Atlantic States Marine Fisheries Commission

Atlantic Herring Section

August 7, 2012
8:30 a.m. – 10:30 a.m.
Alexandria, Virginia

Draft Agenda

The times listed are approximate; the order in which these items will be taken is subject to change; other items may be added as necessary.

1. Welcome/Call to Order (*D. Pierce)* 8:30 a.m.

2. Section Consent 8:35 a.m.
   - Approval of Agenda
   - Approval of Proceedings from April 30, 2012

3. Public Comment 8:40 a.m.

4. Draft Addendum V for Final Approval **Final Action** 8:45 a.m.
   - Review Options
   - Public Comment Summary
   - Technical Committee Report (*M. Cieri)*
   - Advisory Panel Report (*J. Kaelin)*
   - Law Enforcement Committee Report (*J. Marston)*
   - Consider Final Approval

5. Review New England Fishery Management Council Amendment 5 Selected Measures 9:20 a.m.

6. Atlantic Herring SAW 54 Benchmark Assessment 9:30 a.m.
   - Stock Assessment Report (*M. Cieri)*
   - Peer Review Panel Report *(M. Cieri)*

7. Other Business/Adjourn 10:30 a.m.

The meeting will be held at the Crowne Plaza Hotel Old Town, 901 N. Fairfax St, Alexandria, VA; (703)-683-6000

MEETING OVERVIEW

Atlantic Herring Section Meeting
Tuesday, August 7, 2012
8:30 a.m. – 10:30 a.m.
Alexandria, Virginia

Chair: David Pierce (MA) Assumed Chairmanship: 08/11	Technical Committee Chair: Matt Cieri	Law Enforcement Committee Representative: Marston/Fessenden
Vice Chair: Terry Stockewell (ME)	Advisory Panel Chair: Jeff Kaelin	Previous Section Meeting: April 30, 2012
Voting Members: ME, NH, MA, RI, CT, NY, NJ (7 votes)		

2. Section Consent

- Approval of Agenda
- Approval of Proceeding from April 30, 2012

3. Public Comment – At the beginning of the meeting public comment will be taken on items not on the Agenda. Individuals that wish to speak at this time must sign in at the beginning of the meeting. For agenda items that have already gone out for public hearing and/or have had a public comment period that has closed, the Section Chair may determine that additional public comment will not provide additional information. In this circumstance the Chair will not allow additional public comment on an issue. For agenda items that the public has not had a chance to provide input, the Section Chair may allow limited opportunity for comment. The Section Chair has the discretion to limit the number of speakers and/or the length of each comment.

4. Draft Addendum V for Final Approval (8:45-9:20 a.m.) Final Action

Background

- Addendum V for Public Comment proposes to modify spawning regulations by decreasing the size bin to begin a closure, increasing the number of fish per sample, shifting spawning area boundaries through Section action, and clarifying the ASMFC spawning regulations **(Briefing CD)**.

Presentations

- Overview of Draft Addendum V for Public Comment.
- Public comment summary.
- Technical Committee Report by M. Cieri, TC Chair.
- Advisory Panel Report by J. Kaelin, AP Chair.
- Law Enforcement Report by J. Marston, LEC Chair.

Section Action for Consideration

- Select management options and implementation dates.
- Approve Addendum V.

5. Review NEFMC Amendment 5 Selected Measures (9:20-9:30 a.m.)
Background • The NEFMC selected Amendment 5 measures on June 20, 2012 **(Briefing CD).** • The Final EIS will be submitted to NMFS in August or September 2012 for implementation in 2013.
Presentations • Overview of NEFMC Amendment 5 selected measures.

6. Atlantic Herring SAW 54 Benchmark Assessment (9:30 – 10:30 a.m.)
Background • The 2011 SARC benchmark assessment was completed in June and the report is expected to be published in August 2012. • Overfishing is not occurring and the stock is not overfished.
Presentations • Assessment overview by M. Cieri.

6. Other Business/Adjourn

DRAFT PROCEEDINGS OF THE

ATLANTIC STATES MARINE FISHERIES COMMISSION

ATLANTIC HERRING SECTION

Crowne Plaza Hotel - Old Town
Alexandria, Virginia
April 30, 2012

These minutes are draft and subject to approval by the Atlantic Herring Section.
The Section will review the minutes during its next meeting.

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ATTENDANCE

Board Members

Terry Stockwell, ME, proxy for P. Keliher (AA)
Steven Train, ME (GA)
Doug Grout, NH (AA)
G. Ritchie White, NH (GA)
Rep. Dennis Abbott, NH, proxy for Rep. Watters (LA)
Rep. Sarah Peake MA (LA)
Jocelyn Cary, MA, Legislative Proxy
William Adler, MA (GA)
David Pierce, MA, proxy for P. Diodati (AA)
Bob Ballou, RI (AA)
Mark Gibson, RI, Administrative proxy
Bill McElroy, RI (GA)
Rick Bellavance, RI, proxy for Rep. Martin (LA)
Dave Simpson, CT (AA)
Lance Stewart, CT (GA)
Pat Augustine, NY (GA)
James Gilmore, NY (AA)
Brian Culhane, NY, proxy for Sen. Johnson (LA)
Peter Himchak, NJ, proxy for D. Chanda (AA)
Tom Fote, NJ (GA)
Adam Nowalsky, NJ, proxy for Asm. Albano (LA)

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

Ex-Officio Members

Matt Cieri, Technical Committee Chair

Staff

Vince O'Shea
Robert Beal
Toni Kerns
Mike Waine
Chris Vonderweidt

Guests

Joshua Carloni, NH F&G
John Clark, DE F&W
Bernie Pankowski, DE Leg. Proxy
Thomas O'Connell, MD Adm. Appointee
Roy Miller DE Gov. Appointee
Russell Dize, MD Leg. Proxy
Dan McKiernan, MA DMF
Jason Didden, MA FMC
Michelle Duval, NC DMR
David Spencer, AOLA
Bonnie Spinnazola, AOLA
Alison Fairbrother, Public Trust Project
Chris Jones, MD DNR
Peter Burns, NOAA
Jay Lugar, Marine Stewardship Council
Steve Goodman, NMFS
Dave Ellenton, Cape Seafoods
Mary Beth Tooley, Camden, ME
Jeff Kaelin, Lund's Fisheries
John German, LISLA
William Ball, Ofc.of Sen. Collins, ME
Kyle Molton, Ofc. of Rep. Pingree, ME
Patrick Paquette, MSBA/RFA
Janice Plante, Commercial Fisheries News
Bob Ross, NMFS

The Atlantic Herring Section of the Atlantic States Marine Fisheries Commission convened in the Presidential Ballroom of the Crowne Plaza Hotel, Alexandria, Virginia, April 30, 2012, and was called to order at 1:00 o'clock p.m. by Chairman David Pierce.

CALL TO ORDER

CHAIRMAN DAVID PIERCE: All right, good afternoon, everyone. I want to call the meeting to order.

APPROVAL OF AGENDA

You have before you the agenda for today's meeting. Does anyone care to make changes to the agenda? If not, I will consider it approved by consent. Seeing no one indicating a desire to make a change, so indeed it is approved by consent.

APPROVAL OF PROCEEDINGS

CHAIRMAN PIERCE: Next on the agenda is approval of proceedings from our last meeting on February 7th. Do I have a motion to approve those proceedings; a motion from Bill Adler; seconded by Pat Augustine. Unless there is an objection to that motion, I will consider the proceedings approved. I see no objection so those proceedings have been approved.

PUBLIC COMMENT

Now we have an opportunity for public comment. Of course, those in the audience are very familiar with the way in which we do business. I will afford the public an opportunity to comment on anything that is not on the agenda relative to our business this afternoon. Those wishing to speak; if you care to, please raise your hand. All right, I see no interest on the part of the public.

APPROVAL OF DRAFT ADDENDUM V FOR PUBLIC COMMENT

CHAIRMAN PIERCE: We will then go on to the next agenda, which is consider approval of Draft Addendum V for public comment. This was a decision that we made at our last meeting, and that is to develop this draft addendum. It has originated primarily from concerns of the technical committee, concerns transmitted to us and then, of course, we took action. The technical committee, working with Chris, have put together that draft addendum. You all have a copy of it, and now we will turn to Chris and he will give us a presentation regarding the specifics of that addendum.

MR. CHRISTOPHER VONDERWEIDT: This is Draft Addendum V to the ASMFC Fishery Management Plan and not to be confused with Amendment 5 to the New England Fishery Management Council, which we're going to get into next. I just wanted to make that distinction. For the history, right now Toni is handing out some analyses and potential options where there is a placeholder. I'm going to get into that in a little bit and then Matt is going to over that thoroughly, but I just wanted to let people sort of where that piece of paper fits and know what we're doing.

In November 2011 Matt highlighted the potential need to reduce the size bin which would trigger the beginning of a spawning closure. The Section in response requested that the spawning regulations' white paper be drafted that kind of gave a background of the spawning regulations and a summary and all that.

Matt and myself and the technical committee pulled together a spawning closure white paper which was presented to the board last February. The Section reviewed the white paper and initiated Addendum V based on recommendations from the technical committee. Specifically, those recommendations are contained in the introduction where the technical committee recommended that the Section initiate an addendum to, number one, refine the sampling protocol – and I'm going to go over each one of these in greater depth in a minute – number two, investigate shifting the boundary between the Western Gulf of Maine and Massachusetts/New Hampshire spawning area.

However, at the February meeting it was noted that further analysis would have to be conducted by the technical committee because the data sort of looked like some analysis could be performed and potentially shift the boundaries, but we didn't know at that time. The technical committee reviewed that on April 25, 2012, and that will be presented. Finally, a major recommendation from the technical committee was to incorporate all the spawning regulations into one document for clarity, and I will go over the reason for that as well.

Statement of the problem; current regulations are scattered in three different documents. It's not really clear when a provision overrode another provision, and it doesn't provide clear guidance to the states when implementing their spawning regulations to

comply with our FMP. As a result, some of the states have slight inconsistencies between themselves and between the ASMFC FMP and their actual regulations in the state.

Just a side note; the spawning closures, the technical committee found that they worked really well because of cooperation mostly between Massachusetts DMF and Maine DMR staff with good cooperation and communication. However, this isn't guaranteed in the future with staff turnover and things like that, and so the technical committee thought that there could be refinement in the sampling protocol.

For the background, this is on Page through 5 of the draft addendum which was provided on the Meeting CD. You'll notice that there are asterisks on some of these. This is a summary of sort of parts of the spawning regulations. The ones with the asterisks on it are the ones that are being proposed to have changes made to them.

The spawning area delineation, that's what the spawning boundaries are; and then you've got the default start date, which would not change under 2.2.2. Under 2.2.3, the sampling protocol, that would change slightly, and I'll go over that as well; 2.2.4, what sufficient sample information is, and I'll go over that as well, and that might change slightly.

And 2.2.5, spawning closure length and when that spawning closure would end would not be changed in this document; and then the tolerance. Those are kind of the nuts and bolts of the overall closures.

For the actual management options, number one is regardless of what the Section decides as far as implementing new regulations or changing the size bins or the sampling protocol, when finalized Addendum V would be sort of a one-stop shopping place where all previous spawning regulations would be included in one document; so states could say Addendum V, this is exactly what we need to do when we put in our spawning regulations or comply with those spawning regulations.

Number two, which is italicized here, is the boundary between Western Maine and New Hampshire spawning area. This is the one that needed further analysis. The technical committee was not able to conduct that analysis until April 25th. Matt is going to go over that and that was handed out to you.

Number 3 are the size bins that trigger a spawning closure start date, and Number 4 is number of fish per sample. As far as how this document would be constructed to replace spawning regulations, like I said when final this Addendum 5 will replace all spawning regulations in the FMP to provide a single, clear document for states to use to comply with ASMFC spawning regulations.

How this would happen is if the Section moves forward with the addendum today for public comment they would vote on the final measures and things could be tweaked slightly as a result; and then following that Matt and I would work together to draft the spawning regulations, carryover language including whatever options the Section chose.

We would then run that by the technical committee to make sure that they felt it encompassed all the spawning regulations and to make sure it was written in a clear manner. We would then bring that language back to you at the annual meeting. We would let you review it and make tweaks as you found would improve clarity or however you thought with the idea of just one clear document. Then Addendum V would finally be published.

So, no real changes as far as management options here; just stating how this would happen. The boundary between Western Gulf of Maine and Massachusetts/New Hampshire, Matt is going to go over that. Size bins that trigger a spawning closure start – and this is on the bottom of Page 6 in your addendum if you would like to follow along – right the regulations are closures will begin based on the percent of Stage III through V spawned herring that are greater than 24 centimeters.

When the technical committee reviewed it, they actually considered the greater than to be a type and it should have been greater than or equal to 24 centimeters. Nevertheless, it's in the FMP that way. Some states have actually interpreted it as greater than or equal to 24 centimeter. Additionally, some analysis that Matt did found that recent samples have found that herring are maturing at a smaller size, in the 23 to 24 size bin.

I think Page 7 of the addendum, there are a couple of figures there that show the differences in size bins for the last few years. The actual management options in relation to this are that – and I'm sort of paraphrasing parts of this, but the closures will begin seven days after the determination that female herring in ICNAF gonadal Stages III through V have reached the following spawning conditions.

Female herring, one of the options would be inserted there, and less than 24 centimeters in length have reached a mean GSI of 15 percent. The options would status quo; female herring greater than 24 centimeters and less than 28, for example. Option B is greater than or equal to 24 centimeters; Option C, greater than or equal to 23 centimeters; Option D, greater than or equal to 22 centimeters.

Number of fish per sample, the regulations are at least two samples of 50 fish or more in either length category taken from commercial catches during a period not to exceed seven days apart. The technical committee found that it was not quantitative – there is no real quantitative to say we need 172 samples, but they did increase or they did recommend increasing the number of fish per sample to 100 fish per sample.

There are two options here. Option A would be status quo, 50 fish per sample. Option B would be a hundred fish, and that would just read, "Sufficient sample information shall mean at least two samples of a hundred fish or more in either length category taken from commercial catches during a period not to exceed seven days apart." I believe that is it.

TECHNICAL COMMITTEE REPORT

CHAIRMAN PIERCE: Before I entertain questions for Chris, I'll go to Matt and ask you, Matt, to provide your presentation, if you have one to give, regarding the boundary**.** Then we will have everything before us to discuss regarding possible technical changes and clarifications offered up by the technical committee.

DR. MATT CIERI: My name is Matt Cieri and I'm the chair of the technical committee for Atlantic herring. I'm going to talk to you a little bit today about examination of that issue related to the Massachusetts/New Hampshire and Western Maine spawning closure in the Gulf of Maine.

Just to give you some background that Chris already talked about a little bit, the Section initiated a review of the spawning regulations and management. One of the issues that came up over the last couple of years has been a sort of discrepancy in the GSI or the mean GSI and samples taken from Massachusetts DMF, more on the southern range area of the Massachusetts/New Hampshire closure; and the ones taken by Maine DMR, which tend to be a little more towards the north.

Some fish in the south were showing that they really weren't very close to spawning while fish being collected in more the northern area were showing that they were pretty much getting ready to spawn. This is one of the issues in Addendum V. Over the last probably couple of months we have looked at this issue spatially, and I'm going to show you a series of maps just to give you an idea.

Okay, this is the first map. The first map is for 2010 and what you can see here is the size of the individual circles is the mean spawning GSI; so basically the bigger the circles the more spawned fish there are in that particular sample. The color coding from white to gray indicates how close it is to when that particular area actually closed; so the lighter it is the further from time it is away from the spawning closure that happened that year; with red being that particular week in which that area closed. Is that fairly clear?

The size is how much spawn there is and the color indicates how close it is to that spawning closure for that year, so this is for 2010. What you can see is that there seems to be a body of fish right here that doesn't have a lot of GSI – it doesn't have a lot of spawning associated with it even though these are adult-sized fish, even though these particular samples were taken week after week. You can see there is not much development going on this particular area even the week that it actually closed in red.

However, other samples further to the north are showing lots of spawning females, lots of GSI, lots of spawning potential maturity and then even just a little bit further to the north. This has been part of the difficulty and this whole area is the actual Massachusetts/New Hampshire closure area.

For 2011 we've got a lot more samples during the week in which it actually closed, but you can still see that one week prior to closure there is still fish being caught way up towards offshore of Maine that are showing that they are pretty much ready to go; and yet samples further to the south here don't show very much spawning at all. There seems to be a gradation.

However, what you will notice, also, is that samples that are taken really close to that body of fish are showing that they're in spawning condition right when we closed, so there isn't a whole lot of space between, for example, this red dot which shows very little spawning and this much larger red dot which shows quite a bit of spawning in the same week.

So drawing a line through here is kind of difficult, and that's one of the things that the technical committee actually has suggested. The sample size for both of these years is roughly around eight in the

weeks leading up to the spawning closure, eight per year. It shows that consistent body of fish that I suggested was here, and you can see it seems to be fairly apparent.

However, other locations within the Massachusetts/New Hampshire spawning area seemed to have more mature females in them, closer as we get up to the spawning closures. But, again, drawing that line is difficult given the low sample sizes. When you only have eight samples, trying to figure out spatially where that line should be and the definition of that smaller sort of component of the Massachusetts/New Hampshire area is very, very difficult.

The technical committee's summary recommendations; we actually ended up examining a couple of options or a few options for you guys. One is simply just status quo. The other was to simply move the border for the Massachusetts/New Hampshire and Western Maine Boundary further to the south. Option C was to create a whole new spawning area.

Option D was pretty much status quo with an agreement by the states of Massachusetts, New Hampshire and Maine to increase monitoring in that area as best they can and try to see if we can do some analysis in the future to see if we can come up with a more definitive answer should this continue to be a problem.

In the end and in light of low sample sizes that we've had over the last couple of years, the technical committee doesn't recommend that the Section modify the spawning areas at all; basically remove it from the document with the agreement that Massachusetts, New Hampshire and Maine should try to increase sampling as best we can leading up to this particular spawning closures.

