

**PROCEEDINGS OF THE
ATLANTIC STATES MARINE FISHERIES COMMISSION
ATLANTIC HERRING SECTION**

**Crowne Plaza Hotel - Old Town
Alexandria, Virginia
February 7, 2012**

Approved April 30, 2012

TABLE OF CONTENTS

Call to Order, Chairman David Pierce 1
Approval of Agenda 1
Approval of Proceedings, November 7, 2011 1
Public Comment 1
Update of 2010 Final Landings..... 1
Discussion of NEFMC Amendment 5..... 2
Technical Committee Review of Spawning Regulations 9
Adjournment 19

INDEX OF MOTIONS

1. **Motion to approve agenda** by Consent (Page 1).
2. **Motion to approve proceedings of November 7, 2011** by Consent (Page 1).
3. **Move to initiate an addendum implementing the technical committee's recommendations regarding spawning regulations not including the goals and objectives** (Page 16). Motion by Dennis Abbott; second by Bill Adler. Motion carried (Page 16).
4. **Move to initiate an addendum to provide options to protect spawning herring in the Nantucket Shoals and Georges Bank areas** (Page 16). Motion by Sarah Peake; second by Ritchie White. Motion withdrawn (Page 17).
5. **Motion to adjourn** by Consent (Page 19).

ATTENDANCE

Board Members

Pat Keliher, ME (AA)	Rick Bellavance, RI, proxy for Rep. Martin (LA)
Terry Stockwell, ME, Administrative proxy	Dave Simpson, CT (AA)
Steven Train, ME (GA)	Rep. Craig Miner, CT (LA)
Sen. Brian Langley, ME (LA)	Pat Augustine, NY (GA)
Doug Grout, NH (AA)	James Gilmore, NY (AA)
G. Ritchie White, NH (GA)	Brian Culhane, NY, proxy for Sen. Johnson (LA)
Rep. Dennis Abbott, NH, proxy for Rep. Watters (LA)	Peter Himchak, NJ, proxy for D. Chanda (AA)
David Pierce, MA, proxy for P. Diodati (AA)	Tom Fote, NJ (GA)
William Adler, MA (GA)	Tom O'Connell, MD (AA)
Rep. Sarah Peake, MA (LA)	
Bill McElroy, RI (GA)	

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

Ex-Officio Members

Matt Cieri, Technical Committee Chair	Jeff Marston, Law Enforcement Committee
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Staff

Vince O'Shea	Chris Vonderweidt
Robert Beal	Danielle Chesky

Guests

Charles Lynch, NOAA	Raymond Kane, CHOIR
Steve Meyers, NOAA	Pam Gromen, NCMC
Peter Burns, NOAA	Patrick Paquette, MSBA/RFA
Bob Ross, NMFS	Janice Plante, Commercial Fisheries News
Russ Allen, NJ DFW	Kristen Cevoli, Herring Alliance
Wilson Laney, USFWS	Greg Wells, PEW Environmental Grp
Dave Ellenton, Cape Seafoods	Theresa Labriola, PEW Environmental Grp
Mary Beth Tooley, Camden, ME	Tom Rudolph, PEW Environmental Grp
Steve Weiner, CHOIR	Roger Fleming, Earthjustice

The Atlantic Herring Section of the Atlantic States Marine Fisheries Commission convened in the Presidential Ballroom of the Crowne Plaza Hotel, Alexandria, Virginia, February 7, 2012, and was called to order at 2:20 o'clock p.m. by Chairman David Pierce.

CALL TO ORDER

CHAIRMAN DAVID PIERCE: I call our meeting to order and welcome everyone. I've got a question for section members sitting at the table and for those in the audience who are still slowly getting ready to take their seats; was anyone here at the River Herring Board Meeting this morning? Everyone was at that meeting, so you've heard the discussions relative to actions that were not taken at that particular meeting and the strategy that was developed to move forward for further discussions on the amendment as it relates to river herring. All right, that will save some time.

APPROVAL OF AGENDA

You have the agenda before you. Unless someone has a suggested change to the agenda, I will adopt it by consent. Okay, I see no one raising their hand, so we will adopt the agenda as it appears before you. I should note that there was a request early on from someone in the audience that we actually move the technical committee review of spawning regulations up on the agenda, but I've decided to keep the agenda as is, and, of course, no one here has suggested any different arrangement of the agenda items.

APPROVAL OF PROCEEDINGS

Approval of proceedings of November 7, 2011; I assume everyone has had a chance to review those proceedings. Do I have a motion to approve them? Okay, Bill Adler has moved approval of the minutes and seconded by Bill McElroy. The motion is approved; the minutes of our November 7th meeting are approved.

PUBLIC COMMENT

All right, as always we provide an opportunity for the public to comment on any issue that relates to management of sea herring by ASMFC items of interest to us that are not on the agenda that you have before you. Is there anyone in the audience who would care to comment on any aspect of ASMFC business relative to sea herring that is not on the agenda? All right, I see no one raising their hands; therefore, we will go on to the next agenda item, and

that is update of 2010 final landings. We turn to Chris for that update.

UPDATE OF 2010 FINAL LANDINGS

MR. CHRISTOPHER VONDERWEIDT: This is really just an FYI. There is a proposed rule that was distributed to the section and essentially it proposes that overages from the 2010 fishing season – they were tallied in late 2011 by comparing VTR reports to dealer reports, and in Area 1A there was an overage and in Area 1B there was an overage. We're talking about 2010.

However, the language is that it will be applied to the fishing year after the final catch is tallied. After that has all been said and done, there is a table up there. The Area 1A Sub ACL was initially 26,546 metric tons. It will be reduced by 1,878 metric tons to 24,668. 1B would be reduced by 1,638 to 2,724 metric tons, which is a more significant amount of the total quota. If you read through the proposed rule, you would have noticed that the methodology that they used to calculate the harvest was reviewed by the New England Fishery Management Council Plan Development Team, which has a lot of overlap with ASMFC groups.

Matt is on that group, Steve Correira from Massachusetts DMF, myself. They adopted the recommendations from that group when calculating the final harvest. It has gone through the scientific rigor. I talked to NMFS staff last week and they said that the final rule is expected to be published in the near future, so we'll probably see that soon.

This is just essentially a heads-up that these quotas will be reduced. If you look at our plan, Addendum II was developed jointly with the council's Amendment 4, and it is consistent with the proposed rule that once the final total catch for a fishing year is determined, during the subsequent fishing year, using the best available information, the ACL Sub ACL overage would result in a reduction the following fishing year for that ACL Sub ACL equal to the amount that was exceeded. Our plan is in line with that so we would also have the same Sub ACL.

CHAIRMAN PIERCE: All right, thank you, Chris, for that summary as to the nature of the overages and what we can expect the Service to do. Addendum II, as noted in our meeting overview, specifies how the section will deal with any overages, so it's prescribed for us. Any questions of Chris? Bill.

MR. WILLIAM A. ADLER: Mr. Chairman, I assume there are no underage allowances in the plan, of course. The question I had to do with is what is the latest on 1B right now? It sounds like it was they're almost halfway there already.

DR. MATT CIERI: Current landings as reported – and I'm pulling this directly from the NMFS Website – is 2,932; 67 percent. In fact, once this is implemented, 1B will be over again.

MR. ADLER: That is just what I was going to say because your quota is 2,700 for 2012 and you're saying basically we're already going to be over it?

DR. CIERI: Correct.

DISCUSSION OF NEFMC AMENDMENT 5

CHAIRMAN PIERCE: Further questions of Chris? All right, I see none. The next item on the agenda is the council's Amendment 5. The agenda says select preferred alternatives in Amendment 5. Lori Steele, council staffer, who has done all the work or most of the work, anyway, the lion's share of the work on Amendment 5 for the council will be giving us a presentation describing some specifics.

If you recall, Lori gave us a presentation at our Boston meeting. This presentation will differ from the one she gave in Boston, and I'll ask her to elaborate in a bit. Before I do that, I'm going to suggest to the section that in light of the discussions we all heard and some of us participated in earlier this morning on river herring as it relates to Amendment 5, that we follow the same procedure that was adopted by the River Herring Board.

And that is public hearings have not been held. We don't have a final document yet from the National Marine Fisheries Service. They're still working on what was submitted to them by Lori and the rest of the council staff; Lori specifically, I suppose. Lori is preparing a public hearing document that will be available before the end of February, so I would suggest to the section – and we don't have to decide it at this moment, but I want to at least give you some feel for where I'm going.

