PROCEEDINGS OF THE

ATLANTIC STATES MARINE FISHERIES COMMISSION

ATLANTIC HERRING SECTION

Crown Plaza Old Town
Alexandria, Virginia
August 18, 2009

Section Approved: November 2009

TABLE OF CONTENTS

INDEX OF MOTIONS

ATTENDANCE

Board Members

Terry Stockwell, ME, Proxy for G. Lapointe (ME)
Pat White, ME (GA)
Sen. Dennis Damon, ME (LA)
Doug Grout, NH (AA)
G. Ritchie White, NH (GA)
Rep. Dennis Abbott, NH (LA)
David Pierce, MA, proxy for P. Diodati (AA)
William Adler, MA (GA)
Rep. Sarah Peake, MA (LA)
Mark Gibson, RI (AA)
Joel Hovanesian, RI, proxy for Sen. Sosnowski (LA)
Dave Simpson, CT (AA)
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)

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

Ex-Officio Members

Matt Cieri, Technical Committee Chair

Staff

Vince O'Shea
Robert Beal
Chris Vonderweidt
Nicola Meserve

Guests

Loren Lustig, PA
Craig Shirey, DE F & W

The Atlantic Herring Section of the Atlantic States Marine Fisheries Commission convened in the Presidential Ballroom of the Crowne Plaza Hotel Old Town, Alexandria, Virginia, August 18, 2009, and was called to order at 8:00 o'clock a.m. by Chairman Terry Stockwell.

CALL TO ORDER

CHAIRMAN TERRY STOCKWELL: Good morning, everyone, and welcome, new commissioners. We're happy to have you on board.

APPROVAL OF AGENDA

CHAIRMAN TERRY STOCKWELL: We've got a fairly long and lengthy agenda and some heavy issues to discuss. I'm looking for approval of the agenda. Does anybody have any additions? Okay, without objection, the agenda is approved.

APPROVAL OF PROCEEDINGS

CHAIRMAN TERRY STOCKWELL: The Proceedings from February 3rd, any corrections, edits or changes? Seeing none, without objection, the Proceedings are approved.

PUBLIC COMMENT

CHAIRMAN TERRY STOCKWELL: Public comment on issues that are not on the agenda for today. All right, we will start off with Chris on the 2009 Fishing Season Report.

2009 FISHING SEASON REPORT

MR. CHRISTOPHER VONDERWEIDT: This is just basically a recap of what has transpired so far. There have been three days-out meetings, May 21, July 9 and August 3rd. This was to figure out how many days out from landings will be taken to extend the Area 1A total allowable catch. The section decided at the end of 2008 that it would remain closed January 1 through May 31, which is equivalent to seven days out.

Then starting June 1 it took five days out, which were two landings' days. Continuing through the three meetings, the projections were right in line with the actual fishery, and it is projected to be completely harvested around September 26th under five days out. Then starting October 1 there is a new quota, which will be 11,150 metric tons which is 27.2 percent of the adjusted TAC. That is projected to go through November 21.

Unless the actual catch rates are significantly different than the projected catch rates, there will be no need for days-out meetings; but if they are significantly different – we're going to monitor them very closely with help from Matt, and there could a days-out meeting. We will see how that transpires. Then kind of surprisingly the Area 2 quota of 30,000 metric tons was harvested on April 15, which has never happened before. That brings us up to date.

CHAIRMAN STOCKWELL: Thank you, Chris. Any questions for Chris? Matt, I believe the fleet is pretty much on track right now; is that correct?

DR. MATT CIERI: Yes, that's correct; we're pretty much right back on the projections.

CHAIRMAN STOCKWELL: Okay, thanks. Matt has got a rather long and weighty presentation to make. It takes about 45 minutes. Do you want questions during it or do you want to wait until afterwards?

DR. CIERI: We'll see how the questions are.

CHAIRMAN STOCKWELL: Okay, Matt the 2009 TRAC Assessment Summary.

2009 TRAC ASSESSMENT SUMMARY

DR. CIERI: Good morning, my name is Matt Cieri. I am the Chair of the Herring Technical Committee, and I'm from the Maine Department of Marine Resources. This is the Gulf of Maine/Georges Bank Atlantic Herring Assessment update for 2009. For those of you who actually read the material that you got on the CD or came in your packet, the TRAC Status Report has since been revised.

This is a new updated TRAC Status Report that has changed fairly significantly from the version that you all got on your CD. The assessment team met in St. Andrews, New Brunswick, in June of this past year to examine the current configuration of the age-structured assessment program that was used in the 2006 benchmark.

This was an update assessment in which we were looking at simply updating the model through 2008 as well as making some minor revisions, which ended up being not so minor when all things came down to it. We were examining inputs as well as some of the outputs and some of the diagnostics from this particular assessment.

As you remember from 2006, the 2006 assessment model was using catch at age as one of its primary

data inputs for 2-plus biomass with a 6-plus plus group, which is fairly large. It used a bunch of National Marine Fisheries Service Surveys, including the Winter Bottom Trawl for Flatfish; the spring and the fall. It split the survey indices about 1984-1985 with a fishery selectivity set at one for all ages – so basically for those assessment scientists in the room – and basically knife-edge age selection at age two with an assumed M at 0.2.

The changes during the last assessment from the previous assessment in 2003 were simply to change the calculation in how weights at age were derived as well as an SSB calculation. During this particular update there were a number of different changes, and these included changing the catch-at-age matrix from the 2006 assessment.

During the 2006 benchmark assessment updated landings were brought to the table, but there was not time to incorporate those into the catch-at-age matrix. When we incorporated that into the catch-at-age matrix as well as shifting landings from one area to another based on historical information, it changed the catch-at-age matrix significantly. There were also some changes in the survey, including updated information as well.

The original landings for the time series for TRAC 2006, you can see the original landings used during the last assessment was this, and the yellow line with a very large spike back during the foreign fishing days, up above 450,000 metric tons, which then declined as the fishery became overfished and then hit a low period around 50,000 metric tons and then has since grown up to between 80 and 100,000 metric tons.

We revised the landings based on ICNAF Reports for the 2006 assessment, which we then incorporated in the 2009 catch-at-age matrix. As you can see, the red line being the revised landings, there is not a whole lot of difference between the two data streams. However, if you take a look at the catch-at-age matrix and you look at the estimated number of Atlantic herring removed from the population, there is a fairly significant change, and that comes when you start shifting landings from offshore to inshore.

It was realized that much of the foreign fishing – although in the data base for the National Marine Fisheries Service had them occurring on Georges Bank, going through the old ICNAF, the Russian reports as well as the German reports, we were able to discover much of that fishing activity was actually occurring in Southern New England as well as off Jeffery's Ledge before the 200-mile limit was imposed.

Here are our basic Atlantic herring landings by number and by country, and you can take a look at which countries are actually the ones that are contributing most to the removals. Recently, if you take a look in the last few years it has been predominantly the U.S. catch with some interesting spikes from the New Brunswick Weir Fishery.

The New Brunswick Weir Fishery that occurs a little bit down east of Downeast Maine is considered to be part of the U.S Georges Bank Stock Complex. If you take a good hard look at this one, this is the Gulf of Maine/Georges Bank catch at age with age occurring along the bottom and number in millions of fish along the side.

You can take a look at where the fishery is pretty much occurring. It is predominantly occurring – for example, if you look at the black one at 2005 with a spike at around age three. Some notable exceptions, however, is the 2005 year class in which you see those individuals in the yellow bar at age two and then again slightly a little bit more at age three the following year in 2008. This allows us to track these year classes.

One of the interesting things is if you look at the 2005 year class it shows up in 2006 as age ones in comparison to the other ages. It shows up very strongly in 2007, and then by 2008 that particular year class doesn't seem to be quite so strong, and so that's one of the things that the model is having difficulty resolving, as we'll get into in a second.

This is the current winter bottom trawl series and survey for – basically, it is used for flounders and flatfish that occurs from Georges Bank all the way down through Cape Hatteras, so many of you might be familiar with it. It does catch Atlantic herring and as you can see in both numbers per tow on the top and weight per tow on the bottom, it pretty much shows that there have been some spikes but overall not much of a trend with a high degree of variability. Those dashed lines are the 95 percent confidence interval.

Likewise for the spring, although the spring bottom trawl survey actually has a lot more signal-to-noise ratio, you can see back in the time series, up until about 1987, there wasn't a whole lot of herring caught in this particular survey. Then as the stock came back after overfishing during the foreign fleet days, you can see that it ramps up quite considerably.

There are many spikes within the data, and those indicate year classes and recruitment events into the fishery, but overall the overall trend has been up for quite a bit and then some slight modifying of that trend. The fall shows a very similar pattern; again, with very low catches during the ICNAF days up until about 1987 when the stock started to rebound, and in particular some recruitment events occurring here and there, associated with strong year classes within the catch-at-age matrix.

The acoustic survey is a relatively new survey. It was started in 1999. It shows a very different trend from some of the bottom trawl surveys that we have seen. In general it seems to be a downward trend with high amounts of individuals caught in the NMFS Acoustic Survey or observed in the NMFS Acoustic Survey in 1999, 2000 and 2001. Then you see this large drop,

It was explained by the people that run the survey that they had a feeling that they were missing the fish during that particular time period from about 2001 on. They would go out to Georges Bank, for example, and they would find that most of the fish during the same survey time period were post-spawning, meaning that they had already gone through spawning event and were getting ready to migrate off of Georges Bank in search of food.

While this was an update assessment, what some people lovingly refer to as a turn-of-the-crank assessment, it was far from that. The Northeast Fishery Science Center and the Atlantic Herring PTD, as well as others, did a number of different model runs and different model configurations for this assessment, for this update. That included reproducing what we did the last time through 2005.

Then we did an initial update in which we used that old catch-at-age matrix and all the surveys; basically, just simply updating the new information through 2009. We then used a final 2005 – stopping the model in 2005, but using the new catch-at-age matrix. Then we went with what we call a base run through 2009, which did the same thing, used all the survey indices, but used the new catch-at-age matrix.

