switch over to the additional comments. This is on the document itself, 1 AP member took issue with the lack of information really, in Draft Addendum II on the 2018 Stock Assessment, specifically what was said about the lack of a stock recruitment relationship, and the limited impact of fishing mortality on the overall population.

Another AP member pointed out the assessment notes that environmental changes could also be affecting herring recruitment, and that AP member noted that the Draft Addendum was lacking in analysis on the impacts to the fishery by the proposed management alternatives, and stated this information is necessary for evaluating the cost of any potential changes today.

This AP member also noted the New England Council will likely be implementing catch limits for 2020 and 2021 that will be based on the new control rule part of Amendment 8 that afford greater protection to herring, and that this should be taken into account when considering expansion of the current spawning program.

Several AP members indicated that they disagree with some recent survey information that shows reduced recruitment in 1A, and those AP members think recruitment in the area is up in recent years, but lower in Areas 2 and 3. Of course Area 2 herring is closed at this time. One AP member noted that the 2018 Stock Assessment doesn't account for data from

the terminal year in 2018, which may be showing an increased trend in recruitment.

Then after the call an additional AP member communicated with Kirby, after being unable to participate on the call, and they supported Option B, the 25 percent value, Issue 1, Option C, the six week closure for Issue 2, and Option A, Sub-Option 2, the 20 percent trigger for Issue 3. That is reclosure I think.

For Issue 2 they indicated another option not listed that would include weekly monitoring of spawning so that the fishery could be closed, with a week buffer on either side of the spawning aggregation. That is not an option that is in the document specifically, so those are our comments, Mr. Chairman. I appreciate the opportunity to provide them to the Board this morning.

CHAIRMAN KELIHER: Thank you, Jeff for that thorough report. Are there any questions to Jeff Kaelin in regards to the Advisory Board? Seeing none, did you have enough coffee this morning?

#### **CONSIDER FINAL APPROVAL OF ADDENDUM II**

CHAIRMAN KELIHER: With no comments, now is the time to consider a final approval of the addendum. Do we have any, Doug Grout?

MR. DOUGLAS E. GROUT: Thank you, Mr. Chair, and I want to thank the PDT and the Advisors. I thank the PDT for putting together a very simple, easy to understand Addendum here. **With that I would like to move the following. I move to approve the following options for Addendum II to the Atlantic Herring FMP.**

**Option C: GSI30 Trigger Value that is equal to 23 under Issue 1, GSI trigger values. Option B: a Five Week Initial Closure under Issue 2, Spawning Closure Length, and Option A: Sub-Option 2, a 20 percent of more mature herring under Issue 3 it would close protocol,** and if I can get a second I'll provide a rationale.

CHAIRMAN KELIHER: I have a second by David Borden. Go ahead with your rationale, Doug.

MR. GROUT: These options provide additional protection to pre-spawning fish, and reduce the probability of catching spawning fish at the beginning of the spawning season. A five-year reclosure duration matches up best with the GSI30 trigger value of 23, as it is longer than the average spawning season in the document. The additional spawning protection will help enhance the opportunity for Atlantic herring stock to rebuild.

I tried to put together an option where we had a slightly more conservative trigger, even though the Technical Committee has told us that we should have a six-week closure with this. I took some of the public comment into consideration that they would probably rather have a shorter closure period, and then have reopening protocol. That is why I tried to put that in with a slightly more conservative reclosing protocol.

CHAIRMAN KELIHER: Thank you for that rationale, Doug. David, did you want to speak to the motion? David Pierce.

DR. DAVID PIERCE: I suspect we can support this motion with one exception, and that would be the length of the initial closure. I say that because of the status of the stocks, and in particular some of the text in the addendum that makes it very clear that we really are being faced with and are faced with, some historical low recruitment levels. Four out of the last five years or so historic low levels of recruitment, and granted there was some uncertainty about the recent year's recruitment.

But, I'm certainly more inclined to be pessimistic about it than to assume that the numbers we're looking at now are probably the correct ones. It has been said that perhaps there is a very weak relationship between stock recruitment and biomass. I suspect, and I'm guided by the fact that with recruitment being

the way it is, and with spawning stock biomass declining that there may actually now be a stock recruitment relationship that will affect us in the long term.

I prefer to be more cautious, and also to be more consistent with the Technical Committee advice. I would say okay, 23 on the trigger Option C that's fine, but Option B, I would make a motion to amend to go from Option B to Option C, relative to the closure length, so it would be a six-week initial closure instead of a five-week.

CHAIRMAN KELIHER: We have a motion to substitute, or amend?

**DR. PIERCE: Just amend; change Option B to Option C, six week initial closure.**

CHAIRMAN KELIHER: Motion to amend Option B to Option C. Dennis Abbott.

MR. DENNIS ABBOTT: I was going to suggest that we divide the question. We could probably do it either way. We could divide the question and vote on Option C the first part of it, and then go on to the second and third parts.

CHAIRMAN KELIHER: I certainly don't have any objections to do that. We don't have a second to the motion.

MR. ABBOTT: But I will second the motion at this time.

