The Westin Crystal City
Arlington, Virginia
February 4, 2020

Approved May 5, 2020
Call to Order, Chairman Cate O’Keefe ................................................................. 1
Approval of Agenda .................................................................................................. 1
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INDEX OF MOTIONS

1. **Move to approve agenda** by Consent (Page 1).

2. **Move to approve proceedings of October, 2019** by Consent (Page 1).

3. **Move to approve Atlantic Herring Draft Addendum III for public comment as amended today** (Page 6). Motion by Ritchie White; second by Steve Train. Motion carried (Page 6).

4. **Move to approve the following Atlantic herring specifications for 2020 as recommended by the New England Fishery Management Council contingent on the final rule being published by NOAA Fisheries** (Page 8):

   Annual Catch Limit (ACL) = 11,571 mt
   Domestic Annual Harvest = 11,571 mt
   Border Transfer = 100 mt
   Area 1A Sub-ACL = 3,344 mt
   Area 1B Sub-ACL = 498 mt
   Area 2 Sub-ACL = 3,217 mt
   Area 3 Sub-ACL = 4,513 mt
   Fixed Gear Set-Aside= 30 mt

   Motion by Megan Ware; second by Ray Kane. Motion carried (Page 8).

5. **Move to elect Cheri Patterson (NH) as Vice-Chair to the Atlantic Herring Board** (Page 8). Motion by Ritchie White; second by Raymond Kane. Motion carried (Page 8).

6. **Motion to adjourn** by Consent (Page 8).
ATTENDANCE

Board Members

Megan Ware, ME, proxy for P. Keliher (AA)
Steve Train, ME (GA)
Sen. David Miramant, ME (LA)
Cheri Patterson, NH (AA)
G. Ritchie White, NH (GA)
Dennis Abbott, NH, proxy for Sen. Watters (LA)
Cate O'Keefe, MA, (Chair)
Raymond Kane, MA (GA)
Rep. Sarah Peake, MA (LA)
Conor McManus, RI

Dave Borden, RI (GA)
Eric Reid, RI, proxy for Sen. Sosnowski (LA)
Matt Gates, CT, Administrative proxy
Bill Hyatt, CT (GA)
Jim Gilmore, NY (AA)
Joe Cimino, NJ (AA)
Russ Allen, NJ, proxy for T. Fote (GA)
Adam Nowalsky, NJ, proxy for Asm. Houghtaling (LA)
Terry Stockwell, NEFMC, proxy for T. Nies
Derek Orner, NMFS

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

Ex-Officio Members

Renee Zobel, Technical Committee Chair

Staff

Robert Beal
Toni Kerns
Kirby Rootes-Murdy
Maya Drzewicki

Guests

Bill Anderson, MD (AA)
Chris Batsavage, NC DMF
Allison Colden, CBF
Jeff Deem, VMRC
Kelly Denit, NMFS
Peter Fallon, Am. Saltwater Guides, ME

Joseph Gordon, PEW Trusts
Zak Greenberg, PEW Trusts
Pam Lyons Gromen, Wild Oceans, FL
Jeff Kaelin, Lund’s Fisheries
Chip Lynch, NOAA
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, February 4, 2020, and was called to order at 9:30 a.m. by Chairman Cate O’Keefe.

CALL TO ORDER
CHAIRMAN CATHERINE O’KEEFE: Welcome to the Atlantic Herring Board meeting. My name is Cate O’Keefe; I’m your new Chair. I’m from the Massachusetts Division of Marine Fisheries. You may recall that David Pierce was the Vice-Chair, and I was approved as Vice-Chair in October, which sent me on a meteoric rise to be Chair immediately today.

Please bear with me; this is my first meeting chairing. If I’m doing anything inappropriate or incorrect, I’m sure Kirby will tell me. But if there are any questions also, please let me know.

APPROVAL OF AGENDA
CHAIRMAN O’KEEFE: Let’s just jump right in. I don’t think we have any announcements for this group today, no. Can we have Board consent on Approval of the Agenda?

No comments, okay. The agenda is approved.