Then we did a series of pulling out and putting back in different surveys; one of which was to remove the acoustic survey completely from the base run. Another was to try to get a handle on age ones within the population. We do have age ones that occur in our fishery, but they're not very prevalent, so we tried using age ones within the catch-at-age matrix, as well as age ones, and then removing the acoustic survey and then doing the same thing, but down weighting the acoustic survey.

In addition, we decided that it might be fun to take a look at whether or not the New Brunswick Weir Fishery, which catches most of our age ones, actually operates as a operates as a separate fleet with its own selectivity, so we did that as well. We finally came down to a final 2009 TRAC which uses the new catch-at-age survey, removes the acoustic survey, but also removes the winter flatfish survey.

Then just for fun we also did a base increase in natural mortality rate based on our 2009 base run. This follows the work done by Bill Overholtz and Company looking at herring natural mortality through time. We put all that stuff into the models. It took a couple of months. What we did is we went through and here are the results.

You can basically take a look at our 2005 update. It gives us a terminal F of about 0.11 and a biomass at about 1.1 million metric tons. When we ran the initial update using the old catch-at-age matrix, we came out with a higher fishing mortality and a lower two-plus biomass, roughly more than half; so just simply adding three years' worth of data with all of the surveys, not only does our estimate for terminal year biomass drop, but so do our estimates for 2005. You will see those graphically in a minute.

We also did the revised 2005 where we used the old catch-at-age matrix, stopped the model in 2005. Our fishing mortality goes back down and our two-plus biomass has jumped up. When we add in just those three years of data from 2005 through 2008, again our biomass and our F, our F goes up and our biomass drops again by about half.

Then we did a number of different runs in which we removed the acoustic survey or down-weighted the acoustic survey; and everytime we removed the acoustic survey or down-weighted it, what ended up happening was the stock in 2005 and in 2009 tended to come up. When we added in the age ones, the stock again tended to go up as well. Again, you will see those graphically in a minute.

The final 2009 TRAC is what we settled and it had a 2005 F of 0.16 and a 2008 terminal F of 0.14, and then a two-plus biomass of 684,000 metric tons in 2005 and 652,000 metric tons in 2008. Note this is significantly different than what we did in 2006; roughly about half. We also did the base increase in M, and this tended to lower fishing mortality; and again more than doubled the stock size.

So when you start increasing M from Overholtz et al, you end up increasing your stock size and you decrease your fishing mortality. That's pretty standard in most of these assessment models. All right, let's look at the lovely spaghetti diagrams with all the different funny colors. I am just going to give you a general overview on this one.

You can tell back here in the ICNAF days through 1987 fishing mortality was relatively high. There were a lot of removals and then afterwards there was still a lot of fishing pressure on a very reduced stock, and so we're looking at fishing mortality levels around here of 0.4, which are fairly sizable compared to now. Now you're looking at the range of 0.1 to 0.2.

You can also see the spread in the model as well where each one of these different model runs had a fairly large degree of spread in their terminal estimates. What you can see and what I want you to take away is the initial update, using the old catch-at-age matrix, just simply adding in three more years' worth of data, and your fishing mortality up here is about 0.2

If you look at the biomass you can see that, again, this fishing mortality translates into radical differences. Back here in the ICNAF days when we had a lot of foreign fishing, our stock biomass crashed at about 1978, remained low through 1998, and then started to ramp up. How quickly it ramped up depended on which type of model configuration you used.

When you went through and we stopped the model like we did the last time, using the final 2005, this light blue line is what you got, and it stopped here just below 1.2 million metric tons. When you add in the new catch-at-age matrix, that jumps up to right around 1.4. When you add in the three years' worth of data to both of these, you get a very significantly different picture.

The base run for 2009, using the new catch-at-age matrix, is down here; and if you did absolutely nothing to the model but simply added in three years' worth of data, this is what you get is the white line. So you went from the light blue line here to the white line down here simply by adding in three years' worth of data, and I'll explain why in a minute. Again, the same picture for spawning stock biomass, and it all depends on, again, which model configuration you use as well as the movement of fish into the plus group.

Again, if we look at age six-plus abundance – and this is pretty critical because these are the older age fish in the model – you can see there are these radical differences between which model configuration that is chosen. Honing in on some of these differences a little bit more; again, if we just do the initial update with the old catch-at-age matrix and all of the surveys, you get this white line here, an F at around 0.2.

When you update the catch-at-age matrix through 2009, you end up getting the blue line here. The final 2005 was down here; roughly half of that fishing mortality. Then when you drop the acoustic survey and you run the model through 2009, you end up here with this gold line. Our final run in which we dropped both the acoustic survey and the winter survey is this red line here.

You can see what removing some of the surveys, stopping the model in different points, and changing the catch-at-age matrix, does to your fishing mortality. It is even more dramatic when you take a look at age two-plus biomass. Remember the light blue line here is if we stop the model in 2005 and did absolutely nothing to it from the last time.

If we change the catch-at-age matrix to reflect new information, that two-plus biomass goes up. But then when we add in three years' worth of data to both of these configurations, you end up getting the dark blue line here and the white line here, respectively; again, this white line being if you don't change a single thing but only add in three year's worth of data.

If you drop the acoustic survey from the base run you end up getting the gold line here. Then when you drop the winter survey, you get the final run here. The final run ends up being somewhere in the middle of all of these. Again, it is very dramatic when you look at age six-plus abundance, which is very important and you will see that later on.

Again, there is a large degree of differences between model runs; with the lowest of the model runs being if you simply did nothing but added in three years' worth of data. Both of the models that stopped in 2005 show considerably higher biomass in the six-plus group, and that is due to the retrospective issues this model is having.

The final model chosen by consensus at this updated TRAC meeting was the catch-at-age, the same as last time, two through six-plus; the NMFS surveys of using the spring and the fall only bottom trawl

surveys, dropping both the acoustic and the winter survey; again splitting our indices, again setting our fishery selectivity at one, using an M of 0.2, and then again using the biomass calculated as January 1 weight.

From this final run and updating our reference points for this species, this is our final run here in green where we had high fishing mortality again here back in the ICNAF days and the foreign fishing and then much lower and declining fishing mortality since about 1990. Note that the red line is our F at msy.

Two-plus biomass shows a relatively similar picture; high biomass here in the late sixties and declining as foreign fishing occurred; staying low through most of the eighties in to the early nineties; and then starting the ramp-up process; the difference being from the 2006 assessment is the slope in which that rebuilding actually occurred and how high it went. Again, the red line is our Bmsy. We were above Bmsy through much of the mid-nineties, with a slight decline back to Bmsy for most of the 2000s, and now we are slightly below Bmsy by about 20,000 metric tons.

The model used to look at the reference points is something called the Fox Surplus Production Model. These are reference points that are derived externally from the assessment and have been benchmarked in 2006. These were again updated through 2008 for management reference points. What I want you to take away is the data here is what is called surplus production. That's the amount of fish that are produced over and above what you, quote, unquote, need given natural mortality and growth.

Landings here in the red – and this shows you exactly what it looks like – these are our landings from out of the complex. As you can tell, landings have remained relatively stable since most of the nineties; somewhere between eighty and a hundred thousand out of the fishery, for the most part. Surplus production has radically changed as recruitment events have occurred.

The way to look at this particular graph is when your surplus production is above your landings, then your stock grows. When your surplus production is below your landings, then your stock starts to decline. As you can see back here in the foreign fishing days landings were a whole lot higher than your surplus production; but back here in the eighties when the stock was starting to rebuild, your surplus production was much higher than your landings.

Recently landings have been staying stable, but surplus production has been highly variable, and that is based around recruitment events; with high recruitment events here in 1992, low recruitment evens here in 1996, higher again in 1999, so it has been highly variable, but your landings have stayed the same.

Getting back to our reference points, our benchmarks and our terminal fishing year, estimates of stock size and fishing mortality, our msy estimated out of this stock assessment at 178,374 metric tons right on the dot; our msy here at 670,000 and our threshold being one-half of that at 335. Our estimate from the TRAC is 651,000, so roughly about 20,000 metric tons below our Bmsy. Our F at msy was estimated at 0.27.

The result from the TRAC was that F is estimated to be currently at 0.14, so we're significantly below our F at msy. The plan calls for an Ftarget of basically an 80 percent probability of F at msy; and unfortunately the Fox Surplus Production Model doesn't really give you the opportunity to do that kind of a calculation.

But we've got one very, very large gorilla in the room, and that happens to be our retrospective pattern. The retrospective pattern for this particular assessment is quite severe and it is persistent and it is getting worse. The retrospective in F does not look quite so bad. The way we looked at retrospective pattern is simply to drop off the last year class and just sequentially go backward in time; what would the model be if you stopped it in 2007, in 2006 and in 2005?

What you can see is there is somewhat of a fairly large difference in F; it is hard to see especially when you consider how high the fishing mortality was way back here. But when you look at SSB it becomes much more pronounced. Note that the differences between the 2009 run here at the bottom and a run that stops in 2002 is a difference between 500,000 and 1.1 million. You're looking at retrospective as a relative difference; for example, on the order of 120 percent.

In two-plus biomass, again, which is what you guys use for determining overfished status, again the retrospective pattern is again quite severe. With, again, a model stopping in 2002 estimates at stock numbers at, you know – I think that is 14 billion; whereas, that same run in 2009 estimates it to be almost half of that.

You can see this in some of the model runs that we configured. Again, for the initial update, using the final run for 2005, when we ran the model you got an estimate that looks like this for two-plus biomass. All we did was add three more years to that same analysis, three more years of landings, three more years of surveys, and the white line is what the model looks like.

In fact, if you take a good, hard look at the retrospective pattern and you compare that variability against which of the model runs that you choose, you can see that the retrospective pattern and the variability associated with that retrospective pattern dwarfs whatever model configuration you want to choose.