I think it makes sense for us to have a subgroup of the section similar to a subgroup that has been formed for the River Herring Board. That subgroup would work on comments to provide to the section, and that would enable us to provide comments on Amendment 5 before the council meeting is held.

It would make sense, I suspect, for those individuals who volunteered to be on River Herring Board to perhaps also volunteer to be on this particular section subgroup, but we'll deal with that after Lori gives her presentation. We also have to discuss the strategy that we should adopt relative to getting advisors' input to us on the comments we would choose to submit to the council on Amendment 5.

That's my suggested course of action as opposed to our actually taking the time today to select preferred alternatives in the Amendment 5 Document. I don't believe we're in a position to do that. None of us have the full document. Yes, we have the earlier document, but still it seems a bit premature. With that said, I'll turn to Lori and – yes, Terry.

MR. TERRY STOCKWELL: Mr. Chairman, I concur with your approach. I will volunteer to be on the working group. Actually my request to Lori is that seeing as this Herring Section was also here before lunch, that if you could just highlight the different pages so we could focus on what is new I guess is a more concise way of saying it.

CHAIRMAN PIERCE: Well, let's address it right now. Does the section agree with that approach that I've just described for you? The only thing I would like to do is to have some additional discussion as to how we will deal with input from the advisors and from those who obviously will be impacted by whatever the second decides to offer up as comments on these different alternatives. I see no opposition to the approach so we will proceed in that direction.

I turn to you now, Lori, and I ask that for the benefit of the section it would be very helpful if you would right away highlight the differences between this presentation and the one you gave in Boston. That way everyone will be alert and attentive to the specifics that you offer up that we all need to focus on today, of course, but certainly as we move forward and get closer to the time when public hearings are held.

I would assume that many of us would actually attend those hearings and submit comments on our own on behalf of our own state or organization, but that's a different matter. We, the section, will obviously have to take a position, too. So if you would, Lori, highlight the differences between then and now.

MS. LORI STEELE: When I came in November to the meeting in Boston, I just gave a general presentation on the amendment. The council had just approved the management alternatives and I was in

the process of developing the Draft EIS. Today, because we had the benefit of doing a river herring presentation this morning, I spent a lot more time this morning on the details of the river herring measures, and now this presentation is going to focus more on a lot of the details of the measures. I think the November presentation was much more conceptual. I'm not going to go over the river herring measures again.

For those of you who were at the presentation this morning – and I'll get into it in just a minute – we had circle and I sort of focused on the lower left quadrant, the green part, that was all the measures to address river herring bycatch. I'm going to cover all three of the other sections of that circle in this presentation. David, would you like me just to right ahead?

CHAIRMAN PIERCE: Before you do, I want to highlight another document that is available that was prepared with a lot of involvement of council staff. I believe it was Pat Fiorelli working with you, obviously, Lori. This is an insert into the Commercial Fisheries News, special supplement. This is the February issue of the News.

There is a well-done, easily understood description of what is being prepared for public hearings; that is, the specifics of this amendment, well-done, easy to understand relatively speaking. Certainly it was written with fishermen in mind so that they would have a better understanding as to what exactly is being offered up as proposed alternatives for this amendment. I would encourage all of you who would like to have an additional source of information regarding what is being proposed to take a look at this special supplement because it again is a job well done. Okay, Lori, if you will.

MS. STEELE: Okay, thank you, and actually thank you for reminding me of that supplement. All of the section members should have a copy of that on your CD. I think that Chris was able to scan it for everybody, and it is in this month's Commercial Fisheries News. It's a really good summary of everything that we'll be taking to public hearings.

Very generally again, this is all part of the Draft Amendment 5 EIS, which the formal draft was just submitted to NMFS in late January. We are hopeful that we will hear very soon that the draft is moving through the process so that we can begin our 45-day comment period. We're anticipating a comment period during late February and March with public hearings in March.

If we can stick to this timeline and if the document doesn't get held up, the council will be making final decisions at the April council meeting. We're trying to get this amendment completed and submitted so that the new measures for catch monitoring can be implemented at the start of the fishing year with the new specifications on January 1, 2013.

Goals and objectives; again, I won't go through these in detail since most of you were here this morning, but the overall purpose of this amendment is to develop a comprehensive catch monitoring program for the herring fishery and to address bycatch to the extent possible. Beyond the regular goals and objectives of the amendment, the overall goals and objectives of the amendment, the council did identify some specific goals for the catch monitoring program that is developed in Amendment 5.

I put these on the screen since we're focusing this afternoon more on the catch monitoring program, and you'll see next to these goals there are little symbols. They're a little hard to see on the screen, but there is a star, a circle, a square and a triangle. Those are for each of the four goals in the catch monitoring program; and as you follow some of these tables and illustrations that we've put together, you'll see these symbols next to a lot of the management measures.

It's just a key that you can see which goals the management measures are designed to address. Essentially the council's main goal is to create a cost-effective and administratively feasible catch monitoring program to obtain accurate and timely records of catch of all species in the herring fishery; and beyond that we have several other goals that we have identified.

The measures that are proposed in the document have been evaluated relative to the goals and objectives of the catch monitoring program. As I mentioned before, the measures and the alternatives in Amendment 5 can essentially be grouped into four categories; changes to the fishery management program, which we'll go into in a minute; measures to address catch monitoring at sea; measures to address river herring bycatch; and measures to establish criteria for midwater trawl vessels to access the year-round groundfish closed areas.

This is the visual sort of graphic representation of the Amendment 5 alternatives. The presentation this morning was the lower left, which were the measures to address river herring bycatch, recognizing that there are measures to address river herring bycatch in all of the other elements of this amendment as well,

but I'm going to go ahead and try to spend a little more time now on the pink, the blue and the orange.

Starting with the blue, which is all of our fishery management program adjustments, this is Section 3.1 of the document. These tables just provide you with the general description of all the options that are being considered. We're considering changes to some regulatory definitions, defining what a transfer at sea is and defining what an offload is.

We're also considering some general provisions to eliminate the VMS power-down on limited access vessels, establish a new permit for carrier vessels that sell fish at sea. We're trying to get a much better handle in this amendment on the transfer activities that may be occurring at sea and the utilization of carrier vessels in the fishery.

Carrier vessels, if they're buying or selling fish at sea, are dealers and it's not clear – we're trying to clarify some of the regulations and give them their own permit so that we can make sure to get reporting cleaned up a little bit. We also have some measures in here to address carrier vessels and provide some flexibility for vessels that do participating in carrying activities.

Moving on to the next slide, again these are the adjustments to the fishery management program. A couple of options are being considered to limit transfers at sea. Option 2 would only allow transfers to occur between A and B vessels. That's only about 40 vessels in the fishery, and those are the limited access directed fishery vessels.

The other option would just require that you have some sort of herring permit in order to transfer and receive herring at sea. This means under Option 3 that anybody who is going to transfer at sea has to go get a permit and then be subject to all of the reporting requirements associated with that permit, so that's something to consider for lobster vessels, recreational vessels, other vessels that would then be required to, for example, report through VTRs and everything else that's associated with the federal permit.

We're considering notification requirements. Right now some vessels are required to call pre-trip and notify NMFS to potentially have an observer put on the boat. We are proposing in this amendment to require all limited access herring vessels to comply with pre-trip and pre-landing notification requirements. This is to facilitate the deployment of observers on herring vessels and to make sure that we're actually covering the boats that we want to be

covering in this fishery when they're fishing for herring.

We're also considering several options that I mentioned this morning to require dealers to accurately weigh all of their fish. In the last part of this section we're considering some changes to the open access provisions in Areas 2 and 3 for limited access mackerel vessels. This would be a new permit category. This I guess would be a Category E permit and it would be available to any limited access mackerel vessels that did not qualify for a limited access herring permit.

Right now if you're a limited access mackerel vessel and you didn't qualify for a limited access herring permit, you're limited to three tons under the open access permit, so we're considering options just for these vessels that would increase their allowance to either 10,000 pounds or 20,000 pounds. This is in an effort to try to minimize regulatory discarding of herring when vessels are fishing for mackerel.

In the document – and I know this is probably little hard to read on the screen. Hopefully, you can see it on the pages – are some summary tables that summarize the impacts of the measures that are under consideration relative to the valued ecosystem components that we have identified in this amendment.

You'll notice, as you go through the document and the impact analysis, that each measure and each option is analyzed for its impacts on Atlantic herring, which is the first VEC. Non-target species in other fisheries is the second VEC. Non-target species in other fisheries includes bycatch in general as well as river herring, mackerel and groundfish. Those are the three other fisheries that we have identified as sort of being important for the impact analysis.