The technical committee members actually suggested that we keep this in mind when we set the spawning closures between the states of Massachusetts, New Hampshire and Maine based on sampling, that we understand that there is going to be fish fairly close to Massachusetts, to Gloucester, which aren't going to be in spawning condition as readily as other parts of that area. That's pretty much what I've got for you.

CHAIRMAN PIERCE: All right, Matt, thank you. The recommendation from the technical committee is that we don't make any changes at this time to the spawning area boundaries?

DR. CIERI: Correct and that we try to monitor it in the future.

CHAIRMAN PIERCE: All right, Section members, any questions for either Matt or Chris? Bill.

MR. WILLIAM A. ADLER: I think this is for Chris. Back when you were reviewing some of the options there, one of the recommendations was to go from 50 fish to a hundred fish for the sampling. I just wanted to ask if that is going to pose any problem at all in the gathering of the samples. It may not or it may; I don't know.

DR. CIERI: Honestly, Maine and Massachusetts have doing a hundred fish samples, anyway. It's the difference between getting one box of fish and two. It's the difference between cutting 50 fish or a hundred. It doubled the work for the lab, but the truth is we've been doing it, anyway.

MR. PETER HIMCHAK: Mr. Chairman, I have no questions on the addendum since you have identified a change in the resource and you're making responsible adjustments. Why is the mean size of three-year-old females decreasing? What are the current theories? This came out of the last benchmark assessment as well, didn't it, mean length and size, and length and weight were decreasing.

DR. CIERI: This has been going on actually for a very long time. There has been a steady decline in weight and size at age for both the inshore component and the offshore component since the 1980's. The reasons are actually unknown. It could be lots of different reasons. You could cook up all kinds of reasons; everything from changes in natural mortality to changes in food availability to changes in some climatic factors like temperature. The truth is we don't know why there is a change in weight at age or size at age, but we do know it does occur. It has been about 25 percent over the last couple of decades, a drop, so that's something that we need to account for.

MR. DOUGLAS GROUT: Matt, in the document we have recommendations outlined from the technical committee and all the options for change, but I didn't see any recommendation on the bin sizes. Are you recommending 23, 22; is there any recommendation?

DR. CIERI: I don't think we've actually come up with a – I don't think we've given a recommendation as to which bin size it should be. I don't think we've done that.

MR. GROUT: Given this is a technical addendum; I believe it would be helpful for the Section for the technical committee to make that recommendation.

DR. CIERI: I think we will. It's pretty much going to be after public comment and then we'll get the bite at the apple and let you guys know what we think.

MR. TERRY STOCKWELL: Matt, we've gone back and forth over the last couple of years trying to resolve that boundary issue, and actually it has been through a lot of hard work on your part and David's staff that has been able to resolve the questions we've had about the timing. I'm looking at the chart you have with the eight observed trips in there, and you mentioned a delay in maturity. Has the technical committee tracked that to put any pattern to it? Is that area just an anomaly or is it just delayed into further in years? I know with everything you have on your workload and with the assessment and the specifications coming up, it's probably not as high on the priority list, but it's still on my priority list.

DR. CIERI: It is kind of interesting, though, isn't it? If you look at that actual figure, you look at it and the rest of the area seems – the samples from the rest of the spawning areas seem to be moving along just fine, and the ones off Massachusetts for some reason aren't, and I'm not quite sure why that is or whether or not it's an artifact of sample or whether or not it's an artifact of the fish that happened to be there.

It is kind of interesting; it's fairly persistent at least after two years. It has got my curiosity raised, for sure, and I think for a bunch of other people out of Massachusetts DMF as well. It's one of those scratch your head and go WHAT! I think over the short term we're going to try to investigate this a little bit more.

Whether it persists further back in time, the truth is we don't really know because a lot of times we don't a lot of really good sample coverage in this particular area prior to spawning closure. I think it's something that we are going to look at in a more historical sort of way, but we don't have a lot of sampling from Massachusetts DMF that goes back that far, so it's hard to say.

CHAIRMAN PIERCE: Any further questions for either Chris or Matt? Well, we have, as I see it, two things to do; first, to consider whether or not we want to keep in the addendum what we decided to do at our last meeting, which is to consider changes in the stock boundaries; and then, of course, to take action on the addendum itself. I'll ask the Section, after hearing what was provided by Matt and by Chris, is there any desire to keep the issue of the stock boundaries in the addendum? Pat.

MR. PATRICK AUGUSTINE: Thanks for the clarity, Matt, it was very helpful. It would seem to me that the technical committee is recommending something that they literally can't do. Could we take it out of the document and put it at the end of the document as a recommendation that was suggested and reviewed by the technical committee but do not have the capability of following through or it doesn't make sense at this time, so at least the public is aware that was addressed. Does that make sense, Mr. Chairman?

CHAIRMAN PIERCE: I believe it would make more sense to either decide to keep it in or not to keep it in and not to reference it at all in the document. That's my view, but again I'll be guided by what the Section would prefer to do. I was going to ask if there was a consensus that we take that aspect of the addendum out of the addendum for now, anyway, until this continued work done by the technical committee and by the states regarding increasing sampling size and getting ourselves in a position where we can actually address the boundary issue, but at this point in time the technical committee has given us some good advice. My preference is to have the Section decide what to do with that boundary issue right now. Bill, you had your hand up.

MR. ADLER: Based on what the technical committee had indicated and also the complications I think that they have addressed and the other options which seem to be a little bit strange, I would support taking that out of the document to simplify things. I don't know if that needs to be in the form of a motion or not.

MR. DENNIS ABBOTT: I think to address Pat's concern, the very fact that it's on the record that we've had it considered is there, so I don't think it's necessary to go any further, in my view.

MR. STOCKWELL: To follow up on Dennis' comment, to Pat through you is I'll work with Matt to make sure it stays on the agenda. The technical committee has got a bucket load of work this next work just to get us through the specifications process. I suspect they'll be following through as soon as they're done with that.

MR. MARK GIBSON: Matt, if this pattern continues of this batch of fish in the southern area, how many times do you have to see that before you

might be comfortable drawing a line between the big dots and the small dots? I'm thinking if this continues to reappear, Mr. Chairman, maybe the Section ought to have the flexibility to adjust that line pending comfort on the technical committee that a line change is warranted. Otherwise, if it does continue to repeat and they do come to a conclusion it's time to change the line, then you've got to go through another action. That's my thinking at this point.

DR. CIERI: To answer Mark's question, I don't know, but what I do know is when you've got fish that are in spawning condition literally five or six nautical miles away from fish that aren't in spawning condition, I want to make pretty darned sure that I know that there is a difference between – that there is going to a real difference between them before drawing that line. A few more years of data and a little bit more sampling I think will get at it, but if it keeps popping up as a problem in the next couple of years you will be hearing back from us, for sure.

CHAIRMAN PIERCE: Does anyone object to our removing that part of the addendum that references the boundaries? I see an objection. Okay, Pat, would you explain?

MR. AUGUSTINE: Well, the objection is as stated. It has been put in the document and the public is aware of it. It is an issue that has to continue to be readdressed. It may change. There may be clarity there so you can end up with being able to predict that line. As you said, Matt, it's going to take a couple of more years, so does that mean that we end up in two years putting it back on the document and going through the process again.

If you made a statement that says we're removing it from the active document, it was considered and it's going to take several more years, at least the public is aware that could possibly happen in the future. It just seems to me it doesn't make sense to vet something, have the technical committee tell us what could happen, and then drop it and then start it all over again.

It reminds me of what we did with something called Amendment 12 that went to 13, 14, 15 and 16 with summer flounder changing whether we were going to go regional management or not; and after 16 and four or five years later we said, well, there is nothing on the document that makes sense anymore so we dropped it.

This is a case where there is an element that needs some attention and needs more study, more data, and I would hope that we consider keeping it in the document as being considered and no further action at this point in time. If the rest of the board feels about it, then I can be voted down. You've done that in the past. Thank you, Mr. Chairman.

CHAIRMAN PIERCE: All right, we've had one objection; therefore, I suppose we should continue to discuss this issue. Does anyone have any suggested course of action to take on this particular issue as it relates to including it in the document? Doug.

MR. GROUT: Well, originally I had no objection removing this from the document, but as I thought about from a workload standpoint it might be – since we're doing an addendum right now to codify some of the rules in one place and to make some modifications, why would it be worth having an option concerning the spawning area closure boundaries, that the board could make adjustments to that via board action.

That way if we could bring that option out to public hearing and get comment on it; and if we decide to put it in there, then we wouldn't have to go through the entire addendum process to change it. Now, it may be too big of an issue based on public comment to have the board make that decision without an addendum process, but **I'd be willing to make a motion to include a section on the spawning area boundaries where we would have an Option A, status quo; and an Option B, spawning area boundaries – for any of the boundaries could be changed via board action following input from the technical committee.**

CHAIRMAN PIERCE: I'm waiting to have the motion put on the screen and then I'll see if there is a second to the motion.

MR. GROUT: As well as the status quo option; that's always in there.

CHAIRMAN PIERCE: All right, so the motion is to have the two options, the status quo and then the other option would be spawning area boundaries could be changed through Section action based on technical committee advice. That is the motion made by Doug Grout and seconded by Tom Fote. All right, we have motion before us. Discussion on the motion? Tom.

MR. THOMAS FOTE: The reason I supported this is it makes sense. We shouldn't have to go out to – if

it's done by the technical committee, they're going to draw up the lines and all we need to do is approval, I think it's the way to go. It's also going out to public hearing so we'll get the comments on it, but I think it's a nice tool to have in the toolbox. Basically, that's all it's there as a tool; and when we have the information necessary to do that, then that's based on good technical data. I support this.

CHAIRMAN PIERCE: Further discussion on the motion? David, go ahead.

MR. DAVID SIMPSON: My usual perspective on these questions; basically if Massachusetts, New Hampshire and Maine are happy with something, I'm happy with it. I'm kind of looking for informal nods.

CHAIRMAN PIERCE: All right, we'll go to the audience for comments on the motion?

MS. MARY BETH TOOLEY: Mary Beth Tooley from the O'Hara Corporation. It's just a little unclear to me what the motion says that the Section could take action on the technical committee advice. What kind of action; normal actions that we expect would be an addendum or an amendment? Maybe somebody could just define what the motion means.

CHAIRMAN PIERCE: All right, let me turn to Bob Beal. My understanding would be that if the technical committee comes up with basically a technical correction based on some good science, that we would then adopt that. It would be implemented automatically because of this particular strategy if we decide to go with it.

MR. ROBERT E. BEAL: It's always a little risky for me to interpret the intention of people making motions. I think what you said is correct, David, that if the technical committee brought forward advice prior to a fishing year that the boundaries should be moved or should be modified for that year the Section could take a vote to change the spawning area boundaries for that year.

I think the default would be status quo boundaries as they are right now unless they're modified by the Section. I think to even further comment, the idea of putting this into the document would be as this goes out to public hearing the public can comment on whether this is an issue that's substantial enough that they feel there should be an addendum completed each time the boundaries should be moved or are they comfortable with the public meeting process and then access to commissioners and those sorts of things where they can provide enough input to the Section members prior to a decision being made. I think the public comment part of this is whether this needs an addendum or an amendment or if folks are comfortable with the Section taking action.

CHAIRMAN PIERCE: As the maker of the motion, Doug, I assume then you agree with the interpretation just provided by Bob?

MR. GROUT: Yes, it is, that we could take Section action to change the boundaries rather than going to an addendum. The other option would be status quo, there would be no change to the boundaries without management action.

CHAIRMAN PIERCE: Okay, Mary Beth, does that answer your question? Again, if this is adopted, then the public will have an opportunity to comment whether it makes sense to do that change basically automatically or whether something more detailed would have to be provided such as another addendum. All set, Mary Beth.

MS. TOOLEY: Yes, I think so; thank you, Mr. Chairman.

CHAIRMAN PIERCE: I'm going to continue with the audience for a second. Any other comments from the audience on the motion? Jeff.

MR. JEFF KAELIN: Jeff Kaelin from Lund's Fisheries in Cape May, New Jersey. I think this is fine. In fact, the whole addendum strikes me as something that ought to be done through technical correction, frankly. To send this out to public hearing, what are we going to say about it, especially revising the GSI, the Gonad Somatic Index?

It's like you could throw a dart against the wall and make a choice. What do we know about that; nothing. I'd like to see the whole thing go in that direction and not just this part of it, frankly. I would like to suggest some clarification that this might say "existing spawning area boundaries would be changed", because we're really only talking – I think it needs to be clarified we're only talking about the existing Gulf of Maine spawning closures. That would be a clarification that I think would make some sense.

Then do the whole thing as a technical correction, frankly, because there are so many substantive management changes going on right now that are taking up a lot of our time, too, and not only the technical committee. The major issues in here I think most of us wouldn't have a clue as to what the right

choice would be. I also think it's problematic for the addendum to go out to the public without the technical committee identifying a preferred option, frankly, because who are we to figure that out. Those are some of my comments. Thank you.

CHAIRMAN PIERCE: Thank you, Jeff; that's the first time I've heard you admit that you're clueless. (Laughter) Pat, did you have your hand up to the motion?

MR. AUGUSTINE: Yes, Mr. Chairman. Again, for simplicity sake to put words in there that talked about when there is sufficient data to justify; that would be I think more clarifying than what we have up there. I think it's a little nebulous the way it is, as Mary Beth had mentioned.

CHAIRMAN PIERCE: I think it's understood though, Pat, that whatever comes to us and –

MR. AUGUSTINE: I don't have a problem with it.

CHAIRMAN PIERCE: All right, good. All right, we have a motion before us. Terry.

MR. STOCKWELL: I'm comfortable with the motion; I just have a follow-up question. Bob, you had mentioned that it would be an annual and I would be more comfortable with making a change altogether rather than look at having our spawning areas in an annual specification process. I guess I'd defer to you and to Doug as to what your intention was. My comfort level would be coming back with the advice and moving forward with a change.

MR. BEAL: Well, I don't think it has to be annual; I probably shouldn't have said that. I think if there is justification to move the boundaries, the Section could set those new boundaries in place until there is evidence that they need to be moved again is probably the best way to handle it.

CHAIRMAN PIERCE: Further comments on the motion? I see none. I assume that there is a desire for states to caucus.

(Whereupon, a caucus was held.)

CHAIRMAN PIERCE: All right, I assume we're ready to vote. All those in favor of the motion please signify by raising your hand; those opposed; null votes. Okay, no opposition and no null votes. **The motion carried; seven, zero, zero, zero.** We have now deal with that aspect of the addendum. I assume there is no more desire to discuss the addendum. Bob.

MR. BEAL: Well, not a discussion on the addendum but a discussion on the public comment period. Following up on Jeff Kaelin's comments, I think the reality is the issues that are in this document now are very technical and there is probably not a lot of public interest. The staff is willing to do public hearings but we're not obligated to do public hearings up and down the coast for an addendum like this. All we really are obligated to do under the commission process is a 30-day public comment period. If there is no need for public hearings up and down the coast, we can save those resources and use in other areas, I'm sure.

CHAIRMAN PIERCE: All right, after we deal with the addendum we'll address that particular point regarding public comment. **Do I have a motion to approve the addendum for – well, hold on a second – yes, a motion to approve Draft Addendum V as amended for public comment; do I have a motion to that effect? Bill Adler has made the motion; seconded by Bill McElroy.** Discussion on the motion? I will go to the audience to see if there is any desire to comment on the motion as amended. Yes, Pat.

MR. PATRICK PAQUETTE: Patrick Paquette, recreational fishing advocate from Massachusetts. I wanted to just sort of highlight or emphasize the prior comments about the public are going to be confused or wanting some information in the document about the spawning size options, the Gonad Index.

There is going to be a little bit of confusion because there is – I disagree with Mr. Beal in one way, that there is a great deal of concern on the dock and by fishermen who use herring about the size going down. There was discussion at assessment meetings over the last few months about these fish being mature at a smaller age and what does that mean.

To put that question into the document without a technical committee recommendation – if the technical committee can't make a recommendation in the document I hope there is going to be some information for the public to consider because I think there is concern related to the issue that may not be direct but that we're going to want to get right. Anyway, I've made the point.

CHAIRMAN PIERCE: Thank you, Pat. This particular issue I believe is covered in the addendum. The size difference, percent maturity at size, that's in

the document; so if this is adopted for public comment, then the public certainly is free to offer up comments on that particular issue. Is there a desire by the Section to have a caucus? I don't see any desire to have a caucus. With there being no desire for that, we will then vote. Bill, you look a little confused.

MR. ADLER: I'm always confused. Is this place where you indicate whether it's going to go by public hearings or whether it's just going to go with a 30-day comment period or is that after we approved this?

CHAIRMAN PIERCE: After the vote. The motion is approve Draft Addendum V for public comment as amended. All in favor of the addendum as amended please signify by raising your hand. **Okay, that is unanimous.** All right, we have options; public hearings or a 30-day public comment period; does anyone object to there being a 30-day public comment period as suggested by Bob? I see no objections.

In that case we will have a 30-day public comment period on the addendum and then I believe Chris said that we'll be in a position to react to that comment and then vote on final action on this addendum you said at the annual meeting?

MR. VONDERWEIDT: Summer meeting.

CHAIRMAN PIERCE: Summer meeting, okay, so that is the schedule that we will live by. All right, thank you, Matt and Chris, and thank everyone for all the work that you did on that addendum. It's certainly a challenge whenever we deal with technical matters and the uncertainty that surrounds those technical matters.

SECTION COMMENT ON NEFMC DRAFT AMENDMENT 5

Next on the agenda is Amendment 5; the opportunity for the Section to comment on the New England Fishery Management Council's Amendment 5, the so-called catch monitoring amendment. This Section has already received two in-depth presentations, very complete presentations from Lori Steele, so there is no need for us to go over that ground again.

However, Chris is prepared to provide us with a brief summary as to the elements of Amendment 5 and that will help us work through whether or not we desire to offer up some comments and what those should be. After he does that, there will be a report from the advisory panel. Chris will also provide that report.

The advisory panel had a conference call and has made a number of suggestions and recommendations relative to the options in the document. I will see if any Section members wish to entertain any of those specific recommendations. Then I will provide a summary of the New England Fishery Management Council public hearings; the many public hearings help up and down the coast; a relatively brief summary of what happened at those public hearings.

