

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

The Crowne Plaza Hotel
Old Town, Alexandria, Virginia
March 24, 2011

Section Approved November 2011

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1. **Motion to approve agenda** by Consent (Page 1).
2. **Motion to approve proceedings of January 7, 2010** by Consent (Page 1).
3. **Move to approve inclusion in Addendum IV Options 2 and 5 with the exception that there would be a prohibition on the use of carrier vessels on the extra landing day for the small-mesh bottom trawl and purse seiner C and D permits** (Page 9). Motion by Doug Grout; second by Mark Gibson. Motion defeated (Page 13).
4. **Motion to adjourn** by Consent (Page 13).

ATTENDANCE

Board Members

Terry Stockwell, ME, proxy for N. Olsen (AA)
Dennis Damon, ME, proxy for P. White (GA)
Sen. Brian Langley, ME (LA)
Doug Grout, NH (AA)
G. Ritchie White, NH (GA)
Rep. David Watters, NH (LA)
Rep. Dennis Abbott, NH, Legislative
David Pierce, MA, proxy for P. Diodati (AA)
William Adler, MA (GA)
Ben Martens, MA, proxy for Rep. Peake (LA)

Mark Gibson, RI, proxy for R. Ballou (AA)
William McElroy, RI (GA)
Rick Bellavance, RI, proxy for Rep. Martin (LA)
Dave Simpson, CT (AA)
Lance Stewart, CT (GA)
Rep. Craig Miner, CT (LA)
Pat Augustine, NY (GA)
James Gilmore, NY (AA)
Peter Himchak, NJ, proxy for D. Chanda (AA)
Tom Fote, NJ (GA)

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

Ex-Officio Members

Matt Cieri, Technical Committee Chair

Staff

Vince O'Shea
Robert Beal

Chris Vonderweidt
Kate Taylor

Guests

Ross Self, SC DNC
Ben Landry, Omega Protein
Erik Braun, EHFAC, E.Hampton, NY
John Crawford, Pew Charitable Trusts
Mary Beth Charles, Nat'l F&W Fdn.
Mary Beth Tooley, Small Pelagic Group

Jeff Kaelin, Lund's Fisheries
Shaun Gehan, Kelley Drye, DC
Janice Plante, Commercial Fisheries News
Wilson Laney, USFWS
Patrick Paquette, MSBA/RFA
Raymond Kane, CHOIR

The Atlantic Herring Section of the Atlantic States Marine Fisheries Commission convened in the Presidential Ballroom of the Crowne Plaza Hotel Old Town, Alexandria, Virginia, March 21, 2011, and was called to order at 4:35 o'clock p.m. by Chairman Dennis Abbott.

CALL TO ORDER

CHAIRMAN DENNIS ABBOTT: I'd like to call to order the meeting of the Herring Section here on March 21, 2011, in Alexandria, Virginia. Looking around the table, I declare that we do have a quorum.

APPROVAL OF AGENDA

I would look for approval of the agenda. Are there any changes to the agenda? Seeing no changes to the agenda, the agenda is approved.

APPROVAL OF PROCEEDINGS

Approval of the proceedings from our January 7, 2011, meeting; are there any comments regarding the minutes? Pete Himchak.

MR. PETER HIMCHAK: Mr. Chairman, I think I'm listed as being in attendance and I was not.

CHAIRMAN ABBOTT: Thank you, Pete; we'll correct that.

PUBLIC COMMENT

Public comment, we will take public comment on things not on the agenda. I see nothing submitted. Do you have comments on something not on the agenda? If you'd come to the microphone, I'd let you speak in moment. For those items that have already gone to public hearing, we will limit any public comment on those so we can move this meeting expeditiously along.

MR. PATRICK PAQUETTE: Patrick Paquette, Massachusetts Striped Bass Association, Recreational Fishing Alliance – New England. This board has continuously written letters back and forth in various correspondence over the last couple of years with the New England Fishery Management Council and the Mid-Atlantic Fishery Management Council concerning the very controversial issue of river herring bycatch in the Atlantic Herring Industry in the Atlantic herring catch.

This board needs to be aware and so I just wanted to make sure that it was said that at the – I attended the ASMFC stock assessment meeting in Rhode Island on Bycatch Day. There was no presence from the National Marine Fisheries Service Protected Species. There was no presence from the New England Fisheries Science Center. There was no presence from U.S. Fish and Wildlife at that meeting.

The bulk of the discussion on that afternoon, over five hours, was about river herring in the 1700's. With correspondence and the ping-pong ball that has continued to go back and forth and with two federal actions in two different councils, that both openly comment on waiting for a river herring stock assessment that is going to affect this fishery that this board helps to manage or shares management with, it's really important I think that this board at least some point in time in the near future consider putting some pressure, whether it's a letter or whatnot, that NMFS sends their stock assessment people and their experts on river herring to bring that bycatch data to the table at that stock assessment because it is not happening now. We're setting this up for ping-pong ball to continue and it's part of this fishery. I just wanted to make sure that was aware of the board members.

CHAIRMAN ABBOTT: Thank you. We understand that there is a bycatch issue and hopefully we will be working towards resolving that issue to the best of our ability. Mary Beth.

MS. MARY BETH TOOLEY: Mr. Chairman, not to be repetitive but every opportunity I get to make a comment under this agenda item, I do want to bring up the fact that fishermen in the Atlantic herring fishery are not pleased with the spawning stock regulations as they currently are. They do want to see some analysis done and to see if the change to full closures from a 20 percent tolerance has any effect or difference on the mortality of spawning stock in the Gulf of Maine. I would ask the section to consider at the next possible moment to initiate the analysis or an addendum to analyze that data. Thank you.

CHAIRMAN ABBOTT: Thank you, Mary Beth, and I do recognize that you essentially made the same comments at our last meeting, and I think it is something that we probably should be looking at, but no board member at this point has brought that subject to us for an agenda item. We will discuss that. Matt.

