

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

**Crowne Plaza Hotel - Old Town  
Alexandria, Virginia  
February 19, 2013**

**Approved May 20, 2013**

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2. **Motion to approve proceedings of October 2012** by Consent (Page 1).
3. **Move to approve the 2013 to 2015 Atlantic herring specifications as recommended by the New England Fishery Management Council.** Motion by Terry Stockwell; second by Doug Grout. Motion carried (Page 9).
4. **Move to change the trigger for going to a 2,000 pound bycatch allowance to 92 percent of the sub-ACL in Area 1A.** Motion by Doug Grout; second by Terry Stockwell. Motion carried (Page 9).
5. **Move to initiate an addendum to the Atlantic Herring FMP that would include options for seasonal splitting of the sub-ACLs for Areas 2, 3 and 1B; and to allow for up to 10 percent carryover of a sub-ACL consistent with the provisions laid out in the New England Fishery Management Council's Framework 2; and also to establish a stock-wide trigger of 95 percent of the ACL for closure of the directed fishery and moving to a 2,000 pound bycatch allowance; and to allow directed fishery closure triggers to be set for sub-ACLs through the specification process.** Motion by Doug Grout; second by Mark Gibson. Motion carried (Pages 15/16).
6. **Motion to adjourn** by Consent (Page 16).

## **ATTENDANCE**

### **Board Members**

Terry Stockwell, ME, proxy for P. Keliher (AA)  
Willis Spear, ME, Proxy for S. Train (GA)  
Rep. Walter Kumiega, ME (LA)  
Dennis Abbott, NH, proxy for Rep. Watters (LA)  
Doug Grout, NH (AA)  
G. Ritchie White, NH (GA)  
David Pierce, MA, proxy for P. Diodati (AA)  
Bill Adler, MA (GA)  
Rep. Sarah Peake, MA (LA)

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

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

### **Ex-Officio Members**

Michael Eastman, Law Enforcement Representative

Jeff Kaelin, Advisory Panel Chair

### **Staff**

Robert Beal  
Toni Kerns

Mark Robson

### **Guests**

Sen. Ronnie Cromer, SC (LA)  
Loren Lustig, PA (GA)

Mitchell Feigenbaum, PA Leg. Proxy  
Lori Steele, NEFMC

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, February 19, 2013, and was called to order at 1:30 o'clock p.m. by Chairman David Pierce.

### **CALL TO ORDER**

CHAIRMAN DAVID PIERCE: Welcome, everyone. We have a number of items on the agenda. A few relate specifically to actions we need to take today that are actions to lead us to consistency with the New England Fishery Management Council on the specifications for 2013, 2014 and 2015. Before we get to that, however, there are a few introductions to make. I will turn to Mark Robson. Mark, if you would please introduce your replacement.

MR. MARK ROBSON: As you know, Lieutenant Jeff Marston, who represented the Law Enforcement Committee on your board, has recently retired. We have a new Law Enforcement Committee Member from New Hampshire, and he is here today, Lieutenant Michael Eastman. He will continue to represent the Law Enforcement Committee and to offer you expert law enforcement advice on issues related to Atlantic herring.

CHAIRMAN PIERCE: Thank you, Mark, and welcome, Michael. It is always good to have another person from New Hampshire. All right, we also have the Chair of the Advisory Panel. There is no report from the advisory panel, but he is welcome to sit at the table. I don't believe anyone else needs to be introduced.

I think around the table we have old and familiar faces. Of course, we also have with today Lori Steele, staffer from the New England Council, who has done all the work

at the council level regarding staff work on specifications for the next three years and also for the framework that we will be discussing this afternoon.

### **APPROVAL OF AGENDA**

CHAIRMAN PIERCE: All right, you have the agenda before you. If there are no suggested changes to the agenda; we will adopt it by consent. I don't see anyone indicating a desire to make a change to the agenda so the agenda is approved.

### **APPROVAL OF PROCEEDINGS**

CHAIRMAN PIERCE: We have the Proceedings from our October 2012 meeting. I assume everyone has a change to peruse them and find mistakes.

Do I have a motion to approve the Proceedings from October 2012? Motion made by Bill Adler; seconded by Pat Augustine. All those in favor please signify by raising your hand; all opposed. The Proceedings are approved.

### **PUBLIC COMMENT**

As always, we give an opportunity to the public to address the Section to raise any issue or any concern that is not on today's agenda.

If any member of the public has an issue or a concern that meets that criteria, please feel free to raise your hand and then come to the mike. All right, I don't see any interest on the part of the public to do that.

### **UPDATE ON NEW ENGLAND FISHERY MANAGEMENT COUNCIL ACTION**

Therefore, we will get on to the next part of our agenda, which is an update on council action. Of course, a few section members

around this table are members of the New England Fishery Management Council; myself, Terry Stockwell, Doug, Mark Gibson and David is here representing Mark Alexander.

So, quite a few of us already have gone through this and have dealt with this issue at length at the New England Council Meeting relative to the framework that was recently approved by the council and then the specification package for the next three years. Lori will now provide us with a summary of what took place at the council meeting, and that will then tee us off for discussion on the specifications for the next three years. Lori, if you would please.

MS. LORI STEELE: Okay, my name is Lori Steele. I am the chairman of the council's Herring Plan Development Team and council staff coordinator for Atlantic Herring. I'm going to go over the final decisions that the council made on both Framework 2 and the Herring Specifications for 2013, 2014 and 2015.