Basically it's the presentation that was provided by Lori Steele at the New England Council Meeting last week. Then there will be working group recommendations. I'll provide those recommendations. You should all have that one-page handout. The working group was comprised of volunteers that offered up their services at our last meeting, and that was Bill Adler, Ritchie White, myself, Doug Grout and Terry Stockwell.

The working group recommendation was put together fairly recently by myself, Bill Adler, Ritchie White, Doug Grout and Terry Stockwell for the Section's consideration. After that we'll then get into the final agenda item that relates to what exactly do we want to offer up to the council for its consideration. With all that said, I'll turn to Chris; and if you will, Chris, provide us with your summary of the amendment. Pete.

MR. HIMCHAK: Mr. Chairman, can we get the comments from the Section's Working Group on the amendment before he goes into the whole presentation. I would like to know what they were.

CHAIRMAN PIERCE: They're being passed out right now, Pete.

MR. VONDERWEIDT: As David mentioned, Lori wasn't able to make the trip down. However, you've seen this Amendment 5 presentation a few times so I'm just to kind of go quickly over the options to sort of give everyone a refresher. As a potential timeline for everything in Amendment 5, in February 2012 there was a Draft EIS submitted to NMFS.

At that time they were optimistic that the New England Council would be able to review Amendment 5 and take final action during their April meeting. However, it was delayed and April 19, 2012, the Draft EIS was finally published. Now we are in a second public comment period, which is April 20th through June 4th, which is a required NEPA 45-day public comment period. We're here at the ASMFC spring meeting week, and June 19th through

21st is the predicted timeline for the New England Fishery Management Council to select the final measures.

As far as the Atlantic States Marine Fisheries Commission comment process, as I mentioned under the original timeline the New England Fishery Management Council was going to select measures in April, at which point there was no overlap between the final document being available with the final options and measures in it, so there is no overlap with the ASMFC Meeting Week.

Both the Section and the Shad and River Herring Board formed working groups that were going to review the amendment when it became available, and they were going to submit comment through the Policy Board but offline on behalf of each section with the understanding that there would not be an ASMFC Meeting Week that overlapped with the public comment period.

However with the delay, that changed, but we still got the working group review for the Herring Section and the Shad and River Herring Board. Both of those groups asked for advisory panel review before making their comments. What has happened is that we still have working group recommendations that David mentioned and an advisory panel.

This is all to just facilitate ASMFC comment on the amendment. What is going to happen this week – and that's up on the board – is that you are going to review and make your recommendations today. The Shad and River Herring Board is going to make their recommendations tomorrow. The Policy Board will decide what the final ASMFC Amendment 5 comments will be either this Wednesday or Thursday; probably Wednesday.

Even though the working group recommendations were handed out, I would encourage everyone to work off of the 80-some page public hearing document, which the title is up there. It's the summary and it includes kind of details of the measures that I'm going to try and go through quickly.

There are four parts of Amendment 5. There is a pie chart on Page 5 that sort of shows, and there are four parts of Amendment 5. There are adjustments to the fishery's management program. There is catch monitoring at sea. There are measures specifically to address river herring bycatch, and then there is midwater trawl access to groundfish closed areas.

For adjustments to the fishery management program, this is on Page 8, there are proposed adjustments to the regulatory definitions, which includes transfer at sea and offload definitions. Currently there is no definition for transfer at sea or offload, so these would establish them for the first time.

For 3.1.2, admin general provisions, this is Page 9 of the public hearing document, it would expand possession restrictions to all vessels working cooperatively in the fishery. Right now it's midwater trawls only are restricted by the least restrictive – the smallest possession amount of their permit, so that would expand that to also purse seine vessels and transfer at sea; so whoever had the least restrictive permit, both vessels would be under that possession limit.

It would also eliminate the VMS power-down provision, which is that a boat could power down when at port. It would establish a new at-sea dealer permit. Measures to address the carrier vessels, this is on Page 11 of the public hearing document, essentially the goal of this is to prevent double-counting.

Status quo is that carriers don't report to prevent double-counting. They have to obtain a letter of authorization and then they have to act as carriers for seven days minimum. Under Option B, require VMS on carrier vessels, the carrier vessels would use VMS and they would be allowed to declare if they were just going to be a carrier vessel, if they were going to fish for something other than herring or if they were going to fish for herring, so essentially they could just make a VMS declaration and then be a carrier vessel.

It wouldn't restrict them to just the seven days. They wouldn't have to be carriers for seven days. Option 3, the dual option for carriers is that you could use the current letter of authorization or the VMS provision. Next are the measures to address transfer at sea, and this is pretty straightforward.

Option 1 is no action. Option 2 would be to restrict the transfer at sea to A and B permit holders only. Option 3 would be that you were prohibited from transferred – being involved in a transfer. This is to transfer or receive any herring if you don't have a permit. Trip notification requirements, that's on Page 14, right now the no action alternative is that vessels are required to report to NMFS 72 hours prior to going fishing so that NMFS could provide an observer if they wanted.

Option 2 is to modify and extend the pre-trip notification. It actually changes the notification to 48 hours and it adds a gear declaration when you're notifying NMFS and also requires that D vessels in Area 2 or 3 have to comply with the pre-notification requirements for C permit holders. Option C is that there would be a six-hour notification to law enforcement prior to coming over the demarcation line, and that D vessels in Area 2/3 have the C notification requirements; the same requirements that associated with a C permit.

Moving forward to reporting requirements for herring dealers, Option A would be no action. Option 2 is a requirement to accurately weigh all fish; and so 2A, document annually in their dealer application, if they do not sort the fish before weighing them, they would have to document that annually how they're estimating what the composition of that catch is that they've weighed the gross amount.

Option 2B would they would have to do that for each individual submission; and then 2C is a dealer confirmation and a vessel validation, and this is that it would increase the dealer reporting to 24 hours and it would require that the vessels and the dealers would have to cross-validate the landings. They would go online and there is an online system that is described in the document.

They would verify, yes, it was 10,000 pounds; yes, it was 10,000 pounds although it would probably be much more than that. Moving forward, changes to open access permit for limited access mackerel vessels in Area 2/3. Right now Option 1, no action, would be that you would be restricted by what the open access herring permit possession limit is, and that's three metric tons or 6,600 pounds. Option 2 would be increase an open access permit for mackerel vessels that have a limited access mackerel permit to 20,000 pounds in Area 2/3.

Option 3 is the same as Option 2; it would only be for limited access mackerel vessels in Area 2/3, but it would allow them to have a 10,000 pound possession limit. Moving forward to the second part of the four is catch monitoring at sea. This begins on Page 21 of your document. However, there is a pretty good summary table on Page 28 that sort of has the various levels.

I would just point out that this applies to A, B and C permit holders only. Beginning on Page 21 of the public hearing document, Alternative 1 would be no action. Observer days would be allocated trying to achieve the standard bycatch reporting methodology but only as so much as funds allow.

Alternative 2 would be a hundred percent observer coverage for A, B and C vessels. Within that there are four other options. There would be a funding option which the first funding option is that the National Marine Fisheries Service would cover the cost of all observer coverage. The second option is that NMFS would pay for as much as they could and then the industry would have to foot the remaining bill.

Other service provider options under Alternative 2 include no action; states are not authorized to be service providers or the second service provider option is that states are authorized to be service providers so they could provide observers, essentially. Alternative 3 would be SBRM as a minimum, and it has the same funding options and service provider options as Alternative 2.

Alternative 4 is that there would be council-specified priorities. Those, as they are in the document, are 30 percent CV for herring and haddock and 20 percent CV for river herring. Option 1 under Alternative 4 would be that the New England Fishery Science Center would conduct the analysis and update what the specified priorities are.

Option 2 would be that the New England Fishery Management Council's Plan Development Team would analyze and come up with the council-specified priorities. Then they have similar funding options, all federal or federal and then industry pays the remainder. Moving forward to 3.2.2, measures to improve and maximize sea sampling, these are essentially measures that make it easier for the observers to do their job.

There is a requirement to allow observers to have a safe sampling station adjacent to the deck; that they would provide reasonable assistance to carry out their duties; they would provide notice when pumping ended or when pumping began; pumping ended and when the observers can begin their sampling.

There would be a requirement for an observer on both vessels for trips with multiple vessels. There would be a requirement for communication between pair trawlers if an observer is on one and there is pumping going on in the other one. Also, require visual access to the net cod end or the purse seine bunt.

Moving forward, measures to address net slippage, this is on Page 31 of the public hearing document. Right now Option 1 would be no action and release catch affidavit. Basically, they need to say on the release catch affidavit where, when, why and a good faith estimate of the amount of catch that was operationally discarded or slipped, depending on how you feel about it. Option 2 would be that there would be additional information required with the release catch affidavit.

There would be the reason for the slippage and estimate of the quantity and the species as well the location and time. Option 3 would be the Closed Area 1 sampling provisions, and this is for the groundfish plan, which requires an observer on board. They have to pump all fish on the vessel or bring all catch aboard if not pumping. There are a few other things in there. This is on Page 32 and it's described at length.

Then sort of taking it a step further is Option 4, catch deduction and/or termination for slippage events; so 4A would be that if you have any kind of slippage you would have a catch deduction of 100,000 pounds taken away from your quota. Essentially that boat would be – it would be marked that that boat caught plus 100,000 pounds.

Once of ten of these slippage events happened in an area, the 11th slippage event would require that vessel to terminate their trip; so it's not ten per vessel. It would be ten in an area and then 11 and 12 – any vessel that slipped after that would have to end their trip and there would be counted 100,000 against the quota.

4B is very similar except that it also includes the Closed Area 1 catch provisions with the catch deduction and possible trip termination after ten slippage events. Option 4C removes the catch deduction but still carries over the Closed Area 1 requirements for those vessels and also that the trip would be terminated after ten events in an area, ten slippage events happened in an area. 4D is the same except it's five events instead of ten and no catch deduction.

3.2.4, maximum retention alternative, this is essentially an experimental fishery to determine if maximum retention would be appropriate for the Atlantic Herring Fishery. There are two options there; no action, there wouldn't be an experimental fishery set up; and then Alternative 2 would be to evaluate through annual exempted fishing permits to see if it's appropriate.

Now moving forward, this is the third slice of the pie, measures to address river herring bycatch. There is sort of four parts to this and I show them here and then I'll break them down in a second. Alternative 2 is the river herring monitoring avoidance, and essentially this is additional monitoring, but not closed areas.

Alternative 3 also includes monitoring but it would actually include river herring protection or closed areas, so it takes it kind of a step further. Then 3.3.4 is can adjust the river herring areas and triggers; and 3.3.5 is river herring catch caps, but that is pretty quick when we get to it. This begins on Page 39 of the public hearing document.

There is also a flow chart there that you might find helpful as far as sort of how these all work together because they're very interconnected. The river herring monitoring avoidance, part one, would be management measures that would apply during certain times and in certain areas. The first part of that is on Page 40, and it shows identification of the monitoring avoidance areas.

This is from 2005-2009, bimonthly squares, that caught greater than 40 pounds; so greater than 40 pounds is kind of the big takeaway here. Option 1 would be a hundred percent observer coverage when fishing in those river herring avoidance areas. The suboption under that would A, B and C vessels only or Suboption B would be also include the D vessels. Option 2, the Closed Area 1 sampling provisions is that you that you have to pump all fish on board and then exit an area if you slip in that area.

It would implement the closed area sampling provisions, and then as a suboption there are four suboptions under that. Suboption A is a hundred percent observer coverage. Suboption B is less than a hundred percent observer coverage, and this would be in the river herring avoidance areas. Suboption C is that these would only apply to A, B and C vessels. Suboption D would be that it applies to all vessels.

Part 2 of the river herring monitoring avoidance – and I've only got like three slides left so bear with me – Option 3 are trigger-based monitoring approaches. These listed on Page 44. There are options with the mean, the average – there is the mode, the average and the max I think, but you can see those on Page 44.

Essentially once these triggers were hit, it would trigger Option 1 and 2. It could incur this hundred percent observer coverage or closed area sampling

provisions under Option 1 and 2 here. These could have been maybe first. The catch triggers are on Page 44. The options under Option 3 would be either total catch by trigger area.

There are three trigger areas shown on Page 45, and that is the Gulf of Maine, Cape Cod or Southern England; so aggregate for those larger areas or total catch by stat area, which are much smaller units. Option 4 is the Sustainable Fisheries Coalition, University of Dartmouth and Massachusetts DMF project where Stage 1 would be to identify bycatch avoidance areas and then in the future, through a framework, try to implement avoidance strategies based on the research showing the bycatch avoidance areas.

Moving forward, Alternative 2, river herring avoidance, these are the ones where it would actually close an area based on certain thresholds. The threshold for establishing these protection areas was much higher than the monitoring avoidance. You'll notice it's 1,233 pounds as opposed to the 40 pounds for the monitoring avoidance area.

Option 2 would be these areas are closed. On Page 53 is where it begins and you can see it would be bimonthly period, and it doesn't cover all times of the year, but essentially these areas would be closed as written in the document for those areas with a prohibition on directed fishing. There is a suboption there to give limited access vessels a chance to declare out of the fishery, and they could still fish in the areas but they couldn't fish for herring and they couldn't retain any herring.

Option 2 would be trigger-based closed areas, so again there are some triggers – these are listed on Page 56 – based on the max, the median and the mean. Once these triggers were hit for an area, that would trigger a closure. The reporting option number one would be total catch by trigger area. These are the larger Gulf of Maine areas or by stat area, which are the smaller ones. This is on Page 58.

Additionally, there are some options for exemptions for the small-mesh northern shrimp fishery or vessels using mesh that is greater than 5-1/2 inches. Moving forward for the measures to address river herring bycatch, the mechanisms to update the river herring areas are listed in the document, but they could change.

Through a framework or amendment, the New England Fishery Management Council Plan Review Team will review these every three years and then send recommendations to the council. It also includes language that says they'll consult with the ASMFC and also the Mid-Atlantic Fishery Management Council. Finally, for the river herring bycatch measures would be river herring catch caps. They will not be implemented as part of this amendment but through a future framework or amendment after the ASMFC Shad and River Herring Assessment is completed.

Finally, there is midwater trawl access to groundfish closed areas. This is on Page 60 of the public hearing document. There are two options there. Alternative 1 is no action; Alternative 2, the pre-closed area one provisions. Alternative 3 would be a hundred percent observer coverage. Alternative 4 are the Closed Area 1 provisions, which could also include a hundred percent observer coverage of less than a hundred percent observer coverage. Alternative 5 would be some closed areas. That's a quick summary.

CHAIRMAN PIERCE: Thank you, Chris. You did Lori Steele justice in half the time. It was necessary for Chris to go through the document the way he did because of the needed reference to these particular sections as we go through the recommendations from the advisory panel. They're very specific to numbers within the document, so that was the way we had to do it.

I'm not going to have any questions of Chris at this time. What I would like to do is work through the advisory panel report, my brief summary of the public hearings and then the working group recommendations. We were only allotted about two hours for business and that's not much time to deal with this particular amendment and comments to be provided by the Section to the Policy Board for them to deal with this matter.

Lobster is at 3:15 and we have one hour to go before lobster begins, and I'm not going to postpone that very important board meeting by going too long. Therefore, I'll turn to Chris and have him give the advisory panel report.

ADVISORY PANEL REPORT

MR. VONDERWEIDT: I just want to point out that the Advisory Panel Chair David Ellenton asked me to give this presentation as an impartial party on a contentious issue. The advisory panel got together to review Amendment 5. I'd also just like to point out that there is a pretty short summary of about six pages and it has got bullets of some of the points that the advisory panel members made. That was on your

CD if you want to follow along and get a little bit more information.

The following members were on the call; there were eight members. They're listed on the screen there and also in the document so I won't read them all out loud. It was about a four-hour long conference call. Some members dropped off the call due to prior commitments partway through. I'll just kind of highlight those because in the past the Section wanted to know who was on the call, so I'll try and provide that.

Generally, the advisory panel – and I think somebody said this can't be worded strongly enough – they felt that it was inappropriate to discuss long and complicated documents on a conference call medium. They felt that a minimum we should have had a day-long meeting because they couldn't do a thorough review.

They were worried that absence of a comment on an issue that they weren't able to really get full discussion of might be considered an endorsement where it's not an endorsement. They were also concerned that only eight of ten members were on the conference call and then they worked from the public hearing document, which is the one that I pointed before. That was mailed to every member before the call.

Their preferred alternative for regulatory definitions; they like the no action alternative. It will just have a checkmark next to the alternative they like, and then the other ones will be crossed out. If there is room, I've included the AP comments. The comment here is that Option B would complicate the process. They weren't really sure what the point of these were.

There was sentiment that it might make things more complicated and generally they didn't think they fully understood everything. 3.1.2, administrative general provisions, they liked the proposed provision to eliminate the VMS power-down provision and also establish a new at-sea dealer permit. This is a consensus.

For measures to address the carrier vessels, they liked Option 3, a dual option for carriers. That's where you don't have to enroll for seven days if you want to act as a carrier or be able to use a letter of authorization because it gives more flexibility. Like I said before, the AP's comments are bullets on here if you want more information.

For measures to address transfer at sea, they preferred Option 1, no action. Status quo is preferred because the other two options were too restrictive. There was some question about how this would impact tuna fishermen who buy herring at sea for bait, but they weren't really sure how it would happen. I'll just point out Lori was on the call to clarify some of the questions.

For the trip notification requirements, they liked a combination of Option 2 and Option 3. They commented that D permit holders on a direct herring trip should be held to the same notification requirements as the A, B and C vessels. One person pointed out that there is a table that shows only about a hundred D permit holders are actually landing herring.

They pointed out that if a vessel wants to fish for herring, they should notify NMFS to allow them to place an observer on board. They didn't feel that these requirements were burdensome. Moving forward, reporting requirements for herring dealers, there is no consensus on this. There was one member who liked Option 2B, which would be that if a dealer is required to accurately weigh all fish and if they don't separate the fish when they weigh them they must document for each individual landing submission how they figured out what catch comprises what of that lump weight. The rest of members who spoke to this actual option or to this point, they liked the no action alternative.