UPDATE ON THE ATLANTIC HERRING FISHERY FOR 2010

DR. MATT CIERI: My name is Matt Cieri and I'm the Chair of the technical committee for Atlantic herring, and I'm also from the state of Maine. What I'm going to do today is give you just a brief update on the Atlantic Herring Fishery for 2010. As you may or may not be aware of, we have sort of three different types of reporting systems for Atlantic herring.

The first is the IVR or Interactive Voice Reporting System in which harvesters report basically cumulative landings by fishery management area on a weekly basis. The second part is a dealer reporting system that the National Marine Fisheries Service has in place, which gives economic information on a weekly basis.

Then there is the Vessel Trip Report, which is monthly landings on a trip-level basis that defines area and gear pretty well. The National Marine Fisheries Service uses a combination of all three of these to monitor the quota, but in general for today what I'm going to be presenting you is just stuff from the IVR, from the Interactive Voice Reporting System, because VTRs tend to lag months behind, and so it's not good for quota monitoring and it does take some time to process so those data from the VTR are not available yet.

Just to give sort of a brief overview of some of the management changes that have happened in the last few years, these include drops or reductions in the quotas for Atlantic herring, both overall as well as by specific areas. As you can see, in 2007 Area 1A was at about 50,000 metric tons; and as we've gone through time, it's now down to 26.5.

Likewise, Area 1B has gone from 10 down to about 4,000. Area 2 has been dropped by a little bit less than 8,000 and Area 3 has gone down substantially from 55 – at one point was at 60 – and is now down to 38. For 2010, based solely on the Interactive Voice Reporting System, or the IVR, here is about where we stood.

The total catch in Area 1A was 27,000 and a little bit with 26.5 being the quota for Area 1A, so we were over the quota according to the IVRs by about 500 metric tons or about 2 percent. For Area 1B the quota was just under – the catch was just under 6,000 metric tons. The quota is about 4,300, so there was an overage about 1,600 and about 37 percent over the quota. Likewise, Area 2 didn't reach the quota by

about 15 percent; and Area 3 didn't reach the quota by about 60 percent.

However, some of the preliminary VTR information that I've been analyzing as it comes in suggests that there hasn't been any overage in either Area 1A or 1B. Right now with the VTRs coming in, it suggests that 1B is still under quota according to the VTRs as well as 1A. As time goes by we'll get more VTR information.

That VTR information is very preliminary, but it looks and seems as if there has been some misreporting going on by the harvesters, for example, suggesting that they're in Area 1B when they call in; whereas, when you look at their VTRs, they're actually in Area 2 or Area 3. Another point is that the state-only landings for the state of Maine by state permit vessels was about 900 metric tons.

That's substantially higher than it has been in the past, which has been somewhere 200 metric tons. Just to give you an overall catch for 2006-2010, you can see the catches here and the totals have ranged from about 98,000 metric tons in 2006, a little bit less than 80 in 2008, and then roughly 100,000 metric tons and in 2010 was 67.

You can also see the New Brunswick weir fishery, which has ranged from as low as 4,000 metric tons in 2009 to as high as almost 31,000 metric tons in 2007; 2010 came at about almost 11,000 metric tons. You can see the sums of metric tonnage here in catch for both the New Brunswick weir fishery and the U.S. fishery – now reminding you that this is all considered to be one stock so the New Brunswick weir fishery is assessed as part of the U.S. stock for Atlantic herring.

Again, taking a really good look at the Area 1A catch, just to give you a graph of both catch and quota, in 2000-2006 we've have maintained at about 60,000 metric tons for Area 1A; some slight overages and some slight underages in different years; and then as you can see from 2006 it has dropped down to its current level.

If you look at the way the fishery has progressed this past year for Area 1A – again, this is IVR reporting by week here – you can see that in 2007, 2008, and 2009 the fishery progressed fairly rapidly earlier in the year; came to some sort of leveling off point around mid-August through about mid-October; and then again ramped up until it reached the quota.

Last year the fishery started much later and the fishery did not progress quite as fast as it had in previous years. If we take a look at all the years – and I know this graph is actually very confusing – these are all the years from 1970-2010 by week for Area 1A, and this is a combination of VTRs and the IVRs for 2010.

You can see each year has progressed in a very similar manner. In general the catches tend to start ramping up in about May/June and then progress throughout the year. The red line down here is 2010. This was how our catch looked like compared to other years from 1970 onward. If we take a look at 2010 catch rates, again with week along this axis and catch along this axis, you can see all the management measures that we took for implementing days out; starting with only one fishing day and then progressing to two, back to one fishing day – or landing day, I'm sorry – and then to four days and then to seven days and then back to four days. There have been a lot of management changes in the course of the year for Atlantic herring in 1A.

Again, if you take a look at how spawning closures have affected the catch rates, again you can see we've had the eastern Gulf of Maine area closed during this timeframe from about mid-August through the first week in September; and then western Gulf of Maine following suit with some overlap; and then the Massachusetts/New Hampshire closure happening then, and you can actually see the catch rates as it has progressed through.

Spawning closures went off in this particular way, about mid-August again through September 11th for the eastern Gulf of Maine; September 1st through September 28th for the western Gulf of Maine; Massachusetts and New Hampshire went from October 1st through the end of October with a lot of the catches happening after that in the Massachusetts/New Hampshire area once the spawning tolerances or the spawning closures came off.

One of the interesting things is I pulled the Maine Inshore Trawl Survey for Maine and New Hampshire, and this is just sort of a side note for Atlantic herring. We've got fall data, inshore trawl survey data from 2000-2009, and you can see the number and the weight here as they have progressed in each one of those years.

What is interesting to note is that in 2009 we have a fairly stable weight. We have a dramatic increase in the number of fish. And so if you actually take a

look at this – these are all these same years – here is 2009 here.

You can see that the fish in general were smaller in the inshore trawl survey in the autumn, and this suggested that there might actually be a fairly good year class moving through for the inshore component. These would be one year olds in 2009 so they would be the 2008 year class. That's pretty much what I have to report.