This is all based off of the larger document. I saw some copies on the back table and I'm assuming everybody has got a copy of the larger document with all of the options and the analysis in it. I've kind of condensed this presentation. I'm really just focusing on the final recommendations, so I'm not going to go into too much detail about all of the options, but I am happy to answer questions.

Just very briefly, the timeline for the specifications started in June of 2012 when we had an updated benchmark stock assessment for Atlantic herring. That was done through SAW 54. Following the assessment, the plan development team did some work and then the Scientific and Statistical Committee met in September to recommend ABC, allowable biological catch.

The council took a look at that in September and picked ABC and then we came back actually in November and decided to consider a couple of additional alternatives for ABC, so we went through that process with the SSC in November. We also at that point decided to initiate Framework 2, which goes right along with the specifications, and I will go through that in just a minute. The council did select the final measures at the January meeting.

I'm working now on the submission documents and I will be hopefully submitting before the end of February to NMFS, and we will get the specifications implemented as soon as possible. First, Framework 2 very briefly; Framework 2 is a policy framework. It does not include any numbers or any specific amounts of anything. It establishes policy.

Framework 2 includes provisions that allow for sub-ACLs or quotas to be split by month and allows for carryover of unutilized quota during the specifications' process. Those are two things that the council did not have the ability to do during the specifications' process, so we initiated a framework to establish the policy.

Things like seasonal splits for quotas and carryover; the intent is to analyze those in the three- year specifications' process and in the package as they come up. Again, there are no numbers in this framework. It is just provisions to authorize these things to happen. We're hoping to have the framework implemented so that splits and carryovers will be effective for the 2014 fishing year.

Regarding the splits, very simply there were two alternatives. Alternative 1 was don't do it. Alternative 2 was do it. We picked Alternative 2, so splits are now allowed by

month in the specifications' package. Regarding the carryovers, we did have two alternatives, but Alternative 2 we had several options for how to establish provisions for carryover.

The council chose Option 1, which allows up to 10 percent carryover into the next fishing year. Under Option 1 the corresponding quota for the management area would increase by the amount of the carryover, but the stock-wide quota would remain unchanged. We have a set of provisions that apply to all carryovers. All of the accountability measures will continue to apply.

They're based on initial allocations and not allocations after deductions or set-asides or anything like that. Carryovers by management area are only allowed in the following year if the total quota was not exceeded for the entire fishery; and then we can modify these provisions in the future. I've put together an example of how this would work just to give people an idea.

In this example, again, I made these numbers up. In Year One you've got your quotas that are allocated. These do happen to be the recommended quotas. With your total ACL of 107,800; under the carryover provisions, if there is unutilized quota – in this example there is unutilized quota in 1A, 2 and 3 – up to 10 percent can be carried over so you get a 10 percent carryover for 1A, 2 and 3.

In Year Two your sub-ACLs, your quotas for the areas increase, but your total remains 107,800. What this means is that the carryover allows for additional fishing opportunities in the management areas where the quota was not fully utilized provided that the total stock-wide quota is not exceeded. This allows us to analyze the impacts to the quota in the specifications' package and not have uncertainty associated

with the possible outcomes if there is carryover.

It gives a little more flexibility to the industry within the fishery and within the fishing year, but it keeps us within the biological constraints. The accountability measures that were approved in the specifications' package, which I will get to, under this example each of the management areas would close to directed fishing when 92 percent of the quota is reached, and then the total fishery would close when 95 percent of this total ACL is reached.

Okay, so that is Framework 2 with an example on how the carryovers are intended to work, keeping in mind that there no numbers in Framework 2. All of the numbers are in the specifications' package, and I am going to get into the specifications' package for 2013 to 2015 now. We did start out with a benchmark assessment, as I mentioned, and SAW/SARC 54 concluded that the Atlantic herring resource is not overfished.

It is in fact rebuilt; it is well above the biomass target; and the fishing mortality is well below the fishing mortality target, so it is not overfished and overfishing is not occurring. In terms of the overfishing level and ABC; again, this is the recommendation from the council's Scientific and Statistical Committee.

Without getting into all of the details because the ABC specification was a lengthy process, several months of work went into it, the SSC did ultimately recommend what the council adopted as a constant catch alternative. Under this alternative, ABC is set for the same amount in all three years at 114,000 tons.

Management uncertainty was specified at 6,200 tons and that is based on recent catch

in the New Brunswick Weir Fishery. That leaves a total quota or a total stock-wide catch limit of 107,800 for the next three years. That is a 16,600 ton increase from 2010 to 2012. As I mentioned, there were additional ABC control rules considered by the SSC in November.

When they reviewed those alternatives, the SSC did confirm their previous recommendations for this round of specifications, so this is what we're moving forward with for the next three years. With a stock-wide ACL of 107,800, we then go through the process of breaking that out into the management areas, and I think everybody is generally familiar with this.

We have two stock components generally, inshore and offshore, that we know mix seasonally in the different areas during different times, and then we have an element of our inshore stock that is caught in the Canadian Fishery. We need to factor all of that in when we take the ACL and divide it into the management areas.