CHAIRMAN KELIHER: To complicate it you'll second the motion, thank you very much. Thank you very much, Mr. Abbott from New Hampshire. **We have a motion to amend on the table, moving Option B to Option C, a motion by Dr. Pierce, seconded by Dennis Abbott.** Are there any comments or questions in regard to the motion to amend? Ali.

MS. ALLI MURPHY: I just wanted to take a quick minute to summarize the NMFS comment letter on this Addendum. I certainly understand the

Commission, or the Board's desire to be precautionary with regard to spawning herring. But I would ask that the Board balance this precaution with providing flexibility for the industry, and the opportunity to fully harvest the allocated quotas.

I think with the quotas that are expected this year, we're certainly going to see a closure, or we're likely to see a closure before the spawning closures kick in. But if the fish don't show up in time, or when they're expected, providing some flexibility to the industry to harvest the fish when they're available is preferred for us.

Secondly, looking forward under scenarios where there are higher quotas in future years, lengthier closures would likely limit industries ability to fully harvest the quota. I would urge the Board to support shorter, more targeted closures, and I plan on abstaining from votes on this Addendum.

CHAIRMAN KELIHER: Ray Kane, did you have your hand up?

MR. RAYMOND W. KANE: I get a little confused at these meetings. I support the amended part of this motion. We've got the Technical Committee sitting here saying we need a six week closure, and I think of the Technical Committee at ASMFC like I would think of the SSC, at Council level. I'm going to go ahead and support this.

I mean not only have we got a lobster industry that is concerned, but fish are not political, and we have to protect the predator fish. We have to give them enough forage, and we all know the state of the stock right now. It is my interest that we recover the stock as quickly as possible.

CHAIRMAN KELIHER: David Borden.

MR. DAVID V. BORDEN: A quick question. Has the New England Council taken a position or

outlined a preference under five or six weeks at all? I don't go to Council meetings, so I'm just asking.

CHAIRMAN KELIHER: I don't believe they have, but Terry Stockwell would you want to comment on that please?

MR. TERRY STOCKWELL: Yes thank you David for the question. The Council's Herring Committee received a report on the Addendum from Kirby in March, and there were no comments made at that time. There was some discussion at the recent Mystic meeting. In general the Council supports measures that will strengthen spawning protection, and I'm going to be listening to the conversation to determine how I vote at the end, but nothing specific to the question that you asked.

CHAIRMAN KELIHER: Thank you for that Terry, Steve Train.

MR. STEPHEN TRAIN: I would like to support this amendment, but I'm not sure I'm there yet. On Issue 2, a 25 percent increase in the closure period is what is on the table originally. Now we're going to a 50 percent. That's a lot of close time. We've already got a significant increase. I can see the benefits of it, but I need to be talked into it a little bit more to be able to support this. We're already increasing the closure with the original motion.

CHAIRMAN KELIHER: Dr. Pierce.

DR. PIERCE: I appreciate that point. What I would also like to do is to take the necessary steps to reduce the chances of our actually having to reclose, two week reclosure. That is another reason why I went with the six weeks as opposed to the five weeks. Right now we're at four, another week is five. I think again, considering the nature of the recruitment we're faced with right now, a longer duration of a closure makes sense, and we therefore minimize the chances of our needing a two week reclosure.

I know in my staff we do a good job sampling the fishery with the state of Maine being involved in that of course. It's not an easy task to find the fish, so I would rather have them not having my staff and your staff not having to scramble around to try to find fish, to see if indeed a reclosure is necessary, minimize the chances of our having to reclose, go with the six weeks.

CHAIRMAN KELIHER: Any other comments, Ritchie White.

MR. G. RITCHIE WHITE: I guess I haven't made my mind up either, as Steve. Certainly it is important that the Technical Committee wanted the six weeks. Also important to me is that the Purse Seine Alliance that will probably catch over 90 percent of the herring in 1A this year supports the original motion. Those are the two issues that I have to balance to try to figure out what is a fair solution here, and I haven't done it yet.

CHAIRMAN KELIHER: Well you better hurry up, because we're going to call the question in a minute. Are there any other questions or comments in regarding the motion to amend? Senator Miramant.

SENATOR DAVID MIRAMANT: It seems like some of the purse seine folks thought that there was no need for closure, because you already have the option for the Department, so if they would move as an alliance to the five week or the first motion that is a good sign as well for cooperation. I'm new, just kind of a statement/question.

CHAIRMAN KELIHER: Are there any additional comments, any additional questions? **Seeing none, why don't we take two minutes to caucus? Do we need more time? Okay a roll call vote has been requested, and I'll read the motion to amend into the record. It is move to amend to replace Option B with Option C, Six Week Initial Closure under Issue 2, the**

**Spawning Closure Length.** I'll have Kirby go through the roll call.

MR. ROOTES-MURDY: I'll start with the state of Maine.

MR. TRAIN: No.

MR. ROOTES-MURDY: New Hampshire.

MR. ABBOTT: No.

MR. ROOTES-MURDY: Massachusetts.

MASSACHUSETTS: Yes.