CHAIRMAN ABBOTT: Thank you, Matt. Do we have any questions for Matt? Dr. Pierce.

DR. DAVID PIERCE: Matt, where did the fish go in 2010? Come on, tell us, would you, please, where did they go? Catch rates were very low, our fishermen couldn't find them, all we've heard was they're hard on the bottom, they're hard on the bottom, like they were nailed to the ocean bottom. What is the up-to-date perspective?

DR. CIERI: The truth of the matter is I only know what the fishermen report through the IVR system and the VTR system, and so you're probably best off actually asking somebody who fishes for a living rather than asking a scientist where the fish were. Like I said, all I know is that they weren't catching the fish, they weren't reporting those fish like they have in the past. The truth is I don't really know.

DR. PIERCE: Okay, they were hard on the bottom; I've heard that for the last 20 years, they're hard on the bottom. Okay, anyway, hopefully we have better success this year. The 2008 year class I think you just said potentially could be above average, what have you, and if that is the case, would you offer up a view as to whether or not that will mean we'll have more juvenile fish in the catch this year, more smaller fish in the catch this year or will they be around nine inches total length. What is your prognostication?

DR. CIERI: Well, if they were one year olds in 2009 in 2010 they were two year olds, and they should three year olds in 2011. They will be adults.

DR. PIERCE: Okay, so about three years old?

DR. CIERI: That is correct.

DR. PIERCE: So that's the principal reason for the high catch of juvenile fish that occurred last year?

DR. CIERI: I wouldn't go so far as to say that. Right now I'm still working on the catch-at-age matrix for 2010, and that's partially because I have to

wait for the VTRs to come in before I can actually do the catch-at-age matrix.

CHAIRMAN ABBOTT: It's good to know that Dr. Cieri can predict that a two-year-old fish will be three years old next year. Pete Himchak.

MR. HIMCHAK: Mr. Chairman, I'll ask him a more difficult question. There was this dreaded reduced TAL in Area 1A and then the strategy throughout the year of the allowable days of landings versus the days out of the fishery and because the landings came in at such a slower pace; did you end up being more liberal in the landing days during certain times of the year, and is this typical of the process or is it the reverse of the process?

DR. CIERI: I'm actually going to defer that to some of the managers around the table that have been in on that. Like I said, I'm simply a scientist. By and large what happened last year is that there were more days added in as the year progressed; but as for the reasons why that is, whether it was catch rate or whether it was increased opportunity or so on, I'll let somebody else around the table answer that one a little better.

CHAIRMAN ABBOTT: Yes, Pete, I think if you look at Draft Addendum IV on Page 3, you can see the amount of days out, how we adjusted it during 2010, 2009, 2008 and 2007. Last year obviously was a difficult year in that the fishermen were having difficulty in the first part of the year so we kept adding more days to allow them to land. As Dr. Pierce said, they were all hard on the bottom and they were having trouble finding the fish throughout a good part of the summer. Ritchie.

MR. G. RITCHIE WHITE: Matt, the increase in Maine's state landings, is there any breakdown as to permit or gear type?

DR. CIERI: It's tough to say. Our landings are still rolling in, but by and large it looks like it's top seine.

MR. TERRY STOCKWELL: Matt, how far into the year is it going to be before you're going to be able to tease apart the VTR landings?

DR. CIERI: I'd give about another month before I'd feel comfortable.

CHAIRMAN ABBOTT: Are there further questions for Matt? Seeing none, we will move on to Draft Addendum IV and recognize Chris Vonderweidt to give us a briefing.

DRAFT ADDENDUM IV REVIEW OF OPTIONS

MR. CHRISTOPHER VONDERWEIDT: I'm just going to go over the draft addendum for the section. For the introduction, the section did not move forward with a very similar addendum, Addendum III, in part because of the very complicated nature of the options. There were time-and-area closures, they were a separate number of extra days for different permit holders, and there was lots of confusion with the moving parts about if you vote one way for the first issue how would the other issues be impacted by that.

In part I think the section wasn't comfortable moving forward at that time, so what they did was they initiated this addendum, Addendum IV, and it has a lot fewer and more straightforward options, and it also proposes exemptions for small purse seines in addition to small-mesh bottom trawl vessels.

It allocates an additional landing day or two during weeks that have days out or days out have been implemented, and it's in Area 1A only. It applies to small-mesh bottom trawl, which is less than or equal to 6-1/2 inches in the cod end of the net, or a small purse seine defined as less than 65 feet, for vessels that possess a Federal C or a Federal D or a state-only permit.

For the statement of the problem, days out may have disproportionately reduced landings for small-mesh bottom trawl and small purse seine vessels in 1A due to these boats having small holds, no refrigeration and they can only fish for one day per landing event while midwater and purse seine have the ability to fish for more than one day prior to the first landing day. It's also noted that this is a historic fishery that's important to local communities.

For background, days out was included in Amendment 2 to control fishing effort and vessels are prohibited from landing more than 2,000 pounds during a day out. It was designed to prolong the supply of herring, allow businesses to set long-term strategy and shift fishing pressure from an overutilized area like Area 1 to an underutilized area like Area 3.

The Area 1A total allowable catch has been reduced significantly, as you saw in Matt's graphs, from a 15,000 metric ton reduction back in 2006 -2008; and then from that amount of 45,000 metric tons, it was reduced another 40 percent in 2010. As a result the fishery averaged only two landings days in 2008. In

2009 there was a number of different adjustments to days out, but the average was two days.

If you want to look at what was exactly done in 2010, turn to Page 3 of your draft addendum. For further background information, concerns of the small-mesh bottom trawl and small purse seine fishermen, again they can only fish for one day for their first landing event, no refrigeration, small holds while the larger vessels can fish for several days prior to the first landing event.

The small-mesh bottom trawl and small purse seine fishermen were concerned that because of these large vessels landing on only two days of the week, all the boats have to compete with each other. That means the small-mesh bottom trawl and small purse seine have to compete when they're millions of pounds of midwater and purse seine landings coming in at the same time. What they've claimed was that this influx of herring has led to a lower price, but I'll point that no economic analysis has been conducted to support or refute this.