So, in 2009 we have our base run in which we kept in all of the surveys and used the new catch-at-age matrix – that's the blue line here – our final run in which we dropped the acoustics and dropped the winter survey – our red line here – if we just simply drop only the acoustic survey from that whole mess, we're here with the yellow line.

But as you sequentially go back in time, just simply dropping one year after the other from that final 2009 run, this is what that pattern looks like, and so the retrospective pattern and the retrospective difficulty in this assessment is the highest degree of uncertainty.

Well, after looking at that cheery note, we're going to take a look at some our projections from the model at F as status quo; basically an F of 0.14. As you can see landings at that particular rate, which is our current rate, gives you about the rate at which we're landing fish, around 80,000 metric tons. Total biomass, which in this case is two-plus, settles in around here, at around 600,000. Note that is below Bmsy.

So, keeping at your same F rate and with your same landings, then you're going to stay below Bmsy. To sum up some of this lovely stuff, we met to examine the current model and all of those crazy formulations as an update but not as a benchmark, and so the ability to actually change complete model types was fairly limited.

We did many alternative runs within the model, looking at diagnostics, including retrospective patterns, model fits, residual patterns, and what was settled on by consensus at the TRAC was to remove both the acoustic and the winter survey. Because herring are above one-half Bmsy, herring are not overfished and overfishing is not occurring. We're currently about 20,000 metric tons below Bmsy, which is not very much considering the uncertainty within the model. Our current F is estimated to be 0.14, which is a little bit less than half of what F at msy is.

In addition, we heard two presentations. One was on the viability of looking at larval surveys as a tuning index in future benchmarks, and the other was to look at the natural mortality rate for Atlantic herring, which is what I referred to when we did that base model run using an alternative M strategy. Both of these issues will be looked at during the next benchmark.

So, to take a look at some of our uncertainties, there is a severe and persistent retrospective pattern in this particular model. It overestimates biomass and underestimates F by as much as 50 percent in some years. This uncertainty in the retrospective pattern swamps all other sources of uncertainty, including model configuration.

There were also some difficulties, as you may know, with aging of Atlantic herring. There has been some disagreement among readers between Canada and the U.S. and among some of the Canadians and our own ager at Maine DMR. One of the things that needs to be considered, of course, is model formulation, which surveys to include, which surveys not to include because that does make a difference within the model structure itself and also contributes to your uncertainty.

All of these uncertainty issues will be examined by the SSC as we go through and set ABC, and all of the uncertainties, of course, will be looked at in detail during the next benchmark assessment. Since then the SSC met August 11th, which was last week, and they're in the process on the federal side of setting ABCs and examining the uncertainties that surrounds the assessment.

There will be another meeting again September 16th. The SSC directed the Atlantic Herring PDT to look at a number of different projections. This included F at msy, which is 0.27; and Frebuild at 0.22; our F at status quo; our F at 2009, which 2009 is almost in the books. As you remember from Chris' presentation, because Area 2 quota has already been taken, we expect the fishing mortality, of course, to bump up a little bit.
They also instructed us to look at 75 percent and 50 percent of that status quo, and that is F of 0.1 and 0.07, respectively. Then they asked the PDT to go

back and also look at adjusting some of these projections for the retrospective bias within the model. That's it.

SECTION DISCUSSION OF 2009 TRAC ASSESSMENT SUMMARY

CHAIRMAN STOCKWELL: Thank you, Matt, certainly a very sobering report. Questions for Matt from the section? Doug.

MR. DOUGLAS GROUT: Matt, for the benefit of this section I would like to ask a question that you heard at the Council Oversight Committee. We have a fishing mortality rate that has been persistently well below our thresholds even when you take into account a 50 percent retrospective pattern. We've decreased the landings in recent years of herring yet our SSB is now falling below Bmsy. Why are we seeing a decline here when we're fishing well below our fishing mortality rate and we're lowering our landings?

DR. CIERI: So you're basically asking what gives.

CHAIRMAN STOCKWELL: In plain language.

DR. CIERI: Plain language, okay. Surplus production; basically, when you do those things, whenever you fish at a certain level you assume that your recruitment is going to be the same as it has always been. As you can see back here the recruitment has not been. We've had very high pulses of recruitment. It is notable here that in 2001 we've got the lowest surplus production on record according to the Fox Surplus Production Model. Even back here in the ICNAF days when the foreign fishing was fishing, we didn't get surplus production that low.

So, part of it deals with your recruitment. It is Atlantic herring, it is a schooling, forage, silvery fish. They have a high degree of recruitment variability. While surplus production and landings have been about equal, and you can see that when we look at the SSB, we're still recovering from a fairly large drop in surplus production back here due to recruitment events.

MR. PETER HIMCHAK: Mr. Chairman, I guess this follows on what Doug was hinting at is – and I'm not looking to find a culprit here, but the recruitment variability, I have questions about the Canadian landings which are dominated by the weir fishery in New Brunswick. Are these all primarily small fish, the weir fishery?

DR. CIERI: They tend to be, yes; they tend to be ages one and two. Generally, the New Brunswick Weir Fishery has been averaging around 16-17,000 metric tons over the last few years. During 2007, of course, they took around 30,000 metric tons. Some years they have been down at 6 or 9,000 metric tons. They do take predominantly smaller fish.

MR. HIMCHAK: Well, what essentially controls that level of fishing in Canada? I mean we set a quota, you know, 80,000 metric tons and stuff, and then what do we do, we hope that they – do we have any kind of cooperative agreement where they don't exceed a certain catch to combine with our catch? What controls the effort on that weir fishery?

DR. CIERI: No, we do not; we don't have an agreement. The New Brunswick Weir Fishery in general does not have a hard TAC.

CHAIRMAN STOCKWELL: It is an assumed rate of catch. As a matter of fact last year it bumped up to 35,000. It has been fairly low this year, but over the course of the years it has averaged about 20,000.

MR. PATTEN D. WHITE: Just a question; believe it or not I'm starting to understand some of the graphs when I can see the colors. In the stabilizing of landings how much of that is influenced now by the TACs that we have set by areas, because then we can't have as much variability because we are restricted to how much we can land and usually reach that in some of the areas and obviously don't in others; and is that then reflective of, like, Area 3, what then shows us our little bit of flexibility and not the other areas?

DR. CIERI: That is exactly right; when the Area 1A TAC went down, overall landings in the complex went down by the same amount. I'm sure that does play into it. There have been years, however, in which there has been more activity off Georges Bank; and they've taken an extra 20,000 metric tons out of the fishery as a whole, and most of that came off of Georges Bank. So, it is a combination of management effects as well as availability by area.

DR. DAVID PIERCE: Thank you, Matt, for a very thorough presentation. Well, I'll touch on it right away. Clearly, the Canadian catch is having an impact. I don't know to what extent and I wonder to what extent did the TRAC actually deal into that issue; that is, what has been the impact of the Canadian Fishery, the Weir Fishery specifically on spawning stock biomass, recruitment in the Gulf of Maine and elsewhere?

You can't help but highlight the fact that again they are unrestricted. They can take whatever they want. We have a 20,000 metric ton giveaway to the Canadians that comes off the top of our U.S. quota for the Gulf of Maine, which continues to irk me to no end since we have no agreement with them and there is no incentive for them to have agreement when we give them so much.

But when you look at Table 4 in the assessment document itself – I suspect most people haven't got that in front of them, but when you look at that particular table it shows – actually, it is the wrong one; it's Table 3 – the New Brunswick Canadian Weir Landings, in 2006 they beat up – I'll use that word – they beat up the 2005 year class – that was the year class you noted sort of dissipated, dwindled in significance since its creation – and look at the abundance of age one, and it is something like the third highest since 1967.

That's their catch, their weir landings, the third since 1967; and the age two, like the fourth or third since 1967, so they've really been hitting that year class hard. This particular catch; was it factored into the assessment itself and what impact did it have on mortality and biomass? In other words, are we unable to control our own fate in terms of mortality controls and biomass trends?

DR. CIERI: Well, of course, yes, it was factored into the assessment. Again, it was roughly around 35,000 metric tons or 30,000 metric tons, and it was predominantly the 2005 year class. In general the New Brunswick Weir Fishery catches fish that are available. It is a fixed-gear fishery; and so the more fish that are available, especially during strong year classes, that does tend to be when you do see landings in the New Brunswick Weir Fishery.

In fact, if you go through and look at some of the other recruitment events, usually the New Brunswick Weir Fishery, because they tend to catch juveniles and smaller fish, are usually – if we're going to have a strong year class, it is always going to show up in general in the New Brunswick Weir Fishery first, before it hits the U.S. Fishery, and that's simply because they take smaller fish.

DR. PIERCE: What percentage of total mortality was attributed to the Canadian take?
DR. CIERI: We didn't model the New Brunswick Weir Fishery separately. We did do a couple of model runs, which I showed, that actually broke out the New Brunswick Weir Fishery by different selectivities and you could assign a different F. However, those runs were actually rejected during the update for a couple of reasons. One is because it gave an unrealistic picture of biomass according to the model.

DR. PIERCE: Okay, regarding biomass we are in great shape. I mean we're not overfishing; we're not overfished; we're just a little bit below the biomass target, so we're in an excellent situation relative to status of the stocks and where we need to be. Obviously, we're not as high as we thought we were going to be.

In 2009 you indicated that we are at 651,700 metric tons, and that resulted from the model that you showed, the lower line which was – no. All right, that is the projection, but the projection coming off the lower line, right – no?
DR. CIERI: No, the final 2009, the final TRAC is this red line right here.

DR. PIERCE: All right, thank you. That particular line was the result of a model run with certain assumptions. Is it safe to say that the model was run with conservative assumptions, and as a consequence we ended up with that particular pattern?

DR. CIERI: Honestly, it is less conservative than if we simply turned the crank.

DR. PIERCE: Okay. All right, 651,700 metric tons; that's the number we're looking at as a projection. You did say that we tend to, because of the retrospective pattern, overstate biomass perhaps at times by 50 percent. Now, with that statement, could you help us put that in the context of the 651,700 metric tons? In other words, when we deal with industry and when we wrestle with a number, what number do we use, what caveats do we attach to it? It is a tough – again, we have to go to public hearings and explain.