MR. ROOTES-MURDY: Rhode Island.

MR. ERIC REID: Yes.

MR. ROOTES-MURDY: Connecticut.

DR. JUSTIN DAVIS: Yes.

MR. ROOTES-MURDY: New York.

MR. JOHN G. McMURRAY: Yes.

MR. ROOTES-MURDY: New Jersey.

MR. JOE CIMINO: No.

MR. ROOTES-MURDY: New England Fishery Management Council.

MR. STOCKWELL: Abstain.

MR. ROOTES-MURDY: National Marine Fisheries Service.

MS. MURPHY: Abstain.

MR. ROOTES-MURDY: **The motion passes 4 in favor, 3 against, and 2 abstentions.**

CHAIRMAN KELIHER: With that the original motion has been amended, if we can get that on the board. With that the original motion has

been amended to include the Option C, the six week initial closure. Is there any an additional question or comments on the newly amended original motion? Seeing none, do we need time to caucus?

Seeing none, is there any objection to the original motion that has been amended? We do have opposition, so I am going to call the question. **Well, let me read the new motion into the record. Move to approve the following options for Addendum II to the Atlantic Herring FMP: Option C, the GSI30 Trigger Value = 23 under Issue 1, GSI30 trigger values. Option C, Six Week Initial Closure under Issue 2, Spawning Closure Length.**

**Option A, Sub-Option 2, 20 percent or more mature herring under Issue 3, the reclosure protocol. I'm going to call the question. All in favor of the newly amended original motion please signify by raising your hand. All opposed abstentions or null votes, 1 abstention. The motion passes 6 to 1 to 1.** Okay thank you very much. That is the final approval of Addendum II, no excuse me, we have a couple more motions, I'm sorry. Doug.

MR. GROUT: I believe we have to have an implementation date and then I don't know which order I should do this. **My motion is to move the states implement Addendum II no later than August 1, 2019, and I'm also moving to approve Addendum II as modified today.**

CHAIRMAN KELIHER: We have a motion on the table, do I have a second? Mr. Train, seconded by Steve Train, is there any comments, questions on the motion? Ray Kane.

MR. KANE: A question of the maker. I thought at our AP meeting the season was going to start July 15, 2019. Why couldn't we use that as a date as opposed to August 1, 2019?

MR. GROUT: Well, my thought was the spawning closures typically don't start until August, and that would give the states sufficient

enough time to go through their regulatory process to get this in place.

MR. KANE: Thank you.

CHAIRMAN KELIHER: Are there any additional comments or questions? Seeing none, I'll read the motion into the record. **Move that states implement Addendum II no later than August 1, 2019, and move to approve Addendum II as modified today. The motion was by Mr. Grout, and seconded by Mr. Train.** Is there any objection to the motion on the board? We have objection. There is final action, so we'll have a roll call vote, Kirby.

MR. ROOTES-MURDY: We'll go through this fairly quickly. Maine.

MR. TRAIN: Yes.

MR. ROOTES-MURDY: New Hampshire.

MR. GROUT: Yes.

MR. ROOTES-MURDY: Rhode Island.

MR. REID: Yes.

MR. ROOTES-MURDY: Connecticut.

DR. DAVIS: Yes.

MR. ROOTES-MURDY: New York, oh we missed a state, sorry. Massachusetts.

MR. KANE: Yes.

MR. ROOTES-MURDY: New York.

MR. McMURRAY: Yes.

MR. ROOTES-MURDY: New Jersey.

MR. CIMINO: No.

MR. ROOTES-MURDY: New England Fishery Management Council.

MR. STOCKWELL: Yes.

MR. ROOTES-MURDY: National Marine Fisheries Service.

MS. MURPHY: Abstain.

MR. ROOTES-MURDY: **Motion passes 7 in favor, 1 against, 1 abstention.**

CHAIRMAN KELIHER: **That concludes the final action in regards to Addendum II.**

#### **UPDATE ON THE 2020 AND 2021 FISHERY SPECIFICATIONS**

CHAIRMAN KELIHER: Moving right along on the agenda, we'll go to Item Number 5, an Update on the 2020 and 2021 Fishery Specifications, Kirby.

MR. ROOTES-MURDY: I'll try to go through this quickly, but not too fast, sorry. As you all know, we have 2019 specifications that were set at the February meeting earlier this year. The New England Fishery Management Council met earlier this month to consider Framework 6, which outlines specifications for the 2020 through 2021 fishing season.

Framework 6 was developed to set those specifications based on new information from the 2018 Benchmark Assessment. Because the Benchmark Assessment adjusts what the overfishing reference points are for Atlantic herring, it required a framework, and in turn the document outlines alternatives to consider setting those specifications.

The Council agreed to include two overfishing definitions for the 2020 specifications. The first is a no action, which would maintain the current overfishing definition, and the second would update it to be more consistent with the 2018 assessment results. On the screen you can see an Alternative 1, which is no action, Alternative 2, which is an original calculation, and then Alternative 2 updated. Alternative 1 is straightforward; it's no action, which is the case

where you would rollover 2019 specifications as implemented through the NOAA Fisheries in-season adjustment.