This is simply concerns of the small-mesh bottom trawl and small purse seine fishermen, which led to the creation of this addendum. Now to harvest herring from Area 1A you need a few different – there are three federal permits that will allow you to do that. There is Category A, which is limited access to all areas.

There is no possession limit and vessels qualified if they landed more than 500 metric tons in one year between 1993-2003, and these vessels are required to report weekly through the IVRs, monthly through the VTRs, and they're required to have vessel monitoring on board. Category C is a limited access incidental. It has a 25 metric ton possession limit and you qualified if you landed 15 metric tons between 1988-2003. It also has IVR and VTR and VMS requirements.

Category D is an open access so anybody can get one of these; three metric possession limit; and there is no qualification criteria. They have to report through the IVR and VTR; however, they do not have to have VMS on board. The number of federal permit boats with A, C, and D permits in 2009 are over 2,000 combined of these permits.

However, less than 100 vessels landed herring using bottom trawl gear in '07 and '08 that had a C or a D permit. In addition in 2007 and 2008 less than six vessels landed using purse seine gear. There are a few restrictions on vessels who want to land herring

in Area 1A. The first is specific to boats using small-mesh bottom trawl.

Any boat that is using mesh less than 6-1/2 inches can only fish in designated areas following the multispecies small-mesh exempt areas. Even if a fisherman wants to discard all the other fish and only keep herring, they still have to abide by these seasonal and gear restrictions in the small-mesh exempt areas.

I will point out that there is an open access permit, a Category K permit that would allow you to keep other species if you wanted to catch herring and other species, if you wanted to enter this fishery, per se. The best graph of these exempt areas comes from a PDF document so I can't really blow it up, but it's in your document on Page 5.

The most important area to look at here is small-mesh Area 1 off New Hampshire, Ipswich Bay there, and vessels are only allowed to fish between July 15th and November 15th using small-mesh bottom trawl gear. I'll come back to that in a minute, but if you want to look at the actual small-mesh exempt areas.

And so moving forward to the next restriction on fishermen catching herring in 1A is the ASMFC spawning closures where fishermen cannot land more than 2,000 pounds of herring during a spawning closure. The default start dates are August 15th for eastern Gulf of Maine and September 1st for western Maine; and September 21st for Massachusetts/New Hampshire.

This is in your addendum as well, but kind of the most important of these is the Massachusetts/New Hampshire closure of September 21st, and again I'll get back to that in a second. Small-mesh bottom trawl landings, they've harvested less than 2 percent of the Area 1A TAC since '05. You can see it's 0.11, 0.41, 1.59 percent and 0.53 percent in 2008.

Further, if you look at the small-mesh bottom trawl landings, temporally the majority of them come in July, August and September; over 95 percent. If you look at trips that landed more than one metric ton, you can see all the pluses up there; the majority of which are in that Ipswich Bay Small-Mesh Area 1. There are a few that are sort of scattered up in eastern Maine, and the technical committee thought that those are probably false or wrongly reported coordinates.

If you look at yearly, the majority of these small-mesh trips landing over 2,000 pounds, all landed off

of that area off Ipswich Bay and in small-mesh Area 1. If you look at it by quarter, quarter three, that's all the years 2005-2009 on the left there, the majority of trips were in that area.

So kind of the takeaway of all this for the small-mesh bottom trawl vessels is that the seasonal and the spatial distribution of these landings coincides with what the small-mesh bottom trawl fishermen have said, and that's that they can only fish for about ten weeks beginning July 15th, which is one small-mesh Area 1 opens up and allows them to fish for the first time, and then the Massachusetts/New Hampshire spawning closure begins September 21, so that bookends the end of it.

Moving forward, if you look at the total number of trips and the total days absent and if you just take the average of that and you look at permit category, you'll see – it's on the bottom there – for Permit Category C and D, if you have 117 trips, 119 days absent, the trip length is one, and it's the same thing for Permit Category D using bottom trawl.

I won't say anything further on this other than if you just divide those two, it's probably a little bit more complicated than that; but if you do look at some of the A permit categories – for example, if you look at the number of trips for midwater trawls by the total days absent, you get an average trip length of 4.3 days.

However, if you look at the Purse Seine D, you get an average of 2 days. That's Table 6 in your document if you want to look through that a little bit closer. There were questions about whether or not state landings might go up with the exemptions. Maine and New Hampshire prohibit small-mesh bottom trawls in state waters, so that's real simple.

In Massachusetts you have to have a cap permit, which is limited access under moratoria. In 2009 only 30 of these applied for sea herring endorsements. There were no landings in SAFIS 2005-2008. There were three trips that landed a small amount. It was so small that it would have breached confidentiality to include it in the addendum.

The technical committee was unsure if these vessels also had a federal permit so they could have ended up in the federal landings in the IVR and the VTR. Small mesh is prohibited north and east of Cape Cod with a couple of exemptions, but the takeaway – and this is from Steve Correia from Massachusetts DMF

– is that given these constraints an increase in effort is extremely unlikely in Massachusetts state waters.

It seems like an increase in state water landings from this is unlikely on the small-mesh bottom trawl side. Looking at small purse seine landings, the other group that has a proposed exemption, vessels who use small purse seines have harvested less than 2 percent of the TAC since '05 as well. 2006 was 0.57 percent and then they had a high in 2009 of 1.46 percent. As far as state landings, Maine had about 290 metric tons per year by state-only fishermen, but these are considered to be fixed gear fishermen, because it's the predominant gear type.

New Hampshire prohibits purse seines in state waters and Massachusetts has zero active purse seine vessels in 2010, so kind of the same deal. An increase in state waters only is probably unlikely based on the technical advice. Moving forward to river herring bycatch, the second asked the PDT and the technical committee to include any kind of river analysis.

The technical committee looked at it and concluded that the observer program data base is the best source. However, there is a low number of observed trips. The technical committee cautioned against extrapolating the catch rate or the discard rate or any of the rates included there for the entire fishery.