These are our management areas; 1A and 1B are the Gulf of Maine; 2 is Southern New England; and 3 is the offshore area of Georges Bank. Since we approved Framework 2, we did approve some splitting for the upcoming specifications' package. This would be for 2014 and 2015 since the framework won't be effective until then.

We are proposing an Area 1A split; zero percent January to May; and a hundred percent for the rest of the year; and an Area 1B split; zero percent January to April; and a hundred percent for the rest of the year. The council considered an Area 2 split, but it did not select it in the final specifications, and this was largely because it wasn't supported by the industry.

The industry felt that if the quota in Area 2 was increased a sufficient amount there would not be a need to split it to try to ensure that there is fish available later in the year. The council is recommending a 1A and 1B split for 2014 and 2015. The council is also recommending 3 percent research set-asides for all management areas.

Initially we considered no research set-asides, but we did receive a request from Massachusetts Division of Marine Fisheries and the folks who are involved in the River Herring Bycatch Avoidance Program with SMAST to consider research set-asides potentially to fund some of their work in the upcoming years.

The council did approve a 3 percent research set-aside and did identify river herring bycatch avoidance and portside sampling as the primary objectives for research. The fixed-gear set-aside for Downeast Maine is proposed to be maintained at 295 metric tons. This slide gives you the no action option. It is just for perspective. These are the numbers that we had in effect for 2012, and this would be where we would go if we had picked the no action alternative.

As you can see, the total is 91,200. We are going up to 107,800. This is the option that has been recommended by the council. This option was developed by the Herring Advisory Panel and supported in general by the advisors that were in attendance at that meeting. Then it was adopted by the council.

You can see the difference in the quotas from 2012 forward; relatively significant increases in most of the areas. Then for the other specifications, these sort of just fall out of the quotas that you select. We have domestic annual harvest, domestic annual processing, border transfer and U.S at-sea processing. We are not proposing any

changes to the border transfer or USAP. Then this slide that probably you can't read very well is a summary of all of the specifications. This just gives you a table of what we are recommending for 2013 to 2015.

Then to go into the second element of the specifications' package, we have a suite of accountability measures that are in the specifications' package. This is not something that we generally include in the specifications' package, but we are under an August 2012 court order to consider a range of alternatives to modify our current accountability measures in the herring fishery, so we did that as part of the specifications' package, and we are recommending some changes to our accountability measures.

We resurrected all of our Amendment 4 accountability measures and reconsidered all of them. We are recommending some changes to the accountability measure that closes the directed fishery. The current accountability measure for the haddock catch cap, which closes the fishery when the haddock catch cap is reached, remains unchanged.

This is just a summary of the no action alternative. This is where we are now. The first accountability measure closes the fishery in an area when 95 percent of the sub-ACL is projected to be reached. The second accountability measure is the overage deduction, which is based on a year-end total from NMFS, and we have a one-year lag before we actually take the deduction.

We considered modifications to both of those measures and only are recommending modifications to number one. What we are recommending is that the trigger for closing the directed fishery in a management area be

reduced to 92 percent instead of 95 percent. Then we are also establishing a trigger for the stock-wide quota at 95 percent, which would close the directed fishery in all areas.

Under the new proposed accountability measure, the directed fishery in an area will close at 92 percent when the sub-ACL is reached and then across the entire fishery would close at 95 percent of the total ACL. As I mentioned, status quo on the overage deduction; however, with Framework 2 we're also adding carryovers to this.

Underages and overages will be determined by the same methods and in the same timeframe. We did consider trying to get rid of the one-year lag with the overage deductions, but we received pretty strong guidance from NMFS that probably wasn't going to be feasible in terms of getting accurate catch estimates by the end of the fishing year.

Impacts; again, I will try to be brief. The constant catch, I have just put up a projection here of what we see over the next three years under the constant catch, and this is if you catch all of the ABC. The ABC was set so that in 2015 there is a 50 percent probability of overfishing, but the stock remains rebuilt with a zero percent chance of being overfished.

You can see here in the table your probability of exceeding Fmsy is 0.50 in 2015. That is the way the constant catch approach was developed is we estimated the catch based on what would lead to a 0.5 percent probability in 2015. As you can see, the SSB remains well above the biomass target. In order to look at the impacts of distributing the catch among the management areas, we ran a model that we're calling a sub-ACL analysis.

We took all of the options in the document for how to distribute and allocate the catch among the management areas, and we ran through this model. What this model does is you put in all this data about what you know about how the stock components mix and what is caught in the Canadian Fishery and what we know about our fishery and how works.

Then the model predicts under each of these options how much of the inshore component might get caught and how much of the offshore component might get caught and it gives you a way to compare options to each other so that you can make sure that you're not selecting an option that is going to have a significant impact on one stock component versus the other or significantly compromise one of the stock components.

Obviously, you wouldn't want to allocate all of your catch to an area where you know that most of the fish are from the inshore component or something like that. This is a way to just look at how the catch is distributed and how it may affect the different stock components. These are the things that we put into the model. This is all described in detail in the document, so I am just going to go over it briefly.

One of the things is what we know about the inshore and offshore mix, how much of the stock complex comes from the inshore and how much from the offshore. We updated that. The summer mixing rate in Area 1A; we know when the fish are in Area 1A in the summertime, it is both inshore and offshore, so we have to apply some assumptions about when you're catching fish during that time, what percentage is inshore.