DR. CIERI: Right; my suggestion would be we're bringing all of that to the SSC, and the SSC will, as Lori will talk about in a minute, make a determination on what ABC is. How they weigh the uncertainty for a model configuration versus the retrospective pattern and all of those things is a matter that is being discussed currently between the Atlantic Herring PDT and the SSC.

DR. PIERCE: Okay, thank you, one final question. You indicated that when you put in the additional three years we end up with a dramatic difference in stock status. To what extent did the recruitment indices affect the estimates of biomass and for that

matter the projections? The reason why I ask that question is when I look at the table in the assessment that shows the spring bottom trawl survey data point – that is what we use to figure out as best we can where we stand with the different incoming year classes.

This is Table 12 in the document for anyone who wants to refer to it. I see that 2005, 2006, 2007, 2008, especially '05, '06 and '08, we had some of the lowest number per tow and weight per tow that we have seen in decades. That is so low that I was quite surprised when I saw those numbers, and I'm still trying to figure out how to relate to those numbers in light of stock status and the projections. Did those particular extremely low levels of abundance, judged from the spring bottom trawl survey; are they what is driving the assessment and giving us these lower projections?

DR. CIERI: No. The model actually takes a look at all of the information, and that includes all of the surveys as well as the catch-at-age matrix. That is one thing to keep in mind is that catch at age is a very large input within this model, so it uses all the surveys – the ones that were included, the spring and the fall bottom trawl as well as the information from the catch-at-age matrix – to come to those determinations.

MR. G. RITCHIE WHITE: Could you put the surplus production model slide up back up, please? If you already answered this, I apologize for the questions. I'm trying to absorb all this. It seems like in the late eighties and early nineties something changed, and is the reason we're getting such variations there how and where we're prosecuting the fishery? It would seem if it is environmental why didn't we see that back through the rest of the time periods? What do you think the reason for those great variations are?

DR. CIERI: The variation in recruitment success is highly variable. It is probably related to environmental factors, but again recruitment events particularly in a schooling Clupea is relatively short lived and as a large prey item for many other fish is not unusual.

MR. R. WHITE: But why didn't we see it over that 30-year span coming up to the nineties? It doesn't seem like that we have anywhere near the variation, and all of a sudden now we're seeing great variation. If it was environmental I would have thought we would have seen more variations in those 30 years prior to.

DR. CIERI: Is there a regime shift; are there more predators now; are there less predators now? The reason for the variation is pretty much speculation.

MR. WILLIAM A. ADLER: Mr. Chairman, I have a couple of things. First of all, if you said that the New Brunswick Fishery is given 20,000 metric tons, I guess is what you said, and the catch is probably 25 to 35,000 metric tons I can see some hole right there. Plus, if they're taking juveniles, they're taking more fish in that 25 to 35,000 metric tons, and if they were taking big fish, it would make sense.

I love the fact that we lost 400 and something thousand somewhere in cyber space between last year and this year. I also want to know a couple of things. First of all, is the natural mortality level that you crank here; did you change that at all? Answer that if you and then I'll go on to the last question. Did you change that?

DR. CIERI: No, and if you'd like you can take a look at the difference between the U.S. landings and Canadian landings there on the graph. The red is Canadian landings and the blue is U.S. landings out of the stock complex. We did not change the M. The M is still set at 0.2. We did go through and do an alternative model run in which we used a year-variable natural mortality, and I showed that in the model configuration run and what it did to the stock.

MR. ADLER: All right, my last question for now. Back when we play with all the ABCs, TACs, DFGs, we have a biomass level, which now you say is like 651,000. Okay, then from that, if I remember those charts, a total allowable – actually an allowable catch is taken; and from that, below that usually because they're conservative, they take another number below that – I don't know if that's a TAC – and then from the TAC they usually separate it into quotas for the four or five areas.

Now, back when it was 1.2 we had some number – I thought it was in the 200,000 metric ton level – and then from that a lower number was picked and then divided up into the areas. Do you understand what I'm saying? Okay, so do you know what that number that was originally set from which we took a lower number and then divided; what was that number? I thought it was in the 200,000 something.

DR. CIERI: Right, you're looking at the older estimates I believe of msy. As far as the stepping down, Lori will get to that probably in her presentation. But as far as what that estimate of msy was, it was 220,000.

MR. ADLER: Okay, and is that the one – the 220; is that the one that we then jump down further and say, okay, now we're going to take less than that and then we're going to divide that up into – am I right?

DR. CIERI: Right, yes, optimum yield, but that's more of a question for Lori.

CHAIRMAN STOCKWELL: And, Bill, Lori is going to explain about ACLs, AMs and the specification process. It is infinitely more confusing and complicated. Dennis.

REPRESENTATIVE ABBOTT: Going back to the influence of the Canadians on herring, I don't know if I can express it. This a good question for Matt. Is there a way that you can show what the Canadians catch year by year and how that would be affected as we lower our quota? I mean it would seem somewhat logical to me that as we start reducing the amount of our catch that the Canadians will decrease their variability and increase their catch to make up the demand that we have in the United States for herring.

DR. CIERI: In general the New Brunswick Weir Fishery isn't a demand-driven fishery. In general it seems to be more about availability. In 2007 while there was a high degree of demand, there was also a very strong year class that was moving through. I'm not sure what the effect of U.S. management on the Canadians. Again, that is more of a question for Lori. Over the time period they've averaged I believe 17,000 metric tons. You can see here exactly what the Canadians have landed, and it is in the document. Some years it is 6,000; some years it is 20,000; some years it is 30,000.

EXECUTIVE DIRECTOR JOHN V. O'SHEA: You said something about Canadian landings and there is obviously an interest in that. Every year I see the application for ten Canadian carriers to come in and pick up herring from the U.S. to take back to Canada. Do they count as U.S. landings or Canadian landings?

DR. CIERI: They count as U.S. landings.

MR. GROUT: Matt, one of the things that the states and the National Marine Fisheries Service have done over the past several years is implemented different measures to try and tighten up the landings so that we get a better accounting of the landings. I was wondering if, first of all, some of the uncertainty in landings that we had in the past, say five to ten years ago and longer, where we may not have had a full accounting of the landings could be something that could be affecting this retrospective pattern; a difference between what you're putting in your model and what is actually being landed could be enough to cause a retrospective pattern?

DR. CIERI: Well, we've had the VTRs which is how we manage this fishery and how we assess this fishery since 1994. Those VTRs give a good record of what is being caught by U.S. flag vessels in the EEZ. There is probably some uncertainty in the state landings; however, state landings, when you compare all of the dealer reports, are fairly low. I think we have a very good handle on what the catch has been through most of the time series.

MR. GROUT: So the majority of the landings you feel fairly comfortable with are accurate going back to 1994. It is just small stuff that we've been working on.

DR. CIERI: And actually from beyond. The Maine canneries actually kept very detailed records of not only what size fish, because, of course, we have been sampling, but also their quality and where they were caught from, all the way back into the 1960s. Most of the uncertainty, however, comes from the ICNAF fisheries and the foreign fleets, and that's simply because they were foreign operations, and so it is difficult to get a good handle on those.

However, since the end of ICNAF fisheries, since the end of that foreign fleet, our records have been pretty much spot on and certainly a whole lot better than almost any other species on the east coast.

SENATOR DENNIS DAMON: The question may have been answered by Vince's question, but I will try it again. We've talked about the fixed-gear fisheries and in particular the weir fishery in New Brunswick. But to the extent that any stop-seine fisheries still exists in Eastern Maine or indeed in the whole coast of Maine, is that included in that fixed-gear fishery and is it part of those landings or is it separate?

DR. CIERI: No, it is considered part of the U.S. landings.

CHAIRMAN STOCKWELL: Other questions from the section for Matt? Seeing none, Jeff.

MR. JEFF KAELIN: Mr. Chairman, I'm Jeff Kaelin from Winterport, Maine; representing Lund's Fisheries from Cape May, New Jersey. This is the third time I think I've seen this. We went to the SSC.

What we asked the SSC last week is if they would – and they will meet again on herring on the 16th. Their preliminary meeting was last week – if they would recommend to the Science Center that a new benchmark assessment be done for this stock through the SAW/SARC Process and not the TRAC Process?

This model was a result of the Canadians strong-arming Bill Overholtz and having him throw the clam model out the window in 2006. At that time the spawning stock biomass estimate went from 2 million metric tons. 2.1 or something, to 1.1. This time we used the same model that goes from 1.1 to 600,000. I'm here to tell you that we don't have an awful confidence in this approach at all.

Unfortunately, the SSC's perspective is, well, you know, the industry came and said, "We're steaming over miles of fish, the resource looks really good, we're having no problem catching our quotas." Now the SSC says, "Well, the law doesn't allow us to consider that." Faced with this, what I came to the microphone to do is to ask if the Herring Section would also endorse a benchmark assessment being performed for this stock as soon as possible by the U.S. scientists in the SAW/SARC Process?

We assumed this was going to be a benchmark assessment and there would be some opportunity to look at different model formulations and so forth to create an outcome that inspires more confidence than this one does. This model provides no confidence. We don't know where we are. Everytime we go to have an assessment we end up with the half the biomass that we assumed to be out there.

Now, if the Canadians can't age fish accurately, I don't think we ought to invite them to the assessment, frankly. There are a lot of problems with this. Again, my request is that the section supports a new benchmark assessment being performed with the U.S. management process as soon as possible. Thank you.

MR. GREG DiDOMENICO: Greg DiDomenico, Garden State Seafood Association. I just wanted to say a few things, but mostly agree with what Jeff Kaelin just said. We've all been involved in following this assessment and other assessments, and, quite frankly, were caught by surprise that the outcome would be so drastic during an update and not a total benchmark stock assessment.

These are drastic, drastic changes that we could have never expected in what was an update and not a full assessment. We support what Jeff said and we'd like to get some recommendation or some support from the commission to take this to a full benchmark stock assessment. Thank you.