APPROVAL OF PROCEEDINGS
CHAIRMAN O’KEEFE: Board consent on approval of proceedings, the proceedings from the October, 2019 meeting. Are there any corrections or additions to the minutes? Okay seeing none the proceedings are approved. No one has signed up for Public Comment on any items outside of the agenda.

CONSIDER DRAFT ADDENDUM III FOR PUBLIC COMMENT
CHAIRMAN O’KEEFE: We’re going to move right into our Draft Addendum III. Kirby is going to provide a presentation for us, but before we get going I just want to remind the Board of what the motion that this Board made in October was. That was, move to initiate an addendum to expand the quota period options in Amendment 3 by adding options which address challenges experienced in low quota scenarios: Frequent starting and stopping of fishing days, small amounts of quota left at the end of the year.

The Addendum should include, but does not have to be limited to an option which allocates 100 per cent of the Area 1A quota to the months of June through December. The Addendum should also consider expanding the small mesh bottom trawl fleet days-out provisions to all Category C and D permits.

That is what we did in October, and now we’re going to consider the options that the PDT has put together, and I’ll hand it to Kirby.

REVIEW DRAFT ADDENDUM III OPTIONS
MR. KIRBY ROOTES-MURDY: Thank you, Madam Chair. I’ve got a presentation for you all to go through Draft Addendum III up on the screen now. It should have an outline. I’ll go through the timeline, in terms of the development of this document purpose. I’ll give you an overview, and then get into the actual management issues and options, and talk about implementation, and take any questions you guys may have. This Board initiated Draft Addendum III last October. The PDT worked on it from December through January, and today the Board will review this document, and consider whether to approve it for public comment. After today, on the screen I have a tentative timeline of how things could play out.

Public comment could start next month and go through April. We need 30 days for these Addenda, but it could be longer if you guys feel that that is necessary. For considering final approval of the Addendum, the Board will meet at the spring ASMFC meeting, hear public comment, and take final action.
We are thinking at this point that we would hold the Days Out Meeting to set days out measures during that same meeting week, following this Board’s meeting, and it would probably be by conference call. In terms of the purpose of this document, Cate reminded this Board of the motion that was passed in October, and in terms of the statement of the problem, really.

As you all are aware, in 2019 the sub-ACL was significantly reduced in light of the lower recruitment and estimated population size indicated in the 2018 benchmark stock assessment. In response the Board chose a bimonthly quota allocation in combination with days-out measures, to better manage the fishing effort under this extremely low quota.

However, the chosen combination of effort controls and quota allocation in 2019 resulted in short and infrequent windows of harvesting opportunity. Additionally, while the bimonthly quota allocation extended the fishing season, the allocation left very little quota available towards the end of the fishing year, making fishing trips less economical.

Accessing herring later in the season in Area 1A became challenging as there were numerous spawning closures that inhibited access during the late summer and fall, and catch rates have been dropping off in recent years as fish migrate further offshore during this time. The sub-ACL for 2020 and beyond will be lower and the sub-ACL will likely stay at low levels until we see an increase in recruitment.

To avoid continual closures and manage landings more efficiently under these low quota scenarios, new allocations and management tools are needed. That is really the purpose of what this document has set out to try to address. Just as some background, as this Board is very much well aware. The current management tools available for managing the herring fishery in Area 1A primarily consists of quota allocation and effort controls.

These have been in place since 1999. The days-out measures established fixed days out of the fishery to manage the rate of harvest. The term ‘day out’ was in reference to days when a vessel could not land or fish for herring. The current quota allocations are outlined in Amendment 3, and the current days-out measures are in Addendum I.

In terms of effort controls, the majority of vessels that fish and land Atlantic herring in this area are federally permitted, because the fishery takes place in both state and federal waters, and in turn the permit categories that are primarily looked at, in terms of applying effort controls are limited access permits for all management area, which is Category A, limited access incidental catch permits for 25 metric tons per trip, Category C, and an open access incidental catch permit for 3 metric tons per trip, Category D. Under Addendum I, different landing restrictions can be placed on those permit holders, depending on the permit category. Annually what this Board sets out are harvest specifications, and it begins with the Annual Meeting, where the Board decides how to allocate that sub-ACL for the upcoming fishing season.