There are tables on Page 19 through 30 of the addendum. There not management area-specific. There were only six bottom trawl C and D trips that were observed so this is not even small-mesh bottom trawl. It's just bottom trawl and it's not Area 1A; it's all areas. And then were no C or D purse seine observed trips, so it's hard to tell what the impacts on river herring would be. This is the best available science.

As far as the management measures, these are for Area 1A only; small mesh is less than 6-1/2 inch bottom trawl; small purse seine is less than or equal to 65 feet. Both of the definitions for these vessels were created with help from the Law Enforcement Committee. They apply to Federal C permit holders, Federal D permit holders or state-only permit holders, and the exemption does not apply to A and B permits. It's explicit in the document.

We're pretty sure that you couldn't have both permits, but just to cover all bases, also it does not apply to weeks there are seven days out so you couldn't have – the section sort of uses those as a closure, so it wouldn't be fair to give these boats a

couple of landing days. It wouldn't coincide with the intent of what the exemptions are trying to do.

The options are pretty simple. Option 1 is status quo. Option 2 is one additional landing day, which gets added to the end of the week. Option 3 is two additional landing days, which gets added to the end of the week. Option 4 is that the section or actually it would be states adjacent to 1A would follow the days-out process to agree on what kind of exemptions to give to these small mesh and small purse seine vessels, so they could say one day, two days, three days, zero days, but they would have to agree. Sometimes that can be tricky.

Option 5 is that you can make in-season adjustments at a days-out meeting, so this could coincide with Option 2; it could coincide with Option 3 or Option 4, and it would just mean that halfway through the season you could adjust these exemptions. Those are the management measures. Thank you.

CHAIRMAN ABBOTT: Are there any questions for Chris?

MR. PATRICK AUGUSTINE: Are we going to have a report from law enforcement, Mr. Chairman?

CHAIRMAN ABBOTT: We're going to continue with Chris as soon as he catches his breath to go through the technical committee report and then we'll get the advisors' report and then we'll go law enforcement as indicated on the agenda.

MR. VONDERWEIDT: Matt is going to do the technical committee report.

TECHNICAL COMMITTEE REPORT

DR. CIERI: All right, the technical committee actually met by conference call to discuss Addendum IV. Generally the technical committee's consensus was that this area is under quota management, and so there is not much of a biological issue associated with this type of management structure.

The caveats, of course, are that any liberalization in your days out will simply allow the fishery to progress faster than normal. It's unknown at this point whether or not it would be a lot or a little. You have a lot of effort that moves into the fishery, the TAC could go quite quickly. If based on historical landings, it doesn't seem to be a lot within this particular gear type associated, and so it wouldn't be quite that much of a liberalization.

But, again, based on the history, even a doubling of the landings based on the history would only result in

maybe a week or maybe a week and a half loss on the back end; you know, towards the end of the year. However, the big unknown is if there is going to be an increase in effort, whether adding in a day or two is going to encourage people who don't normally fish for Atlantic herring to actually fish.

So for that reason the technical committee sort of recommended Option 5, to allow the fishery managers in-season to have that flexibility to adjust those days as they saw fit and as they saw the catch rates progressing. It was pretty quick. I think it was probably my shortest technical committee phone call ever.

CHAIRMAN ABBOTT: Thank you, Matt. Do we have any questions for Matt? Seeing none, we'll go back to Chris.

PUBLIC COMMENT SUMMARY

MR. VONDERWEIDT: I'm just going to go over the written comments and the public hearing summaries. We only got two written comments. The National Marine Fisheries Service commented that there are no days out in the federal FMP so all options are going to be more restrictive.

They also had questions about how the ASMFC is going to monitor the performance because there is no gear listing as far as size of the vessel or small-mesh bottom trawl on the IVR, so it's unclear how you're going to monitor what the performance of the fishery is. We also got a comment from the Connecticut River Atlantic Salmon Commission who said they support measures to determine bycatch of juvenile river herring.

Moving forward to the public hearings, we had three hearings; one in Maine, one in New Hampshire and one in Massachusetts; all the states off of Area 1A. In Maine we had seven participants who were opposed to the addendum. There was some support for Option 5 to give flexibility, but generally they were opposed to the addendum. They were opposed to the problem statement.

They felt that large vessels are historic participants, too. They were concerned that there might be an increase in the D permit effort. These are the open access D permits. They also felt that the additional days could impact stability in the bait market. There were comments that small-mesh bottom trawls are a dirty fishery. It's going to have a negative impact to habitat and have a negative impact on river herring due to bycatch.

New Hampshire had 20 or so participants. There were 20 people that signed in but there were definitely more people in the room. They were in support of this whole addendum. They support Option C which is two additional days, and then Option D which gives you the ability for in-season adjustments. They were supportive of the problem statement.

They said that small-mesh bottom trawl landings are minimal. They only have ten weeks to fish. They pointed out that in 2010 we went to four and five landing days during the period where they can catch. They had a really good season for them, but there was no impact on the Area 1 catch rates.

They also pointed out that Amendment 16 went into place last year, and that was the amendment that people were worried that was going to shut down the effort or restrict the small-mesh bottom trawl fishermen so they might switch over and fish under these exemption, but they said that didn't happen in 2010. They also said this is a very labor-intensive fishery where the participants are using coal shovels to move the fish. They're not pumping it.

They pointed out that it's an regional fishery; it relieves pressure from the bait market; have local fresh bait for lobster fishermen and tuna fishermen. They said that the higher quality bait or that the bait quality is a higher quality than the midwater boats; that these are larger fish that hold up better when you put them in a lobster trap; and that also it would have less impact on the stock because the bigger fish – there is going to be fewer of them per weight that is caught.

They also said that in 2010 there are observed small-mesh bottom trawl trips, but there were no river herring bycatch within those trips. We had the observer at the meeting but she wasn't able to say whether or not there were or give that data out yet.