Alternative 2 original, this alternative was recommended by the Scientific and Statistical Committee of the Council back in October, based on the proposed Amendment 8 Control Rule. Alternative 2 updated, is consistent with the proposed Amendment 8 Control Rule that was updated by the Herring Plan Development Team, to include more accurate catch data for 2018.

In terms of the other items that are considered as part of the framework, there is a management uncertainty buffer. Before the U.S. catches are set, the ABC is reduced to account for the potential harvest in the New Brunswick, Canada weir fishery, and other potential sources. In recent years the Council has subtracted 6,200 metric tons as a management uncertainty buffer for Framework 6.

The Council will consider three alternatives based on updated 3 year, 5 year, and 10 year averages of the New Brunswick weir catch. These averages total to about 5,888 metric tons, 3,992 metric tons, and 4,560 metric tons respectively. The Council also agreed that 1,000 metric tons of that management uncertainty buffer, could continue to roll over into the Area 1A catch limit on October 1, if that New Brunswick weir fishery has not landed a majority of that buffer up to that point.

Regarding border transfers, the framework includes two alternatives for border transfers of U.S. caught fish that is shipped to Canada via carrier vessels, and used for human consumption. The alternatives are 0 metric tons, and 250 metric tons. While the two options will be analyzed on their own, the Council will be able to select a number anywhere between 0 and 250 metric tons when it takes final action in June.

In terms of the U.S. at-sea processing, the Council moved to set that at 0 when allocated the supplies to U.S. vessels that want to process herring at sea, but don't meet the vessel size limit. In terms of the sub-ACL proportions, those were also maintained, so specific to Area 1A that remains at 28.9 percent.

In terms of the seasonal sub-ACLs, for Area 1A that remains 0 for January through May, and then 100 percent from June through December. Regarding RSA, the Council voted to maintain the RSA at 3 percent of the sub-ACL for each of the management areas for 2020 and 2021. The 2019 RSA value was set at 3 percent through the National Marine Fisheries Service in-season adjustment.

Then in terms of the fixed gear set-aside, the Council voted to set that at a level that's equivalent to the same proportional reduction from 2019 to 2020, as a total fishery reduction. The set-aside applies to the fixed gear fishermen west of Cutler, Maine, and is removed from the Area 1A sub-ACL, and it's returned to the sub-ACL if not used by November 1st. Last, I've included in here what the catch caps are by each of the gear types and areas for 2020. With that in terms of next steps, the New England Plan development Team, the AP, and the New England Management Council's Herring Committee will meet in May, and the Council is expected to take final action on Framework 6 in June. With that I'll take any questions.

CHAIRMAN KELIHER: I've got Terry Stockwell and then David Borden.

MR. STOCKWELL: Just a slight edit to the border transfer bullet. It's a range between 0 and 250, not one or the other.

CHAIRMAN KELIHER: Thanks for that clarification, Terry. David.

MR. BORDEN: Kirby, how close are we coming to the bycatch limits? In other words, if you go

back two slides you have what the allocation is. If you use the prior year bycatch as an indicator, how close are we to those numbers? If this takes too long, you can answer it after the meeting.

MR. ROOTES-MURDY: Yes, I don't know off the top of my head, but I can look it up and get back to you.

CHAIRMAN KELIHER: David, too many Davids?

DR. PIERCE: Kirby, I think you mentioned that 6,000 metric tons is pretty much the management uncertainty that accounts for the New Brunswick weir catch. Do we have an update as to what the New Brunswick weir catch was recently? Was it greater than 6,000? There is a number, but I can't recall what it is.

My colleague here mentions 11,500, so we've gone way over the 6,000. I just can't recall, but I can turn to the other members of the New England Council to help me with this. What is the consequence of our going over the 6,000, in terms of an impact on the amount of herring that is available for Massachusetts, Maine, New Hampshire fishermen, and of course New Jersey?

MR. ROOTES-MURDY: For the first question I don't know the exact value. On the second I would have to look at up as well.

CHAIRMAN KELIHER: That's a really good question, David on your second part, because it was always my understanding that that overage would not penalize the jurisdictions here, where they're coming off the top. But that has become less clear to me, and I'm going to look to Terry to see if he can create some clarity around that issue.

MR. STOCKWELL: I might have to phone a friend.

CHAIRMAN KELIHER: Mr. Grout.

MR. GROUT: Can I be your friend? It is my understanding from the discussion at the Herring Committee meeting that what that does is there isn't a payback from that at all. But what that does is that means the catch is higher than we anticipated, so when they put that into the stock assessment, or in any projections that takes into effect, and may lower the overall quota in future years.

CHAIRMAN KELIHER: There is no objection by Mr. Stockwell, so I think he must have thought you were his friend on that one, Doug, so very good.

MR. STOCKWELL: Very friendly here. I mean there is no payback for the Canadian coverage currently in our FMP. As you all know, the weir fishery is highly variable.

CHAIRMAN KELIHER: Any additional questions in regards to this topic? Toni.