Tables 1 and 2 in the document, you can find them on Page 5, outline the seasonal trimester and bimonthly quota allocations that are available to the Board to choose from. For much of the last decade the Board split the Area 1A sub-ACL into trimesters, and during this time the majority, about 72 percent of the Area 1A sub-ACL has been allocated during the months of June through September, which is Trimester 2.

These months overlap with the peak season for lobster landings, when herring is the widely used source of bait. Once the allocation has been set the states of Maine, New Hampshire, and Massachusetts set the days out measures prior to the beginning of the fishing season. The following restrictions can be applied by permit category.
Category A permits are subject to landing days, weekly landing limits, and requirements specific to classifying carrier vessels. All three of these provisions can be applied from June 1 through September 30th, and only during October 1 through December 31st can landing days be specified.

For Category C and D permits there are landing day restrictions that can be applied from June 1 through September 30th through the small mesh bottom trawl program. I think it’s important to understand that with these quota allocations and effort controls, these were largely developed under a situation where we had a much higher sub-ACL than this Board is currently considering, in terms of managing herring in 2019, and in the coming years.

To further highlight how things are different starting in 2019. In 2017 and 2018, landings days and weekly landing limits increased throughout the trimester, to maximize harvest opportunities, with the fishery open from June 1 through September 30th with no closures. These management changes were made in response to landings being much lower than the quota period allocation during the beginning of the fishing season.

In 2019 the fishery did not begin until July 15. The states moved to set zero landing days from August 18 through September 1, and landing restrictions were maintained throughout the allocation period to restrict fishing effort under the low quota. This figures really demonstrates how radically different landings were in 2019 relative to some of the recent years.

As I was talking about before in terms of permits that are important for managing herring in Area 1A, limited entry was implemented through Amendment 1 to the federal herring FMP, and as mentioned Category A, C, and D make up the majority of landings in Area 1A. Additionally, there are categories B and E.

Not all vessels with herring permits are active in the herring fishery though. For example, there were between 50 and 60 vessels with a Category A permit from 2014 through 2018, but only 50 to 60 percent of those were active. When we’re saying active, they landed at least one pound of herring. Although there have been far fewer active limited access, versus open access vessels in recent years, the limited access vessels Category A, B, and C account for over 98 percent of annual herring landings during that time period.

When thinking about the quota allocation and effort controls, in terms of managing herring and allowing enough bait to get to the lobster fishery. The PDT felt that it was important to consider the menhaden fishery. Recent quota reductions for herring have increased the importance of menhaden as a bait source.

Concurrently harvest of menhaden in the Gulf of Maine has increased, and this increase has helped supplement the shortage left by the reduced herring quota during the summer months. Since 2017 menhaden landings in the Gulf of Maine primarily occur in summer months, so June, July, and August, with the majority of those landings occurring in July, specifically the third week of July. This chart here shows you how over the last three years, even in spite of the lower quota, they have generally tracked with that time period in which landings greatly increase for menhaden. If the Gulf of Maine menhaden fishery continues to be productive, maintaining an offset for the herring fishery might help mitigate the shortage in the available lobster bait, while providing increased fishing opportunity for vessels that are targeting both species.

That concludes the background I was going to provide. I’m going to move into the management issues and the options next. The first issue section is the quota allocation. Option 1, status quo, this is pretty self-explanatory. There are no changes if this option
were to be selected. The Board would still be able to choose from the allocations that are available in Tables 1 and 2 that are listed in the document annually. Option 2 in this section outlines an alternate seasonal allocation.

Under this option, if the Board moves to allocate 0 percent of the annual sub-ACL prior to June 1, the Board can choose to allocate 100 percent of the Area 1A sub-ACL from June 1 through December 31st. This option is intended to give managers the ability to allocate all of the quota at once. It is important to note that under this allocation in the low quota years, certain gear types may not have access to the resource later on in the fishing season.