The third VEC is essential fish habitat and the fourth VEC is protected resources and the fifth VEC is fishery-related businesses and communities or the herring fishery. As you can see in the table here, we've gone through – and for the fishery management plan adjustments, the things that I just talked about, these are not things with huge impacts. These are mostly administrative largely, anyway.

A lot of them provide more flexibility for carrier vessels and things like that, so you don't see a whole bunch of significant impacts here. There are some estimates provided on how much a vessel monitoring system would be for boats that don't have one if they want to carry fish, but for the most part the measures

in the fishery management program section doesn't have a whole lot of significant impacts.

They should, however, help to streamline the catch monitoring program and improve monitoring and reporting. This is just a continuation of that same slide. I'm going to go ahead and move into the next section of the document, which is the catch monitoring at sea. This is probably the more complicated section of the document, and this includes the alternatives that are under consideration to allocate observer coverage on limited access herring vessels.

I went through these this morning because they do address river herring and the need to sample for river herring bycatch. I'm not going to go into too much detail, but there are four elements to each of these alternatives; one being what the priorities for allocating coverage are; two being what the process is; three being what the options for funding are; and four being what the provisions are for service providers should there be a need for additional service providers beyond the Science Center's Observer Program.

This is the same slide I had this morning that summarizes the four observer allocation alternatives. The first alternative is status quo, no action alternative. The second alternative would require a hundred percent observer coverage on Category A, B and C vessels anytime that they are on a declared herring trip.

The third alternative would require that the current SBRM process, whatever coverage levels come out of the current SBRM process, would be minimums for this fishery. It would essentially prohibit the council from having the ability to shift days out of the herring fishery and reprioritize them into another fishery because of lack of funds or something like that. It requires under this alternative that SBRM be mandated as a minimum so there wouldn't be any allowances for days to be shifted away.

The fourth alternative would allocate observer coverage based on a new set of priorities identified by the council. These priorities included obtaining a 30 percent CV, coefficient of variation or a precision estimate; a 30 percent CV for estimates of catch of herring and haddock as well as a 20 percent CV, which is a more precise estimate, for the estimate of bycatch of river herring.

This fourth alternative actually identifies river herring as a priority for allocating coverage and

requires that we target a more precise estimate of bycatch than the standard sort of 30 percent CV that's used in the SBRM process. The other elements of the catch monitoring at-sea section of document include measures to maximize sampling and address net slippage.

I went through these this morning as well, but there are several measures in the document to enhance sampling by observers and several measures in the document are options in the document for requirements if there are slippage events in the fishery. I'm going to go ahead and flip right to this slide so I can go into them in a little bit more detail than the last slide.

This is Section 3.2.2 of the document; and in terms of the additional measures to improve sampling, as I mentioned the options under consideration include things like requirements for a safe sampling station, requirements to provide the observer with reasonable assistance to carry out their duties, requirements for notification when pumping starts and stops, a requirement if there is a multiple-vessel operation that observers be put on any vessel taking on fish, requirements for additional communication between pair trawl vessels and a requirement that the vessel operator provide the observer with visual access to the cod end after pumping has ended.

Regarding slippage, the options under consideration include requiring a released catch affidavit for slippage events any time the observer is on board, and that would be with pictures. Another option is to implement the Closed Area 1 sampling provisions throughout the entire fishery whenever there is an observer on board.

These provisions require that all fish be at least pumped across the deck for sampling and do not allow discarding prior to fish being sampled by the observer except for under very specific circumstances. And then another option being considered with several suboptions is a provision that would actually apply a catch deduction to the herring quota in the area if a slippage event occurs; and then a couple of the suboptions, as you see, after a certain number of events occur there would be a trip termination requirement as well.

These are again only on trips where there is an observer on board, and the observer coverage would be determined by one of those four alternatives to allocate observer coverage on the limited access vessels. Again, we have some summary tables that

go VEC by VEC in the document and talk about what the impacts are.

The impact analysis is very extensive in the document and it's somewhat hard to sort of read it and get just a sort of general idea of what the impact is, so we've tried to put these tables together. These are the alternatives here on this slide to allocate observer coverage in the fishery. Some of the alternatives to allocate observer coverage are likely to have significant impacts.

Again, we're talking about the limited access fishery so this is about a hundred vessels; Categories A, B and C. You can see obviously requiring a hundred percent observer coverage on the vessels is going to have a pretty high negative impact on the businesses. A lot of it depends on how much of the observer coverage is funded federally and how much would have to come from other funding sources.

Really, the only option in the document besides federal funding is that the industry would fund the additional observer coverage. Under Alternative 2 for a hundred percent coverage and under Alternative 4, it's very likely that those two alternatives would require observer coverage at levels that are going to be greater than what federal funds are going to support and even possibly under Alternative 3.

But, it's likely that the council, if any of these alternatives are selected, the council is going to have to make some decisions about how an industry-funded observer program would be constructed to sort of go into effect with this amendment. On this slide is a summary of the impacts of the measures to improve sampling and some of the measures to address net slippage.

Again, these are not big impact measures requiring communication between pair trawl vessels, requiring the vessel operators help an observer. These are not things that are going to have huge impacts, but collectively are likely to enhance sampling in the fishery. Some of the measures to address net slippage on the other hand are a little bit more substantial in terms of their potential impact, and that's both on things like bycatch as well as on the participants in the fishery.

The Closed Area 1 sampling provisions here at the bottom of the table in Option 3 are likely to have a positive impact in terms of bycatch in other fisheries because you're ensuring that everything that is caught will at least be observed or sampled when the observer is on board. And potentially some negative

impacts on the fleet in terms of bringing operational discards on board.

We have no idea, we have no experience with this measure on purse seine vessels. This measure is in place in Closed Area 1 right now, which is on Georges Bank, and it is only applicable to midwater trawl vessels. This measure is proposed across the fishery, but there may be some logistical issues with the purse seine vessels that we're going to have to deal with.

The next slide here is a continuation of the measures to address net slippage. At the bottom you'll see that the bottom row here talks about an alternative for a maximized retention experimental fishery. Maximized retention was considered as a possible approach in Amendment 5 for ensuring a more comprehensive catch monitoring program, but we ran into a lot of problems in terms of trying to implement a maximized retention program across the entire fishery in this amendment.

What is in there now is an alternative that would allow NMFS to conduct an experimental fishery in the first four or five years under Amendment 5 to determine whether or not maximized retention is something that should be considered across the herring fishery. Through that experimental fishery we would try to figure out what the challenges would be for implementing maximized retention across the fishery.

We can't do it in Amendment 5 but there is a mechanism to consider it in the future that it could be established in Amendment 5. I'm not going to go through the measures to address river herring bycatch. I went through those this morning. I'm just acknowledging them here as another major component of this plan.

This figure here just sort of gives you a visual representation of the alternatives under consideration. We're looking at setting up areas for monitoring bycatch potential avoidance areas, and there is another alternative that sets up protection areas, which would be bimonthly closed areas for river herring protection.

Hopefully, everybody already heard all that this morning. I certainly can come back and answer any questions if anybody has any. And then the last element of this amendment that we're considering is criteria for midwater trawl access to groundfish year-round closed areas. This is Section 3.4 of the document.

There are five alternatives under consideration. They range from no action all the way to closing the areas entirely to midwater trawling. Right now midwater trawls are allowed into all of the year-round groundfish closed areas with some additional sampling provisions in Closed Area 1 and also with haddock catch cap in the multispecies incidental catch allowance.

These alternatives are being considered to potentially apply criteria beyond just Closed Area 1 into any of the other closed areas. Similar to the river herring areas, things that are being considered include a hundred percent observer coverage and applying the Closed Area 1 sampling provisions.

Here is a map of the year-round groundfish closed areas. In the solid orange shading, those are essentially the area that we're looking at here for midwater trawl access. Again, we have a summary table. There is not really a lot here on the midwater trawl access to the closed area issue. There isn't a lot of information to suggest that there is a significant bycatch problem.

The vast majority of the bycatch that we've seen on midwater trawl vessels, groundfish bycatch has been haddock, and it is being controlled through a catch cap now. In general, for the most part this is largely a policy call for the council as to whether or not they want to make some policy decisions about midwater trawl fishing in the groundfish closed areas. There is not a lot here that has significant impacts; although closing these areas completely to the herring fishery is obviously going to have some significant impacts.