Then we have our VTR catch by month and area for our fishery and then the New Brunswick Fishery Weir Catch. In the New Brunswick Fishery we just assume that is all

inshore fish; so whatever the Canadian Fishery is catching is coming from the inshore stock, and that comes right off before we allocate our catch.

This flow chart just gives you an idea here of how the model works. Again, you kind of put in all this data and you run your options and you project how much of the inshore and the offshore you're going to catch under each of the options. Then you can basically establish a relative exploitation rate, which is just catch over biomass, and you can compare that to the relative exploitation rate for the total stock complex under Fmsy.

You have a way to compare ratios to make sure that you're not having a substantial impact on one stock component. Then at the end what you do – in this particular analysis we looked at the options that have more than a 50 percent probability of exceeding that ratio in 2015. Because if you recall, the whole stock complex has a 50 percent probably of exceeding that ratio in 2015, so we wanted to look at which options are going to actually exceed 50 percent.

We ran a bunch of options. They're all in the document. To summarize them, we looked at the options that would exceed the ratio of 50 percent in 2015. As you can see, the options in the document all come out very close to each other. For those of you who were at the council meeting and saw this presentation, some of these numbers are a little different and that is because it was very draft at the council meeting.

I've had a chance to go back through the analysis and make a few corrections on some numbers; nothing that changes the outcome. Actually, things tightened up and make a lot more sense to me now. As you can see, in general Option 2 is just slightly the most favorable for the inshore

component; and Option 6 is the most favorable for the offshore component. If you look at how the catch is allocated, it kind of makes sense.

Everything else falls in the middle, and three, four and five are identical in terms of their outcome. What that essentially tells us is that you've got a range here; you know what is on one range of the range; you know what is on the other end; everything else falls in the middle; and that there is really no significant difference in the impacts on the two stock components.

The analysis isn't showing us anything that would suggest there are measurable differential impacts. The probability of exceeding the ratio for the total complex in 2015 is 0.5. The results like you're seeing around 0.5ish; that is consistent with what you would expect. The conclusion that the PDT drew from this is that allocating the catch as long as you're within the bounds of these options is really not a biological issue; it is an allocation decision and it should be based on the needs of the fishery.

There is a lot of discussion of fishery impacts in the document. I'll kind of just gloss over these right now. The options were all generated for different reasons. Option 2 distributes the additional yield equitably across all of the management areas, so it may be perceived as the most fair, but it may not address all of the needs of the industry. Four and five were developed more specifically with the herring and mackerel issues in mind. Option 6 is obviously the one that increases offshore opportunities the most. I will answer any questions.

CHAIRMAN PIERCE: Lori, just a clarification; you said in your presentation, the slide that you have up there now, you said offshore opportunities – it is inshore; right?

MS. STEELE: Yes; that is a typo. Thank you; it is offshore; that is correct.

CHAIRMAN PIERCE: So it is offshore and not inshore? Okay, good, thank you; I was a bit concerned there for a second. All right; are there any questions of Lori? Bill.

MR. WILLIAM A. ADLER: Lori, 1B, they went over last year; does that mean that not this year but next year they're going to be penalized for the overage that 1B went through last year?

MS. STEELE: Yes; there is a one-year lag, so the overage that was experienced in 2012 will come off of 2014. I'm trying to just check the document really quickly to see. We did have a 2011 overage that was taken off of 2013; so, yes, the 2012 overage will come off of 2014. None of the numbers that we're dealing with in the specifications address any of the overages or deductions.

MR. ADLER: Okay, in other words, they had three fish they were allowed year and they took five or six, and I'm just wondering if there will be a 1B when they finally do hit the overage bell. Then the overage in 1A from not last year but the before; is that going to come off what you have got here for 1A, which is 31,200; is that going to be subtracted from the 31,200?

MS. STEELE: Yes; and actually on Page 97 of the specifications' document is a time series of all of the landings and overages. I am mistaken; there actually was not an overage in 2011 in 1B, so there was only an over in 1A in 2011, which came off this year. In 2012 we have overages in 1B, 2 and 3; and we also have a stock-wide ACL overage. I think we were at 103 percent of the total, so all of that will come off the 2014 numbers. NMFS, when they publish the specifications annually, will publish at

the beginning of the year the quotas with all of the deductions and/or additions for carryovers.

MR. STOCKWELL: Mr. Chairman, not a question but just a follow-through is one slide you didn't have in there which the council did consider was some advice from AP on the sub-ACLs. There was in fact a rare and unanimous AP recommendation for a hybrid sub-ACL, which is reflected in the council's final recommendation.

CHAIRMAN PIERCE: Thank you, Terry, for that clarification. It was the advisory panel's offering the hybrid option that the council thought made sense and it certainly fell within the bounds of the criteria that we adopted for ourselves. Relative to Lori's presentation, she did mention the research set-aside that is part of the specifications, the 3 percent.

I did note for Toni that the Division made a mistake by not sending to her the letter that was forwarded to the New England Council and to Doug Grout as Chair of the Sea Herring Committee. This is the letter that describes the situation that we have right now in New England relative to the River Herring Bycatch Avoidance Project that the Division of Marine Fisheries has been involved in since 2010 with SMAST working with the fishing industry.