MS. TONI KERNS: I don't have a question, but I can tell you that the midwater trawl, southern New England, Mid-Atlantic bycatch caps have been reached in total, I think the past two years. I'm not sure about the rest of them.

CHAIRMAN KELIHER: Mr. Kaelin just whispered that in my ear, but not this year so that's a good sign. Are there any additional comments on this topic?

### **PROGRESS UPDATE ON DRAFT ADDENDUM III**

CHAIRMAN KELIHER: Let's move on to the next agenda item, Progress Update on the Draft Addendum III.

MR. ROOTES-MURDY: I'll go through just a brief background, give you all as much of an update as there is, and then we have some kind of questions for you to consider, to think about moving forward, and then I'll take any questions you may have. In terms of background, the Board initiated Draft Addendum III at the annual meeting last October. The Addendum was initiated to develop spawning protection in

Area 3. The Board also requested that the New England Council consider herring spawning protection in its 2019 priorities.

The Commission sent a letter to the Council in November. In terms of updates, the Council added herring spawning protection to its 2019 priorities, in that they have hired a consultant to support the development of a Discussion Document that would really be pulling together a lot of the information on what has been done in the past, in terms of monitoring, data collection in Area 3, as well as evaluating what the available information is out there, in terms of research and literature.

They closed the advertisement on, I believe it was April 22, and so I believe they are hoping to bring somebody on in May of this year. In terms of the Addendum itself, there has not been any progress made in drafting it up until this point. We did have a New England Council sub-PDT call that was convened to try to identify some of the challenges, brainstorm a little bit what spawning protection in Area 3 could look like.

We developed at least a couple of questions that we think may help us in furthering this document, by posing it to this Board to consider. As you all are aware, right now we have a program in Area 1A that outlines spawning closures in three discreet places, right. We have eastern Maine, western Maine, and then Massachusetts/New Hampshire.

But we also have information that demonstrates how and where herring are likely spawning throughout the overall region. You can see for a good chunk of Area 3, it is a continuous coverage along Georges Bank, up over to off the coast of Cape Cod. These are important considerations in thinking about how moving forward, spawning protection for Area 3 could and should develop in relation to what is currently in place for Area 1A. First off, one of the significant challenges is that Area 3 is a large area.

There are many unknowns regarding the timing and location of spawning events. There may also be spawning events that are occurring at different times, and in multiple large areas. This is stuff that the group was able to kind of talk through, but we again don't have a lot of great data that we can speak to at this point that demonstrate this.

Partly because current sampling in Area 3 is limited, we don't have a dedicated fishery independent sampling survey at this point. That further creates challenges to understand the dynamic of these temporal and spatial changes in herring spawning over time. The other facet that will create some challenges moving forward that you all are aware of, is that there is likely reduced quotas in future years that will further limit the ability to collect samples from fishery dependent sources.

Those fisheries that are currently operating and they encounter herring, but may not be targeting them directly. To give you a sense of kind of the extent of sampling what's happening or has happened, this slide is pulled from the white paper that was included in meeting materials from October of last year, and the number of herring samples taken from vessels fishing in Georges Bank and Nantucket Shoals from 1998 to 2018.

These samples were obtained by Massachusetts DMF, and as you can see over the last three years, a total of eight trips have been sampled. The figure is taken, as I said, from that white paper, and I think really just demonstrates the limit of how many samples we would be able to evaluate spawning activities in Area 3 right now, based on current data collection.

In terms of the Council's timetable moving forward, as I said they advertised to hire a consultant. They're hoping to bring that person on next month. Then they're looking to develop the discussion document in consultation with the Commission's Technical Committee, and the Council's PDT over this

summer, with the aim of having that Discussion Document presented to the Council for their consideration, and discuss possible next steps at the Council meeting then.

In trying to think through with Council staff what might happen beyond that is really difficult, because it really depends on what the Council decides, how that discussion goes in September. For the Board's consideration, these are some questions that the Sub-group had thought through and thought would be useful for this Board to consider, not necessarily providing feedback today, if you aren't ready for that.

But in trying to guide staff in developing this Addendum, thinking back to the goal of that Board motion from October: Is there an interest in trying to have more discreet spawning closures like we have in Area 1A, or is the move to try to do a much larger, broad spawning closure? Examples would be for discreet closures, you know specific places on Georges Bank or Nantucket Shoals or as a large area closure might be the entire Area 3. If there is interest in going down that road, what type of monitoring or protocol would help inform spawning closures for that type of program. Some key questions to think about. I'll leave those up on the board for now. If you have any further questions, please let me know.

CHAIRMAN KELIHER: Thank you, Kirby for that update. These questions that Kirby has posed could get us quickly into the weeds, I think and likely prematurely, because of the work that is ongoing at the Council. I would certainly be open to a few questions and comments though at this time. Dr. Pierce.

DR. PIERCE: We'll see what the Discussion Document reveals; again the Council will make a decision as to who will do that work, whether it's a particular state, or someone else. I'm sure that the state of Maine, the state of Massachusetts, Technical Committee members who have been so immersed in this issue over

the years, and have already given us some great advice regarding closures in Area 1A.