3.1.6, the changes to the open access permit for limited access mackerel vessels in Area 2/3, there was consensus about Option 2, which would be a 20,000 pound possession limit. They liked it because it's close to the incidental limit in the Mackerel FMP and would also reduce bycatch.

For observer coverage on limited access herring vessels, there was no support for any specific option. They were supportive of the observer coverage and increasing the monitoring and all that, but they were strongly concerned about the cost. This is kind of for a whole section here of 3.2.1. The comments were that they support a hundred percent observer coverage but they can't pay more than $325 per day. There was some support for some kind of a sunset provision where do a hundred percent observer coverage; and then after two years you've collected your data, remove the requirement so to have automatic after two years. However, there was opposition to that as well. They liked the idea of maybe collecting data intensely for a few years and then relaxing the requirement.

They didn't think that two years exactly was the perfect way to do it. They pointed out that there is no scientific justification for a hundred percent observer coverage. The standardized bycatch reporting methodology has been developed as a scientifically valid way to sample catch. They also pointed out that the New England Fishery Management Council PDT has never recommended a hundred percent observer coverage as a scientifically valid collection threshold.

They were saying you shouldn't implement higher observer requirements until the cost drops. Observers have to always be available. A couple of members said that this is a very good opportunity for your conservation partners to help out with the cost and also that the government should pay for the hundred percent observer coverage.

For the measures to improve and maximize sea sampling, these are kind of the measures that make things easier for the observers to operate and safer and all that. They are unanimously not opposed to these measures. The members of the AP said that they do stuff already. They don't even know why it's in here because they have a really good relationship with the observer program.

For measures to address net slippage, this was by far the most contentious issue on the call. Everybody was getting along very nicely and then not so polite when they got to this. There were kind of two camps as far as preferred alternatives. Six of the members liked the no action alternative. They felt that these measures were punitive in nature.

They were offensive because it implies that dealers don't know the weight of their – excuse me, wrong page. They said that they were completely opposed because the measures are punitive in nature and not constructed to an ongoing cooperation between captains and observers. They felt that it was operationally impossible; that the hydraulics can't even pull the net over the side rail, things like that. There were other comments that slippage is a myth.

There was some concern that for a small amount of operational discards of about a hundred pounds that are sort of a reality for the trawl fishery, they shouldn't penalized 100,000 pounds against the quota. There are some others listed on Page 5 if you want to read them. And then comments from the people who were in support of Suboption 4C, which is catch deduction and termination for slippage; the Closed Area 1 provisions with termination at ten events, they commented that having an independent set of eyes seeing what is in the cod end will benefit monitoring and close any loopholes.

They felt that all catch should be sampled and observers can't sample what they can't see. The trip termination provides an incentive to minimize slippage. It was a very contentious issue here and were divided on the call. For the maximum retention alternative that would establish an experimental fishery, the whole advisory panel was unanimously opposed.

They felt that it would be a waste of resources to pursue this, and they don't think that a hundred-year-old fishery should become experimental. At this point in the call, three of the members had prior commitments and had to leave the call. The second to last section that the advisory panel commented on were measures to address river herring bycatch. The AP unanimously supported the SMAST approach, which is to identify the bycatch avoidance areas and then implement a bycatch avoidance strategy in the future based on that data through a framework.

They commented that this is good because it's not punitive. It allows the fishery to operate. The move-along rule would be flexible and moves fishing from areas with river herring for sure to areas that don't have concentrations of river herring. They also pointed out that recent analysis shows high river herring concentrations outside of the monitoring avoidance and trigger areas that are identified in the document right now, so that could actually take fishing pressure from a low area to a high river herring areas is what their points was.

They also commented that catch caps are not ready for implementation at this time. Finally, the midwater trawl access to groundfish closed areas; the AP unanimously supported pre-closed area one provisions. Thank you.

CHAIRMAN PIERCE: Thank you, Chris, that's a very good summary of what was provided to us from the advisory panel on these different issues. In the interest of fairness, I should highlight that on Page 6 it was indicated by Chris that three AP members did leave; Pat Paquette, Steve Weiner and Jennie Bichrest.

I would suspect that if they had remained on the call, if they didn't have those previous commitments there would not have been a unanimous position on 3.3 and 3.4. I think that's a fair statement to make. Also, of course, if we had all 18 members of the advisory panel on that conference call, it would have been

incredibly unwieldy, so I do tend to share the views of the advisors that a conference call on this particular issue, while needed, certainly placed them in very difficult position to provide in-depth comments, useful comments on all of these elements.

SUMMARY OF NEFMC PUBLIC HEARINGS

Again, I'm going to hold off on questions and comments from the Section because time is ticking. It's already 2:30. I'm going to give a brief summary of what happened at the New England Council meeting last week when Lori Steele provided a summary of what has been received by the New England Council that is public comment on this very important amendment to the Sea Herring Plan.

I think most of you are aware of the fact that indeed we did have a very lengthy comment period for this amendment. We had eight public hearings in March. Right now NMFS is conducting a NEPA 45-day comment period on the DEIS, and that should bring us through June 4th, so there still is opportunity for comment on this particular amendment, specifically to the NEPA analysis.

We are going to have a meeting of the Advisory Panel, the New England Council, the Plan Development Team and then the Herring Committee will meet May/June 2012 to develop some recommendations for the council's consideration at its meeting June 19th through the 21st. I believe it's in Portland.

That is going to be the fateful meeting when these very important decisions will be made and I suspect Amendment 5 will finally be put to bed. Those are the hearings. The participation; those who attended the hearings are shown on the right-hand column. We had very good attendance at the public hearings.
I did share the one in Plymouth and the one in Fairhaven, and that's where we certainly had a great number of individuals expressing their views; Portland, Maine, as well, large attendance; so overall very good attendance even in the Mid-Atlantic area where there was a great deal of interest expressed, especially those measures that pertained to the interaction of herring and mackerel.

Stakeholder comments; a hundred percent observer coverage in Category A and B; little or no support for C and D. Implement measures to address net slippage; Closed Area 1 provisions; and trip termination; require dealers to weigh all fish; prohibit the midwater trawl vessels from fishing in year-round groundfish closed areas; establish a river herring catch cap immediately. That was not unanimously supported so Lori reports, but nevertheless that was one of the comments emphasized.

Industry comments; general comment for 100 percent observer coverage; but again if costs are addressed – you've already heard that the industry did indicate that they were willing to have 100 percent observer coverage, but they needed to have the cost come down similar to the west coast. Suggestions regarding the review of existing observer data to ID specific problems; support for several proposed FMP adjustments; inshore Gulf of Maine small-mesh fishermen – they also had some comments to provide.

Specifically that was provided by the Rhode Island bottom trawl fishermen. Lund's Fisheries represented their views. This sort of sums it up. We had 40,993 e-mail comments. I don't know how this was accomplished but I guess technologically it's possible; 35,000 were in one e-mail; 765 comments in one e-mail; 3,024 and 585 batch e-mail comments, so clearly e-mail was burning; quite a bit of interest expressed by those who have been paying attention or who have been asked to comment.

Several individuals also provided specific comments representing the groundfish fishery; tuna fishermen; of course, the herring fishery; recreational fishermen; and other stakeholders. We also had comments provided by a number of organizations such as Pew, Honest Bycatch, Earth Justice, the Massachusetts Commercial Striped Bass Association; the Nantucket Anglers Association; the Massachusetts Lobstermen's Association; the Town of Wellfleet; also Lund's Fisheries; and once again the Rhode Island Bottom Trawl Fleet – well, Lund's Fisheries I believe represented them; and then Norpel, which is the sea herring processing outfit out of New Bedford.

The upcoming meetings, as I indicated, there are quite a few. The Enforcement Committee will address the amendment. Then we'll have a so-called FMAT meeting where we'll have the joint herring plan development team and the mackerel FMAT from the Mid-Atlantic Council get together to provide some comments in May.

Then the Herring Advisory Panel in Peabody; that will be in May; Herring Committee in June. Then the council will I guess put together some specific council views on Amendment 5. They'll make those decisions at their June meeting coming up in New York; and then finally our meeting in Portland when the council will make final decisions.

That summarizes everything that was provided to us. You don't have all the comments in hand. It's about an inch or more in terms of the size of comments; many weighty comments; many repetitive comments, of course, and that was clear from my being at the public hearings that there are certain issues that are hot-button issues that spurred quite a bit of comment. I assume that most of you – those of you who are really interested in this issue have already had an opportunity to take a look at what was said, so you're aware of the different positions.

WORKING GROUP RECOMMENDATIONS

Now we'll get on to the working group recommendations that, as I said, were put together for the Section's consideration. That was done not too long ago up in the state of New Hampshire when the states met to make decisions with industry input regarding the days out; that is the days for landing relative to how we stretch out the Area 1A quota, the inshore Gulf of Maine Quota.

At that meeting we had a follow-up discussion as to what might appropriate for the Section to consider to offer up to the Policy Board for its information. Chris actually has taken the one-page handout and he has converted that into a series of slides, so I'll go through that. You have the one-page copy in front of you.

We begin by saying that the working group was supportive of any measures that will improve accuracy and accounting of catch reporting for all species. Catch monitoring at sea; that's Section 3.2, we are recommending 100 percent observer coverage. The working group recommends that observer coverage be funded by federal resources, but that phased-in, cost-sharing alternatives be considered and the differences in observer cost between the east and west coast be examined. That was clearly an important issue to the industry.

Then measures to improve the sampling, Section 3.2.2.1, the working group recommends all of the measures from 2A through 2F under Section 3.2.2.1 with the specific purpose being to improve sampling by the NMFS observers. Then the next section, the states as service providers, Section 3.2.1.2.2, we are recommending authorization of all states in the northeast region as service providers for sea sampling on limited access Atlantic herring vessels, with state data collection standards and methods being consistent with the observer program standards and methods for the herring fishery and methods being consistent with the observer program standards and methods for the herring fishery.

On measures to address the net slippage, 3.2.3, the working group supports measures that discourage and reduce net slippage. On river herring bycatch, the working group is recommending these elements. Observer coverage, Section 3.3.2.2.1, we're recommending 100 percent observer coverage.

The working group recommends that observer coverage be funded by federal resources, but that phased-in cost-sharing alternatives be considered and the differences in observer cost between the east and west coast be examined. Specifically, the SMAST, Division of Marine Fisheries and Sustainable Fisheries Coalition Approach, Section 3.3.2.2.4; the working group is recommending support of that particular river herring avoidance program.

Then closed area and triggers, Sections 3.3.3.2.1 and 3.3.3.2.2; the working group does not recommend the use of triggers as a management tool without a method to link the trigger to a peer-reviewed biological estimate of coast-wide river herring populations. Finally, midwater trawl access to groundfish closed areas; the working group is supportive of measures that will improve the accuracy and accounting of catch reporting for all species. We did not have any specific recommendations on Section 3.4.

That is where we are relative to the working group recommendations on these specific elements of the program. Now I'll entertain any questions or comments on the presentations that have been given to you, and that would be the ones provided by Chris; my short one on the public hearings, a summary of them; and then, of course, on the working group recommendations.

Also, working group members, if I have misstated anything, if you believe that there is a need for a correction relative to what we're recommending, then please make those corrections known. I've got a thumbs up so I guess I must be accurate. I will go to Peter.

MR. HIMCHAK: Mr. Chairman, in the interest of time, yes, there is a lot to get out of the Section here, but I do not disagree with anything that the working group put together. I think if we can all agree on that; I mean, the working group was charged to essentially speak for the Section. The majority of you are on the New England Fishery Management Council, so it's like I would yield to your collective wisdom on most of these administrative issues and catch monitoring at sea, et cetera, et cetera.

I had one question on the hundred percent observer coverage, and again I guess the details will have to be worked out between – you would start with SBRM levels and then from there to get to a hundred, who is going to pay for what portion, and how long that would run. I know the industry was supportive of a hundred percent coverage with a number of caveats, and you have listed most of them.

There was one caveat that I didn't see in your presentation and that would be that there would be a sunset of the hundred percent observer coverage should bycatch not be a major issue and not be documented in the fishery. Did the working group have any comment on that particular – that's the only thing I'd ask of the working group is there opinion on that issue.

CHAIRMAN PIERCE: I'll turn to other members. Doug, if you will.

MR. GROUT: Pete, one of the things that this working group took as sort of a basic overview is that getting into the details of this amendment and how long observer coverage would last, what categories, we felt that is the job of the council. They've been working on this for four years. There is a thousand page document here. We were looking at broad concepts that we felt the Section should send to the Policy Board for support in providing comments to the council as opposed to getting into some of the details of the amendment. But if you want to put some details in, that's fine.

MR. HIMCHAK: In that tone, you guys did a very good job; 3.1, adjustments to the FMP, the working group is supportive of any measures that will improve accuracy and accounting of catch reporting for all species; well, said. That's 28 pages of the document. I don't want to add to that. The same thing for the other sections; what I read here I'm supportive of so I can't see going through the pain of adding details in this.

CHAIRMAN PIERCE: I would suggest to the Section that obviously we have the working group to provide some guidance, but you should also consider what was recommended by the advisory panel. If there is anything offered up the advisory panel that you feel needs to be included as part of a Section position to offer up to the Policy Board, then please make note of that. Otherwise, you only have before you your own ideas and, of course, the working group recommendations. Sarah.

REPRESENTATIVE SARAH K. PEAKE: Thank you, Mr. Chairman, and thank you for all your work on this. Not to be repetitive here, but I think what you say in 3.1, the working group is supportive of any measures that will improve accuracy and accounting of catch reporting for all species;

I think in particular with this species, this fishery where it is a highly efficient fishery, accuracy of the catch and reporting is especially essential not just for the herring fishery but all those other species that are dependent upon this forage fish or for the lobster industry, for example, so I do support what you've brought forward here.

In the past I've brought forward to this meeting and stood in support of 100 percent observer coverage. I think if we send that forward as our goal to achieve, we can figure out a way to pay for it that's fair and equitable to the members of the industry. We can look at the differences between the east coast and west coast in that way.

One question for you on 3.4, the midwater trawl access to groundfish closed areas, you say the working group is supportive of measures that will improve the accuracy and accounting of catch reporting for all species, almost repeating what you said up top kind as the visioning statement, but yet you don't offer any specific recommendations.

I guess I'm curious if there was conversations among the members of the working group, if you had a feeling based on what the catch reports might or might not show if there would be a time, kind of going down the timeline moving forward; if recommendations would be appropriate in this area because I know certainly this is something that I've heard about from Cape Cod fishermen who are concerned about this.

CHAIRMAN PIERCE: I'll turn to other members of the working group. Terry.

MR. STOCKWELL: The working group was thoroughly briefed on the advisors' report by Chris, plus we had a written copy of it. The working group was also very cognizant of the fact that the public comment period is still open. As over five years of work has gone into get us this far and as we hone in on a committee meeting at the beginning of June and then a council meeting towards the end of June – actually, I'm hoping Pete comes to help us out – I felt very comfortable with the working group, just as Doug saying, working with the general concepts and then having all the council members on both the Mid

and the New England Councils have a time to go over the public comments, work though the committees and come back with a finished document at both of our June meetings. There is a lot of meat to hang on the bones and we're not quite there yet.

CHAIRMAN PIERCE: With that said, I should admit that I'm still working my way through all the public comments that have been provided, very thoughtful comments, long letters covering every issue that's near and dear to the heart of the commenter, so it is still a work in progress. The DEIS, as I said, is out there for comment, so comments are still being solicited. I guess that's one reason why the working group offered up the recommendation to the Section the way it did. Any other comments? Yes, Stephen.

MR. STEPHEN R. TRAIN: Mr. Chairman, I've got a question about the observer coverage. I don't know if Chris can answer it or what, but in groundfish we have about a 30 percent requirement for observer coverage; and if we don't have an observer, it's okay. If they haven't got one available, it's okay, we can go.

If this hundred percent is implemented and there is not one available, is there a waiver provision or is this boat staying tied to the dock until somebody can find an observer? I understand the importance of a hundred percent, but are tying boats up because we don't have enough observers trained or something?

MR. VONDERWEIDT: There is an option for an exemption.

CHAIRMAN PIERCE: Yes, there is an option for an exemption similar to with groundfish. That, of course, will be debated at length especially in the context of what is happening with groundfish now and concern that perhaps when a waiver is given there may be some observer effect, and so the boat is out fishing in a way that might not be representative of what would happen when an observer was on board.

Yes, it is an option to be considered by the council. Any other comments from the Section? All right, I would entertain a motion to adopt the working group's recommendations and forward them on to the Policy Board or if anyone else has any other motion they would like to make please feel free.

MR. AUGUSTINE: Are you going to go to the audience.

CHAIRMAN PIERCE: I'd like to have a motion on the floor first, Pat. Bill.

MR. ADLER: **Mr. Chairman, I'll make a motion to accept the working group document and convey it I guess on to the ISFMP;** is that what you want?

CHAIRMAN PIERCE: Policy Board. We have a motion from Bill Adler; move to accept the working group document and forward the document on to the Policy Board. Motion by Mr. Adler; seconded by Pete Himchak. All right, discussion on the motion by Section members first. All right, I see no desire at this time and I'll go to the audience. Does anyone in the audience care to offer up a comment on the motion?

I see none; therefore, back to the Section; is there a desire for a caucus. I see no desire. All those in favor of the motion please signify by raising your hand. It's unanimous; seven, zero, zero, zero. **All right, the motion has passed.** We will then forward the working group recommendations adopted by the Section to the Policy Board.

ADJOURNMENT

Now we're onto other business; is there any other business before the Section. I do not see any indication that there is other business; so without objection, we will adjourn.

(Whereupon, the meeting was adjourned at 2:50 o'clock p.m., April 30, 2012.)

Atlantic States Marine Fisheries Commission

DRAFT ADDENDUM V TO THE INTERSTATE FISHERY MANAGEMENT PLAN FOR ATLANTIC HERRING FOR PUBLIC COMMENT

ASMFC Vision Statement:
Healthy, self-sustaining populations for all Atlantic coast fish species or successful restoration well in progress by the year 2015.

May 2012

Draft Addendum for Public Comment.