It is a key element of New England Council strategy to deal with river herring bycatch. Funding for that program is drying up; and despite the efforts of the agency and others to acquire funding to continue that particular program, it is not going to happen. Therefore, without funding, as noted in the letter, portside sampling would cease and limited observer coverage would be the only source of river herring bycatch information for at least 12 months.

There are going to be river herring bycatch caps. It is important for this information to continue to be gathered. Therefore, Bill Hoffman, who is the project leader for this particular initiative in my agency, once again working with SMAST, provided a very compelling argument for the setting aside of a small amount of quota for this purpose.

The industry supports this particular strategy, the set-aside. The council approved it. Therefore, it puts us in a far better position than we otherwise would be in to continue this very important River Herring Bycatch Avoidance Program. Obviously, this is an issue that is very important to ASMFC; notably the protection of river herring.

That is the letter for you to look at. Fortunately the council did approve that particular research set-aside as part of the specifications. Are there any further questions for Lori? All right, I think we can go to Toni.

### **SET 2013-2015 ATLANTIC HERRING SPECIFICATIONS**

Toni has a presentation that will give us the necessary guidance as to what the next steps are for the Section.

MS. TONI KERNS: I am just going to have a couple of slides just to kind of go over what we need to do to move forward with specifications; and then I'm just showing the Section the differences between the action that the council took through Framework 2 and what is in the current ASMFC Plan for Herring. The commission typically takes action on the specifications. As Lori said, the council set a three-year specification, which is on this table on the right-hand side.

For Area 1A in 2011 there was an overage of 1,425 metric tons, so that overage would

have to come off of the 31,200 metric tons that is listed up here for the sub-ACL. Then for our specifications, the council proposed to close the Section's 1A and 1B at 92 percent. Currently the commission has in our rulemaking for the specification for 1A to set a trigger.

What the commission did was we don't actually close at 95 percent, but we drop the trip limit to 2,000 pounds at 95 percent for 1A. We do not have any rules for 1B, 2 or 3. The council also proposed to close the entire fishery when the 95 percent of the total ACL is reached, and the commission does not have any triggers for closing the fishery for the total ACL currently.

Next are the Framework 2 adjustments. As I just went through, we don't have rules for splits of the season for 1B, 2 and 3. We do have a split for 1A, and that split is zero percent of the 1A quota goes to January through May and a hundred percent of the quota goes to June through December.

The council proposed to allow for up to 10 percent of quota rollover, and the commission does not allow for quota rollover. All the provisions that were done through Framework 2 as well as some of the changes that the council recommended through their specifications could be changed through an addendum process with the commission's plan.

CHAIRMAN PIERCE: All right, so Toni is telling us that in addition to setting the specifications for the next three years the Section probably should consider an addendum to deal with two issues that we currently can't deal with now. That would be the splitting of quota for Area 1B, for Area 2 and Area 3 and then quota rollover provisions that would be the subject of an addendum; correct? Apart from that, the specifications, my understanding is that we

could through our specifications change the 95 percent and 92 percent; or is that something that needs to be done in an addendum as well, Toni?

MS. KERNS: At the annual meeting the Section approved your specifications for 1A; so we would just need to reconsider the vote for the percentage trigger, and that would require two-thirds majority to make that change since we have already voted on that for 95. If the Section would like to address to close the fishery when 95 percent of the total ACL is reached, that would need to be done through an addendum process, I believe.

CHAIRMAN PIERCE: All right, are there questions for Toni? If there are no questions, we can go right to a motion. Terry.

MR. STOCKWELL: Thank you, Toni, and thank you, Lori, so to cut to the **chase I'm going to move to approve the 2013 to 2015 Atlantic herring specifications as recommended by the New England Fishery Management Council.**

CHAIRMAN PIERCE: All right, let's clarify a bit. That would include the research set-aside of 3 percent and what else would it include?

MR. STOCKWELL: It would approve the sub-ACLs, the OFL, the ABCs, all the three-year specifications with exception of the issues that Toni laid out that we would need. I can spell it out.

CHAIRMAN PIERCE: If you would, please.

MR. STOCKWELL: **Recommend an ABC of 114,000 metric tons; an ACL of 107,800 metric tons; an Area 1A ACL of 31,200 metric tons; with a 295 metric ton fixed-**

**gear set-aside; an Area 1B ACL of 4,600 metric tons and Area 2 of 30,000 metric tons; and an Area 3 ACL of 42,000 metric tons. This would also be inclusive of the RSA.**

MS. KERNS: I just want to make note of the overage that was in 2011 for Area 1A was 1,425 metric tons, which has yet to be taken off the 1A, so that would drop – we would need to take that out if that is what in the rulemaking from the National Marine Fisheries Service.

CHAIRMAN PIERCE: All right, that is a consideration that will need to be addressed. We have a motion. Doug Grout has seconded the motion. Is there discussion on the motion? Doug.

MR. GROUT: Just one clarification to that motion because it did include the 3 percent research set-aside. All of these apply for 2013 to 2015, but the RSA only applies for 2014 to 2015. I think that needs to be clarified in the motion. The specification is not going to be place in time for it.

CHAIRMAN PIERCE: All right, that is a clarification. Is that understood by the Section?

MR. GROUT: And then just one other thing. We're not going to address any seasonal splits at this particular point in time because we already have one for 1A that the ASMFC has set, and we don't have the mechanism to implement anything in any other – a seasonal split in other areas.