I suspect that they'll be very helpful in developing some response to Number 2, the type of monitoring and protocol that would inform spawning closures. I know that my staff and I think your staff, Pat, have already weighed in, in previous discussions about this. I suspect that it will blossom, and we'll see before the fall, I hope, the results of that consultants work.

Then we'll be in a position to have some further discussion about the way we wish to go, maybe at our meeting later on this year, in preparation I would hope, for some action to be taken by ASMFC, to deal with Georges Bank spawning, Nantucket Shoals spawning in 2020.

CHAIRMAN KELIHER: Any additional questions or comments on this topic? Mr. Grout.

MR. GROUT: Yes, a couple things. I think what we're going to need to use the advice of our Technical and PDT members as to the answer to the first question; do we have enough data to develop discreet closures? If we don't, then clearly something on a broader scale is going to have to be.

I think we're going to have to rely on their scientific advice on that. As far as monitoring, as I remember at the last meeting, one of our previous Executive Committee meetings we had set aside some of the ASMFC plus-up funds just for this type of a project, to try and get better information on Georges Bank spawning closure.

I hope that we can start moving forward with developing a spend plan for that so that we can get this information, to help both the Council and the Commission in their decision in how to move forward with the potential spawning closure. I also think another thing that it will also help, could potentially help inform the white paper that the Council is working on, so that we're working together on this. Hopefully

the Council will move forward in September with a framework to address that.

CHAIRMAN KELIHER: Are you suggesting that the work associated with monitoring could help inform the development of the white paper? I was thinking of it kind of in reverse that the white paper would inform how we may need to move forward with the development of a spend plan, if we have to go in that direction.

MR. GROUT: You know you're probably right, because the white paper is going to be crafted during the summer. Probably some of the data from the monitoring program would not be able to be included. But I think we should be looking at trying to develop a spend plan this year, so that we can get some information on spawning, even before we put in any kind of spawning closure provisions.

CHAIRMAN KELIHER: I've got Terry Stockwell and then Ritchie White.

MR. STOCKWELL: Yes, I just want to underscore the ongoing collaboration between the Technical teams of the Commission and the Council staff. I know they've got a lot of work planned ahead, but I do want to wave a bit of a yellow flag, because come fall the Council's number one priority is going to be getting the Spec package out the door.

If it is group intent to make a very complicated document with a number of discreet spawning closures, and we haven't even, the Council's document refers to Georges Bank; it does not yet include Nantucket Shoals. It's going to languish, so just want to put that out for everyone's future consideration.

CHAIRMAN KELIHER: Ritchie White.

MR. WHITE: I think it's important that we maintain this Addendum in the queue. Clearly the Council is working towards making a decision in September. But if they don't, I think it's important that we look at the option of

doing a temporary addendum that would not close fishing in Area 3.

But not allow the landing of spawned herring, which we clearly have the right to do, for an interim period until the Council does implement spawning protection. We would have the ability to protect spawn in 2020, if the Council is still working on something in a more permanent nature. This would give us the ability to do that and I think it's important for us to have that option.

CHAIRMAN KELIHER: Any additional comments on this topic? I think we probably ought to be putting this as a follow up to our next agenda in August, just to be thinking through some of these questions, and keeping this on the front burner, and be thinking about how we're going to be dealing with this.

But to Doug Grout's point on the spend plan, I think we need to be putting some more thought in regards to those additional data needs, and if some additional work can be done to the sampling for this year. We probably ought to be thinking about maybe a small work group associated with that. Do you have thoughts on that Doug?

MR. GROUT: I was thinking that maybe we should start tasking our Technical Committee and PDT to come up with a monitoring spend plan for this. But if you feel that it would be helpful, or if the Technical Committee feels it would be helpful to have Board input into it, I think a work group would also be a good way to move forward. As long as we, again, include our Technical Committee with this.

CHAIRMAN KELIHER: I'm sensitive a little bit to staff time around this issue. Renee, do you have any thoughts in regards to TC involvement with this? Would you like some additional input from the Board members from the work group?

RENEE ZOBEL: I think they've certainly been looking for input, as you saw the questions up

there. One of the problems we're going to face is the ability to encounter samples is going to be very low. We just can't rely on fishery dependent sources with the low quotas. The problem then becomes how do we get these samples?

I think we've been looking for the Council – that's kind of what a lot of the work has been done in communicating with the Council – yes, we have this money available. We need samples, how are we going to get them? We can't get them from the fishery. I know the state of Maine has actually contracted boats to go out and obtain spawning samples. I know that has not been super successful thus far, but we may be looking at something similar if we want to get samples outside of any lack of a dedicated fisheries independent survey for herring.

CHAIRMAN KELIHER: It would seem to me a small subset of the Board, working with some TC members on a potential work plan would be advisable in this situation. Without putting anybody on the spot, now why don't we work on pulling that group together? If anybody has any interest in doing that please see Kirby or I after the meeting, we'll put together a small group, and set up a call on that issue. Are there any objections to that? Seeing none, great.