CHAIRMAN STOCKWELL: Thanks, Greg. Are there any other comments? Jeff.

MR. JEFF PIKE: I'm Jeff Pike here on behalf of Bumble Bee and Stinson, the last sardine cannery in the United States. I had a question for Matt regarding the catch-at-age matrix. If you've covered this, I apologize, but it appeared that the catch-at-age matrix had a large influence over the model, and there was reference to disagreement about aging fish. I think you referenced, Matt, even somebody within the Maine DMR.

It wasn't clear to me whether the disagreement on aging was between the U.S. and Canada. At what new information or the new catch-at-age matrix; how did that come about and what is your level of confidence with respect to actually knowing how old the fish is because obviously that can have a huge impact on the results? Thank you.

DR. CIERI: Wow, you should have gone to the TRAC. We discussed this at length. The changes in the catch-at-age matrix itself isn't really a change in the aging of the fish. It is basically from moving landings from one area to another. When you move landings from one area to another, you apply different samples to that particular landing event.

We actually went back and actually found some of the old foreign reports and in some cases had them translated so that we could figure out where those landings occurred when we went back and redid the catch-at-age matrix. There has been a disagreement among herring otolith readers. There is a disagreement in readers between the National Marine Fisheries Service and Maine DMR, between Maine DMR and DFO in Moncton, between DFO in Moncton and DFO in St. Andrews, and all of them disagree with some of the readers out of Steve Campano's laboratory.

The way it actually ends up working is that there is general good agreement up until about age six. After age six there tends to be a divergence among all of the readers, and that would be the reason why we used the six-plus class is because at six-plus the consensus of all of the participants in the TRAC suggested that it wouldn't make very much of a difference if you used the six-plus class. There was good agreement up until the six-plus grouping.

The importance of going back and redoing – we've done a number of aging otolith workshops and we probably will continue. The idea would be if we can get some way of getting better agreement on some of those age sixes to expand that plus group out to eight or ten, that would give us more information and allow for a better assessment. Does that answer the question?

CHAIRMAN STOCKWELL: Anymore questions? One more, Jeff, and then we're going to go back to the section.

MR. KAELIN: Mr. Chairman, I just have a question, and this conversation reminded me of that. Matt, obviously, there has been a gear change in the Gulf of Maine, too. We've used seines for a couple of years, and I think typically the seines tend to catch a smaller, younger fish than the trawlers do that operate in the Gulf of Maine. Is there any bias in the age estimates based on gears that have been used in the last couple of years, because I think you used the last three years? Is that a potential bias?

DR. CIERI: No.

MR. KAELIN: Not at all?

DR. CIERI: Not at all. The selectivity pattern is knife-edge at age two. That means that –

MR. KAELIN: For both gear types?

DR. CIERI: For both gear types, yes.

MR. KAELIN: Okay, I was just curious about that.

CHAIRMAN STOCKWELL: Okay, back to the section; Dr. Pierce.

DR. PIERCE: Matt, let's assume for a moment that spawning stock biomass is 651,700 metric tons. Through the TRAC Process, was any insight provided regarding where these fish are? In other words, in past years we've tried to assess Georges Bank Herring and then Gulf of Maine Herring, and then we recognized that there were a lot of intermixtures, so that is extremely difficult to do. That's a lot of fish so what came out of the TRAC regarding where these fish are located? Are they predominately on Georges Bank, inshore?

DR. CIERI: Nothing. This was an update assessment. The last benchmark assessment did address that particular issue, but as it being an update assessment and simply focused in on model formulation and updating the model through 2009.

DR. PIERCE: Okay, thank you. You mentioned that again that it was not a benchmark assessment. I appreciate that, but I just can't help but focus on something that will do me no good but give me heartburn, and that is this was supposed to be a turn-of-the-crank assessment, but as you indicated it was far from that.

So it's a hybrid between a turning of the crank and a benchmark, and I really don't know what this is relative to the significance of the changes that occurred through this go-around. But regarding the benchmark assessment – I can't recall; maybe Lori knows if you don't know – when is the next benchmark assessment scheduled; is it for 2010?

DR. CIERI: Well, getting back to your earlier point, the white line is if we just simply turned the crank. There currently is, not that I'm aware of, no benchmark assessment scheduled for Atlantic herring.

CHAIRMAN STOCKWELL: Other section comments or questions? Well, thank you, Matt, for a concise report and clear answers. Next up is Lori Steele, the Herring FMP Coordinator for the New England Council, who hopefully will help untangle the council's legal obligation to implement ACLs and AMs and a host of other acronyms and tease apart the two amendments, 4 and 5.

NEFMC AMENDMENT 4 AND 5 UPDATE

MS. LORI STEELE: I'll try to run through this presentation relatively briefly. It is quite complicated. Right now the council is juggling three management actions for Atlantic herring; Amendment 4, of course, the upcoming three-year specifications; and Amendment 5. I'll briefly go over Amendment 5 but for today I think we really need to focus our attention on Amendment 4 and the specifications.

Amendment 4 is intended to establish the process for setting the annual catch limits and accountability measures which are now required for the council to do in every FMP through the recent reauthorization of the Magnuson-Stevens Act. The new Magnuson-Stevens Act requires that annual catch limits and accountability measures be established in every fishery and that they be implemented by 2011 for stocks that are not overfished and 2012, I believe, for stocks – no, 2010 for stocks that are overfished and 2011 for stocks that are not overfished.

We are looking to implement an ACL/AM Process for the Atlantic Herring Fishery and then, of course, implement ACLs and AMs by 2011. Amendment 4 is the vehicle to establish the ACL/AM Process for the Herring Fishery. The work on Amendment 4 is generally complete. Many of you are probably somewhat familiar with what is in the Amendment 4 Document.

It is all process related and it relates to the fishery specifications. We already have, as you know, the specifications process which sets quotas for each of the management areas and sets acceptable biological catch and optimum yield and things like that. We already sort of have the framework laid for an ACL/AM Process.

What we're doing in Amendment 4 is making the changes to that process that are necessary to comply with the Magnuson-Stevens Reauthorization Act. The process will require that the overfishing limit, allowable biological catch and annual catch limits be set through the specifications process every three years.

We're adding in a whole bunch of new acronyms. It is a total alphabet soup and it is very confusing, so apologies for that, but you're going to have to learn some new acronyms for the Herring FMP, as it we didn't have enough. The accountability measures are also being established in the amendment, but we can further modify them to the specifications process or any other actions that the council may take.

In terms of Amendment 4 and the new terminology, this is all defined in the document and I'm just going to run through some of the new terms that are being used in the amendment so that you're familiar with them. Catch, of course, is the total quantity of fish taken in commercial, recreational, subsistence, tribal and other fisheries. It is all kept fish and all discarded fish.

Annual catch limits represent total catch and must account for discards. The stocks in the fishery – that is a term now used in the Magnuson Act National Standard Guidelines – for the purposes of Amendment 4 the stock in the fishery is Atlantic herring. Stocks in fishery require status determination criteria and things like overfishing definitions.

For the purposes of this plan we're focusing on the species that is managed by this plan, which is Atlantic herring. We may include other stocks in the future, if appropriate. The guidelines don't require that other stocks be included, but they do leave that to the council's discretion, but for Amendment 4 we're focusing on Atlantic herring.

A new term, the overfishing level, the OFL, is defined as your maximum fishing mortality rate times your biomass. When the stock is above Bmsy, that fishing mortality rate is Fmsy. This overfishing level can fluctuate above or below msy because it is dependent on the stock size and the biomass, but that is your starting point.

Then the new term is acceptable biological catch. This is a new definition for ABC. There is currently an ABC in the Herring Plan, allowable biological catch. I get them mixed up all the time, but this is the new ABC, and the new ABC is going to be the maximum catch that is recommended for harvest. This is a value that will address scientific uncertainty.

Essentially, once you establish your overfishing limit, you adjust to your ABC based on scientific uncertainty. Now, the Magnuson Act requires that the council receive a recommendation for ABC from its SSC, the Scientific and Statistical Committee. The council is no longer – the level of ABC is no longer at the council's discretion.

The ABC level is now set by the Scientific and Statistical Committee and will account for scientific uncertainty. The council is bound by that recommendation. That is really essentially our starting point. There will be an ABC Control Rule specified in the plan, which is an approach for setting the ABC as a function of scientific uncertainty.

Again, this will come from the SSC as part of their recommendations for setting ABC. In the next specification's package and in Amendment 4 we will set the ABC Control Rule based on what the SSC recommends from this assessment and for the next three years, and then, of course, we can modify that control rule as we move into the future based on new assessments and new information and new recommendations from the SSC.

Once you have your ABC, then now you have ACLs, and ACLs are annual catch limits. These are the catch levels that are selected for harvest. Now, just as the ABC considered scientific uncertainty, the ACL considers management uncertainty; so if there is any degree of management uncertainty in the fishery, the ABC should be adjusted accordingly to reflect the level of management uncertainty.

The annual catch limit is what is allowed for harvest, and this is the level of catch that will determine whether or not accountability measures are necessary. In Amendment 4, the way that we're proposing to set this up is that we will set one stock-wide complex ACL for herring, which will be equivalent to our optimum yield, and we will have already accounted for scientific uncertainty and management uncertainty. Then that ACL will be broken down into sub-ACLs for each of the management areas. o, no more TACs; now you're TACs are ACLs; the thing, though, they're quotas.

In terms of management uncertainty, some of the factors that will be considered will be the level of Canadian catch, state waters catch, and one way or another discards have to be accounted for. Discards may be part of management uncertainty, but it will depend on what kind of catch monitoring program we have in place, which I will get to in a few minutes, but one way or another the ACLs need to account for discards.

They may be addressed through the management uncertainty buffer or they may be monitored as part of the actual catch. Another term, as I mentioned, accountability measures, AMs, these are measures that are required by law to ensure that the ACLs will not be exceeded and to negate or correct any ACL overages that may occur.