For example, midwater trawl vessels are prohibited from fishing prior to October 1. Depending on the days-out measures implemented, these vessels may not have access to the resource if the quota is caught before October 1st. The next option in this section is Option 3, which proposes an alternate trimester allocation. This option puts forward an alternate timeframe for the trimester management that considers the need for access by various gear types throughout the year. Under this option, harvest of herring can be concentrated during the peak availability of the resource during the fishing season, matching well with the bait demand prior to the onset of the spawning closures. Unused quota under this option would be rolled into the subsequent trimester in the same year. As you can see on the screen, during that period of June 1 through August 31st 80 percent of the quota would be allocated then, 20 percent would be allocated September 1st through December 31st. It is also important to note in this section that if the Board approves this document it goes out for public comment, and we come back in May. The Board can chose to approve both Options 2 and 3, to be included and considered moving forward as options in the suite of available choices annually to choose from.

That concludes that section. I’m moving on to 3.2 the days-out provisions. There are just two options in this section. Option 1 status quo. This is pretty straightforward. Only Category A permits would be subject to the landing days and weekly landing limits that is currently in place, and again those restrictions can be applied from June 1 through September 30th. Option 2 puts forward that the days out measures that apply to Category A permits could also apply to Category C permits.

All vessels with a Category C permit would be subject to those same measures, which are landing days and weekly landings limits. This option is intended to implement the same measures for both permit categories, which would account for 99.9 percent of vessels responsible for herring landings in recent years.

If approved by the Board, the states of Maine, New Hampshire, and Massachusetts would be able to specify the same landing restrictions during the days-out specification process later on this year in May. The last section I’m going to go through today is the weekly landing limit. There are three options here.

Option 1, status quo means that the weekly landing limits for Category A would remain in place, and they would still only apply from June 1 through September 30th. Option 2 is similar to status quo, but the difference here is that there would no longer be a requirement to declare into the fishery.

Currently, the way we are accounting for fishing effort, and trying to project out annually how many boats are going to be in the fishery. Those vessels with these category permits are supposed to notify the states beforehand. This option is intended to eliminate what has been deemed an administrative process that hasn’t aided in developing estimate of fishing effort in the coming year.

Next Option 3, under this option weekly landing limits would apply for all vessels throughout all quota periods. The weekly landing limits may
be specified through the entirety of all quota allocation periods that is bimonthly, trimester, and seasonal. Vessels landing in Maine, New Hampshire, and Massachusetts are subject to the same weekly landing limit under this option, regardless of port and state.

Similar to Option 2, this option is intended to implement the same days-out measures for 99.9 percent of vessels responsible for herring landings in recent year. Also similar to Option 2, it would do away with the notification requirement, with the exception of those requirements that are outlined under the small mesh bottom trawl program.

That concludes the options that are in this document. In terms of implementation, as I mentioned before, after the public comment period if the Board approves this document in May, the options would be available for implementing this fishing season in 2020. The days-out meeting would be held by conference call, likely during that spring meeting, and because the Board already voted on the allocation at the annual meeting that can be changed. It would just need a two-thirds majority, because that was final action. With that I will take any questions.

CHAIRMAN O'KEEFE: Are there any questions from the Board? Yes, Megan.

MS. MEGAN WARE: Kirby, I had a question. I think it is Section 3.2, Option 2 about the days out for Category A and C vessels. I just wanted to confirm that the Category C, small mesh bottom trawl is under the small mesh bottom trawl days out. I think that is in what is written as the regulatory language, but I don’t see that in the description of the option, so I am just trying to confirm that.

MR. ROOTES-MURDY: One more time, Section 3.2 Option 2 you’re asking about?

MS. WARE: Yes. I’m asking how does this interact with the small mesh bottom trawl days-out? If you’re a Category C with a small mesh bottom trawl, you’re under the small mesh bottom trawl days out. Is that correct?

MR. ROOTES-MURDY: Yes, that is correct.

MS. WARE: Okay. Maybe it might just be helpful to add that in Option 2, the language describing it, because it says right now all vessels with a Category C permit, so I could see that causing some confusion. That might just help. Then if it’s okay also to comment on the background section, for Section 2.2.3 it talks about the menhaden and herring fishery, kind of in concurrence.

There is kind of a suggestion that maybe the two fisheries should not overlap or there be minimal overlap. I just want to caution how far we take that conjecture, because the gain in menhaden is not equal to the loss of herring. The loss of herring is much higher. I think it might be helpful to say that in the document, or just kind of have caution with that conjecture.

MR. ROOTES-MURDY: Based on that feedback for the background section, maybe it might be helpful if offline you can work with me to make sure we get that language perfected.