CHAIRMAN PIERCE: Right, that would be the subject of an addendum if the Section chooses to go in that direction. Does anyone in the audience care to comment on the motion? All right, back to the Section. Bob, you have an intervention?

EXECUTIVE DIRECTOR ROBERT E. BEAL: I don't know if I would go that far, but we just didn't include all the details that Terry read into the record, but I think they're in the record with Doug's clarification about the research set-aside only applying to 2014 and 2015. I don't think they all need to be in the motion if the Section is comfortable with that wording being in the verbatim minutes of the meeting.

CHAIRMAN PIERCE: All right, I suspect the Section is comfortable with that. Do we need to caucus? Okay, all those in favor of the motion please raise your hand – all right, I have been reminded by staff this is a final action and therefore we need a roll call vote. Bob.

EXECUTIVE DIRECTOR BEAL: Based on your straw vote that you took a minute ago, it didn't look like anyone objected, so I don't know if we necessarily need to read all the states. If you can the poll the group and there is no objection, maybe it will speed things up a little bit.

CHAIRMAN PIERCE: Okay, so we don't need a roll call because you think it is going to be unanimous. All right, let's go in that direction. Is there any objection to the motion? **I see none; therefore, the motion passes unanimously.** Doug.

MR. GROUT: Do we need to have a motion for the triggers – changing the triggers of the sub-ACLs to 92 percent? I would make a motion. As I understood from what Toni said, this would take a two-thirds vote because it is a reconsideration. **I would make a motion that for Area 1A that we change the trigger for going to a 2,000 pound bycatch allowance to 92 percent of the sub-ACL in Area 1A.**

CHAIRMAN PIERCE: There is a motion; and a second by Terry Stockwell. Terry.

MR. STOCKWELL: Clarification; do we need to initiate an addendum to do this to just a vote?

MS. KERNS: For the 1A just a vote. If you want to do it for any of the other areas; then it would need to be an addendum.

CHAIRMAN PIERCE: Okay, for the record it would be helpful, Lori, if you could go over again the logic for the 92 percent versus the continuation of the 95.

MS. STEELE: Well, that particular accountability measure is considered to be what is called a precautionary accountability measure. It is a measure that is put into place to prevent the quota from being exceeded; and 95 percent in some cases has not been working to prevent the quota from being exceeded.

A lot of the reasons for that relate to monitoring and timeliness of monitoring, but a lot of it also relates to timeliness of reporting. Through coordinated efforts with the regional office, we've I think made significant improvements in the timeliness and accuracy of the monitoring. The 92 percent I don't think was chosen for any particular reason other than it is lower than 95 and it was considered in Amendment 4. It is relatively arbitrary; but from the overages that we've had in the past, it appears as though it should address the vast majority of the problems without compromising too much of the directed fishery.

MR. STOCKWELL: Some additional comfort at least to the council's discussion was the subsequent framework that allowed for carryover should there be a closure and there is fish left on the table. The carryover

provision should this Section consider to be a good idea in a subsequent motion would address leaving fish on the table.

CHAIRMAN PIERCE: Okay, that is a good additional piece of justification for the 92 percent. Do any Section members care to comment on the motion? Bill.

MR. ADLER: Is it 95 now and we're moving it to 92; is that basically what it is?

CHAIRMAN PIERCE: That is correct. All right, to the audience; anyone in the audience care to comment on the motion? All right, back to the Section. All right; is there any opposition to the motion? **I see none; therefore, the motion is approved and we do not need a roll call vote.** It carries unanimously. Jeff.

MR. JEFF KAELIN: Mr. Chairman, what is the timetable for the addendum which would dictate when the other areas would move to 92 percent, as I understand it?

MS. KERNS: No one has said to do that yet.

MR. KAELIN: Well, let's assume that they're going to do it with the timetable.

CHAIRMAN PIERCE: Well, let's wait until there is a motion on the floor. Section members, you have heard from Toni what we could do if we care to. Doug.

MR. GROUT: Mr. Chairman, I move to initiate an addendum for the Atlantic Herring FMP that would include options for seasonal splitting of the sub-ACLs in Areas 2, 3 and 1B and to allow for up to a 10 percent carryover of a sub-ACL and also to establish a stock-wide trigger for closure of the fishery – excuse me, going to 95 percent – not closure of the fishery but going –

closure of the directed fishery and allowing for a 2,000 pound bycatch.

CHAIRMAN PIERCE: All right, we will wait until the motion is on the screen and then you can tell if it is appropriate. Does that capture it, Doug?

MR. GROUT: The only thing I would say is in the beginning where it says “seasonal splitting of the sub-ACLs”.

CHAIRMAN PIERCE: All right, that is the motion by Doug Grout; Mark Gibson has seconded the motion. Is there discussion on the motion? Tom.

MR. THOMAS FOTE: I know how we do it in New Jersey for summer flounder. We have six separate seasons for summer flounder when we can shut it down in the periods of time. Are we going to need something like that to do that with herring? I’m just trying to figure out how this would work. Can I get some guidance on this?

CHAIRMAN PIERCE: The question is how will the seasonal split be discussed and then adopted; is that your question, Tom?

MR. FOTE: In order to do this in New Jersey on summer flounder, because we have separate quotas, to make sure the overages don’t go, we do six separate seasons and then close those seasons down and then we tally for the next season. If you have certain seasons already set up, we can’t do that or is that going the flexibility to do that within the state?