These are measures that we need to implement to make sure that we don't go over those ACLs, and we need to have a plan in place to address any overages. I have already kind of covered most of this, but as the process will go through the specifications, we will establish a stock-wide ACL and then break it down into the sub-ACLs by management areas.

The starting point, though, is getting a recommendation for ABC from the SSC, so the PDT will develop a recommendation or a document that discusses the options for ABCs for the SSC. In that document there will be an estimate of the OFL, which is our starting point, which is the fishing mortality maximum times your biomass and then a discussion of issues related to scientific uncertainty.

As Matt mentioned, we already sort of started this discussion with the SSC. The SSC has directed us to do a series of projections and to make some adjustments for this retrospective pattern in the assessment, so we're kind of going through this process right now that is described on this slide here.

We'll be going back to the SSC with a document that provides all of the information that they're looking for in order to make their recommendation on ABC and address scientific uncertainty, which as you saw from Matt's presentation is a pretty significant issue when it comes to setting the specifications this year.

The SSC will review the PDT's work and will recommend an ABC to the council and will comment on any other issues that may be requested by the committee or the council. The PDT will then work with the committee to develop options for the ACL and sub-ACLs and discuss management uncertainty.

While scientific uncertainty falls into the realm of the SSC, management uncertainty is at the discretion of the committee and the council; so once we get an ABC recommendation, the PDT needs to be working with the committee and the council to address the management uncertainty issues and to develop the ACL options.

The council will be bound by the ABC recommendation from the SSC but may consider different options for the ACLs. Then after all of that happens, we get back to what you may be familiar with is our regular specification's process where we have options for the ACLs for the management areas, and we will do an evaluation of those options and the impacts of those options on fishing mortality and on the fishery, and we will bring that to the committee and to the section to make final recommendations on the ACLs for the management areas.

Then, of course, the accountability measures will be there as sort of the backstop to ensure that those ACLs are not exceeded. Another thing that we're considering in Amendment 4 as part of this sort of revamping of the specification's process are some actual changes to the specifications themselves.

The first option here is probably a little difficult to read on this slide, but the first option is just to keep the current specifications that we have, including your other alphabet soup. Obviously, the ABC is going to change, and we're adding the OFL because we're required to, but other than that this option would include specifications of OY, DAH, DAP, JVP, IWP, USAP, all of the specifications that we normally address during the specifications process.

The second option gets rid of some of those in an attempt to simplify this a little bit. The council I believe is leaning towards this option, which would eliminate the specification for joint venture processing, internal waters processing, foreign

fishing and the TAC reserves. The council feels that we've demonstrated already that there is sufficient capacity in the U.S. Fishery to catch the available yield, especially in this new era of ABC and ACL and potentially much different levels of available yield.

We don't really feel that it is necessary to go through the steps every time we do specifications of just why we're not going to allocate joint venture processing or foreign fishing. At this point we're just proposing to get rid of those specifications. Like I said, I do believe that this is probably the way the council is leaning, although the final decisions on this amendment have not been made yet, so don't quote me on that.

Scientific uncertainty, as I mentioned, is to be addressed between the OFL and the ABC. The ABC may be set lower than the OFL to account for scientific uncertainty. The stock assessment will identify the sources of uncertainty. As you heard in Matt's presentation, some of the sources that have been identified are the stock component mixing ratios, the retrospective pattern and predator/prey relationships and forage issues.

Although in the preliminary discussions with the PDT and the SSC the real focus is on the retrospective pattern in the assessment, we believe that if the retrospective pattern can be addressed, it is kind of an overarching source of uncertainty and by accounting for that you're kind of accounting for a lot of the other sources of uncertainty anyway, at least at this point.

Management uncertainty is to be addressed between the ABC and the ACLs. The ACLs may be set lower than the ABC to account for management uncertainty. The level of management uncertainty to an extent will depend on the catch monitoring program and the ability to monitor all herring catch against the ACLs because we do have to account for discards.

Sources of uncertainty, therefore, include discards potentially, Canadian/state waters catch, and the impact of the ASMFC management measures on the fishing patterns. Very quickly in terms of the accountability measures, we are looking at two alternatives. One is not to have accountability measures because we always consider the no action alternative; and the other is to have accountability measures. The accountability measures that are proposed would be in addition to the existing accountability measures.

We are in a quota-managed fishery. The fishery already shuts down when 95 percent of the quota is projected to be reached; in some case 92 percent where we have research set-aside, so we already have measures in place that are intended to prevent the quotas from being exceeded. We're kind of already headed in a good direction with the accountability measures.

We're really just looking at two additional AMs in this amendment. As I mentioned before, these are the existing AMs that would be under the no action alternative, so I'll skip over this. The additional AMs that we are considering; one is an option for an overage payback. This is something that we don't currently have in the plan and is advised through the National Standard Guidelines that an overage payback is an accountability measure that should be considered.

The way that it is set up is that the overage from one fishing year would be deducted in the year following the final tally; so if you have a three-year specifications process and you get through Year 1, by the time all of the VTRs and logbooks and everything are added up you're already well into Year 2. At that point in Year 2, when the final tally on the catch is taken, if there was an overage in Year 1, it will come off of Year 3.

There is essentially a one-year lag so that we don't end up in a situation where we're actually adjusting quotas mid-year to account for overages in the year before. Because of the VTR data – I mean, when we're talking about the final tally, we're not just talking about people in the directed fishery. Those people report through IVRs and we have a pretty good sense of what the majority of the catch is in this fishery on a close to real-time basis.

But, when you're looking at a final tally for the ACLs, you're talking about VTR reports from every vessel in every fishery that submits VTRs that may be catching little bits of herring here and there. Overages are expected to be very small because we do close the directed fishery when 95 percent is reached, and it goes to an incidental fishery with a 2,000 pound trip limit at that point.

So, you know, we're talking about very amounts of overages that are likely to occur here; but because of the lag time with the VTRs it may take three to four months to get that final tally; so if there is a small overage, it would come off of the year following that.

The second accountability measure that is being considered is already in place. We're just now changing the name of it to an accountability measure, and that is the Haddock Catch Cap Accountability Measure. We already have the Haddock Bycatch Cap in the fishery, and all that this measure would do is change that to an accountability measure.

It would apply to current regulations which close the directed herring fishery when the cap is reached with some additional language to allow herring vessels that have groundfish permits to retain haddock when they're fishing on a groundfish trip.

That's kind of already there, which is kind of implementing it as an accountability measure to be consistent with the Groundfish Plan, which is setting a sub-ACL for haddock bycatch in the herring fishery. In terms of the timeline, just very briefly, we're looking at right now 2010-2012 specifications. They are being developed now. We're going through this process right now with the SSC to try to figure out what the ABC is going to be. That's kind of our starting point.

We're hoping to get through this process and to work with the committee and, of course, the section to get the ACL options and make final decisions in November. The 2010-2012 specifications must specific the ABC for all three years and must comply with the ACL/AM requirements for 2011 and '12.

Then while we're doing the specifications, we're also finishing up Amendment 4, which is the process. We are required by law to have that process in effect for the 2011 fishing year, so we're trying to get Amendment 4 done and submitted by April or May 2010. I'm actually hoping that we can have final decisions on Amendment 4 at the same time we have final decisions on the specifications so that we can make sure that everything is consistent, but that may be asking a lot.

Then the catch monitoring measures and the catch monitoring alternatives that the council has been working on are still under development, and we have a suite of other measures that were originally in Amendment 4, which we have now split out of Amendment 4 and put into Amendment 5 in order to get the ACL/AM process done in time.

Now we have Amendment 5 going with catch monitoring measures, measures to address river herring bycatch which have not yet been developed, and measures to establish criteria for access to groundfish closed areas, which is a work in progress. Once we get through the specifications and once we finish Amendment 4, we're back to Amendment 5 and we're going to try and get that done as quickly as possible so that we have better catch monitoring in effect as soon as possible to monitor the ACLs.

Right now the focus over the last month and really until November is the specifications. There is a lot of work to be done, and this new process with involving the SSC and trying to identify scientific uncertainty and put all of these issues into their little compartments and assign them numbers and do all the match is very labor intensive and time intensive, so that has really been our focus lately.

We are working with the SSC to develop the ABC recommendation. We will be meeting with the SSC for the big meeting on September 16th where the SSC will develop their ABC recommendation and they will report that to the council at the September council meeting. Then the committee can meet and start working on the ACLs because we'll know what we're dealing with.

The committee has a meeting scheduled on October 6th to develop the options for the ACLs and to discuss management uncertainty. Then the committee is scheduled to meet jointly with the section at the November section meeting or the November ASMFC meeting to review all of the analysis of the ACL options and to develop the final recommendations for the quotas and the specifications.

The committee will make their recommendations to the council at the November council meeting. The section will make their decisions and go on their way. Just very briefly I'm going to go through Amendment 5 just so that you're aware of what is going to be going on as soon as we're done with all this other stuff because it just never stops. We are going to pick up Amendment 5 as soon as we can. The committee is still working on Amendment 5. We actually have a meeting next week that is scheduled as an all-day committee meeting to deal with the catch monitoring program.

While we're having all of these meetings to deal with specifications, we're also having committee meetings to deal with catch monitoring. As I mentioned, these are the issues that can hopefully be addressed in Amendment 5, catch monitoring, river herring bycatch, closed area access and measures to address interactions with the mackerel fishery.

We are getting there on the catch monitoring program although it is very complicated and there is a lot of

work to be done still. Goals and objectives for catch monitoring have been approved and three alternatives are under development. Some are more developed than others, but they're coming along. We have some of the components of them pretty well developed.

Then we are also considering a host of measures that we could apply to any one of those alternatives to improve catch monitoring. Those are issues related to VTR reporting, IVR reporting, VMS reporting, measures to address transfers at sea, trip declarations, pre-notification requirements to request observers, pre-notification requirements for landing and measures and to address and improve at-sea monitoring.