Draft Addendum for Public comment.

Public Comment Process and Timeline

In February 2012, the Atlantic States Marine Fisheries Commission's (ASMFC) Atlantic Herring Section (Section) initiated an addendum to implement the Technical Committee's (TC) recommendations regarding spawning regulations. Specifically, the TC's recommendations are: 1) refine sampling protocol; 2) investigate shifting the boundary between the Western Maine and Massachusetts/New Hampshire (MA/NH) spawning areas south and 3) include all spawning regulations in one document for clarity. The proposed measures are primarily administrative and would not change the overall spawning area closure regulations significantly.

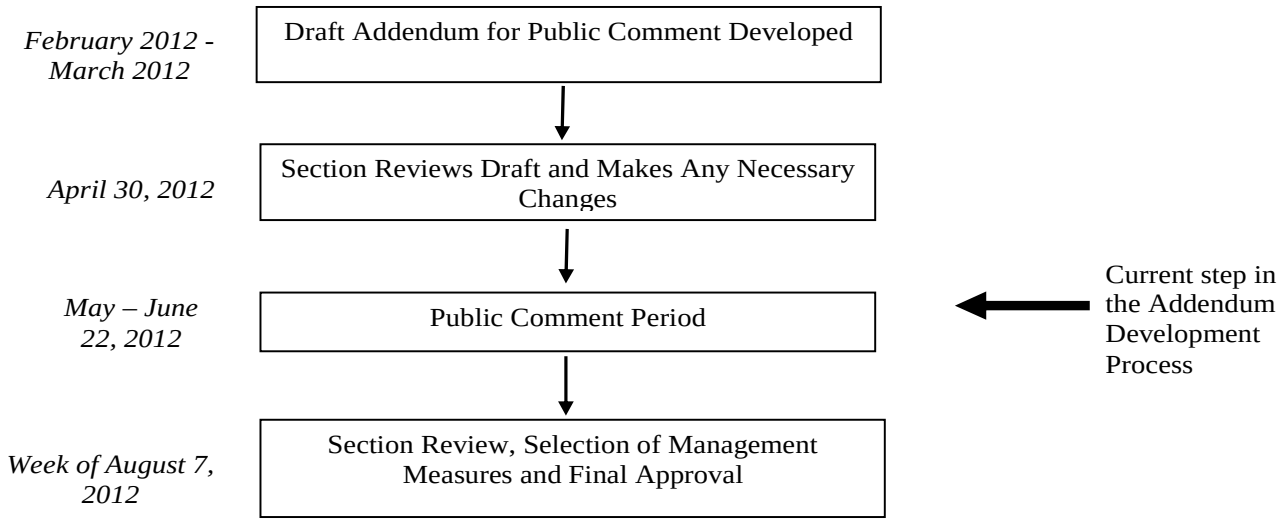
This draft addendum presents background on the ASMFC management of Atlantic herring, the addendum process and timeline, and a statement of the problem. This document also provides options of Atlantic herring management for public consideration and comment.

The public is encouraged to submit comments regarding this addendum during the public comment period. Comments will be accepted until **5:00 pm (EST) on June 22, 2012.** The Section will consider final action on this addendum during the week of August 7, 2012 at the ASMFC Spring Meeting.

Comments may be submitted by mail, email, or fax. If you have any questions or would like to submit comment, please use the contact information below.

Mail: Chris Vonderweidt
Atlantic States Marine Fisheries Commission
1050 N. Highland Street, Suite 200 A-N
Arlington VA. 22201

Email: comments@asmfc.org
(Subject: Atlantic Herring Draft Addendum V)
Phone: (703) 842-0740
Fax: (703) 842-0741



Draft Addendum for Public comment.

1.0 Introduction

In February 2012, the Atlantic Herring Section (Section) initiated an addendum to implement the Technical Committee's (TC) recommendations regarding spawning regulations. These recommendations include 1) refining the sampling protocol; 2) investigating shifting the boundary between the Western Maine and Massachusetts/New Hampshire (MA/NH) spawning areas south and 3) incorporating all spawning regulations in one document for clarity. The proposed measures are primarily administrative and would not change the overall spawning area closure regulations significantly.

The Final Draft for Public Comment was approved by the Section on August 30, 2012.

2.0 Management Program

2.1 Statement of the Problem

ASMFC spawning regulations do not provide sufficient guidance for standardized regulations between states because they are contained in five different ASMFC management documents. As a result, slight inconsistencies exist between state and the ASMFC spawning regulations, and between the states. Cooperation and open communication between state fisheries agencies staff has resulted in consistent application of sampling protocol and open/close dates for shared spawning areas—but this consistency is not guaranteed in the future.

This addendum seeks to clarify the spawning regulations to achieve consistency in their application as well as eliminate any inconsistencies between various ASMFC documents. When final, this Addendum will replace all spawning regulations in previous management documents to provide a single, clear document for states to use when complying with ASMFC spawning regulations.

Additionally, parts of the required sampling process (size bins, number of fish per sample, and MA/NH boundary) could be improved to better reflect spawning stages and behavior of current herring stocks.

2.2 Background of Current Spawning Regulations

ASMFC spawning regulations are found in sections from Addendum I to Amendment 1, Amendment 2, and Technical Addendum I to Amendment 2 as follows. Each requirement is described in Section 2.2.1.1 – 2.2.1.6 of this addendum. Full text of the spawning regulations can be found in Appendix A.

2.2.1 Spawning Area Delineation (4.2.1.1 of Amendment 2):

Note: The Western Maine and MA/NH spawning area boundaries <u>may change</u> under Issue 1 in Section 3.0 Management Options of this Addendum

The spawning area boundaries are (Figure 1):

Eastern Maine Spawning Area: All waters bounded by the following coordinates:

Maine coast 68^{o} 20' W
43^{o} 48' N 68^{o} 20' W
44^{o} 25' N 67^{o} 03' W
North along US/Canada border

Western Maine Spawning Area: All waters bounded by the following coordinates:
43° 30' N Maine coast
43° 30' N 68° 54.5' W
43° 48' N 68° 20' W
North to Maine coast at 68° 20' W

Massachusetts/New Hampshire Spawning Area: All waters bounded by the Massachusetts, New Hampshire and Maine coasts, and 43° 30' N and 70° 00' W

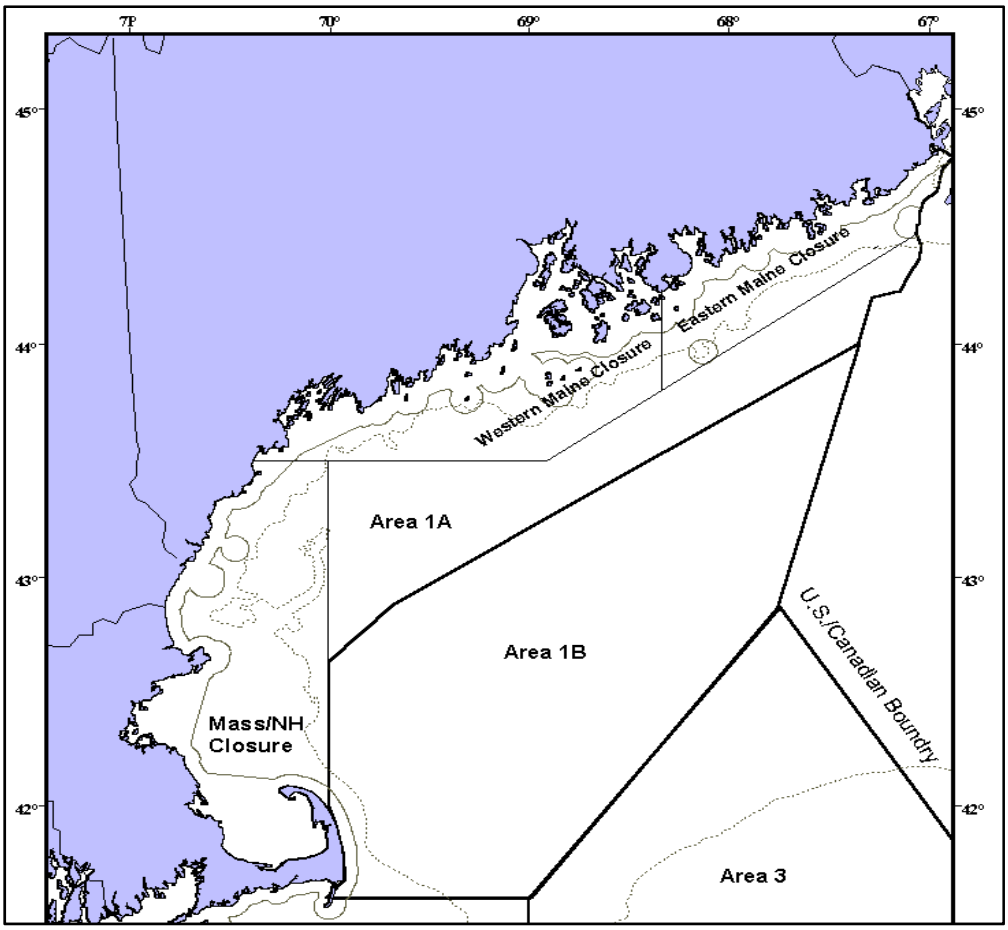


Figure 1. ASMFC Atlantic Herring Spawning Areas.

2.2.2 Default Start Date (4.3.2.2 Spawning Closures & Default Dates of Amendment 2):
If sufficient samples are not available, closures will begin on the following dates.
Note: Default start dates <u>will not change</u> in this addendum.

Eastern Maine: August 15
Western Maine: September 1
Massachusetts/New Hampshire: September 21

2.2.3 Sampling Protocol (4.2.1.2 Determination of Starting Date for Spawning Closures of Addendum I to Amendment 1):

Note: The size of fish that would trigger a closure may decrease under Issue 2 in Section 3.0 Management Options of this Addendum

Closures in a given area will begin based on the spawning condition of Atlantic herring as determined from commercial catch samples. Commercial catch sampling shall begin by at least August 1 for the Eastern and Western Maine areas, and by at least September 1 for the Massachusetts/New Hampshire area. If sufficient samples are not available, closures will begin on the default dates.

Closures in a given area will begin seven days after the determination that female herring in ICNAF gonadal stages III - V from that specific area have reached the following spawning conditions: female herring greater than 28 cm in length have reached a mean gonadosomatic index (GSI) of 20% or female herring greater than 24 cm and less than 28 cm in length have reached a mean GSI of 15%. Length refers to the mean natural total length, measured from the tip of the snout to the end of the caudal fin in normal position. "GSI" shall mean gonadosomatic index calculated by the following formula. Length refers to the mean natural total length, measured from the tip of the snout to the end of the caudal fin in normal position. "GSI" shall mean gonadosomatic index calculated by the following formula:

[Gonad Weight / (Total Body Weight - Gonad Weight)] x 100 percent

2.2.4 Sufficient Sample Information (4.2.1.2 Determination of Starting Date for Spawning Closures of Addendum I to Amendment 1):

Note: The required number of fish per sample may increase under Issue 3 in Section 3.0 Management Options of this Addendum

"Sufficient sample information" shall mean at least two (2) samples of 50 fish or more, in either length category, taken from commercial catches during a period not to exceed seven days apart.

2.2.5 Spawning Closure Length (4.3.2.2 Spawning Closures & Default Dates of Amendment 2):

Note: Default spawning closure length and sampling protocol to determine the end date will not change in this addendum.

By default, closures will last four (4) weeks. Catch sampling of the fishery will resume at the end of the initial four-week closure period. If catch sampling indicates significant numbers of spawn herring are still being harvested, closures will resume for an additional two weeks. Significant numbers of spawn herring is defined as 25% or more mature herring, by number in a catch sample, have yet to spawn. Mature or "spawn" herring are defined as Atlantic herring in ICNAF gonadal stages V and VI.

2.2.6 Tolerance (4.3.2.3 Tolerance Provision—Zero Tolerance of Amendment 2, clarified in Technical Addendum I to Amendment 2):

Note: Zero Tolerance will not change in this addendum.

Any vessel is prohibited to fish for, take, land, or possess herring from or within a restricted spawning area. Any herring vessel having spawn herring onboard, which were caught outside of a management

area that is under a herring spawning closure, may transit the closed area only if all of its fishing gear has been stowed. An incidental bycatch allowance of up to 2,000 pounds of herring per trip for non-directed fisheries shall be in place during the spawning closures.

3.0 Management Options

When final, this Addendum will replace all spawning regulations in previous management documents to provide a single, clear document for states to use when complying with ASMFC spawning regulations. Spawning regulations that are not modified under Issues 1 – 3 of this Addendum will be included with identical requirements as the original management documents. The text may be modified or rewritten for clarity. Once the Section takes final action on the management options, the Atlantic Herring Plan Development Team (PDT) and TC will develop the final text to include a clear description of all spawning regulations with modifications to incorporate selected options from Issue 1 – 3. The Section will review the final addendum language as provided by the TC/PDT at its next meeting before Addendum V is published.

3.1 Spawning Area Boundaries

3.1.1 Background

Herring samples collected by Maine Department of Marine Resources (ME DMR) and Massachusetts Division of Marine Fisheries (MA DMF) to determine the start date for the MA/NH spawning area closure are often in different spawning stages. Herring in the northern range of the MA/NH area tend to be in later stages of spawning compared to herring collected in the southern range.

The TC analyzed spawning samples collected in 2010 and 2011 in the MA/NH and WGOM spawning areas to determine if the boundaries should be modified to reflect current stages and aggregations of spawn herring. An insufficient number of samples (16 total samples in 2010 and 2011 combined) precludes the TC from making any recommendations at this time, and accordingly, this Addendum does not propose any specific modifications to current spawning boundaries.

Members of the TC agreed that the states of ME, NH, and MA should work together to increase sampling to determine if a boundary change should be re-examined in the future. The TC will continue to monitor spawning samples and may recommend changes to spawning area boundaries in the future. To allow for timely implementation of future spawning area boundary recommendations of the TC, this addendum proposes to allow the Section to modify spawning area boundaries through Section action based on Technical Committee advice (as opposed to the Addendum process).

3.1.2 Management Options

OPTION A. SPAWNING AREA BOUNDARIES CAN ONLY BE MODIFIED THROUGH AN ADDENDUM TO THE FMP.

OPTION B. SPAWNING AREA BOUNDARIES CAN BE CHANGED THROUGH SECTION ACTION BASED ON TECHNICAL COMMITTEE ADVICE

The Section may modify spawning area boundaries at a Section meeting by majority vote. Modifications to the spawning area boundaries must be based on TC recommendations. The Section's

meeting minutes and ASMFC press release will serve as the official documentation for the new spawning boundaries.

3.2 Size Bins that Trigger a Spawning Closure Start

3.2.1 Background

The current spawning regulations specify that closures begin based on the % of stage III – V spawn herring that are greater than 24 cm. The TC reviewed this language and commented that the wording "greater than 24 cm" was a typographical error and should have included "or equal to". A review of state spawning regulations revealed that some states have interpreted the requirement as "greater than *or equal to* 24 cm" (full text of state regulations is included as Appendix B).

Additionally, commercial biological sampling has found that in recent years, sampled fish are maturing at a smaller size but at the same age. As outlined in the most recent 2009 TRAC assessment, both length and weight at age has been steadily declining since the 1980s (Figure 2). As a result, mean fish length of age 3s (typically first time spawners) is now below 24 cm total length during the fall spawning period. As can be seen in Figure 3 and Table 1, an increasing number of fish in the 23-24 length bin are mature.

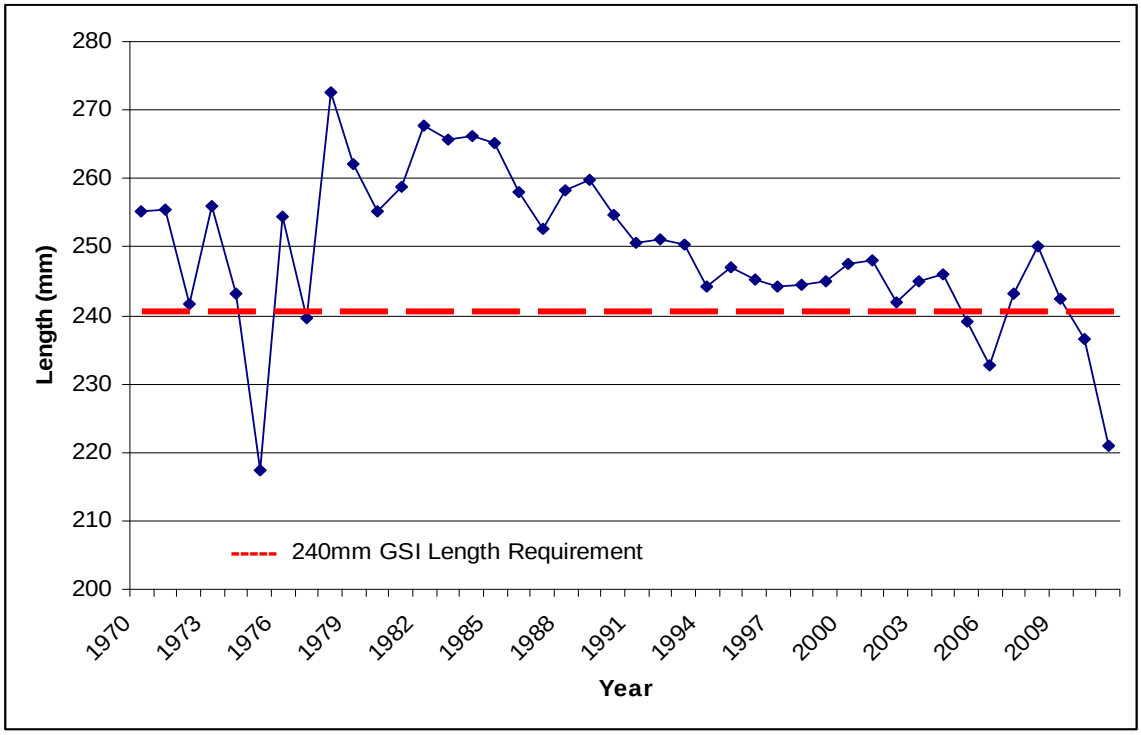


Figure 2. Mean total length (in mm) of age three females caught in area 1A during the spawning season (Aug –Oct).