One thing that has not been fully determined yet is which permit categories all of these measures are going to apply to. For the most part the catch monitoring measures, the allocation of observer coverage, the measures to address net slippage are all intended to apply to the limited access fishery. That's Categories A, B and C. That's about a hundred vessels. They catch 99.5 percent of the herring.

Category D vessels, that's our open access fleet, there are over 2,200 vessels and they catch very little; less than 1 percent of the total herring landings in a year. The council may apply some of the measures in the amendment to just the limited access fleet. They may decide to go A, B, C and D on some of them. The council still retains the ability just apply measures to the A and B fleet.

There is some analysis in the document about cost differences and the impacts and the different impacts by vessel permit category, but for the most part the catch monitoring program is intended to apply to the limited access fleet. The river herring measures may apply to both limited access and open access.

The council will be seeking public comment during the comment period on which permit categories any of the measures should apply to. I'm not going to go into all of these other slides in the interest of time, but I did put some information in here just for your reference about the different permit categories and what kind of gears these boats are using and how much they contribute to the landings.

Hopefully you can see the first chunk of rows in this table represent the Category A vessels. These are the 42 vessels that have access to all management areas, and the Category A vessels are essentially landing 98 percent of the herring. Category B is in there, too. There are only four Category B vessels and we can't even really report them separately because I think in one year there is only three. Category C lands about 1 percent and Category D again less than 1 percent.

This is just a couple of tables that summarize landings recently; and since we just discussed the 2010 landings I won't go into that. Again, here I've just provided some information by permit category and by management area so you get a sense of what boats are really sort of participating most in this fishery. Again you're really looking at Category A and B when you're talking the vast majority of the fishery.

In terms of the impacts, there is a lot of information in the document about impacts. I don't want to get too into it because there is a lot of information, but you'll see some things in the document that look at the impacts of the alternatives to allocate observer coverage. Again, those are probably from an industry impact perspective going to be one of the more significant things in this amendment.

The impacts will depend largely on how much can be funded federally and how much will remain to be funded by the industry. We took a look at what the cost of an observer is and in general it's about \$1,200 a day. There is information in the document that breaks down what that \$1,200 is.

Essentially given the way this fishery operates and the level of sampling that is required in this fishery, the assumption is that if we're going to go hire a service provider to sample this fishery we want that

service provider to sample it consistent with the way that the Science Center observers sample it so that we get information that's consistent and we have data that is actually comparable.

We want to supplement the observer data and not create additional data that's not comparable. Under that assumption, with all of the training that is required and the subsampling methodology that has to be learned for this fishery, species identification training and everything else, you're looking at about \$1,200 a day whether you're using a Science Center observer or a service provider.

Based on that, we looked at vessel operating costs and revenues per day, and we looked at what the costs of an observer would be as a percentage of the daily revenues and the daily operating costs, and you're looking on the order of 6 to 10 percent for the midwater trawl and purse seine fleet; 6 to 10 percent of the daily revenues for putting an observer on the boat.

The bottom trawl numbers are a little bit skewed because bottom trawl vessels do a lot more than just fish for herring and actually their contribution to the herring revenues and herring landings is a lot smaller. Just to kind of move through this, one of the other things that we looked at is general costs.

A hundred percent observer coverage, you're looking at for the Category A and B fleet, based on how many days they fished in 2007, 2008 and 2009, you're looking at around \$2 million or so for a hundred percent coverage. And then Category C is where things start to get a little bit more confusing because Category C is an incidental catch category, but it is a limited access category. They fish on a lot of other things other than herring.

If you only look at the Category C days where herring was landed, you're looking at maybe an extra \$115,000 cost, but this bottom table here shows how many days you're looking for the Category C fleet if you're actually going to do it across the whole fleet and all of the trips they take. In 2009 the Category C fleet landed herring on 96 days. In 2009 the Category C fleet fished 6,005 days.

So, multiply that out by \$1,200 a day and it makes a huge difference in terms of an industry-funded observer program. Again, we're talking about the Atlantic herring fishery, so we need to make sure if we're going to develop regulatory requirements for the herring fishery that we're actually imposing those requirements on vessels that are fishing for herring.

Okay, this is part of the analysis of the impacts of the observer coverage alternatives, and it's really complicated. There is a very detailed technical analysis in the document that shows as to how we would go about allocating observer days to achieve the council targets, the 20 percent CV on river herring, 30 percent CV on haddock, and 30 percent CV for herring by gear type, by area.

This just gives you sort of an overall picture after you do the analysis and you sum it all up across the gear types and the areas how many days you would need in the fishery for each of these sectors based on 2010 – we did this in 2010 based on 2010 – to meet those CV targets. This is the kind of information that the council would be presented with but hopefully a little bit more clearer so that they could have an understanding of when they get an SBRM type report or whatever report we'll see in the future from the Science Center on how to allocate days to the various fleets.

They would then take this piece of information here as a supplement and look at just the herring fleets and look at the difference between the SBRM allocations and these allocations here, and the council would be able to make decisions on where they wanted to add extra days, which strata, which areas, which fleets in order to try to meet these targets for river herring bycatch and everything else. It's a little bit complicated.

Hopefully, you have had a chance to look at in the document. It's a little more clear if you can read through it. This is just a summary table of what the coverage rates have been in the fishery. We've had really good observer coverage in this fishery for the last couple of years. Actually, the PDT was confident enough in the 2010 observer data that we did generate some estimates of total removals across the fishery. We did some extrapolations

This is just a breakdown, again recognizing the bottom trawl vessels are sort of all over place, but you're looking at 30 to 40 percent coverage in this fishery for the pair trawl, midwater trawl and purse seine fleets, a little less for purse seine, in 2009 and 2010. In 2009 and 2010 for the Category A and B trawl fleets, 40 percent or more of the trips were observed. That's higher coverage than most fisheries get. That's it. I tried to shorten this up, believe it or not, and I'm sorry if it was all over the place but I had covered half of it this morning. I'm happy to answer any other questions.

CHAIRMAN PIERCE: Lori, never apologize for a comprehensive presentation of such an important issue facing the sea herring fishery in the New England and the Mid-Atlantic. Section members and audience, we have been well briefed. Between Boston and this meeting in Alexandria all the details of this amendment have been covered and covered very well.

Of course, there are some section members around this table on whose shoulders a lot has been placed and that would be David Simpson, Mark Gibson, Doug Grout, Terry Stockwell and myself because we are New Council members. Many of us I think have been members at one time or another of the Sea Herring Committee of the council so we have participated in developing this document with a lot of input from the industry and from the general public.

If all goes well, if NMFS releases it fairly soon, this document will go to public hearing as noted by Lori in March and then in April in Connecticut some very important decisions will be made after about five years of hard work regarding how to adequately sample the catch in the sea herring fishery.

The meeting will be April 24th, 25th and 26th, and that's about two and a half months from now, so it doesn't provide much time for consideration of this document by the section and some conclusion regarding preferred alternatives. With that said, I will turn to the section and ask you if you have any questions of Lori and her presentation? Okay, I see none.

Now, to the point I raised earlier regarding how we will effectively get public input into the process that we have established to deal with this amendment, be it river herring or specific measures to sea herring, I turn to you, Bob, and ask you to help us in that regard. Can you give us some guidance?

MR. ROBERT E. BEAL: Well, I can tell you what the River Herring Board did this morning. I think that might be an option for this board. The River Herring Board formed a working group similar to what this section did before Lori's presentation. What they agreed is that the advisory panel would meet and review the document once Lori has completed the public hearing document.

They would provide their feedback and comment to the working group and the working group would then distill their information with the position of the working group and then present that information to the section, and the section would sign off on those

comments to the National Marine Fisheries Service. That's how the earlier group agreed to get the advisory panel involved in this process.

CHAIRMAN PIERCE: All right, that sounds like a reasonable approach. Do section members agree with that strategy or is there something else to offer up as an alternative approach? Okay, I believe that there seems to be agreement that is the way we should go with the advisory panel feedback being acquired. Now, I need to get some volunteers for the working group. Chris just indicated that Terry is on the working group, correct? Besides Terry, any other members of the section care to be on this working group; Bill Adler –

MR. STOCKWELL: I'm going to volunteer Doug.

CHAIRMAN PIERCE: Doug Grout has been volunteered. That's right; he is not at the table.

MR. G. RITCHIE WHITE: Mr. Chairman, wouldn't it make sense to just have the same people for the river herring and the herring; just have the same group?