Massachusetts – thanks to David and Nicola for running this one – there were four participants, all who supported status quo, similar to Maine. They disagreed with the problem statement. They felt that it was opinion unsupported by analysis and an attack on midwater boats. They said that the document should have been updated through 2010.

They pointed out that small-mesh bottom trawls don't have to sell on the same day; that they could use salt or they could use insulated totes; and that midwaters only started refrigerating recently, but they adapted

and they said that small-mesh bottom trawls should as well rather than giving them exemptions.

They also said that they have higher – that they are the most disadvantaged under days out because they have high operating costs and have least access to the fishery. Midwater trawl boats can only fish after October 1st. They also said small mesh is a dirty fishery and we should not increase. Thank you.

ADVISORY PANEL REPORT

David Ellenton, the Advisory Panel Chair, had a conflict so he asked me to give the advisory panel review. We had a conference call similar to the technical committee. There were nine members who attended the call. They did not agree on the measures. They both felt strongly about their own positions. Three people were supportive and six were opposed.

I'm just going to go through and give the viewpoints of each. The three who were in favor, they support extra days for small vessels. They said that the small boat fishery is historic. They said the current management manages for large vessels at the detriment of smaller vessels. They pointed out again that four and five days – well, there were four and five landings days in 2010 during the ten-week period that the small-mesh bottom trawl boats can fish and catch rates didn't go up at all.

They also said that the additional two days for the ten weeks of the fishery are not going to impact catch rates or overall harvest. They said you can't even fish during every single extra day because there is going to be storms and bad weather. They said that it's impossible to fish using these smaller 40- to 50-foot boats.

The six members who are opposed to the addendum; they were very disappointed that the document – they still consider the document to be biased. If you remember when we first went through this with Addendum III, there was a lot of concern that it was written in a biased way. Their edits were included in the final draft of Addendum III, but they felt that Addendum IV, which mirrored that language, was still biased.

They felt that there is no justification for the measures; there is no economic analysis, no impact to the fishery and that this sets a bad precedent for the ASMFC to manage as such. They felt that it was a pro small boat initiative, focused on a very small group and that we should not manage by vessel size. They said that days out are hard on large vessels, too,

and large boats are more disadvantaged because of a larger investment overall.

They said that these large vessels are historic and important to local communities as well. They also said that as the quota decreases the price is going to increase, which is going to give more incentive for people with latent C permits or people who want to go out and get a D permit and then fish under these extra two days. They also said that midwater trawls have the least access to the fishery because they can't fish until October 1. Thank you.

CHAIRMAN ABBOTT: Thank you, Chris. Law Enforcement Report from Lt. Marston.

LAW ENFORCEMENT REPORT

LT. JEFF MARSTON: On March 11th the Law Enforcement Committee had a teleconference with representatives from Maine, New Hampshire, Massachusetts, Rhode Island, New York, the U.S. Coast Guard and Chris Vonderweidt was also on the call. He began the call with an overview and background of the proposed management measures.

After discussing it, the Law Enforcement Committee agrees that the proposed exemptions are enforceable but will be harder to enforce than setting days-out restrictions consistent for all vessels. Members of the Law Enforcement Committee agree that exemptions for one gear, one vessel type, one permit type, et cetera, make regulations more confusing and more difficult to enforce and harder to prosecute in court.

There was further discussion on the use of carriers and if carriers would be allowed under these additional landing days. Maine commented that it has 20 to 25 purse seiner vessels less than 65 feet in length that frequently pump their catch onto transport vessels. Members from law enforcement in New Hampshire and Massachusetts stated that the use of carriers is unlikely to be an issue their state.

The U.S. Coast Guard representative commented that although vessel monitoring systems may be on board it's difficult for Coast Guard personnel to track the transfers onto these carried vessels. The final recommendation from the Law Enforcement Committee regarding carriers is to include language specifying the prohibition of the use of carriers during these landing days or the prohibition of transfers at sea if the section approves the proposed exemptions.

Law enforcement also commented that landing is defined differently between states and should be consistent. For example, some states define landing

is when a boat comes to port while others define landing based on when the catch is offloaded. The representative from Massachusetts stated that there is some concern about gear conflicts with these exemptions, but did not think that any conflicts would get out of hand because the Director of Marine Fisheries has the ability to shut down a fishery in areas affected by gear conflicts. Thank you, Mr. Chairman.

CHAIRMAN ABBOTT: Okay, we've had all the comments. Doug.

SECTION DISCUSSION OF DRAFT ADDENDUM IV

MR. DOUGLAS GROUT: Mr. Chairman, **I would like to make a motion to get things started here and get the discussion started that we approve inclusion in Addendum IV Options 2 and 5 with the exception that there would be a prohibition on the use of carrier vessels on that extra landing day for the small-mesh bottom trawl and purse seiner C and D permits.** If I can get a second, I'll be glad to speak to this motion.

CHAIRMAN ABBOTT: Do we have a second; seconded by Mark Gibson. Go ahead, Doug.

MR. GROUT: You've all heard some of this before. This is obviously something that is very important to our small boat fishery here in New Hampshire, especially since the area that we're talking about fishing in is right off of New Hampshire and has provided a source of fresh herring bait for our lobstermen for 30-plus years.

Originally we came forward with an addendum that would apply just to the small-mesh bottom trawl. The section decided to reject that on a very close vote. I believe it was three to three to one. Then later in the year, working with the state of Maine, we tried to come up with another addendum that was a little simpler that would also help some of the small purse seiners in Maine that may be affected by this.

The bottom line behind all this is that when we started going into the days-out management scenario, originally when we had high quotas we were able to only – we only needed to have two days out of the fishery, so there were five landing days throughout most of the year from 2005-2007, so all the boats were fishing at least five – well, had the opportunity to fish five days.

In 2008, because of quota reductions, the three states of Maine, Massachusetts and New Hampshire had to start limiting the number of landing days so that we wouldn't go through the quota very quickly. We went down to three and even two landing days per week. What transpired, which we feel put the small-mesh bottom trawl at a disadvantage, was that the purse seine boats during the summer and then also during the fall, the midwater trawls – again, the midwater trawls can't fish until October 1, so they already have that restriction.