CHAIRMAN PIERCE: I will turn to the maker of the motion. Doug.

MR. GROUT: Well, I guess the way I would look at this is, one, this is just setting up the option for that for a seasonal split, and then you’d have to actually establish a

seasonal split. What would happen is the National Marine Fisheries – if we were going to follow what the feds are doing with this, then the states would also be made aware of when that seasonal split or the quota in that seasonal split had been used up and then the states would have to close the fishery as well as the feds.

MR. FOTE: Some of the states don’t have the same mechanisms as the feds do in closing fisheries down, so I’m just trying to see how this would work. I know we propose things, but when it gets down to actually implementing them, it becomes a little more difficult.

MR. AUGUSTINE: Mr. Chairman, if we’re going to go ahead and follow the New England Council’s direction on Framework 2, would it not be in our best interest to capture all of the language that they have presented in the option word for word literally, so there will be no differentiation whatsoever. I think that is the start of it up there, but they list the four provisions that would apply to all the options that are stated; that we should capture those in the language in our document, too?

MR. GROUT: I’ve got to look up the four provisions.

MR. AUGUSTINE: Well, Mr. Chairman, all AMs would continue to apply to both the ACLs and the stock-wide ACL. The second provision would be all carryovers would be based on initial sub-ACL allocations for the fishery year. The third provision would be sub-ACL carryovers would only be authorized if the total ACL for the fishing year is not exceeded; and then.

Four is provisions for carryovers including percentage/amounts can be modified in the future through the herring fisheries specification process “in addition to

framework adjustments and amendments.” If we’re going to be consistent with them, why not carry all the language so there is no doubt in anyone’s mind that state and federal are in lockstep with this direction we’re going. I think it makes it clear for us later on.

Then it goes on to say, Option 1, if there is a carryover, the sub-ACLs in the corresponding management areas would increase for the following fishing year, but the stock-wide ACL would remain unchanged. Now, I don’t think that changes where you’re going, Mr. Chairman, but it does capture the language that they have put in Framework 2.

CHAIRMAN PIERCE: All right, we have a motion on the floor. Lori.

MS. STEELE: I was actually just talking with Toni about your addendum and the potential options that might go into it. It may be helpful to just add language in this motion where it says “to allow for up to 10 percent carryover of a sub-ACL consistent with the provisions specified in the council’s Framework Adjustment 2.”

MR. GROUT: I will agree to that if the seconder would.

MR. GIBSON: Yes, agreed.

CHAIRMAN PIERCE: All right, let’s make sure that language is in there. Terry.

MR. STOCKWELL: Mr. Chairman, just a quick follow up to Tom Fote’s comment about the ability to monitor the quota by the states. In both the Area 1A herring fishery and the shrimp quota, we make our management actions based upon the recommendations of the technical committee. When the technical committee projects a percentage of the closure, then the

states implement through their own processes either changes in the rules or amendments to the rules or closures of the fishery.

MR. GROUT: Just to speak to the motion, I think, first of all, setting a stock-wide trigger of the stock-wide ACL is very important. That is something that we didn’t have in place this year; and as a result, even though we were going over because of three of the four areas being fished, quotas were exceeded, we couldn’t close it early enough because we didn’t have a stock-wide trigger, and I think it is important we have that clearly.

As was mentioned before, having that carryover provision is important now that we have become more conservative with our accountability measure and having a trigger of 92 percent. Finally, I think it would be good to at least have the capability of having season splitting of the sub-ACLs. It has been important in Area 1A, and at some point it may be important for Areas 2 and 3.

MR. ADLER: First, I would like to look at the splitting thing. I thought I am reading here that 1B had a split January to April and a hundred percent May to December. I didn’t understand why we’ve got no splits in 2 and 3; 1B there is already a split according to this document, and so are we not doing a split for 1A, but we are doing it for 1B, but it is already here. We would do it for 2 and 3? That is my first question. I’m getting confused here on the splits.

MS. KERNS: Bill, the ASMFC Plan allows for splits in 1A and we’ve already done that split through the specification process that we did at the annual meeting. In 1A zero percent of the quota goes to January through May and a hundred percent of the quota is June through December, so that split is taken care of.

Now, the council, through the framework, just allowed for splits in all areas, and they included in their specifications to do a split for 1B. Our plan does not allow us to do splits in 1B, 2 and 3. What this addendum will do is allow for splits to occur through the annual specification process. You can do a split or not do a split; but right now for this year's specifications we can't propose one as the council did because it is not a tool that you have in your toolbox right now.

MR. ADLER: Thank you, Toni; that explains that part. On the 95 percent closure, I've noticed that like Area 2 meets their quota or goes over maybe early; 1B, of course, did it within, I don't know, 15 minutes I guess when they opened it up. The only thing I worry about is at the 95, if the other areas meet or go over to the point where they have close 1A early because the overall take would have been taken at 95 percent; does that raise the possibility that 1A would all of a sudden be closed earlier than it has to be because the rest of the areas took everything; is that possible?

MS. KERNS: Bill, the council set up 92 percent triggers for all of the areas. I believe that through setting a trigger for each of the sub-ACLs at 92 percent and then having this bycatch trigger of 2,000 pounds would prevent that from happening. That's the idea, but I can't make any promises.