CHAIRMAN PIERCE: It is my hope that the working group would consist of the same people. However, there may be some individual around this table that is not a member of the River Herring Board so that's why I asked if there was anyone else who might be interested. All right, we have a few volunteers that will join the River Herring Board participants in the working group, and I assume that Chris and ASMFC staff dealing with river herring will help coordinate that effort.

TECHNICAL COMMITTEE REVIEW OF SPAWNING REGULATIONS

All right, I see Vince shaking his head so that is how we will proceed relative to our providing some constructive input and preferred alternatives on these measures described in Amendment 5. All right, if there are no further questions or issues to be raised regarding the amendment, I'd like to go on to the next agenda item, and this leads us to a charge that the section gave to Matt Cieri I believe at our last meeting when we asked for technical committee review of spawning regulations, and Matt and other technical committee members I believe have put together a white paper. Matt is now going to describe the technical committee review; and I believe at the end of that review he is going to have a recommendation from the technical committee that the section needs to entertain.

DR. CIERI: My name is Matt Cieri. I'm with the Maine Department of Marine Resources, and I'm current Chair for the Atlantic Herring Technical Committee. Today I'm going to be basically going over that white paper, which you all should have received. It was actually in the supplemental materials and I think it is going to be passed out momentarily. Just to give you guys a little bit of a background, back in Boston the section sort of initiated a review of the spawning regulations and management among all the states.

The technical committee took a look at the issues and developed a white paper based around the section's discussions and their concerns. We took all this stuff and sort of hammered it all together and got on a conference call and examined all these issues and discussed them for a fair bit of time.

The TC also brought up a number of other issues, and so what we tried to do is actually put out a series of questions to be addressed through some analysis to give you guys a better sort of idea of where we were going with this white paper. But first things first; this whole thing sort of centered around this issue of smaller fish that are spawning.

It has generally been seen across the entire fishery, all areas, and spawning seems to be at the same age roughly, but that size at age has decreased over time since the mid 1980's. This has implications for our current spawning regulations which is sort of capped at a 24 or better centimeter total length for analysis.

Just to give a sort of a rough idea, here is the percentage of females that are mature by age 2005-2010, and as you can see age threes generally are 50 percent mature, so 50 percent of the females that are age three are mature, going up to 80 percent by age four and not actually reaching a hundred percent mature until about age six. However, the mean total length in millimeters this time of age three spawning females caught in the same area has sort of trended like this over time.

As you can see, since about the mid-1980's, back in the eighties it was about a 26-1/2 centimeter fish was a typical size for an age three, and now we're looking at something that was closer to 23 and below. That red line is the cut-off for which we sample for spawning fish, and so those fish that are below that size are probably in condition to spawn.

Again, slicing it a different way, this is the percentage of spawning or developing females in Area 1A during the spawning season. And here it's

in this size bin, this 23 to 24, this is the size bin just below where our regulations say that we need to sample, so this is the next size bin down. As you can see over time, it's sort of been highly variable but it has certainly been trending upwards.

As you can see now, 20 percent of the fish back in 2004 in this size bin were spawning or were going to spawn, but in most recent years it has been about a quarter, so about 25 percent of the fish in the most recent years in that size bin that we're not sampling because of the regulations are showing signs of maturity and development.

Again, another way of looking at it, this is the actual data that went into that previous graph, and as you can see on average from 2000-2011 for that size bin directly below where we sampled, which I've highlighted here in yellow, about 11 percent of the fish are usually in spawning condition. However, it has shown up that it has been maybe 4, 6, 10 in 2001, 2002, 2003, but that in recent years it has been 13, 18 and 25 percent.

I just got out of a data workshop meeting in Woods Hole for the assessment. One of the issues is we've been dealing with this sort of issue also within the assessment and how to model it. As you can see from the NMFS bottom trawl information, this is a problem that has been happening over the course of the fishery since about 1980's.

As it shows here, the proportion of females that are mature – this is from the NMFS bottom trawl, all areas – back, for example, in 1987 and in 2006 and that timeframe between 1987 and 2007 was roughly about 21 and 22 centimeters fork length, which is different than the total length that we normally use, but that in recent years it has been about 2 centimeters smaller.

So now that we've beaten that one to death, the TC, as I told you earlier, proposed a number of questions for further analysis, and one of the biggest questions was do fish that are below 24 centimeters spawn earlier than larger spawners. There is some suggestions within the biological literature that this happens in fish populations.

In general, no, the fish that are in the same area tend to spawn roughly around the same time regardless of whether they're smaller fish or bigger fish. In general with herring, males tend to hang out in an area that is in a developmental stage. It's more advanced than their female counterparts in the same

area, and they sort of suspend their development, waiting for the females to be fully mature.

You can find males in a given area that have a well-advanced maturity stage than females and they have that ability to do that. The question was do the default spawning dates overlap with peak spawning times? This is a very difficult question to answer, of course, because most of our information comes from the commercial fishery that is closed out of those areas during that time.

However, it seems the TC felt the regulations generally work pretty well. There is some indication – and I’ll highlight this a little bit later on – some indication that down east and mid-coast Maine, that the fish, when we have sampled, are spawning later than the defaults, so our defaults that we have set in the plan, when we actually go out and sample, those fish are spawning a little bit later on.

However, it’s not really that significant. It’s about five days. There seems to be about a five-day difference between the default and the average spawning date if you do it by sampling. Now, this could be changed, but TC made a sort of cautionary note that this may mean that spawning areas in mid-coast Maine and in eastern Maine and Massachusetts and New Hampshire, because that hasn’t really changed its spawning dates very much, may overlap more strongly, which means that there would be areas of the coast and many times in many years in which all the coast would be closed for a certain portion of time.

Again, this is sort of a breakdown that Chris did of when the spawning closure dates happened 2005-2011. As you can see it has been fairly variable. For example, the eastern Maine area has closed the 25th, the 28th, in and around there; where western Maine has closed, its default is the 1st, but it has closed as late as the 17th or the 13th.

And then for Massachusetts and New Hampshire, again its general default date is the 21st but it has closed as late as October 1st, but generally has been around the same timeframe from about the 16th to the 21st, so there is some indication it’s slightly early but not by much. But, again, getting back to eastern Maine, it has been fairly variable and the same thing with western.

Another question you’ll find in the TC white paper is are regulations necessary or practical to address vast differences in herring being sampled from northern and southern areas of the same spawning area. What

this comes down to is that we have three spawning areas along the coast of Maine and Massachusetts; the eastern Gulf of Maine, western Gulf of Maine and the Massachusetts/New Hampshire closure.

During certain years Massachusetts DMF will sample some of their fish that are closed by their facility, we’ll sample fish that are fairly close by our facility, and we find that they’re vastly different in their maturity stage, and this has caused some consternation. There may be an issue in which basically Massachusetts DMF and Maine DMR are sampling two separate bodies of fish that are all in very different spawning conditions.

There may be a need to adjust the Massachusetts/New Hampshire Boundary with the western Maine boundary; in other words, to adjust that boundary. That boundary currently is a little bit south of Cape Elizabeth; and so there was some suggestion by the TC that if the section wanted us to, we could go back and take a look at samples that have come in that general area across a lot of years and see if that line could be drawn a little better, but that’s up to you guys to decide if you want that type of an analysis to be done because that requires a good amount of work.

The other question is do the current spawning closure regulations effectively protect local populations from extinction or extirpation and can the regulations be improved upon. In general the TC came up with this sort of consensus statement that the measures are pretty effective protecting spawning fish when they are aggregated for spawning.

So, if you’re not going to allow people to fish on Atlantic herring while they’re spawning during that timeframe, then generally they’re going to be pretty effective. Of course, some improvement and standardization among states as far as protocols and as far as language within their regulations is probably warranted.

The other question that was posed was should the goals of the spawning closures and the objectives be clarified or expanded. The TC found this was pretty much a management issue. The goals and objectives of the spawning closures and the spawning management in general seem relatively unclear from a technical aspect and so you guys might want to go back and take a look at those goals, see if they currently address your needs and your current goals, the way they did when this plan was implemented back I believe in 1999.

Another technical question that came up was generally both Massachusetts DMF, Maine DMR and even New Hampshire Fish and Game have the ability to sample both directed trips and non-directed trips for Atlantic herring, and so there has been some discussion among all the samplers as to whether or not that's an appropriate representation of what is going on out there.