#### **REVIEW MANAGEMENT TOOLS USED FOR SETTING THE DAYS OUT MEASURES**

CHAIRMAN KELIHER: Let's move on to Item Number 7, Reviewing Management Tools Used for Setting the Days Out measures.

MR. ROOTES-MURDY: This will be a pretty brief overview of what we've talked about thus far. It's laid out also in your supplemental materials, but basically the 2019 sub-ACL is much lower than previous years. In 2018, we had a sub-ACL of 31,000 metric tons. This year it is down to 3,850 metric tons.

In April the Days Out meeting occurred, and the Board moved to, well prior to that meeting

moved to have bimonthly quota periods for 2019, and they specified what the permit and start of the season would be based on that framework. Given some of the variables that impact this fishery, the quota for 2019 could be harvested as quickly as three weeks.

Today we wanted to just provide a review again of what the Days Out management tools are, and to consider this moving forward for this season and looking towards the 2020 season when there may be a much lower quota than we have right now. Just a reminder, we have the Days Out Program, which currently prohibits landing days, or the possession of herring for only Category A permit holders, Category C limited access permits, and Category D, open access permits, only those designated small mesh bottom trawls can be submit to Days Out measures.

All other permit holders are not subject to Days Out measures, unless stipulated by state regulations. In terms of other tools, there is the weekly landings limit; they limit the amount of herring that a vessel can land on a weekly basis for Category A permit holders, and then last there are restrictions on transfers at sea, and carrier vessels. It restricts who can transfer at sea, and the number of transfers that can occur. States can elect to allow for limited transfers at sea or prohibited transfers at sea. When prohibiting transfers at sea, states can chose to restrict harvester to harvester, harvester to carrier, or both. In terms of next steps, staff and the states will monitor the effectiveness of the current management tools during the first few quota periods this year.

We will plan to provide an update to the Board at their next meeting on how the fishery is being prosecuted. At this point if the Board so chooses, you can have a discussion on the utility of the current Area 1A management tools, given changes in the abundance of Atlantic herring. But again, much of this stuff is a kind of wait and see, depending on how the fishery plays

out this year. With that I'll take any questions if you have any.

CHAIRMAN KELIHER: Are there any questions for Kirby? Seeing none, I do want to point out a shortcoming. The last Days Out meeting there was a motion made that was specific to no carriers, a no carrier provision only applies to Category A vessels, does not apply to Category C vessels. The state of Maine will be moving forward with rules that pertain to our own fishery that will restrict carriers within the fishery, so there is consistency.

Maybe this would be a good topic for the Sub-group, since there is going to be a Sub-group having a conversation about this, maybe bring some thoughts back to our August meeting in regards to a possible Addendum to create some additional tools in the toolbox, so we potentially could affect other permit categories.

Are there any thoughts or concerns in regards to that? Seeing none, any objections to adding that to the task of the work group that will be developed? Seeing none, we'll make sure that comes back to the Board at the August meeting.

**CONSIDER APPROVAL OF THE 2019 FMP  
REVIEW AND STATE COMPLIANCE REPORTS**

CHAIRMAN KELIHER: Item Number 8 is Consider Approval of the 2019 FMP Review. Kirby, can you go through that quickly?

MR. ROOTES-MURDY: I'm going to go through the status of the stock, status of the fishery, days out measures from 2018, and then state compliance. As you all know, the most recent assessment was peer reviewed and found that herring are not overfished, and overfishing is not occurring. But there are concerning trends in recruitment and spawning stock biomass.

The recruitment has been below average for the last five years. In terms of the status of the fishery, as you are aware the Atlantic herring fishery is controlled by an annual catch limit set by the Council, and approved by NOAA. The

stock-wide ACL is distributed among four management areas.

Once 92 percent of the sub-ACL for an area is reached, the respective fishery is closed. The stock-wide fishery closes when 95 percent of the total ACL is projected to be reached. The stock-wide ACL for 2016 to 2018 was 104,000 metric tons. Obviously this year it has been reduced down for Area 1A from a little more than 30,000 metric tons to 3,000 metric tons.

In terms of 2018 measures, this slide lays out what the Days Out program and the Effort Controls that were in place last year. It shows you what the effective date was for the number of landing days for Category A permits, and how those changed over time, as well as what the weekly landing limits were for Category A permits, and the amount that they could transfer to carrier vessels. In terms of the spawning closures, the eastern Maine spawning area closed on the default date of August 28 through September 24 last year, given there was no samples taken from that area. Western Maine there was no spawning area closure last year, and for Massachusetts/New Hampshire spawning area, based on the GSI30 model, the projected date of closure was October 26, and continued through November 22, and that closure was based on 8 samples.

In reviewing state compliance, the Plan Review Team found that all states were in compliance with the FMP. In terms of *de minimis*, states may be eligible for *de minimis* if their combined average over the last three years, in terms of their commercial landings, constitutes less than 1 percent of the coastwide commercial landings for that same three-year period. New York has requested and has met that requirement. I'll take any questions if you have, but the Herring Board approved the 2019 Atlantic herring FMP State Compliance and *de minimis* status for New York.

CHAIRMAN KELIHER: Doug Grout.