They are able to go out a day or two ahead of time, before the landing day, and catch fish so they're actually getting an extra two days of fishing. Just to make people clear because this takes place in federal waters, we can't regulate fishing activity. The states only have the ability to regulate landing activities. The reason our vessels felt they were at a disadvantage was because the A permit category vessels could fish prior to the landing days.

And that's shown in the table that Chris pointed out to you on Page 14 – it's Table 6 – where the small-mesh bottom trawls fish one day per week and the purse seiners fish an average of about two, two and a half days per week, and the midwater and pair trawls fish somewhere about three or four days for every trip.

They felt that they were at a disadvantage; they came to us; and said, you know, we were all in favor of this days-out scenario until this happened, because now we're limited to two days, and the part of the fishery that lands 99.5 percent of the harvest was fishing anywhere from three to four days on a two landing day scenario.

We tried to see if there was some way to accommodate this and this is what came out in Addendum III and has come out here in Addendum IV to try and give them just an extra day or two – and in my motion here I'm proposing just one extra day a week and also with Option 5 provides the three states of Massachusetts, New Hampshire and Maine the opportunity to adjust those if we find that there is a drastic influx in boats coming into the fishery.

I don't think that's going to happen. I think this year's fishery where we had Amendment 16 where a lot of boats were restricted in groundfish landings because of their quota, there was a concern that they would move into this as an optional fishery. It does not appear to have happened even though they were given four days and up to seven days to fish. At least

in the area off of New Hampshire it doesn't appear to have happened.

Again, this is a fishery that doesn't start until July 15th and is constrained to a very small area by groundfish regulations places where they can fish with a small mesh. The reason this area is picked and the timeframe was picked by the groundfish management was to reduce bycatch, to limit bycatch that may occur if these small-mesh vessels were fishing outside of this area and outside of this timeframe.

We are hoping that we can get support from the section for this. We think it's just putting our vessels back on an even scale. If you're concerned about giving them an extra day and they're going to be landing a whole bunch more fish, well, you simply look at the landings that we had from 2005-2007.

The small-mesh bottom trawls during those years, when they were able to fish five days a week, their landings were – I'm looking for the minimum – were between 65 metric tons for a year up to a maximum in 2007 of 715 metric tons for the entire season. That, my fellow section members, is less than what the A boats land in a week in many weeks.

They land in a week – the entire fleet land sometimes between 1,000 and 4,000 metric tons in a week. I hope I'll get your support for this. Again, we're just trying to make this a fairness – it's a very, very small fishery, but it is very important to our state as you can see by the number of people that have shown up to the hearing. That was just wasn't herring boats; those were lobstermen that were also out there that feel this is very, very important to our state. Thank you and I appreciate the opportunity to bring this forward again.

MR. STOCKWELL: Thank you, Doug, for your passionate motion. As you all know, Maine has a long history in the herring fishery, and I was originally supportive of initiating this addendum with the inclusion of the small purse seiners and the state permits because these measures would potentially benefit all of Area 1A's smaller vessels, but I'm going to speak in opposition to this motion for two principal reasons.

The first is there is almost zero industry support in Maine for this addendum and that included several small purse seiner fishermen who attended the Maine public hearing in Portland. The second is a little bit more complicated and it goes back to Matt's presentation of the preliminary 2009 data that shows

that Maine state landings have significantly increased.

While much of it has been the fixed gear permits increasing almost threefold, the one small purse seine Category C permit that I know about essentially doubled the landings in 2009. Paying a lot attention to the technical reports, because we meet so often to go over the days out during the summer, I read that if the landings' increase continues, then the entire directed fishery could close one to two weeks earlier.

This would effectively reduce our goal of trying to enable fresh bait to the lobster fishery throughout the season. That concerns me greatly from the state landings of 93 million pounds of lobsters, but really it's a continued concern for the new effort in two open access fisheries. One is the state fishery; the other is a Category D fishery. With the very low TACs that we have for the next two years, the high prices and demand for bait and the river herring implications, to me this is unfortunately the right action at the wrong time and I can't support it.

DR. PIERCE: Well, Doug did a great job explaining the reasons why the motion should be supported. Doug made most of those points at previous meetings when we collectively decided it was to bring this addendum forward to public hearing to get comment, and, of course, at that time I, like Terry, was supportive of the effort and we hoped that we would learn something from the public hearings, and we did although it was clear to us from the get-go that at least in the state of Maine and in the state of Massachusetts there would likely be hardly any, if any, support for the addendum, and that was the case.

Like Terry, I need to be responsive to the nature of the public input that we received at the public hearing and through e-mails and what have you regarding the addendum. I focused on the technical committee report like Terry. Sure, a lot of it is inconclusive and there is a lot of uncertainty but I'm going to err on the side of uncertainty in this particular case because indeed we could lose up to two weeks; who knows.

The amount of effort that might come into this fishery by C and D permits is still a question mark and I think that amount of effort actually will be greater than expected, especially because of the size of the landing limits for the C permit holders, the price per pound. A trip can be \$13,000 or so.

Sector management is still evolving in Massachusetts, certainly, and I suspect that there will be quite a few sector vessels looking for other

opportunities when they don't fish for groundfish – and many are not fishing for groundfish because they're leasing away their allocation; they can't make a go of it. They might give the sea herring fishery a go. Monitoring difficulties, it was indicated that there would be a problem monitoring these small vessels.

There potentially would be more small-mesh net fishing in the area that was described during the time period when small-mesh fishing is allowed. I still have concerns about increased small-mesh fishing by bottom trawlers in that area of the Gulf of Maine – inshore portion of the Gulf of Maine. Terry made a point that's near and dear to my heart in terms of concern and that's what goes on with inside Maine waters.

Indeed, if there are many small purse seiners – and, indeed, there are – and if their effort doubled over last year or year before, then it's likely that effort will continue to increase as these vessels seize upon the opportunity to take advantage of one additional day. Yes, one additional day doesn't sound like much. Up to this point in time I've been very sympathetic to the state of New Hampshire's concerns and their arguments, and I still am, but when I look at the scales and when I balance the pros and the cons, I come out with the cons, which prompt me not to support the motion.