The TC sort of met on this particular issue and they came up with the idea that non-directed trips are probably important especially when the area that is being examined is closed to directed fishing because of spawning closures. The only way you're going to get fish is from a non-directed trip, and that these non-directed trips probably provide some insight and some window into a process that isn't normally sampled with a directed fishery.

Next came the question of how many samples is necessary. The current regulations as it's currently spelled out is that you need at least two samples of 50 fish or more per week in order to keep an area open or to close it. That has been what has been in the regulations as far as ASMFC is concerned. The TC suggested that be increased to two 100 fish samples generally because when you go through a sample you have to look for females in a particular size.

It's a lot easier to get the required number of females from a hundred fish than it is from fifty fish and it doesn't require that much more work. That is one technical change, for example, that the TC recommended. The other is whether or not the spawning regulations provide sufficient guidance and are they standardized among all the states.

In general the answer is, no, there are discrepancies in regulations among all three states, especially when it comes to what sizes to sample, how to sample, those sorts of things. There is a need to standardize among the states. In general things have worked pretty well in the past. There are not huge slugs of spawning fish that come across the dock that most people know about, but that's basically because Massachusetts, New Hampshire and Maine, usually the samplers have been in constant contact with each other usually during the process.

I know I call Mike Armstrong quite a bit during the spawning season just to see if we can line stuff up. But this isn't codified within any of our regulations and so at certain points as we go through budget cuts, personnel changes, those types of things, having states have a regulatory document that they can go

back to that spells out what kind of sampling they need to do and when would be most helpful.

To sum up everything, the TC's recommendation is to initiate an addendum to address spawning management, including the goals and objectives to adjust the sampling size downward to account for this drop in weight and size of age; to examine the default dates if so desired, particularly in western Maine and in eastern Maine; to address the Massachusetts, New Hampshire and western Maine Boundary Issue; and to standardize the sampling protocol and the regulations associated with spawning among all the states involved. That's what I've got.

CHAIRMAN PIERCE: Thank you, Matt, to you and the technical committee for the followup that you did on this issue. Section members, any question of Matt? Pat.

MR. PATRICK AUGUSTINE: Great presentation, Matt. When you were talking about the difference in spawning areas – east/west, if you will – that they were spawning at different dates, if you will, how long a period of time are we talking about, a week or two weeks or three weeks?

DR. CIERI: Do you mean between the default dates or the two groups of fish in the same area, which one?

MR. AUGUSTINE: Two groups of fish in the same area to start with.

DR. CIERI: They could be almost I would say maybe a week and a half to two weeks apart sometimes. Yes, it might be a week, maybe two.

MR. AUGUSTINE: So a follow-on to that, it's almost as though you're suggesting a short-term or quick fix – I mean not a quick fix – might be to go ahead and close the whole area off one simultaneous period of time. At least that's the gist of what you're saying that I'm getting. I'm kind of outside looking in because we're not deeply involved in the herring fishery.

But, from an objective point of view, that sounds like one of the things you're saying in addition your recommendation from the technical committee in developing an addendum – and I'm not sure those would be terms of reference of the items that you've listed there or not. So, in response to the first part of it; and then when the chairman is ready, I'll make a motion to do your addendum.

DR. CIERI: Actually, no, that isn't what I'm suggesting. I'm suggesting that each of those three areas have three different default dates associated with them, and at least two of those areas have been – generally when we've gone out and sampled have been spawning later than those default dates.

In herring management in the Gulf of Maine for spawning if you have samples, you close based around the sample. If you don't have samples, the fishery is not operating there, then you close based around the default dates. It's sort of an either/or. The suggestion would be that if the section wanted to they could take a look at the default dates – this is when we don't have samples – and whether to push it back a little bit.

The TC's feeling is that five days probably wasn't statistically significant. Five days isn't that different statistically, but then it might be different enough from a fishery management point of view to warrant that kind of action. Does that make sense; am I explaining that?

MR. AUGUSTINE: It' makes sense. And then the next follow-on question would be what is the sense of urgency on behalf of the technical committee to move forward with this at a relatively quick pace? I'm not talking about fast-tracking it. The sense that I'm getting is that it looks we really should embark on this effort as quickly as possible.

DR. CIERI: This is my own personal take. You might want to have something done by the time we start doing the sampling for next year because it's pretty clear that you're missing a lot of potential spawners that are below that 24 centimeter cut-off, and so they're not being effectively sampled and used in closing those areas.

MR. AUGUSTINE: And then a final one and then I'll shut up; within our budget constraints, Bob, could you tell us whether or not we could actually go ahead and embark upon this issue. I know we have a lot of hot items on our agenda yet for the next couple of days, so could you help us with that.

MR. BEAL: I think doing an addendum to clarify these definitions and bring them all together because they're scattered out over a bunch of documents and those sorts of things is a pretty straightforward technical exercise more than anything else. I don't see a whole lot of public input and extensive public comment periods and those sorts of things which would generate a lot of expenses for the commission. We can have hearings up and down the coast if that's

what the states would like, but we may ask the states to conduct some of those hearings themselves. I think it can be done and I think it's important to sort out these definitions soon we can, as Matt was saying, get it clarified.

MR. DENNIS ABBOTT: Mr. Chairman, I think it would just appropriate to make a motion that we initiate an addendum based on the five bullet points that Matt gave us. They always do good work for us and I think that it's important that we move forward regarding the size and the boundaries and the sampling protocols.

CHAIRMAN PIERCE: Okay, check the language on the screen and see if it's the motion you are intending to make. All right, is that your motion, Dennis? We should read that into the record, if you would.

MR. ABBOTT: That's correct.

CHAIRMAN PIERCE: I will read it then. A motion has been made; let's see what the motion is. All right, move to initiate an addendum implementing the technical committee's recommendations regarding spawning regulations. That is the motion by Dennis Abbott; is there a second to the motion; Bill Adler. Okay, Terry you had your hand up; was it to make a motion?

MR. STOCKWELL: No, it was to make a comment leading into a motion.

CHAIRMAN PIERCE: Okay, we have a motion, so discussion relative to the motion. Terry.

MR. STOCKWELL: I do support the motion on the board although those of us involved in herring know full well that the section and the technical committee spend an inordinate amount of time trying to balance the spawning herring protection and the needs of the industry. Matt and I have discussed a number of the issues that are in the white paper over the years, and I believe it's timely to initiate this addendum. I do think, Mr. Chairman, we need to have some discussion on the goals and objectives before we dispense with this motion.

CHAIRMAN PIERCE: Yes, I agree with you. For the benefit of the section, I reference Page 5 of the white paper where we find common themes regarding the section's goals and objectives for sea herring. The specific text that we have in Addendum I and Amendment 2 relative to goals and objectives for protection of spawning fish, specifically the

spawning closures, that is on Page 1 and o Page 2 of the document.

Again, to clarify the motion I think that the maker of the motion, his intent is to follow what the technical committee has recommended. Specifically they're noting that this is a policy decision on our part. The technical committee did not comment on what the goals should be but they feel that some clarification is necessary. I'm feeling the maker of the motion feels the same way that the goals and objectives need to be clarified. They're all listed for us now in the white paper. Chris, do you have a point?

MR. VONDERWEIDT: I just wanted to point out that on Page 5, as David mentioned, under should the goals of the spawning closures be clarified or expanded, we actually summarized the common themes. If you look at that second from the bottom paragraph, it says common themes include protecting schools of spawning fish when aggregated, to not interfere with spawning behavior, so on and so forth. You can kind of just use this list rather than looking at the actual regulations that are in the document, too.

CHAIRMAN PIERCE: Okay, with that said, we have a motion before us with a suggestion that we spend some time focusing on the goals and objectives, so why don't we do that? Sarah.

REPRESENTATIVE SARAH K. PEAKE: Mr. Chairman, a question on the motion. I think going back to that other slide, it looks as though we're looking at certain spawning areas that it delineates. I know recently I had a meeting with some fishermen about dogfish, but herring came up.

There was some concern expressed about the lack of appropriate protections for the Nantucket Shoals Spawning Area. Would this motion include that area as we're looking at herring spawning in general; and if not, is that something that could be included with a friendly amendment?

REPRESENTATIVE PEAKE: It does not include spawning closures outside of the Gulf of Maine. We do not have any spawning closures that pertain specific to Georges Bank or Nantucket Shoals. That's another issue entirely, so right now the motion is specific to the way we do business now, which would spawning closures for the Gulf of Maine. Terry.