Very briefly, Alternative 1 for catch monitoring may consider measures to ensure maximized retention. Really, this is a big issue that we're wrestling with in Amendment 5, and that is maximize retention, which is essentially a ban or a prohibition on discarding, bringing in everything that is caught. It is in some of the alternatives; it is not in others; and it needs more work.

Measures to standardize and certify volumetric measurements; basically a better way to get a handle on how much fish is in the tank without having to weigh every single herring that comes off the boat; dockside sampling program; potentially dockside sampling set-aside in this alternative; measures to require electronic reporting; of course, the measures that can apply to any alternative which I already mentioned.

And a pilot program for video-based electronic monitoring; this alternative needs a lot more work. It is largely conceptual in nature at this time. I anticipate that at next week's committee meeting the committee will spend a good deal of time on this particular alternative. Alternative 2 incorporates the goals and objectives and requires as close to a hundred percent catch weighing and certification as practicable.

Measures to encourage the use of new technology; this sort of relates to electronic reporting and what may be achieved through electronic reporting. Measures to achieve a 20 percent CV for all bycatch estimates of all species, so this would be some level of observer coverage and some level of dockside sampling that would be required to achieve that CV; and then measures to improve at-sea monitoring and enhance protocol for estimating split catch.

Split catch and slippage in general is another really important issue that the council is trying to address through the catch monitoring program in this amendment, and we're still sort of struggling with some of the best approaches for getting a better handle on slippage.

Alternative 3 is probably the most detailed and well-developed alternative at this point. It's also the most complicated. It requires maximized retention with video-based electronic monitoring for all vessels. There are options for slippage caps; options to address species that vessels are prohibited to land; and phased-in approaches for maximized retention and video-based monitoring.

Alternative 3 requires catch monitoring and control plans to be developed by the industry and approved by NMFS, and these would be plans that the vessels would submit to demonstrate how their individual fishing operation is going to comply with the maximized retention provisions and the requirements for video-based monitoring.

A hundred percent dockside monitoring through independently verified landings; and then several options that all fall under these categories that were just approved in June 2009 that we haven't even really had a chance to talk about yet, so there is some work still to be done on this alternative as well.

Other issues; measures to address river herring bycatch intended to be in Amendment 5 – because of all of the work on catch monitoring and the priorities that the council has identified for the amendment, this is a work in progress and we haven't really gotten to this issue in great detail yet.

We did some preliminary analysis of observer data, but then we had to stop to work on ACLs, AMs, catch monitoring and now, of course, the specifications. The council did discuss the ASMFC request to the Secretary for emergency action at the last council meeting. At that meeting the council also sent a letter to the Secretary requesting an information collection program for river herring bycatch under the provisions of the Magnuson-Stevens Reauthorization Act.

I believe letters were sent from ASMFC, the Mid-Atlantic Council and the New England Council as well as a group of stakeholders. To my knowledge I have not heard of any response yet from the Secretary on any of those requests. Another issue to be addressed in the Amendment 5 are measures to

establish criteria for access to the groundfish closed areas. This is a work in progress.

We have a general alternative that is under development which would require a hundred percent observer coverage on vessels that exceed the 1 percent bycatch threshold in the closed areas and then penalties for a second offense. The Herring Alliance also submitted a proposal that included some options for access criteria. The committee agreed that we would consider these measures further. We just haven't gotten back to this issue yet either.

Then measures to address interactions with the mackerel fishery; this actually is pretty well developed. This is something that we developed early on in the process to essentially try to accommodate incidental catch of herring in the mackerel fishery for vessels that do not have a limited access herring permit.

There are alternatives under consideration to increase the possession limit for open access permit holders in Areas 2 and 3, which is where the interactions with the mackerel fishery are predominant. The alternatives that are under consideration do not address potential problems associated with an early closure of the Area 2 Fishery. The Area 2 Fishery is already closed for this year. Ninety-five percent of the quota has been projected to be reached.

There is a lot of concern about the Winter Mackerel Fishery and the fact that there is no quota left over for mackerel vessels in December of this year if there is mackerel around. Right now there are no measures in the document to address that particular issue. The only measures that are being considered are to increase the trip limits for the open access permit holders.

I'm trying to go as quickly as I can; there is just so much on the table. Right now what we're going to try to do is we're going to try to get the specifications submitted as soon as possible before the end of 2009. Because the specifications go into place January 1, 2010, they're not going to be submitted on time. They're going to be implemented late.

There are rollover provisions in the plan. The fishery will begin in January; and then as soon as the new specifications are implemented by NMFS the quota will be retroactively counted. The final action on Amendment 4 is scheduled for as soon as possible, which would be either November 2009 or February 2010.

We need to submit Amendment 4 by April or May of 2010 to have it implemented in time for 2011. Then we move on to Amendment 5. We will be working on the alternatives for Amendment 5 January-May 2010; approval of the alternatives in June 2010; approval of the EIS in September 2010; public hearings late 2010; and then selection of final measures for Amendment 5 in early 2011.

This is optimistic but that's the timeline we're working on; and if the committee can get a lot of the catch monitoring work done over the next couple of meetings, then we will move on to those other issues and hopefully get enough developed by May 2010 to move this amendment forward on this timeline. That's all I have.

I think there is a lot here for the section to consider and, certainly I think there needs to be some consideration about maintaining a consistent process for the specifications. I also would encourage you, maybe not today but at some point in the near future, to think about some measures that you may be able to consider in the Section Plan or the ASMFC Plan to assist in the catch monitoring program and to improve monitoring and reporting for the fishery. Thank you.

CHAIRMAN STOCKWELL: Thank you very much, Lori. Before we go to section comments, I just have one I want to make first. As the maker of the motion on the council to split the amendment, I'm extremely aware of the extraordinary timeline, but I'm very concerned that your proposed timetable only includes participation of the section at the one meeting in November for the final recommendations.

It doesn't give the section any meaningful input into the process. I hope we have some conversation about this between ourselves, and I would like to meet twice. I think the section needs to have input into it. It's a joint process; our plans are mutually dependent upon one another; and if we don't have input in the beginning, it will be difficult to have meaningful input in November.

MS. STEELE: Yes, just to that issue, the committee is scheduled to meet on October 6th to develop the options for the specifications. If the section is interested in making that a joint meeting, then if that request can be forwarded to the council I can work with Chris and whoever on the ASMFC staff to try to make that happen.

SECTION DISCUSSION OF NEFMC AMENDMENT 4 AND 5 UPDATE

CHAIRMAN STOCKWELL: Thank you, Lori. From my perspective I think it is imperative, but I'm waiting to hear from my fellow commissioners here. Tom.

MR. TOM FOTE: After listening to this presentation, I really would recommend that for about a year we didn't use any acronyms when we're reporting except that would make the meetings last a lot longer, I really have concerns over doing that. When I see a report like this and you're going through it, most of the time you give the definition when you have an acronym there and some of the times you did not. I had to remind myself what those acronyms are.

I think everytime you use an acronym in the document, that if it is the first time it's used in that document it should be explained, especially since we're using a lot of new terms going through this process. Some I still didn't remember what they were; and I asked Pete and we had three different definitions of what that could mean on certain terms. It's confusing to the public and we need to make it as simple as possible.

It's complicated, and I'm think of poor Loren sitting here for the first time listening to all these, and I'm saying, you know, it is a confusing mess. I remember sitting at a legislative hearing – and I'm stressing this – I remember sitting in a legislative hearing and somebody is testifying next to me and he used about four acronyms, and the legislator asked what do those mean? The guy says he didn't know because he forgot, so we sat there and luckily somebody had a Blackberry and we googled the four terns and finally got an answer.

You know, us and the public – and I consider myself part of the public even though I'm a commissioner – need to be reminded what those acronyms and clarified. Having said that, this is very confusing. I mean, it is really tough to deal with, and the public must be lost. We really need to do probably a primer on all the terms and everything that has been out there to make sure it gets out there.

I realize in one the web pages I have, we have terms listed, but we've got a whole bunch of new terms coming on just as soon as we get a book printed. I'm looking at a web page where I basically have that, and that has to be updated because there are about 15 new terms that I have to stick there. I'll let everybody else discuss the problems, but I'm really concerned and I'm a lot confused on the process going on.

CHAIRMAN STOCKWELL: Thanks, Tom; a lot of these terms are new terms as a result of the Revised Magnuson-Stevens Act, so we're struggling with them on the council as well. Pat White.

MR. P. WHITE: I had a long thing with acronyms in it that I won't use for Tom's benefit. Lori jumped over it; and as I understand the timeline, because of the requirements the council is going to develop through SSC recommendations the TAC for the whole fishery, but then she also stated I thought that the council was going to make recommendations for each specific area. Then I will follow with what you were saying, Terry, is I'm very concerned that ASMFC needs to have consultation and input into that end of the process. I recognize that we can't do anything about the total TAC, but we certainly want input in the areas.

CHAIRMAN STOCKWELL: Well, the SSC, which is the Science and Statistical Committee, is setting the ABC, and the council is going to set the ACL which was my thought process that we need to share in those deliberations. Jim.

MR. JAMES GILMORE: Lori, that was great because that's the about the sixth time I've heard this and I'm starting to get it, so I think, well, maybe it's just sure sheer volume at times. I'm going to try to do this actually so I understand it – this is a quiz to see if I got it right. The concern I guess we have is up until a few weeks ago this was all conceptual and it all sounded good on paper.

I think at the Mid-Atlantic Council Meeting a couple of weeks ago we got a little bit more of a reality check of what this means. I have a couple of questions related to that. At the Mid-Atlantic Fishery Management Council we had a discussion about accountability measures and the annual catch limits.

John Boreman from the Science and Statistical Committee did a presentation about how the SSC is going to work and essentially laid out a tiered approach, and it was based upon the quality of the data. A Tier 1 would be a data-poor species; Tier 4 would be you've got everything you wanted to know about the fishery; so if you got Tier 4 information the judgment should be pretty good and there shouldn't too many arguments.