MR. BEN MARTENS: After going through what we did last year and the increase in days and watching the effort, I'm kind of surprised to see what is coming out of Maine and my comrade in Massachusetts right now, because I really think that what we saw was that there is not going to be that increase. With Doug's motion, we have the ability to scale it back if we need to.

I'm very surprised; I'm firmly in favor of this. I think it gives some much needed relieve to some of these small boat fishermen out of New Hampshire that showed up in droves and obviously made this a priority to their businesses. I think if you look at the percentages, it's such a small percentage and it means so much to a few of these fishermen. I'm voting in favor of this and I really encourage you guys to think about what it actually means to these fishermen and what it doesn't mean to other fishermen.

MR. AUGUSTINE: Mr. Chairman, listening to the conversation around the table, I'm torn between there and here, but harkening back to what Chris said in the document, there is no need for an economic analysis that has been done or is being done. We don't know

what the actual impact is going to be in overall harvest. There is not a requirement for additional monitoring.

I'm having difficulty supporting – I think it's a great idea but without those kinds of sideboards to control their limit – it's great the way it's written. It will allow the states to curtail when they get to a certain point, but it's just not clear enough what other tools that they're using that can and will constrain those vessels, the number of vessels that are participating in it, and at the same time not giving them – again, I want to call it an advantage over other vessels. Again, without having reporting or monitoring that add to the data base, I'm having difficulty supporting it. If someone can help me, we aren't going to support it.

MR. HIMCHAK: Mr. Chairman, I had mentioned down in Charleston, South Carolina, that the big – I mean, the premise of the addendum is the economic disadvantage with the days-out policy and that while I would personally like to stay out of a Gulf of Maine allocation issue, I thought it was imperative that the advisory panel come out in unison on whether or not the basic foundation for the need for additional fishing days was legitimate economically.

It appears the advisory panel is still split on this issue. I consulted with our New Jersey herring industries. We had a couple of members at the AP Meeting that spoke up and they are in opposition to the – and they have good working relationships with vessels in the Gulf of Maine through the Atlantic Herring Coalition, et cetera, et cetera. With all that being said, I respect the wishes of our herring fishing industry and we're not supporting the addendum.

MR. R. WHITE: Mr. Chairman, a little bit of a response to what Pete just mentioned; the advisory panel vote was down vessel size lines. The three members that were in favor of it were the small boats and the large vessels were against it. Basically the opposition, the two hands full of large vessels, that is catching 99.5 percent of the fish want it all. It's about that simple and they don't want to allow these small boats to get back what they had. They're not getting additional fish; they're just trying to get back on an even footing to what they used to have. That's all I have to say.

MR. HIMCHAK: Yes, just to respond to that, I'm talking about the New Jersey Herring Industry that I'm asking input from and you're talking about numbers at a public hearing. Well, the New Hampshire public hearing was – your attendance was

much higher than everybody else because they support it. I mean, I'm not playing a numbers game here. I'm talking to our Cape May port and the Atlantic herring interests and the investment they have in the fishery and how they work up and down the coast.

CHAIRMAN ABBOTT: Okay, at this point I'm going to take a quick comment from the public and then I think people have probably got their minds made up in which direction they're going to go. First I'm going to go to the public. Mary Beth, did you have your hand up some time ago?

MS. TOOLEY: Mr. Chairman, I think you've all heard me speak to the issue and I won't be repetitive of that. I did have my hand up earlier only to clarify something in the AP report. It was the bullet that is the second from the bottom of the page that makes a reference to midwater boats only have refrigeration the last few years and midwater boats adapting to days out and midwater trawl jobs lost in Rockland, Maine.

Of course, the AP met by conference call, which is not the easiest format, and I think I probably just wasn't as clear as I needed to be here. Just remove the reference to midwater trawl from that whole bullet, and you have a better sense. Technically most of these apply to purse seine vessels and not midwater trawls.

The jobs that have been lost in Rockland, Maine, are shoreside infrastructure jobs and not related to the vessels at all. Really the point I was trying to make there is that this addendum affects not only the vessels at sea but also our shoreside infrastructure and certainly those are the jobs that have been lost in Rockland, Maine, as the TAC goes down and we have to lay people off because we don't have fish coming to the dock. That was my only point, Mr. Chairman, thank you.

CHAIRMAN ABBOTT: Thank you, Mary Beth. The last word, I'm going to give it to Doug who was the maker of the motion, so, Doug, maybe you have some responses.

MR. GROUT: Just a quick followup; one, Pat, there is mandatory logbooks for these fishermen and IVR reporting so the landings' data does get in there. Two, as much as my local fishermen think this is an economic thing, I think this is a basic fishing days' fairness. The other boats are able to fish three days or four days. These boats don't have the opportunity to fish that many days.

That's all I'm trying to do is put them on an equal par with fishing days; give them an equal chance to fish for the fish. The other thing is that some of these vessels that are already out there, they have two landing days for herring, but they still can catch up to and land 2,000 pounds.

What is happening out there right now in those days out for those particular vessels is they're discarding anything above 2,000 pounds. They still may bring that in along with their whiting catch and hake catch that is also caught out there. You can see the catch breakdown via the sea sampling data that's in there. To me it's just a fishing day; how many fishing days and everybody is fishing at the same number of days.

CHAIRMAN ABBOTT: Thank you, Doug. With that, let's take a 30-second or so caucus and we'll call the question.

(Whereupon, a caucus was held.)

CHAIRMAN ABBOTT: Are we ready to vote? All those in favor of the motion kindly raise your hand; all those opposed. **The motion fails two to five.**

ADJOURNMENT

Are there any further motions to come before the board? Seeing none, is a motion to adjourn in order? Good evening.

(Whereupon, the meeting was adjourned at 5:50 o'clock p.m., March 21, 2011.)