CHAIRMAN O'KEEFE: Are there any other questions on Kirby’s presentation, or the options that are in the document, just questions for now? Okay seeing none, I’m going to ask Terry Stockwell, who is our appointed representative from the New England Fishery Management Council to provide some of the input that that council had from their meeting last week. Terry.

MR. TERRY STOCKWELL: Yes, thank you, Madam Chair. I have some general comments on the draft Addendum. I certainly understand the Commission’s interest to add some new measures to the toolbox, in order to enable more efficient use of the herring resource under the current low quotas. As a past Section, now Board member, I well remember the many
meetings we had trying to balance out the best way to harvest the available quota with the needs of both the fishing industry and the bait market demand. However, the Council is adamantly opposed to any new tools that exclude some segments of the fishery from the resource, and do not allow for fair and equitable access by gear type; specifically the opposed measures in 3.1 are inconsistent with the federal FMP, and the standards that the Council is required to follow. The Council further comments that reallocation should not be a purpose or result of this action, and notes that the resource in Area 1A has been allocated and/or divided by seasons for many years.

The proposed options change that allocation decision by potentially taking fish from one sector and awarding it to another. In anticipation that this draft Addendum will be approved for public comment, the Council requests that a public hearing be scheduled concurrent with a scheduled Council or Herring Committee meeting. Deirdre Boelke, the Council’s Herring FMP lead is standing by to work with you, Kirby, to hopefully make that happen.

CHAIRMAN O’KEEFE: With that we can open it to Board discussion. If there are motions on any of the specific options in the document to remove, tweak, change, add anything, we can do that at this point. We could also take the entire addendum as a whole and vote to either approve or disapprove going out to public comment, Ritchie.

MR. G. RITCHIE WHITE: I would move to vote in favor of sending this to the public, the entire document.

CHAIRMAN O’KEEFE: Is there a second? Steve Train. Is there any discussion or comments on the motion? It will just take a minute while the motion is being put up, Ritchie.

MR. WHITE: To clarify, the edits that were discussed about the document, I would assume those would be included. It is assumed those were included in my motion.

CHAIRMAN O’KEEFE: Is there any further discussion on the motion? Are there any objections to the motion? Terry, so we can vote on the motion. All in favor, opposed, any abstentions? That motion carries 8-1-0. From there we’ll ask some questions about moving forward with this Addendum, in terms of public comment meetings and timeline as Kirby had outlined, Ritchie.

MR. WHITE: I would just like to comment on Terry’s and the Council’s proposal. I think our public input process is thorough and extensive. We certainly don’t exclude anyone or any entity, and I think the Council also provides us input through Terry at this table, as well as my representation at the Commission on the Advisory Panel. I guess I don’t see the need for a separate public forum with the Council, where the Council is more than welcome to attend the various public meetings that we have. I guess that would be my take.

CHAIRMAN O’KEEFE: I am going to ask what states want to hold public meetings on this Addendum, and of those states that want to hold meetings if you require assistance from ASMFC staff. You don’t have to answer today, you can think about it a little bit, but that is a question that Kirby will need to know, and Toni will need to know in terms of scheduling. Do any of the states know now that they want to hold a public meeting on this? Maine. Okay that’s good for now. The comment period will be a default of 30 days, unless we want to extend it for longer up to 60 or 90 days. Eric.

MR. ERIC REID: I respectfully disagree with Ritchie White. The New England Council is an active management partner with us in this. If they are requesting a meeting in conjunction with one of their committee meetings, I think that April Council meeting is in Mystic, Connecticut. That may not be the best place to have a public hearing, but I think we should
grant the management partner their request. That is my position.

CHAIRMAN O’KEEFE: As I understood Terry’s comments it is a formal request from the Council to the Commission about potentially coordinating a public meeting. Is that correct, Terry?

MR. STOCKWELL: That is correct.

CHAIRMAN O’KEEFE: Just to help answer your question, Eric, in terms of that it is a formal request.

EXECUTIVE DIRECTOR ROBERT E. BEAL: Madam Chair, is it okay if I ask Terry a question through you?

CHAIRMAN O’KEEFE: Yes.