MR. STOCKWELL: I hear where you're coming from, Sarah. I'm afraid that if we're going to make some technical corrections that's going to help the

technical committee move ahead for this year, that modifications and/or additions to the existing closures and/or new ones will take more time than we have. Probably your interest would be better served in a subsequent action to follow this, and I'll second it.

CHAIRMAN PIERCE: Well, let's dispense with this motion first. Any further comment on this motion especially with regard to the clarification of goals and objectives? David.

MR. DAVID SIMPSON: Just one thing to be clear; this is entirely a Gulf of Maine issue; right?

CHAIRMAN PIERCE: All right, I will be going to the audience, yes, but first I need to make sure that everyone who would like to speak has an opportunity to do so. I see that is the case so I will go to the audience. Mary Beth.

MS. MARY BETH TOOLEY: Mr. Chairman, I'm still a little unclear following that discussion about how this motion relates to the goals and objectives. Is it your intent that the common themes that are listed on Page 5 be the goals and objectives or are you going to take it up under a separate motion? I wasn't too sure.

CHAIRMAN PIERCE: Well, as it stands right now the goals and objectives as they are in Addendum I and in Amendment 2, this motion does indicate that the goals and objectives need to be clarified, and I'm looking to section members to see if indeed there is any desire to do that, but right now they stand as in the addendum and as in the amendment.

MS. TOOLEY: So this motion, Mr. Chairman, then would be to move forward the technical committee's recommendations and then any consideration of changing the goals and objectives would be considered separately; is that correct?

CHAIRMAN PIERCE: Well, I turn to the maker of the motion for the maker to clarify his intent regarding the goals and the objectives. Dennis, do you care to elaborate a bit? No, okay. This motion was made principally because the technical committee has made some recommendations regarding the need for some changes in the way the fish is sampled, protocols. It's a technical issue, so the maker of the motion has included goals and objectives, which is not a technical issue. Well, my preference would have been not to have goals and objectives in the motion, but again the maker of the motion has spoken. Yes, Dennis.

MR. ABBOTT: I didn't try to cause any confusion. I tried to simplify things, but if it makes more simple to remove goals and objectives from the motion, that's perfectly fine with me.

CHAIRMAN PIERCE: That would be my preference especially because the technical committee has not taken a position on goals and objectives. They said it's a policy call.

MR. ABBOTT: Let's remove it, then.

CHAIRMAN PIERCE: Thank you, Dennis. To make it simpler and to be specific to required or suggested technical changes by the technical committee, let's do that. If there is no objection from the section, we will modify the motion before us. We are not talking about goals and objectives. The goals and objectives stand as is. This is about making some technical changes in how we deal with the spawning regulations themselves.

MS. TOOLEY: Thank you, Mr. Chairman, that clarifies the issue, and I certainly do support the motion.

CHAIRMAN PIERCE: Thank you, Mary Beth. I'll still go to the audience. You now know what the motion reads relative to the goals and objectives. Yes.

MR. STEVE WEINER: David, can I ask a question of Matt or is that out of bounds now? I had a question on his presentation; just a couple of small questions.

CHAIRMAN PIERCE: Questions that would relate to clarifying the motion itself?

MR. WEINER: Possibly; it's not that simple a question.

CHAIRMAN PIERCE: Go ahead, Steve.

MR. WEINER: Matt, how do you sample an area for spawned fish when there isn't any fishing going on in the area?

DR. CIERI: You don't. If there is no fishing going on, of course, you're pretty much out of luck, in which case that area closes on its default dates. If there are no samples to keep an area open or to close it, then it's within our regulations – in all the states actually is language that will close it on a day if there are no samples available. Sometimes we have the ability to get them off non-directed trips, and that

includes, for example, some of the whiting vessels that fish in the Massachusetts/New Hampshire area or some other way.

MR. WEINER: And then the other question I had is given that a default date is just that, a default date, theoretically you could open an area, sample and then close an area again because the fish are still in spawning state; have you ever done that?

DR. CIERI: Yes, we have. That's happened I believe a couple of times in the last I want to say five or six years in which the area is closed based on defaults because we don't have any samples; and then when we go to reopen it, the fish are spawning later that year, and the area reopens for a week and then the guys go in, they fish – holy heck, they're still spawning; the whole place just gets closed right back up again for two weeks.

MR. WEINER: But that doesn't happen very often; does it?

DR. CIERI: It's actually fairly rare. Usually we have a good track with the fishery as to where the spawning conditions are. For example, down east there may be nobody fishing in that area and want to go fishing in that area once the area comes right back open again.

MR. WEINER: Okay, just one last question, David. I just spent the same four days as Matt did down at Woods Hole on the stock assessment data collection meeting. It was pretty obvious at least to me – as a layman sitting there it was hard to follow at times, but if I heard it right the biggest aggregation of herring and the largest potential for spawning is out in the Georges Bank/Nantucket Shoals area based upon what I heard there.

It seems hard for me to believe that this group wouldn't take up now as part of this effort the possibility that there are other spawning areas maybe even more important than the ones you're doing now. As I read this Page 5, Number 4, do the current spawning closure regulations effectively protect local populations from extinction; could the regulations be improved upon, I really think to not – I'm all for taking up and so are most of the people I represent; let's talk about spawning, let's talk about our goals, and let's talk about whether there really are other areas that might be more important than the ones we're protecting now. Thank you.

DR. CIERI: Just to that point, for those section members who weren't aware or weren't around when

this fishery management plan was implement – and I don't even think I was – initially the federal plan also had spawning areas basically in that management as well. Those were actually disapproved by the regional administrator's office at the time as being unenforceable and unneeded.

Because all of that occurs in federal jurisdictions where the fishing actually takes place, so that's actually more of a federal issue in some cases. I know there have been some indications – and I believe Terry remembers that there have been some people who have been trying insert that into another herring sort of management action, but right now that area is actually under federal jurisdiction, and so therefore the regional administrator disapproved that in the last go-around I believe in 1999, and that's where it stands.

CHAIRMAN PIERCE: Yes, a motion may be made relative to this particular issue, but I'll wait and see on that. The section will certainly entertain a motion if one is made relative to Georges Bank, but we have to dispense with this. I am going to come back to the section because we're running out of time with the allotted time for this particular section meeting. Are there any further questions or further debate on the motion? Okay, we need to caucus.

(Whereupon, a caucus was held.)

CHAIRMAN PIERCE: **The motion is move to initiate an addendum implementing the technical committee's recommendations regarding spawning regulations not including the goals and objectives. Motion by Mr. Abbott; seconded by Mr. Adler. All right, I assume everyone is ready to vote. All those in favor of the motion please signify by raising your hand, 6 in favor; any opposed; any null votes. It is unanimous.**

All right, we will move forward with this addendum to make these technical changes in how we deal with our herring spawning regulations. I turn you, Chris, and certainly you, Bob, could you give us some idea as to the requirements that you would need to prepare – the time requirements needed to prepare this addendum.

MR. VONDERWEIDT: I think as it sits right now, assuming that the goals and objectives are worked out, it would be pretty easy to put what is in the white paper, have Matt run a little bit more analysis, look at shifting the boundary between the Massachusetts, New Hampshire and eastern Maine.

Well, it wouldn't be a big deal to kind of get the addendum out the door pretty quickly. And in thinking forward to the next board meeting in April and then following that, just following the standard two meeting weeks in between the timeline for these addendums, we could actually get the final addendum and have it voted on prior to the start of the spawning season.

That would be convenient for when it is going to impact; but if we were to include a new spawning closure, that's a whole new bag of worms and that would probably take quite a while to develop and probably not anytime soon with – I know Matt is real busy with the specifications and also the assessment is going on. I hope that answered the question.

MR. BEAL: I think I heard Chris right but if there is not a lot of additional work added to this, we could draft it for May, have hearings over the summer and final approval in August. Is that what we think we can do?

CHAIRMAN PIERCE: All right, very good, it certainly would be of great benefit to have it in place for this year. Sarah.

REPRESENTATIVE PEAKE: Mr. Chairman, based on what we heard from the public and some discussion here around the table, if a motion is in order now, **I would like to move to initiate an addendum to provide options to protect spawning herring in the Nantucket Shoals/Georges Bank area.** I'll leave it at that for the moment.

CHAIRMAN PIERCE: Okay, we have a motion from Sarah Peake; is there a second to the motion? Ritchie White has seconded the motion. Discussion on the motion? Let's make sure it's clear. Is that the motion, Sarah, the correct language?

REPRESENTATIVE PEAKE: That looks like it and I'm open to wordsmithing.