Table 1. Percentage of spawning or developing females (> 10% GSI or > ICNAF stage III) Aug –Oct. by year and length bin from commercial samples. Note: blank cells indicate "no data" while zeros are calculated.

Total Length (cm)	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	average 2000-2011
21-22										0		20	10
22-23			5	0		0	0	0		0	0	23	4
23-24	0	4	6	10	21	11	7	18	0	13	18	25	11
24-25	31	16	38	13	27	23	9	19	0	19	12	30	20
25-26	39	28	49	30	38	42	15	20	11	18	30	40	30
26-27	70	36	65	42	59	57	29	26	24	7	27	55	41
27-28	87	76	85	66	67	72	41	35	47	29	37	80	60
28-29	94	84	90	77	74	74	62	50	51	46	44	69	68
29-30	96	96	96	89	84	81	71	68	59	64	64	68	78
30-31	98	100	100	92	86	94	72	84	73	83	69	100	88
31-32	100	100	100	100	100	95	73	90	85	100	100	100	95
32-33	100	100	100				83	100	50	0	67		55
33-34							100	100	100				

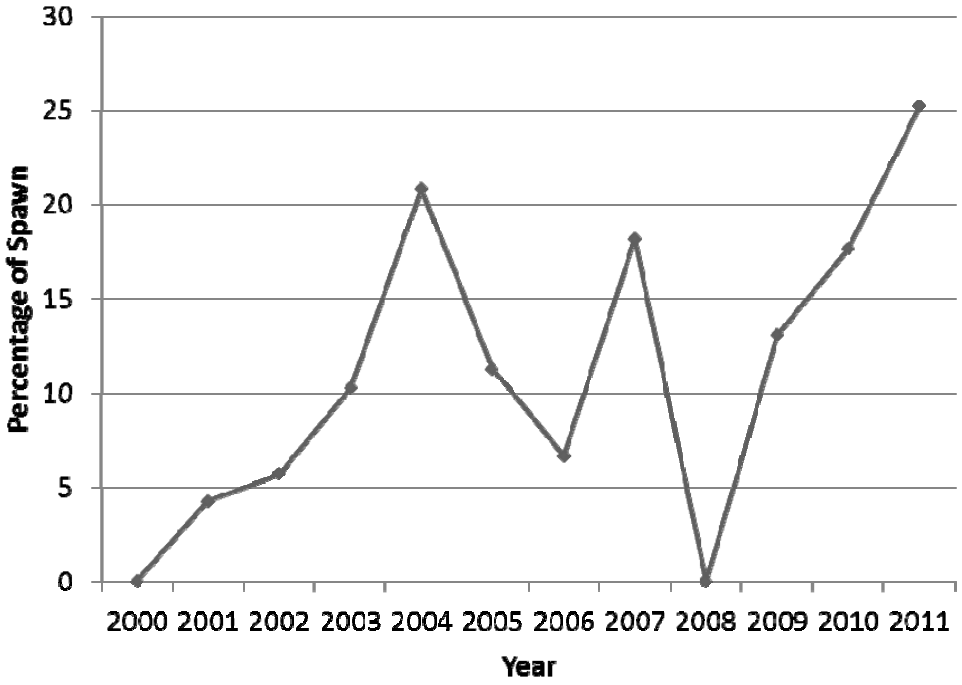


Figure 2. Percentage of spawning or developing females (> 10% GSI or > ICNAF stage III) Aug –Oct. by year in Area 1A, for fish 24-25 cm total length from commercial samples.

3.2.2 Management Options

If selected, the size bin from Option B – D would be inserted into the paragraph below to replace "insert option".

> *Closures in a given area will begin seven days after the determination that female herring in ICNAF gonadal stages III - V from that specific area have reached the following spawning conditions: female herring greater than 28 cm in length have reached a mean gonadosomatic index (GSI) of 20%; or female herring* ***[insert option]*** *and less than 28 cm in length have reached a mean GSI of 15%.*

OPTION A. STATUS QUO (GREATER THAN 24 CM).

OPTION B. GREATER THAN OR EQUAL TO 24 CM.

OPTION C. GREATER THAN OR EQUAL TO 23 CM.

OPTION D. GREATER THAN OR EQUAL TO 22 CM

3.3 Number of Fish Per Sample

3.3.1 Background

Current regulations require "at least two samples of 50 fish or more, in either length category, taken from commercial catches during a period not to exceed seven days apart". The TC recommended that the number of fish per sample be increased to 100. They agree that interpreting the samples is often a qualitative science and 100 fish per sample should suffice to determine if a closure should be extended.

3.3.2 Management Options

Current regulations require "at least two (2) samples of 50 fish or more, in either length category, taken from commercial catches during a period not to exceed seven days apart" to determine the start and end date of a spawning closure. The TC has recommended an increase to 100 fish per sample.

OPTION A. STATUS QUO (50 FISH PER SAMPLE)

OPTION B. 100 FISH PER SAMPLE

Sufficient sample information shall mean at least two (2) samples of 100 fish or more, in either length category, taken from commercial catches during a period not to exceed seven days apart.

4.0 Compliance Schedule

States must implement Addendum V according to the following schedule to be in compliance with the Atlantic Herring FMP:

XXXXXX: States submit proposals to comply with Addendum V.

XXXXXX: Section reviews and takes action on state proposals.

XXXXXX: States implement regulations.

APPENDIX A. ASMFC SPAWNING REGULATIONS

Addendum I to Amendment 1 Spawning Regulations:
4.2 COMMERCIAL FISHERIES MANAGEMENT MEASURES

4.2.1 Spawning Area Closures

Atlantic herring schools are especially susceptible to fishing when they aggregate for spawning. This is also when herring are most valuable, as fat content is generally at its peak. The economic reasons to allow fishing on spawning herring, however, are countered by conservation concerns. Fishing on spawning herring not only can result in high catch rates, but may also interfere with the spawning behavior of those herring not caught. Herring in the latter stages of spawning may not be fit for some markets. Therefore, Addendum I defines specific measures which are designed to reduce the exploitation and disruption of herring spawning aggregations, while providing a limited opportunity to harvest herring during that time of the year.

4.2.1.1 Delineation of Spawning Areas (Figure 1a)

The spawning areas for Management Area 1A (Inshore Gulf of Maine) shall be defined as:

Eastern Maine

All waters bounded by the following coordinates:

Maine coast 68° 20' W
43° 48' N 68° 20' W
44° 04.4' N 67° 48.7' W
44° 06.9' N 67° 52.8' W
44° 31.2' N 67° 02.7' W
North along US/Canada border

Western Maine

All waters bounded by the following coordinates:

43° 30' N Maine coast
43° 30' N 68° 54.5' W
43° 48' N 68° 20' W
North to Maine coast at 68° 20' W

Massachusetts/New Hampshire

All waters bounded by the Massachusetts, New Hampshire and Maine coasts, and 43° 30' N and 70° 00' W.

4.2.1.2 Determination of Starting Date for Spawning Closures

Closures in a given area will begin based on the spawning condition of Atlantic herring as determined from commercial catch samples. Commercial catch sampling shall begin by at least August 1 for the Eastern and Western Maine areas, and by at least September 1 for the Massachusetts/New Hampshire area. If sufficient samples are not available, closures will begin on a specified date (see 4.2.1.3 Default Closure Dates) and extend for at least four (4) weeks. Closures in a given area will begin seven days after the determination that female herring in ICNAF gonadal stages III - V from that specific area have reached the following spawning conditions:

female herring greater than 28 cm in length have reached a mean gonadosomatic index (GSI) of 20%; or female herring greater than 24 cm and less than 28 cm in length have reached a mean GSI of 15%. Length refers to the mean natural total length, measured from the tip of the snout to the end of the caudal fin in normal position. "GSI" shall mean gonadosomatic index calculated by the following formula:

[Gonad Weight / (Total Body Weight - Gonad Weight)] x 100 percent

If sufficient sample information is not available for reliably estimating mean GSI in either of the size categories, the restrictions will go into effect automatically on the default closure dates (see 4.2.1.3). "Sufficient sample information" shall mean at least two (2) samples of 50 fish or more, in either length category, taken from commercial catches during a period not to exceed seven days apart.

4.2.1.3 Default Closure Dates

In the event of insufficient sample information, closures would commence on the following default dates:

Eastern Maine:	August 15
Western Maine:	September 1
Massachusetts/New Hampshire:	September 21

4.2.1.4 Duration of Closures; Determination of Continuance

Closures would initially last for four (4) weeks. Catch sampling of the fishery will resume at the end of the initial closure period. If catch sampling indicates significant numbers of spawn herring are being harvested, closures would resume for an additional two weeks. Closures would resume if catch sampling determines that 25% or more mature herring, by number, have yet to spawn. Mature or "spawn" herring shall be identified as Atlantic herring in ICNAF gonadal stages V and VI.

4.2.1.5a Tolerance Provision (effective for 2000 season only)

Any vessel may fish for, take, land, or possess "spawn" herring, as identified below, from or within a restricted spawning area as long as such herring comprise less than 20% by number of the amount of herring possessed onboard at any time. "Spawn" herring shall be identified as Atlantic herring in ICNAF gonadal stages V and VI.

A bycatch allowance of up to 2,000 pounds of herring per trip for non-directed fisheries shall be in place during the spawning closures. This bycatch allowance will not be subject to the tolerance provision, i.e. vessels may land "spawn" herring over the 20% by number as long as said vessel lands no more than 2,000 pounds. The amount of herring landed by one vessel in a day, as a bycatch allowance, shall not exceed 2,000 pounds (this prohibits a vessel from making multiple trips in one day to land more than the bycatch allowance). A trip shall be based on a calendar day basis.

Any vessel may fish for, take, land, or possess "spawn" herring from a management area outside of those identified in Section 4.2.1.1. Any herring vessel having onboard spawn herring over the tolerance limit and which were caught outside of a management area that is under a herring spawning closure, may transit the closed area only if all of its fishing gear has been stowed.

4.2.1.5b Bycatch Allowance (to be implemented January 1, 2001)

No directed fisheries for Atlantic herring shall be allowed in a management area subject to a spawning closure. A bycatch allowance of up to 2,000 pounds of herring per trip for non-directed fisheries shall be in place during the spawning closures. The amount of herring landed by one vessel in a day, as a bycatch allowance, shall not exceed 2,000 pounds (this prohibits a vessel from making multiple trips in one day to land more than the bycatch allowance). A trip shall be based on a calendar day basis.

Any herring vessel transiting a management area that is under a herring spawning closure must have all of its fishing gear stowed.

AMENDMENT 2 SPAWNING REGULATIONS:

4.3.2 Spawning Restrictions

Landing restrictions on spawn herring are designed to conserve the stock by ensuring recruitment to the stock. Much of the management program is designed to move effort into the offshore areas where the TAC has not been fully harvested and the spawning component is thought to be strong. The inshore component is the most vulnerable component of the stock complex; therefore, management measures are focused on providing the greatest protection to the component that is thought to be most susceptible to overfishing. Protection to the offshore spawning component would come at the expense of putting more pressure on the inshore component of the stock complex.

Atlantic herring schools are especially susceptible to fishing when they aggregate for spawning. While vulnerable, they are also most valuable during spawning because their fat content is at its peak. The economic incentives to harvest spawn herring are countered by conservation concerns for the status of the stock. Fishing on spawning herring not only results in high catch rates, but may also interfere with the spawning behavior of uncaught herring. There is a peak point at which spawn herring is acceptable to the market; spawn herring in the latter stages may not be fit for some markets. Therefore, the amendment defines specific measures designed to reduce the exploitation and disruption of spawning aggregations, while providing a limited opportunity to harvest herring during that time of the year.

4.3.2.1 Inshore Gulf of Maine Spawning Areas (Area 1A)

Figure 14 displays the areas defined in this measure.

Eastern Maine Spawning Area
All waters bounded by the following coordinates:

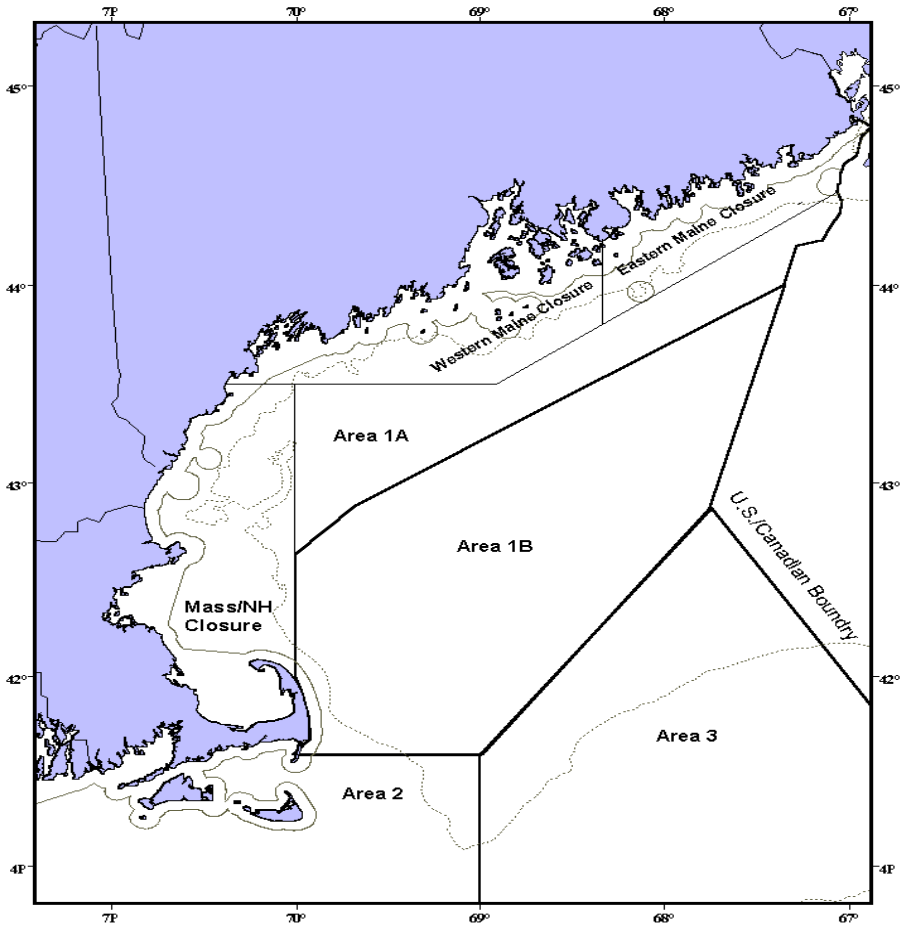
Maine coast	68° 20’ W
43° 48’ N	68° 20’ W
44° 25’ N	67° 03’ W
North along US/Canada border	

Western Maine Spawning Area
All waters bounded by the following coordinates:

43° 30’ N	Maine coast
43° 30’ N	68° 54.5’ W
43° 48’ N	68° 20’ W
North to Maine coast at 68° 20’ W	

Massachusetts/New Hampshire Spawning Area
All waters bounded by the Massachusetts, New Hampshire and Maine coasts, and
43° 30’ N and 70° 00’ W

Figure 1. Spawning Areas for Atlantic Herring in State Waters



4.3.2.2 Spawning Closures & Default Dates

Spawning closures are based on commercial catch samples that are collected by at least August 1 for the Eastern and Western Maine areas, and by at least September 1 for the Massachusetts/New Hampshire area. If sufficient samples are not available, closures will begin on the default dates listed below and extend for at least four (4) weeks. Area 1A inshore spawning area closures will begin on the following dates, unless commercial catch samples show earlier spawning than the default date or continuing two weeks after the four-week closure.

Eastern Maine:	August 15
Western Maine:	September 1
Massachusetts/New Hampshire:	September 21

By default, closures will last four (4) weeks. Catch sampling of the fishery will resume at the end of the initial four-week closure period. If catch sampling indicates significant numbers of spawn herring still are being harvested, closures will resume for an additional two weeks. Significant numbers of spawn herring is defined as 25% or more mature herring, by number in a catch sample, have yet to spawn. Mature or "spawn" herring shall be identified as Atlantic herring in ICNAF gonadal stages V and VI.

Table 10 shows the start and end dates of the area spawning closures for the past four years, as well as the default closure dates from Addendum I (*Section 4.2.1.3* Default Closure Dates). Reviewing the closure information from the past four years, the three spawning areas have closed right around the default closure dates and have lasted for about four weeks. Using the commercial catch samples, Maine had the flexibility to delay the closure date to allow the fishery to continue while providing protection to the stock at the appropriate time. The viability of the spawning closures can be attributed to the collection of commercial catch samples to modify the closure periods providing greater protection to the spawning component of the stock.

Table 11 shows the number of Area 1A commercial catch samples that contained greater than 20% spawning females outside of a spawning closure. Since implementation of Amendment 1 in January 2000, a total of 12 commercial samples collected from Area 1A during August to October have had >20% spawning fish, representing a small fraction of the total samples collected during the time period (~5%). Most of these samples were collected just before the start of the spawning closure between issuing the closure notice and actual start date (Table 12). In many states, it can take 3-5 business days between notice and implementation of a spawning closure because of public notification requirements.

Table 10. Historical and default dates for the spawning area closures (EGOM is Eastern Gulf of Maine; WGOM is Western Gulf of Maine; and MA/NH is Massachusetts/ New Hampshire; see Figure 14)

	AREA					
	EGOM		**WGOM**		**MA/NH**	
YEAR	**Start**	**End**	**Start**	**End**	**Start**	**End**
2000	15-Aug	11-Sept	1-Sept	21-Sept	21-Sept	18-Oct
2001	26-Aug	23-Sept	2-Sept	30-Sept	21-Sept	18-Oct
2002	15-Aug	12-Sept	13-Sept	11-Oct	4-Oct	1-Nov
2003	1-Sept	29-Sept	1-Sept	29-Sept	21-Sept	19-Oct
Default Date	**15-Aug**	**13-Sept**	**1-Sept**	**30-Sept**	**21-Sept**	**19-Oct**

Table 11. Number of samples containing > 20% spawning females (ICNAF stages 5&6). Note total samples are the numbers of samples taken from Area 1A August - October of each year.