EXECUTIVE DIRECTOR BEAL: Terry, are there any Herring Committee meetings scheduled for the New England Council prior to the April Council meeting?

MR. STOCKWELL: Stand by a minute, Bob; I’ll look it up for you.

CHAIRMAN O’KEEFE: Yes there is a Herring Advisory Panel Committee meeting on March 3rd. No further comments on the Addendum we’ll move forward. We’re going to talk about, right?

MR. RAYMOND W. KANE: Taking this up at the AP Committee meeting on March 3rd, what is the timeline? Are we going to be able to get this out for this coming fishing season?

CHAIRMAN O’KEEFE: To Kirby.

MR. ROOTES-MURDY: As I mentioned before, if the Board approves this at the May meeting it would be for an implementation immediately, so the Board could use these options for the 2020 fishing season.

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SETTING THE SUB-ANNUAL CATCH LIMIT SPECIFICATIONS FOR THE 2020 FISHING YEAR

CHAIRMAN O’KEEFE: We’re moving on to take action on Setting the Sub-Annual Catch Limit Specifications for the 2020 Fishing Year. I think Kirby is going to give us some background information on this, and then we’ll have a motion on whether or not to approve the Sub-ACL specifications.

MR. ROOTES-MURDY: I’ve got just a brief presentation. The first slide should look pretty familiar to you guys. I presented this back in October. The Council approved Framework 6 in June; it contains 2019 through 2021 specifications and a newer fishing definition consistent with the 2018 benchmark stock assessment. Last week NOAA released the Proposed Rule that is out for public comment now, and it contains those new specifications. Just a reminder, the Proposed Rule includes a lower catch limit for the Area 1A Sub-ACL. For 2020 and 2021, 3,344 metric tons, and that is based on the Control Rule proposed in Amendment 8. In terms of how this plays out for 2020, it is about a 23 percent decrease in the Sub-ACL from 2019. Up on the screen I’ve got here the 2020 and 2021 specifications.

As you can see there are two different overfishing limits in 2020 and 2021, after that though the ABC down is consistent for both years. The ABC is set that is the Acceptable Biological Catch at 16,131 metric tons. The ACL with the management uncertainty buffer removed is 11,571 metric tons, and then specific for Area 1A the Sub-ACL is 28.9 percent of that at 3,344 metric tons.

It is important to note some of the other things, in terms of the fixed gear set-aside set at 30 metric tons, and the research set-aside is up to 3 percent of each Sub-ACL. Today for the Board’s consideration is to approve the 2020, 2021 specifications as recommended by the
Council, and outlined in the Proposed Rule by NOAA Fisheries. I will take any questions.
CHAIRMAN O’KEEFE: Are there any questions for Kirby on his presentation? Okay we will be looking for a motion. Megan Ware.

MS. WARE: I will make the motion. I think staff has this. Move to approve the following Atlantic Herring Specifications for 2020, as recommended by the New England Fishery Management Council, contingent on the Final Rule being published by NOAA Fisheries. The ACL 11,571 metric tons, Domestic Annual Harvest 11,571 metric tons, Border Transfer 100 metric tons, Area 1A Sub-ACL 3,344 metric tons, Area 1B Sub-ACL 498 metric tons, Area 2 Sub-ACL 3,217 metric tons, Area 3 Sub-ACL 4,513 metric tons, and Fixed Gear Set-Aside 30 metric tons.

CHAIRMAN O’KEEFE: Seconded by Ray Kane. Is there any discussion on the motion, any objections to the motion, Ritchie, question?

MR. WHITE: Was the intent of this ‘20 and ‘21, or just ‘20?

CHAIRMAN O’KEEFE: Maker of the motion, Megan.

MS. WARE: I’m just making the motion for 2020. There is a stock assessment ongoing right now for herring, and the Council will be looking at 2021 specifications this fall. At this point I was just approving 2020.

CHAIRMAN O’KEEFE: Are there any other questions or discussion, any objections? Is there any public comment on this motion? Okay, with no objection that motion passes by consensus.

ELECTION OF VICE-CHAIR

Okay, on to our final agenda item. We will need to elect a Vice-Chair of this Board. I would be looking for any motion to nominate a member to be Vice-Chair. Ritchie White.