CHAIRMAN PIERCE: All right, so move to initiate an addendum to provide options to protect spawning herring in the Nantucket Shoals and Georges Bank areas. That is the motion. Matt.

DR. CIERI: From a technical issue, as Lori could probably tell you, we actually just went through this entire process with the council as some of this issue actually did come up. The issue seems to be that all of the fish that we get from Georges Bank and Nantucket Shoals are frozen. They're not fresh fish,

which is how we actually sample the inshore component to regulate the spawning closures.

Frozen fish cannot give you a good understanding of maturity, particularly gonad weight and staging. In order to put something like this into place, you would need a sampling program that would get you fresh fish from Georges Bank in a reasonable timeframe. That requires an additional monitoring component.

Currently that monitoring is done by the states of Massachusetts and Maine. Ours is under ACCSP, and so you would have to actually implement an entirely different monitoring program for fish coming into Massachusetts and New Hampshire from Georges Bank. That was one of the issues that were involved.

There is no record or data base that is associated with this, so we can't, for example, reach back in time and tell you what optimal spawning period there is going to be because that information wasn't collected from Georges Bank because there was no spawning closure. That would take time to implement as well. This is a very major undertaking. Rather than changing areas and changing boundaries, this is a significant amount of work and actually a significant amount of time and energy that would be required by the samplers getting fresh samples. Please keep that in mind.

CHAIRMAN PIERCE: Okay, Matt has raised some very legitimate issues. Nevertheless, we have a motion on the floor. Sarah.

REPRESENTATIVE PEAKE: If I may just respond to those issues, Matt, thank you for the explanation. I understand this may be time-consuming, we don't have a bank of data on which to rely. On the other hand, like many things in life, if we don't begin at some point in time, when do we ever begin if we say it's always going to be too difficult?

I'd hate to be like the Wizard of Oz who says, "Go get the broom from the Wicked Witch of the West" and we never set off to do that. I guess my question is or my statement would be I think that there is a spawning stock of herring that is there. My goal is to find a way to help develop protections for them, for the viability of this industry moving forward, and I'm seeking a way to do that. I think there has to be a way to get to get to yes from it doesn't seem likely or not possible. I'm open to ways to getting to yes. Thank you.

CHAIRMAN PIERCE: Any other comments on the motion? Terry.

MR. STOCKWELL: Mr. Chairman, I agree with much of what Representative Peake has said. However, I have been reminded through our conversations today of the ongoing specification package and a stock assessment that is going to take all the technical committee's time. Just reading part of the white paper here, I think in order to give this proposed addendum and/or of interest to me modifications to the current closures any justice, I'm inclined to support postponing this until we receive the updated assessment and we've been able to work our way through the specification process. If you're willing to withdraw this motion, I won't make a motion to postpone.

REPRESENTATIVE PEAKE: I'll withdraw it if you'll work with me on a motion for August; how is that?

MR. STOCKWELL: Deal.

REPRESENTATIVE PEAKE: **Mr. Chairman, I'd like to withdraw my motion.**

MR. STOCKWELL: Or later in the fall when we're – I guess I'd defer to Matt for timing on when the appropriate time would be.

CHAIRMAN PIERCE: All right, I believe the sentiment expressed by you, Terry, is that we're not going to be able to get this addendum done for this year. There will be a delay because of other priorities relative to sea herring assessment, sea herring work and followup on our previous action. Therefore, it makes sense, you're saying that we wait until after the assessment is in hand and that will then enable us to have what?

MR. STOCKWELL: A better understand on how to move forward as well as the specification package and the time for the technical committee to work with this.

CHAIRMAN PIERCE: Okay, so Terry has made that suggestion and, Sarah, you would like to withdraw the motion? Okay, obviously with the intent to make it later on in concert with Terry and others, I suppose. Does the section object to Sarah withdrawing the motion? I see no objection from section members so before I say it's withdrawn I'll turn to you, Vince.

EXECUTIVE DIRECTOR JOHN V. O'SHEA: Mr. Chairman, I think you're going in the right direction here. I think the focus to let us get this other addendum, we know we can get that done, but one of things I would suggest in response to the maker of motion's intent to get something started was we might be able to pull together a white paper sort of scoping out what the issues would be involved with this; much less labor-intensive than an addendum.

Because there are resource implications that the states are going to have to consider in doing that, it would give us a chance to scope that out for the board so that you could make an informed decision about what you wanted to do.

I think a reasonable time may not be in May but maybe for the August meeting we could get that pulled together for you, so it wouldn't be a total collapse of this motion. I mean, the motion goes away but the idea of continuing to work on this issue would still be alive.

CHAIRMAN PIERCE: That's a great suggestion, Vince, thank you. Matt, did you want to elaborate?

DR. CIERI: Yes, I actually produced the same exact white paper for the council, so I can do that fairly quickly. You guys are going to be tied up in August when you guys get the results of the SARC presentation for Atlantic herring, and you're going to start the specifications' process, so we can get that done by your next meeting.

CHAIRMAN PIERCE: Okay, thank you. I appreciate that, Vince and Matt. Clearly, protection of spawning fish is a priority of the section. The status of the resource as revealed to us later on this year certainly will provide us with better insight into how needed that spawning closure is. I suspect that when all is said and done there will be support for our moving forward to implement similar sorts of spawning protection.

That's the Chair speaking a personal opinion since I have a lot of history with Georges Bank sea herring, and I know that the collapse of the Georges Bank sea herring resource occurred because of concentrated fishing by the large pelagic fleet, the foreign fleet, back in the sixties and seventies on spawning concentrations on Georges Bank. It's a different fleet, foreign fleet versus domestic fleet, but nevertheless it's an issue that definitely deserves some further thought.

This white paper should help us in that regard. Any further business before the section? We've come to the end of the agenda. Other business is next. All right, I see none so without any objection we will adjourn. Well, hold on a second, I see some people in the audience. These hands have been waving. I think people have traveled some distance so I'll go to Chris.

MR. CHRISTOPHER WEINER: Chris, bluefin tuna fishermen, ABTA and CHOIR. I just had a question for Matt. You guys kind of glossed through the – and this is on that first notion and I know it's already done with, but I wanted to ask this then. Why would you move the western Maine closure south? From our perspective that is where we fish out of.

Our concern is that everything – the closures are too early. In years past – well, the last two years we didn't see any spawning on the traps and fish – or, last year we didn't see any spawning off of Maine. In years prior to that, the tuna boats and the lobster boats, the lobster gear that was out there was covered with spawn. In mid to late October it was covered in spawn then and guys that were fishing jigging up herring in Ipswich Bay or just north of Ipswich Bay – the bottom line is that our concern – and I've told this to Matt a number of times that things are too early.

Correct me if I'm wrong, if you move the western Maine spawning closure south, you're basically opening up more area earlier, right, because the western closure opens or closes earlier – or opens earlier than the Massachusetts/New Hampshire one, so basically you're just opening up more area earlier, right, by default?

DR. CIERI: Yes, in that way. What we found when we go through and we take look at sampling, the sampling that's occurring just south of Portland are usually are much more advanced, so they're spawning earlier than the fish that are happening, for example, in Ipswich Bay, and so they're going to be completed earlier as well than the fish at Ipswich Bay.

If both fish take roughly four weeks to do their spawning thing, then the ones in Portland are already finished but then the ones in Ipswich Bay are still going. If we base that closure only on the fish that are south of Portland, then the fish in Ipswich are still going to be spawning, correct?

MR. WEINER: I would agree with you, but just from our own observations, I think that, you know, maybe the bigger concern is when you open and

close it, and that would be the second part of my comment that I want to just quickly state is that it's troubling – and, again, I've told you this in this past that when you sample, you basically – and it's a shock to me.

I was unaware that you had opened and then closed an area in the last five years, but apparently I missed that one. But the point is that in my opinion that doesn't happen and there is a lot of pressure on the managers for that not to happen. I think the biggest concern – I still think I'm concerned with you moving that, and I when you do the analysis you carefully consider why you would do that. I would also suggest if you need to hire boats – you find a better way to sample before the boats get in there because I don't think your timing is correct in a lot of years. I think you're close, but I think it could be done better. I think once you open it, it's not closing.

ADJOURNMENT

CHAIRMAN PIERCE: Chris, thanks for your views and I'm sure you'll continue to share them with Matt as well as Mike Armstrong and other members of the TC when they follow through with this issue. Thank you. All right, meeting adjourned.

(Whereupon, the meeting was adjourned at 4:05 o'clock p.m., February 7, 2012.)