MS. STEELE: I'm just looking for a little bit of clarification. I'm not entirely clear what the triggers are in the other areas. Does the ASMFC have no triggers in the other areas?

MS. KERNS: The commission doesn't set triggers in the other areas, and we haven't established triggers in the other areas, so we would need to do that through our specifications' process. We usually just

adopt – in the past the Section only adopts the sub-ACLs, but they don't do any other regulations for those areas.

MR. KAELIN: Well, I guess Lori and I – I don't want to put words in her mouth – we're trying to understand the relationship between that fact and the board's ability to close at 92 percent in 1A but with a reconsideration vote versus implementing a new closure threshold in the other areas through an addendum. That doesn't add up to us; not to me, anyway.

MS. KERNS: We have an addendum that allows us to set specifications on an annual basis for Area 1A. That is what the addendum says.

CHAIRMAN PIERCE: All right, with those clarifications, back to the motion. Okay, are there comments from the audience? Yes, Patrick.

MR. PATRICK PAQUETTE: I'm Patrick Paquette, recreational advocate for Massachusetts and also a member of your ASMFC Atlantic Herring AP. Is it that you cannot put the 92 percent for the other sub-ACLs in this addendum?

CHAIRMAN PIERCE: Repeat that, Patrick.

MR. PAQUETTE: I think everybody is asking the same question and I am just wondering should not this addendum to achieve the purposes that are being discussed around the table include the 92 percent trigger for the sub-ACLs. Wouldn't that solve the issue?

MS. KERNS: It doesn't right now. It only does the seasonal splits and the carryover; but if the Section would like to set triggers for the other areas, then they would need to do that through this addendum.

MR. PAQUETTE: I will just say that from our perspective it was sort of a balanced deal at the council and amongst a lot of different people who commented and are concerned with this fishery about allowing the 10 percent carryover, and it was sort of a tradeoff for the 92 percent so that we're closing and we're able to harvest the ACLs without going over them. I think the two pieces need to be in the addendum.

CHAIRMAN PIERCE: Okay, maker of the motion, any response? Doug.

MR. GROUT: I'm certainly willing to add that feature that in addition to establishing a stock-wide trigger of 95 percent, to provide a provision for setting – well, I don't want to tie that into the – to allow us to set the trigger in the specifications process for Areas 12B, 2 and 3.

CHAIRMAN PIERCE: So you're satisfied with the motion the way it is?

MR. GROUT: No, I'm adding it.

CHAIRMAN PIERCE: Okay, so you have added some language. Let's not forget that when it comes time to closing down quotas according to any particular trigger in Area 3, Area 2 and I think for the most part, if not the – well, the vast majority of the fishermen are permit holders, so this is going to be really ruled by the New England Council.

We're just going along with that council strategy. This is not something that we can do as a Section independent of what happens by the National Marine Fisheries Service. We're just getting on the same page. Okay, Doug, does the motion on the screen capture your language.

MR. GROUT: The only reason that I'm hesitant to put that figure in there, if for

some reason in the future the council changes that through the specifications' process, which they would do, as opposed to – we would then have to go to an addendum while if we put it in the specifications' process we are mirroring essentially what the council is doing. It would take at least two meetings to change it. I mean, it can go either way, but my thought was to try and mirror it. If you want to put 92 in there right now and then we will change it through an addendum –

MS. KERNS: I think in order to help out both of you, what we can do is do the addendum as Doug suggested and then below that option say for the 2013 to 2015 fishing year the Section is considering a 92 percent closure that mirrors that of the recommendations from the council.

CHAIRMAN PIERCE: Is that acceptable, Doug?

MR. GROUT: That is.

CHAIRMAN PIERCE: Okay, how about the seconder?

MR. GIBSON: I think so. I'm mindful of unintended consequences, but I can't think of any, so I'm okay right now.

CHAIRMAN PIERCE: Okay, the maker of the motion has modified the motion and has accepted the approach offered up by Toni. It appears that the entire Section is agreeable to this approach.

**The motion is move to initiate an addendum to the Atlantic Herring FMP that would include options for seasonal splitting of the sub-ACLs for Areas 2, 3 and 1B; and to allow for up to 10 percent carryover of a sub-ACL consistent with the provisions laid out in the New England Fishery Management Council's**

**Framework 2; and also to establish a stock-wide trigger of 95 percent of the ACL for closure of the directed fishery and moving to a 2,000 pound bycatch allowance; and to allow directed fishery closure triggers to be set for sub-ACLs through the specification process. Motion by Mr. Grout; seconded by Mr. Gibson.**

That is the motion. All right, is there any objection to this motion? **I see none; therefore, without objection the motion is approved.** All right, I turn to Toni and ask if there is anything else from the staff's perspective that we need to do relative the specification package or this addendum that we have just initiated.

MS. KERNS: Nothing additional that we need to do; but to answer Mr. Kaelin's question, the timing for this addendum would be to bring an addendum back to the board for their review and approval for public comment at the May meeting; have public comment over the summer; and do a final action at the August meeting.

### **ADJOURNMENT**

CHAIRMAN PIERCE: Unless there is other business and I see none, the meeting is adjourned.

(Whereupon, the meeting was adjourned at 2:40 o'clock p.m., February 19, 2012.)