Year	**# Samples > 20%**	**Total samples**
2000	3	76
2001	0	49
2002	8	70
2003	1	62

Table 12. Year, Spawning Area, and timing of 12 samples containing >20% spawning females

Year	Sample ID	Area	ore or After Clos	Comments
2000	107	EGOM	Before	Within 5 days of start
	109	EGOM	Before	Within 2 days of start
	115	WGOM	Before	Within 3 days of start
2001	N/A	N/A	N/A	N/A
2002	160	MA/NH	Before	Within 10 days of start
	174	MA/NH	Before	Within 5 days of start
	176	MA/NH	Before	Within 2 days of start
	177	MA/NH	Before	Within 5 days of start
	179	MA/NH	After	Within 2 days of end
	180	MA/NH	Before	Within 3 days of start
	193	MA/NH	Before	Within 3 days of start
	207	MA/NH	After	Within 3 days of end
2003	116	EGOM	After	Within 4 days of end

4.3.2.3 Tolerance Provision – Zero Tolerance

Any vessel is prohibited to fish for, take, land, or possess "spawn" herring, as identified below, from or within a restricted spawning area. "Spawn" herring shall be identified as Atlantic herring in ICNAF gonadal stages V and VI.

Any vessel may fish for, take, land, or possess "spawn" herring from a management area outside of those identified in the Delineation of Spawning Areas. Any herring vessel having onboard spawn herring, which were caught outside of a management area that is under a herring spawning closure, may transit the closed area only if all of its fishing gear has been stowed.

An incidental bycatch allowance of up to 2,000 pounds of herring per trip for non-directed fisheries shall be in place during the spawning closures. This bycatch allowance will not be subject to the tolerance provision, i.e. vessels may land "spawn" herring as long as said vessel lands no more than 2,000 pounds. The amount of herring landed by one vessel in a day, as a bycatch allowance, shall not exceed 2,000 pounds (this prohibits a vessel from making multiple trips in one day to land more than the bycatch allowance). A trip shall be based on a calendar day basis.

4.3.2.4 Other Spawning Area Considerations – Exemption for East of Cutler Fixed Gear Fisheries

Under Amendment 1, all vessels fishing with fixed gear in state waters were required to obtain a permit from the appropriate state agency. While Amendment 1 does not specify an exemption for the fixed gear fisheries in the East Cutler area, these fisheries did have an exemption from the spawning restrictions prior to the amendment.

The exemption was granted by the State of Maine and was later removed to comply with Amendment 1 to the Interstate FMP. The East Cutler area is defined in Figure 17 below. With implementation of Amendment 2, East of Cutler fixed gear fisheries are granted an exemption from spawning area considerations and are not limited on the amount of spawn herring that can be landed during a spawning closure.

TECHNICAL ADDENDUM 1A SPAWNING REGULATIONS:

Executive Summary – *4.3.2.3 Tolerance Provision -- Zero Tolerance*

Any vessel is prohibited to fish for, take, land, or possess herring from or within a restricted spawning area except for the incidental bycatch and transiting provisions of Section 4.3.2.3.

Any vessel may fish for, take, land, or possess "spawn" herring from a management area outside of those identified in the Delineation of Spawning Areas. Any herring vessel having onboard spawn herring, which were caught outside of a management area that is under a herring spawning closure, may transit the closed area only if all of its fishing gear has been stowed. "Spawn" herring shall be identified as Atlantic herring in ICNAF gonadal stages V and VI.

4.3.2.3 Tolerance Provision – Zero Tolerance

Any vessel is prohibited to fish for, take, land, or possess herring from or within a restricted spawning area. Vessels are permitted to transit the restricted spawning areas with herring on board provided they comply with the provisions listed in the following two paragraphs.

Any vessel may fish for, take, land, or possess "spawn" herring from a management area outside of those identified in the Delineation of Spawning Areas. Any herring vessel having onboard spawn herring, which were caught outside of a management area that is under a herring spawning closure, may transit the closed area only if all of its fishing gear has been stowed. "Spawn" herring shall be identified as Atlantic herring in ICNAF gonadal stages V and VI.

An incidental bycatch allowance of up to 2,000 pounds of herring per trip for non-directed fisheries shall be in place during the spawning closures. This bycatch allowance will not be subject to the tolerance provision, i.e. vessels may land "spawn" herring as long as said vessel lands no more than 2,000 pounds. The amount of herring landed by one vessel in a day, as a bycatch allowance, shall not exceed 2,000 pounds (this prohibits a vessel from making multiple trips in one day to land more than the bycatch allowance). A trip shall be based on a calendar day basis.

APPENDIX B. STATE SPAWNING REGULATIONS:

Maine:
DEPARTMENT OF MARINE RESOURCES

Chapter 36 Herring Regulations

36.01 Herring Management Plan

A. Definitions

(1) Herring.
Herring means Atlantic Sea Herring, particularly the *Clupea Harengus harengus.*

(2) ICNAF gonad stages.

ICNAF gonad stages are the official stages adopted by the International Commission for the Northwest Atlantic Fisheries in 1964.

Excerpt from ICNAF, 1964, Table 2 definitions:
Stage V. Gonads fill body cavity. Eggs large, round; some transparent. Ovaries yellowish; testes milkwhite. Eggs and sperm do not flow, but sperm can be extruded by pressure.
Stage VI. Ripe gonads. Eggs transparent; testes white; eggs and sperm flow freely.

(3) Spawn herring.

Spawn herring is a sexually mature herring (male or female) in ICNAF gonad stages V or VI.

(9) "GSI" means the gonadosomatic index calculated by the following formula:
(Gonad Weight/ Total Body Weight – Gonad Weight) X 100 percent.

D. Catch restrictions.

(1) Spawning area restrictions.

It shall be unlawful to fish for, take, possess, transfer or land in any State of Maine port or facility, or to transfer at sea from any Maine registered vessel, any catch of herring harvested from the following described areas within ASMFC Management Area 1 at the following times:

(a) Eastern Maine:

All waters bounded by the following coordinates:
Maine coast 68° 20.0' W,
43° 48.0' N 68° 20.0' W,
44° 25.0' N 67° 03.0' W,
North along the U.S./Canada border.

Western Maine:

All waters bounded by the following coordinates:
43° 30.0' N Maine coast,
43° 30.0' N 68° 54.5' W,
43° 48.0' N 68° 20.0' W,
North to Maine coast at 68° 20.0' W.

Massachusetts/New Hampshire:

All waters bounded by the Massachusetts, New Hampshire and Maine coasts, and
43° 30.0' N 70° 00.0' W.

(b) Determination of starting dates for spawning areas.

Closures in a given area will begin based on a pre-determined spawning condition of Atlantic herring indicated by commercial catch samples. This spawning condition will be defined as: female herring greater than or equal to 28 cm in length having reached a mean gonadosaomatic index (GSI) of 20%; or female herring greater than 24 cm and less than 28 cm in length having reached a mean GSI of 15%. Closures in a given area will begin seven (7) days after the GSI determination is made. If sufficient samples are not available, closures will begin on area specific dates as follows: Eastern Maine- August 15, Western Maine- September 1, Massachusetts/New Hampshire- September 21.

(c) Duration of spawning area restrictions.

The closure will extend for four (4) weeks. If catch sampling after the end of the initial restricted period determines that 25% or more mature herring, by number, have yet to spawn then the spawning restrictions would resume for an additional two weeks. The 20% tolerance shall be determined by examination of at least one hundred herring selected at random from the catch.

New Hampshire:

Fis 603.07 Sea Herring.

(a) No person shall fish for, take, or possess unprocessed herring within the jurisdiction of New Hampshire from September 21 through October 19, except as specified in (d).

(b) The executive director shall revise the beginning date of the closure so that the closure shall be in effect whenever it is determined that the mean gonad somatic index for female herring 24 - 28 cm in length or greater is 15% or greater or the mean gonad somatic index for female herring 28 cm in length or greater is 20% or greater.

(c) If the results of herring samples collected at the end of the closure indicate that 25% or more by number of mature spawn female sea herring still contain spawn the executive director may extend the closure for an additional 28 days. "Mature spawn female sea herring" means female sea herring greater than 24 cm in length.

(d) During a spawning closure as specified in (a) through (c), all vessels fishing for species other than sea herring shall be limited to an incidental catch of 2000 pounds of herring per calendar day caught in or from the management area subject to a spawning closure.

(e) Any person, firm or organization engaged in the taking or landing of herring shall first obtain a permit to do so from the executive director.

(f) Any person, firm or organization properly permitted may land herring from areas not under spawning closures provided they are equipped with a functional vessel monitoring system.

(g) Nothing in the above provisions shall prohibit a person from possessing herring for use as bait while in the normal conduct of tending lobster and crab pots or any herring used as bait for angling purposes.

(h) No person shall land, transfer or transport herring taken from a management area or sub-area closed to a directed herring fishery to an internal waters processing operation.

(i) No person shall land herring taken from a management area or sub-area when 95% of the total allowable catch (TAC) for that area's or sub-area's seasonal or annual total allowable catch will be exceeded except a person may land and possess up to a maximum of 2,000 pounds of incidentally caught herring. The executive director shall revise the percentage of TAC, that would trigger a prohibition on landing, to 90% if it is determined that a closure at 95% is insufficient to prevent exceeding the seasonal or annual TAC.

(j) The executive director shall prohibit vessels from landing Atlantic herring caught from a management area which includes state waters from one and seven days per week, except as an incidental catch of a maximum of 2,000 pounds, if its projected that the seasonal or annual total allowable catch of the management area will be exceeded without no landing days. The number of no landing days per week shall be determined by the Atlantic States Marine Fisheries Commission's Atlantic herring section commissioners from New Hampshire, Maine and Massachusetts at a public meeting

(k) No person shall take herring from the waters under the jurisdiction of the state when the total allowable catch assigned to management area or sub-area which includes state waters has been attained except that a person may take and possess up to a maximum of 2,000 pounds of incidentally caught herring.

(l) Vessels shall not land herring more than once per calendar day.

Draft Addendum for Public comment.

Massachusetts:

322 CMR 9.00: MANAGEMENT OF SEA HERRING

Section

- 9.01: Definitions
- 9.02: Management Area Boundaries
- 9.03: Vessel Size Limit
- 9.04: Management Area 1A Fishing Day Restrictions
- 9.05: Fishing Restrictions & Annual Specifications

- 9.01 Definitions.
- For purposes of 322 CMR 9.00 only, the folowing words shall have the following meanings:
  - (1) Fish for means to harvest, catch or take, or attempt to harvest, catch or take any sea herring by any method or means.
  - (2) Gonad somatic index or GSI means for female herring the percentage obtained by the formula: [Gonad weight/(total body weight - gonad weight)] x 100.
  - (3) GSI Trigger means female herring greater than 28 cm total length with a mean GSI of 20% or female herring greater than 24 cm and less than 28 cm with a mean GSI of 15%.
  - (4) GSI Sampling means at least two samples of 50 fish or more in either GSI trigger length category taken from commercial catches during a period not to exceed seven days apart.
  - (5) Southern Gulf of Maine means that portion of Management Area 1 south of 43 [degrees] 32' N parallel of latitude.
  - (6) Land means to transfer the catch of any sea herring from any vessel onto any land or dock, pier, wharf, or other artificial structure.
  - (7) Management Area means one of three Management Areas as specified in the Atlantic States Marine Fisheries Commission Atlantic Herring Fishery Management Plan (FMP) and NOAA Fisheries federal fishery management plan.
  - (8) Management Area Quotas means the annual area-specific quota as specified by the Atlantic States Marine Fisheries Commission under the authority of the interstate and federal management plans.
  - (9) Massachusetts/New Hampshire Spawning Area means all waters encompassed by an imaginary line beginning at the intersection of the 43 [degrees] 30' N parallel of latitude and the Maine coast; thence in a southwesterly direction along the coasts of Maine, New Hampshire, and the Commonwealth to the intersection of the 70 [degrees] 00' W meridian of longitude; thence in a northerly direction along the 70 [degrees] 00' W meridian of longitude to its intersection with the 43 [degrees] 30' N parallel of latitude; thence in a westerly direction along the 43 [degrees] 30' N parallel of latitude to the point of beginning.
  - (10) Sea Herring means that species of Atlantic sea herring known as Clupea harengus.

- (11) Spawn Herring means mature sea herring in ICNAF gonadal stages V and VI.
- (12) Vessel means any waterborn craft registered under the laws of the state as that term is defined in M.G.L. c. 130, § 1.
- (13) Vessel Fishing for Mackerel means any vessel whose catch on board at any given time is at least 75% mackerel (Scomber scombrus) by weight.

- 9.02 Management Area Boundaries
  - (1) Management Area 1: all U.S. waters of the Gulf of Maine (GOM) north of a line extending from the eastern shore of Monomoy Island at 41º 35’ N latitiude, eastward to a point at 41º 35’ N latitude, 69º 00’ W longitude, thence northeasterly to a point along the Hague Line at 42º 53’ 14” N latitude, 67º 44’ 35” W longitude, thence northerly along the Hague Line to the U.S. Canadian border, to include state and Federal waters adjacent to the States of Maine, New Hampshire, and Massachusetts. Management Area 1 is divided into Area 1A (inshore) and Area 1B (offshore). The line dividing these areas is described by the following coordinates:
  -

W Longitude
70º 00’ at Cape Cod shoreline
70º 00’
69º 40’
69º 00’
68º 00’
(the U.S.-Canada Maritime Bo

  - (2) Management Area 2: All waters west of 69º 00' W longitude and south of 41o 35' N latitude, to include state and Federal waters adjacent to the States of Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, and North Carolina.
  - (3) Management Area 3: All U.S. waters east of 69º 00' W longitude and southeast of the line that runs from a point at 69º 00' W longitude and 41º 35' N latitude, northeasterly to the Hague Line at 67º 44' 35" W longitude and 42º 53' 14" N latitude.
  - (4) Management Area Map: [CLICK HERE TO VIEW MAP]
- 9.03 Spawning Herring Protection
  - (1) Prohibition. It shall be unlawful to possess or land any spawn sea herring caught from the Massachusetts/New Hampshire Spawning Area seven days after the GSI trigger for herring from that area is reached. (2) Closure Duration. The prohibition of 322 CMR 9.03(1) shall extend for four weeks and may be extended by the Director if DMF sampling indicates that herring landings comprise more than 25% spawn herring.
  - (3) Default Closure. It shall be unlawful to possess or land any spawn sea herring caught from the Massachusetts/New Hampshire Spawning Area during the period September 21 through October 18 provided the GSI trigger has not been reached by September 14. This prohibition may be extended by the Director beyond October 18 if DMF sampling indicates that herring landings comprise more than 25% spawn herring

- (4) Exceptions. A vessel may land or possess up to 2,000 lbs. of sea herring during the closure period described in 322 CMR 9.03.

- 9.04 Vessel Size Limit
- It shall be unlawful for any vessel greater than 165 feet in overall length and 3,000 horsepower to land sea herring in the Commonwealth.
- 9.05 Fishing Restrictions & Annual Specifications *
  - (1) Commercial Fishery Limits. It is unlawful for a vessel to land or possess sea herring from:
    - (a) Management Area 1A
      - (i) on no-fishing days specified by the Atlantic States Marine Fisheries Commission and established by the Director through declaration;
      - (ii) when 100% of the Management Area 1A quota is taken or projected to be taken.
    - (b) Management Area 1B & 2
      - (i) when 100% of the Management Area 1B or 2 quota, respectively, is taken or projected to be taken.
  - (2) Commercial Fishery Limit Specifications & Adjustments.
    - (a) The director may declare and adjust sea herring commercial fishery landing/possession limits, seasons, and no-fishing days to correspond to limits established by the Atlantic States Marine Fisheries Commission.
    - (b) Prior to any declaration or adjustment of the landing/possession limits for sea herring, the Division shall:
      - (i) obtain written approval by a majority of the members of the Massachusetts Marine Fisheries Advisory Commission;
      - (ii) file notice with the Secretary of State;
      - (iii) publish a notice on the Marine Listserv and Division website; and (iv) directly notify sea herring dealers.
  - (3) Exceptions.
    - (a) Any vessel may land or possess up to 2,000 lbs. of sea herring during prohibited times established by 322 CMR 9.05.
- REGULATORY AUTHORITY
  - M.G.L. c. 130, §§ 2, 17A, 80 and 104.
- ** Please Note: Sea Herring Management Area 1A trip limits have been updated via specification. Please see MarineFisheries Advisory*

May 29, 2012

Paul J. Diodati, ASMFC Chair
MA DMF
251 Causeway Street, #400
Boston, MA 02114

RE: Comments on Atlantic Herring Draft Addendum V

Dear Chairman Diodati,

The Cape Cod Commercial Hook Fishermen's Association (CCCHFA) is a member-based non-profit organization focused on protecting both marine resources and local fishing businesses. Our organization represents over 300 traditional, small-boat fishing families on Cape Cod. We appreciate the opportunity to comment in support of the increased spawning protections proposed in Atlantic Herring Draft Addendum V.

Atlantic Herring form the base of the ocean food chain and serve as forage for groundfish and other commercially important species. As such, a healthy herring resource is essential for maintaining the balance of our marine ecosystem as well as the economic viability of the fishing businesses that rely on that ecosystem. The key role herring plays in maintaining that balance makes it imperative that we provide adequate spawning protections to ensure the stock's longevity.

For these reasons, it is critical that the ASMFC establish measures intended to facilitate spawning and perpetuate the Atlantic Herring resource. We applaud the Technical Committee's efforts to address this need by proposing regulatory improvements that reflect changes in the current spawning stages and behavior of Atlantic Herring stocks.

Data shows that in recent years herring have started to mature at a smaller size, making the current sampling protocol for area-closure triggers ineffective. We support the Technical Committee's recommendation that the sampling protocol be modified to include all sizes of spawning herring and reflect this change in the life history of Atlantic Herring.