MR. GROUT: One slide jumped out at me that surprised me was the slide that says there was no western Maine spawning closure last year. I would like to get that confirmed, because I thought we hit the default days.

MR. ROOTES-MURDY: Yes that was an error on my part. They did close, I would have to double check reviewing the materials, but they did close last year.

CHAIRMAN KELIHER: Bob, can you dock his pay, please?

EXECUTIVE DIRECTOR ROBERT E. BEAL: Yes, duly noted.

CHAIRMAN KELIHER: Thank you. Are there any other questions or comments for Kirby on that? Do we have a motion? Mr. Grout.

MR. GROUT: If you put the motion up on the board, I'll read it for you, save you the trouble, okay? **Move to approve the 2019 Atlantic Herring FMP Review, state compliance reports, and *de minimis* status for New York.**

CHAIRMAN KELIHER: Who will second it, Ray Kane? Too many hands going up at once, thank you. **Are there any comments on the motion, any objections to the motion? Motion passes without objection, thank you.** That concludes the items on the agenda.

#### OTHER BUSINESS

CHAIRMAN KELIHER: Is there any other business to be brought before the Board? Mr. Abbott.

MR. ABBOTT: Regarding this fishing year. I have some questions about what's going to happen. We already know that Area 2 has gone over their quota by 800 metric tons, and we also know that Area 1A meters out its fishery, in order to support the lobster bait industry. I think we can also assume that Area 3 will catch their quota, as will Area 1B and possibly go over the numbers that they have. Meaning that Area 1A will bear the brunt of any overages by the

other three areas, which to me becomes concerning on a fairness issue, in that it's likely that the Commonwealth of Massachusetts won't see a season in October as a result of that. But my questions are, with the fact that Area 2 went over by a substantial amount, will in the future be any penalty in Area 2, just assuming that the entire small quota is caught in all the areas? In the future does Area 2 bear any responsibility to have a reduction?

Assuming they're separate stocks, is that not a consideration? My concern is by our efforts to control the Area 1A fishery as we do, we actually are penalizing, call it ourselves, in Area 1A because of our efforts. That I find is very concerning, and I'm sure it's concerning to the affected states. I don't know really who to address my questions to, but I think it needs some thought for the future, because with these low quotas, we've never had this before where we've caught the complete quotas in all the areas.

CHAIRMAN KELIHER: I don't have an answer, but I'll put Toni on the spot.

MS. KERNS: I mean, I think these questions should be addressed to the NOAA Fisheries, as well as the New England Fishery Management Council, in terms of looking towards to be able to closely monitor these other fisheries as these quotas are lower and lower. These fisheries are being caught faster and faster, and the monitoring of these fisheries will be essential. I know we've had a couple of conversations with NOAA Fisheries, and they're looking to figure out ways to improve the monitoring, to be able to close on a timely basis.

But you know as we talked about before, because the Area 2 fishery has gone over, it potentially could mean that the 1A fishery that is occurring in the latter months could be closed earlier, because we close the total fishery at 92 percent of the ACL. That means that if one area goes over their portion of the ACL, the other areas will get cut short potentially. I think those

comments would be directed towards them, 95 percent, sorry.

CHAIRMAN KELIHER: Ray Kane.

MR. KANE: This would be a question directed to Terry Stockwell, you represent the Council here. My understanding, this might be very what Toni has just said, very much so. But I thought the action of the Council in years past was like this year Area 2 went over, and there will be a payback in two years, so Area 2 quota will be reduced in two years. I mean we used to have this issue with Area 1B all the time. Am I correct in stating that Terry?

MR. STOCKWELL: We're entering brave new frontiers with these new lower quotas. As you know, when the Council discussed the Spec Package a month ago, there is no discussion on realigning the areas. I think the question you raised is going to be part of the Spec Package discussion that we have leading up to the fall.

CHAIRMAN KELIHER: Doug Grout.

MR. GROUT: Ray is right. It does get taken off the Area 2, two years from now. The same thing with any other sub-area overage, it will be taken off two years from now. Yes, we are in a brave new world, because I am very sympathetic to NOAA Fisheries challenge to try and close. We already have a 92 percent buffer in there to try and prevent overage.

But when you have quotas, for example 1B that are in hundreds of metric tons and the catching capacity of our vessels is quite large, it can very easily go over and has even at higher catch levels in the past. It is going to be a challenge for NOAA Fisheries this year to try and keep on top of that.

CHAIRMAN KELIHER: Are there any additional comments, any additional items to be brought before the Board? Seeing none, I think we have concluded our business for the Herring Board

for the day. We're ahead of schedule by eight minutes, so any comments?

EXECUTIVE DIRECTOR BEAL: I think we'll start the Striped Bass Board about five minutes early. I imagine there will be some public showing up for that. I don't want to get going too early on that.

#### **ADJOURNMENT**

CHAIRMAN KELIHER: A motion to adjourn would be in order. We've got all kinds of motions to adjourn, thank you very much.

(Whereupon the meeting adjourned at 9:52 o'clock a.m. on April 30, 2019)