Although there were insufficient samples for the Technical Committee to draw a conclusion regarding boundary modifications, we hope that the Atlantic Herring Section will take action to modify current herring spawning area boundaries consistent with stages and aggregations of spawn herring in the various closure areas.

Finally, we ask that the Atlantic Herring Section recognize the importance of the Nantucket Shoals spawning area to Atlantic Herring stocks and take appropriate steps to ensure that spawning herring in this area are afforded the same protections as those in the Gulf of Maine.

Thank you for your attention to this issue. We look forward to continuing our work with ASMFC to strive for a robust Atlantic Herring stock.

Sincerely,

Tom Dempsey
Policy Director

1566 Main Street
Chatham, MA 02633

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THE PEW ENVIRONMENT GROUP

June 22, 2012

Chris Vonderweidt
Atlantic States Marine Fisheries Commission
1050 N. Highland Street, Suite 200 A-N
Arlington, VA 22201

RE: Atlantic Herring Draft Addendum V

Dear Mr. Vonderweidt,

On behalf of the Pew Environment Group (PEG) I am writing in response to the Atlantic States Marine Fisheries Commission (ASMFC) request for public comments on Addendum V to the Interstate Fishery Management Plan for Atlantic Herring (Add V). Providing adequate conservation and management of the forage fish resources of the Northeast Shelf ecosystem, including Atlantic herring, is a longstanding priority of PEG.

We encourage ASMFC to continue its efforts to protect spawning aggregations of Atlantic herring in the Gulf of Maine (GOM) region. Such protections must also be extended to both inshore and offshore spawning aggregations on Georges Bank (GB) and Nantucket Shoals (NS). It is widely recognized that Atlantic herring persists as a meta-population made up of multiple distinct groups. These components of the population must each be protected to ensure the stability of this important resource. To date, none of the Atlantic herring stock assessments has succeeded in explicitly addressing this important aspect of herring population structure, contributing to uncertainty about status and the risk of losing spawning components. This makes the direct protection of **all** spawning aggregations all the more imperative.

We support the proposed Technical Committee (TC) recommendations that changes should be made to the sampling protocols that trigger the implementation of GOM spawning closures. Specifically, we support **Section 3.2.2 Option D** (adjusting the minimum size of female spawning herring included in the trigger mechanism from 24 cm to 22 cm) and **Section 3.2.3 Option B** (increasing the sample size for closure decisions from 50 fish to 100 fish). According to the analyses in Add V, the mean length of age-3 fish, which are part of the spawning population, has been steadily declining and has reached 22 cm.[1] Also, a significant number (20%) of 22 cm females were detected in a spawning or developing state for the first time in 2011, indicating that fish of this size warrant spawning protection and should be factored into spawning closure decisions.[2]

[1] See Addendum V at page 7
[2] See Addendum V at page 8

The trend toward herring "maturing at a smaller size but at the same age"[3] is a troubling sign. This trend, the impetus for Add V, should also raise concern about the overall status of the herring stock. We have expressed our concerns to NMFS about the health of the Atlantic herring resource in the past.[4] Similar concerns are also raised in the report of the 2009 Atlantic Herring Transboundary Resource Assessment Committee (TRAC)[5] and a memo from the New England Fishery Management Council's Scientific and Statistical Committee (SSC) on Acceptable Biological Catch (ABC) for herring.[6] We suggest that the TC investigate potential issues of size truncation of the herring resource and possible implications for abundance, forage availability, recruitment, and spawning stock structure.

We also support **Section 3.1.2 Option A** (Status Quo: spawning area boundaries can only be adjusted through an Addendum to the FMP). We are opposed to the proposed option that would allow for boundary changes through a Sea Herring Section majority vote alone since it does not provide sufficient public notice and participation in critical decisions affecting the Atlantic herring resource and thus the entire Northeast Shelf ecosystem.

Finally, we encourage the ASMFC to initiate protections for spawning Atlantic herring on Georges Bank and Nantucket Shoals (GB/NS). The current lack of such protections represents an outdated and risk-prone approach to managing for the long-term health of the resource. Previous rejections of GB/NS spawning protections were based on a desire to encourage and develop the "offshore" fishery in NEFMC Herring Management Area 3, and the fact that the offshore total allowable catches (TAC) were not being fully utilized at the time.[7] Consistent with this approach, the existing GOM spawning protections were justified based on the need to protect the more fragile inshore stock component.[8] In its consideration of spawning protection, the ASMFC should also take note of ongoing discussions at the NEFMC about the future of areas closed originally for groundfish conservation but which may also be affording some limited protection for spawning herring on Georges Bank (i.e., Closed Area II). Similarly, actions under New England's Omnibus Habitat Amendment may also impact spawning areas for herring, particularly on Georges Bank.

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[4] See letter from John D. Crawford on behalf of the Herring Alliance to Carrie Nordeen dated 5/20/10 at http://www.herringalliance.org/images/stories/0648_ay14_herring_alliance_0520_2010.pdf

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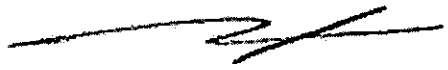
[8] See Addendum V page 12

Much has changed in the Atlantic herring fishery. In addition to the aforementioned herring stock concerns revealed by the most recent stock assessment and specifications setting process, the Area 3 TAC was in fact 90% utilized in 2011.[9] In addition, significant alterations to the Herring Management Area boundaries implemented in 2007 through Amendment 1 to the NEFMC Herring FMP have resulted in considerable inshore grounds formerly in Areas 1B and 2 now being included in Area 3 (see figures 1 and 2 on the following page). These changes are poorly understood, including their implications for inshore stock components and spawning aggregations. Many stakeholders and managers don't even realize these boundaries were changed. In fact, Add V itself contains diagrams of the management areas that are outdated and illustrate the old boundaries. Finally, there is new scientific information available on the ecosystem-level importance of spawning GB/NS herring, most importantly a recent paper illustrates the dietary importance of spawning herring and their eggs to the economically-critical Georges Bank haddock stock.[10] Clearly a failure to adequately conserve and manage spawning GB/NS herring may have serious, unintended consequences on both the herring stock and its dependent predators.

Thank you for the opportunity to comment on Addendum V to the Interstate Herring FMP. We look forward to working with ASMFC on proactive and precautionary long-term management of herring and other forage stocks.

Sincerely,



Peter Baker
Director, Northeast Fisheries Program
Pew Environment Group

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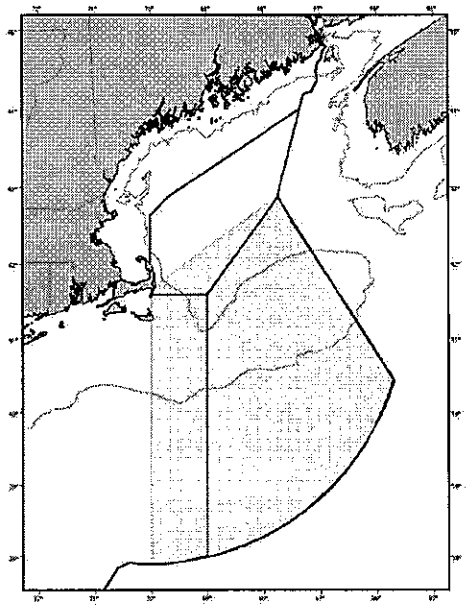

Figure 1: Revision to Herring Management Area 3 implemented through Amendment 1 in 2007. [11]

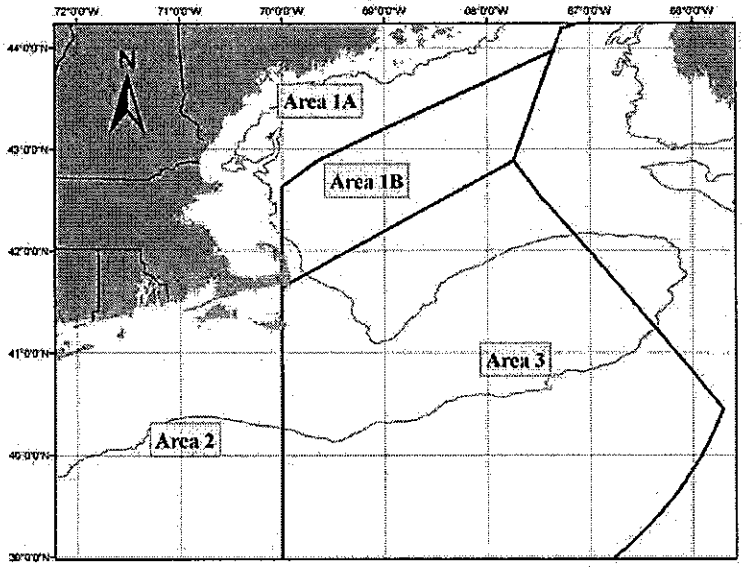

Figure 2: Current Atlantic Herring Management Areas illustrating significant inshore herring fishing and spawning grounds formerly afforded inshore management considerations as part of Areas 1B and 2 but now combined with offshore Georges Bank as part of Area 3. [12]

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THE PEW ENVIRONMENT GROUP

June 22, 2012

Chris Vonderweidt
Atlantic States Marine Fisheries Commission
1050 N. Highland Street, Suite 200 A-N
Arlington, VA 22201

RE: Atlantic Herring Draft Addendum V

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We encourage ASMFC to continue its efforts to protect spawning aggregations of Atlantic herring in the Gulf of Maine (GOM) region. Such protections must also be extended to both inshore and offshore spawning aggregations on Georges Bank (GB) and Nantucket Shoals (NS). It is widely recognized that Atlantic herring persists as a meta-population made up of multiple distinct groups. These components of the population must each be protected to ensure the stability of this important resource. To date, none of the Atlantic herring stock assessments has succeeded in explicitly addressing this important aspect of herring population structure, contributing to uncertainty about status and the risk of losing spawning components. This makes the direct protection of **all** spawning aggregations all the more imperative.

We support the proposed Technical Committee (TC) recommendations that changes should be made to the sampling protocols that trigger the implementation of GOM spawning closures. Specifically, we support **Section 3.2.2 Option D** (adjusting the minimum size of female spawning herring included in the trigger mechanism from 24 cm to 22 cm) and **Section 3.2.3 Option B** (increasing the sample size for closure decisions from 50 fish to 100 fish). According to the analyses in Add V, the mean length of age-3 fish, which are part of the spawning population, has been steadily declining and has reached 22 cm.[1] Also, a significant number (20%) of 22 cm females were detected in a spawning or developing state for the first time in 2011, indicating that fish of this size warrant spawning protection and should be factored into spawning closure decisions.[2]

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Peter Baker
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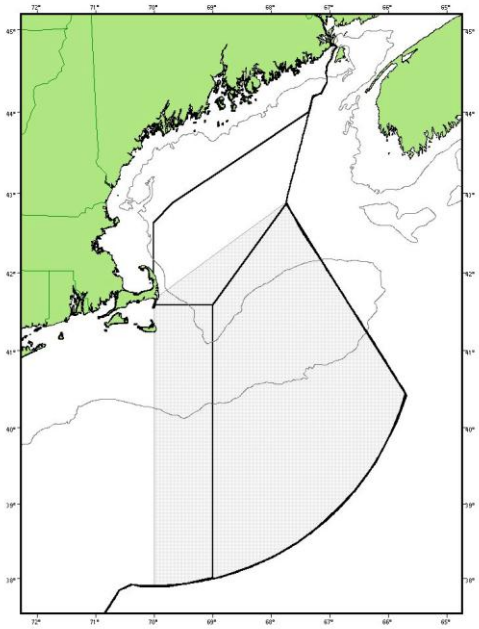

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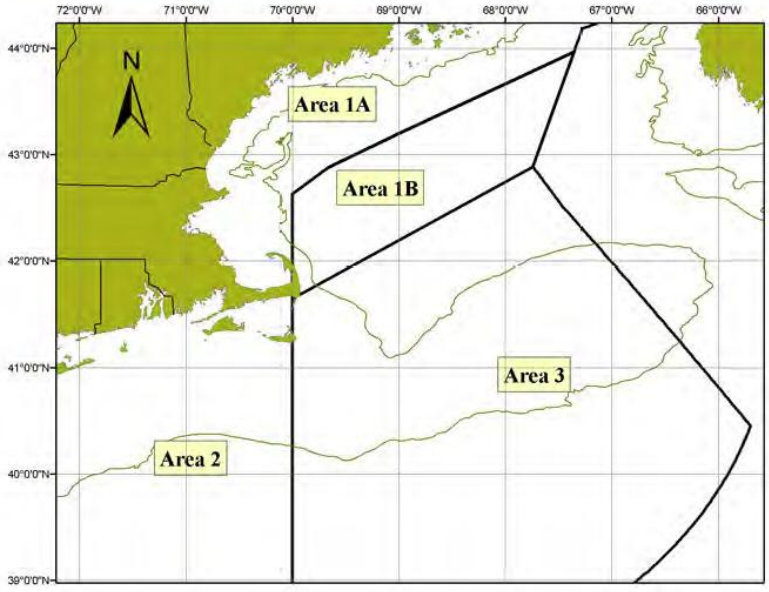

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Paul J. Diodati, ASMFC Chair
MA DMF
251 Causeway Street, #400
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Thank you for your attention to this issue. We look forward to continuing our work with ASMFC to strive for a robust Atlantic Herring stock.

Sincerely,

Tom Dempsey
Policy Director

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Atlantic States Marine Fisheries Commission

Atlantic Herring Technical Committee

Conference Call Summary

June 1, 2012

Present: M. Cieri (ME DMR, TC Chair), Madeline Hall-Arber (MIT), John Lake (RI DEM), C. Vonderweidt (ASMFC Staff), Renee Zobel (NH DFG),

The Atlantic Herring Technical Committee (TC) held a conference call on May 25, 2012 to review Draft Addendum V for Public Comment and provide feedback to the Atlantic Herring Section (Section). The Draft Addendum proposes measures to refine and consolidate Atlantic herring spawning regulations as recommended by the Atlantic Herring Technical Committee. These include (1) refining sampling protocols; (2) providing flexibility to change spawning boundaries based on Technical Committee input through Section action; and (3) consolidating all spawning regulations into one document. The TC discussion and comments on each option are as follows:

3.1 Spawning Area Boundaries
The TC agrees that the process to modify spawning area boundaries is a management consideration and did not comment on this proposed measure.

3.2 Size Bins That Trigger a Spawning Closure Start
The TC supports Option B, greater than or equal to 23 cm. Members immediately agreed that the size bin should be lowered and discussed whether 22 or 23 cm would more accurately capture spawning females. After reviewing the data, members noted that 22 cm spawn fish were only found in 1976 and 2011. They agreed that greater than or equal to 23 cm was the most appropriate cut off point for the size bin. Members noted that 22 cm would likely alter the GSI spawn to non-spawn ratio, by capturing significant amounts of non-spawn fish.

3.3 Number of Fish Per Sample
The TC supports Option B, 100 fish per sample. Members commented that Maine, New Hampshire, and Massachusetts already collect 100 fish per sample and formalizing this procedure will not impact state agencies.

Atlantic States Marine Fisheries Commission

Atlantic Herring Advisory Panel

Conference Call Summary

June 1, 2012

Present: Jenny Bichrest (ME), David Ellenton (MA), Jeff Kaelin (NJ, Chair), Patrick Paquette (MA), Dana Rice (ME), Mary-Beth Tooley (ME), Chris Vonderweidt (ASMFC Staff), and Steve Weiner (MA).

The Atlantic Herring Advisory Panel (AP) held a conference call on May 31, 2012 to elect a Chair and review Addendum V to the Interstate Fisheries Management Plan for Atlantic Herring for Public Comment (Addendum V). The AP unanimously elected Jeff Kaelin from New Jersey. Following the election, the AP thanked and acknowledged the quality work of David Ellenton who had served as AP Chair since 2003. David will continue to serve as a member of the AP.

The AP then discussed the Addendum V options as follows.

3.1 Spawning Area Boundaries
The AP unanimously supports Option A, that spawning area boundaries can only be modified through the addendum or amendment process. Members agree that changes to spawning area boundaries have significant impact on industry and public hearings and a public comment period are necessary to inform the Section before making a final decision. For example, under the 'zero tolerance' provision, closures can overlap and close the entire Maine coast for part of the year. AP members also commented that quick decisions based solely on new scientific information often have unintended consequences if not vetted through fishermen and the AP first.

3.2 Size Bins that Trigger a Spawning Closure Start
The AP unanimously supports Option D, greater than or equal to 22 cm. AP members support the size reduction mainly because of concern that smaller spawning fish are not being counted during sampling. There is also some concern that sampling data from Maine Department of Marine Resources was not utilized when coming up with these options and a thorough presentation of that spawning data would have been useful. AP members did utilize Table 1, Percentage of spawning or developing females, to decide on their preferred option and members agree that 20% 21-22 cm fish in 2011 is significant enough to decrease the size bin to 22 cm or greater. AP members also noted that herring are spawning at a smaller size, and not at a younger age.

3.3 Number of Fish Per Sample
The AP unanimously supports Option B, 100 fish per sample. AP members agree that increased sampling provides a more accurate understanding of when and where herring spawn. All AP members agree that states do not collect enough samples and resources should be funneled to increase the number collected.

There is support from most of the AP to remove the 'zero tolerance' provision as this measure has resulted in fewer and less accurate sampling because commercial samples are unavailable during a closure. These members agree that the broad closures are a result of insufficient sampling effort and that increased sampling could allow for a tolerance. One member disagrees with allowing a tolerance because you have to kill spawning fish to learn that an area should be avoided.

Other Business:
The AP also discussed a few issues that they want to highlight for the Atlantic Herring Section as follows.

- States should increase their sampling effort, especially New Hampshire. AP members would support programs where fishermen and dealers contact state marine fisheries agencies and provide them with spawning herring samples.
- Zero tolerance spawning closures should be reevaluated.
- The AP is concerned that regulations may not be consistent from state to state and think the TC should review the regulations again. For example, Massachusetts does not issue notice when the Western Gulf of Maine and Eastern Gulf of Maine spawning areas are closed.
- There is concern that 7 open days (0 days out) is too liberal and will result in the quota being harvested before peak demand for lobster bait.
- The Section should consider 'days out' measures for Area 2.