Tier 1, though, becomes more judgmental because you have poor data and poor information. I guess that's the part that concerned a bunch of us because when we got into things about black sea bass and scup, we got into that Tier 1 level and the SSC – and you put it up on the screen before – when they make a recommendation or they come out with a number, we're all living by it. We essentially don't have much to – we can't change that.

We have to take whatever that number is and that is the thing the concerns me the most because Tier 1 information is really more judgmental, and I think the SSC in those particular issues was going very conservative, which I think a few of us were maybe in disagreement with, was maybe there was a middle of the road. But, again, there was no discussion on that.

So when we're setting these levels now where essentially if we're in Tier 1, it really comes down to what the SSC thinks about this. The long introduction, I just sort of bring that out a little bit more in terms of the reality. When we get back to Atlantic herring, maybe this is more of a question for Matt, where are we in that tiered system for Atlantic herring? Are we going to be into a middle tier or are we back to where the SSC is going to give us a judgment call on this and we're going to have to live by the numbers?

DR. CIERI: You've got a 50 percent retrospective bias – do the math.

MS. STEELE: Just to address that point a little point, the New England Council's SSC is different than the Mid-Atlantic Council's SSC; not that that should make you feel any better. But, I'm not sure what approach – I don't think our SSC is taking quite the same approach as the Mid-Atlantic Council.

From my experience with the SSC so far, the SSC, which is chaired by Steve Cadrin, is looking at these issues on a case-by-case basis. You know, what they considered in groundfish and the information they considered in groundfish and the decisions they made about ABCs for groundfish, they're not saying, "Well, we have a similar issue in herring or whatever and let's just apply the same logic." They're looking at it case by case.

I was relatively comfortable with the direction we got from the SSC at the last meeting in terms of what projections to do and what they wanted to see. It appears at this point that they are going to try to make an adjustment to specifically account for the retrospective bias in the assessment. It may not be 50 percent; we still have to do the math.

I'm hopeful that whatever approach we use in defining the ABC and specifying the control rule for the next three years – not we; whatever approach the SSC uses will be justified and have some rational associated with it rather than just, well, we have good, bad data, so let's take X percent off.

DR. PIERCE: Hope is a wonderful thing, Lori, and I'm glad you're hopeful that whatever the SSC produces for advice – it is not advice; it's what we must do – you're hopeful that it will be based upon sound judgment and justified. I hope so, too. I hope it simply isn't take 50 percent off just for the retrospective pattern.

I don't know if they're going to do that, and I still don't know what that means relative to the big issue, besides catch monitoring, the big issue for the sea herring section, and that is what will the overall quotas be for Area 1A, 1B, Area 3, Area 2? Would you suspect, Lori, from all the work that you've done as chairman of the plan development team, from all the work you've done with the SSC, from all of the work you've done in concert with our good friend Matt Cieri that we will find, when we sit down in November to do the specifications, when we get the information, you know, the charge from the SSC, that we will be slashing the quotas; the quota, for example, for the inshore portion of the Gulf of Maine, Area 1A, and maybe for Area 2 as well? Is that a likely outcome, that dramatic decrease in the quotas for Area 1A and Area 2 in particular?

MS. STEELE: I think it is safe to say that we are going to be looking at lower quotas. How those quotas are divided by the management areas, I'm not entirely sure yet. You know, right now our total optimum yield, which is the sum of all of the TACs, that we have available right now is 145,000 tons. We have already done the calculation for the overfishing limit, which came out to 143,000 tons.

That is the number from which the SSC will reduce to account for scientific uncertainty. Once we get that number, we then have to make a deduction for the Canadian catch and then further deduct for any other sources of management uncertainty. I think it is safe to say that we're going to have total TACs that are well below 145,000. Catch right now in the fishery is 85-90,000.

It is not out of the realm of possibility that the total TACs will be somewhere in that vicinity. I'm not

sure yet. Then this will have to be divided up by management area. Because of the retrospective pattern and because of uncertainty associated with stock mixing, it is probably not going to be wise to put a lot of that catch into one management area or another, so there are going to have to be some tradeoffs that are considered. I don't know it is all going to work out and some of this will be up to the committee and the council and the section to determine, but I think that at this point we can all expect lower numbers to be working with.

DR. PIERCE: And, Lori, if I may, regarding the way in which we will divide the quota up between regions, refresh my memory. The SSC is going to provide some advice regarding how to do that. Aren't they going to provide some specific guidance or advice as to how the council should do that and how the section should do that?

I have to use the word "section" and "council" in the same sentence because what we do here as a section really is what the council will do because the section has no real influence on what the final numbers will be and neither does the council, for that matter. We just wait for the SSC. It is not an ASMFC creation; it is, of course, the Magnuson Act, federal law. So, how much freedom do you anticipate this section, working with the herring committee of the council, will have to divide up the quota between areas as we might see fit?

MS. STEELE: Well, I don't know how much advice on that particular issue we're going to get from the SSC because time is limited and we have September 16th with the SSC to get an ABC recommendation. That is priority, and that's really the only thing that the SSC has to provide to the council.

Now, we may get some advice on how to divide up that ABC because of the uncertainty associated with stock mixing, which is another source of scientific uncertainty. I think any SSC advice on that particular issue is going to relate to scientific uncertainty associated with stock mixing and things like that.

In terms of actually dividing it by the management areas and doing the analysis and things like that, that is still in the realm of the committee and the section working with the PDT. As you remember from the last time around, we did a risk analysis. The plan right now is to have the PDT present that risk analysis to the committee first on October 6th.

If the committee wants to then seek additional advice from the SSC on the risk analysis or how to divide up the TACs, ACLs, whatever, by management area, the committee can then request more information or more guidance from the SSC. We will get what we get on September 16th, but it is mostly going to relate to ABC. We, the PDT, have asked the SSC for some general guidance on that particular issue because of the stock mixing uncertainty.

The other issues are so big and so complex that I don't know if we're going to get there on September 16th. The first thing we'll do is we'll get the ABC, and then we'll go to the committee with the risk analysis. Any additional advice from the SSC or any additional recommendations from the SSC is really up to the committee and the council to decide.

MR. ADLER: Okay, I was going to ask about how that breakdown is, but I think I sort of understand that the ACLs will be set not by the SSC. They set the ABCs, and then from that there is the ACLs eventually come down through the loop there. All right, I do support Terry's idea that we really do need to sit at that committee meeting.

I will, once again, say, however, when we're sitting as the section with the committee we're not sitting equally, because the committee I think goes back to the council and the council makes the decision, and then it goes to NMS; whereas, when the section makes the decision that is a final decision, so we're not like sitting – I'm also concerned that we'll fall into the same hole that we fall in every year where if we don't agree with the federal decisions, that we have to come back and change our mind rather than the federals changing their mind. That always bothers me. The last thing I'll say right now is we didn't include FNCs, which is the fishermen needed catch, and that is the FNC. Thank you.

SENATOR DAMON: Mr. Chairman, I appreciated the presentation, and I want to follow up a little bit or add on to at least what Tom had to say initially and that is with all of the acronyms. It would be nice I think that if any of the presentations, especially those that go out to the public, if perhaps an index sheet couldn't be a piece of the standard portion not only with any of the acronyms used in that report, but you must be able to get all the acronyms close to one sheet or two.

That would be a good thing and I say that because I've just been looking through a document that we have published, "Guide to Fisheries, Science and Stock Assessments," and there is a great single page in there that even after being here for the years that I

have been, it becomes helpful to look at that. That would be a good piece for the public.

You said that this was a lot for the section to consider as you ended and you're absolutely correct, and so I'm wondering if perhaps this could be made available on hard copy, your presentation, to the section. If you could do that ASAP, that would be G-R-E-A-T.

CHAIRMAN STOCKWELL: Yes, Chris will send it out to everybody. Ritchie.

MR. R. WHITE: Is the ABC or the ACL set for three years?

MS. STEELE: Both.

MR. R. WHITE: They're both set for three years. Once those are set for three years, is there anything that can interrupt that?

MS. STEELE: Well, first of all, the process allows for three-year specifications. The council can just set specifications for one year if it wants to. I mean, we went through a three-year specification so we didn't have to set them every year, but there may be reasons that we would want to. Once the specifications are set for three years, the council has the flexibility to adjust them in any of the years.

MR. PATRICK AUGUSTINE: Lori, great presentation. I think you just have to remind everybody the new Magnuson-Stevens Act says the SSC will set the number. We can play all we want and we can ask for all we want; and assuming that the setting of the specification is for three years, and as in our council, the Mid-Atlantic, we can come up with new numbers as to what we want our ACL to be, allowable catch limit, but it will not exceed what the SSC sets.

So, the bottom line is no matter what you give them, whatever you give the SSC, you better make sure they have all the data they can handle. Otherwise, they'll use the word "uncertainty" as though it is going out of style. As soon as I hear the word "uncertainty", you throw the baby out with the bath water, and it's there whim and their woe, and that's unfortunate.

Tom Fote made a comment at our last Mid-Atlantic Meeting and he said so what you're saying – I won't paraphrase you exactly but what you're saying is what the SSC says is the law, and answer is, well, yes. There you are, but we have the flexibility as a council, either councils, or any of the councils to set anything below that, so we can be more restrictive with the AM.

That's the scary part of this whole process. My real question is how does the monitoring committee or PDT interact with the SSC or prepare information for the SSC that will give them additional information? Now, the reason I ask this is we had a slam-dunk situation in scup and black sea bass. Lori, can you help me with that?

MS. STEELE: Essentially the plan development team and the ASMFC's technical committee and the monitoring committee are almost the same people. The PDT sort of takes the first crack at this and provides information to the SSC. Because this time around there were so many issues related to the stock assessment, what we did is the PDT met and reviewed the stock assessment and developed a preliminary document for the SSC.

We went through the assessment and we said here is the big issue and here are the questions we have. What do you want us to do; what information do you want us to bring back to you to help you specify ABC and deal with this issue with the retrospective pattern? We had that meeting with the SSC last week.

We presented the assessment; we asked our questions; and the SSC gave us very specific guidance; go do these projections, three-year projections at various F levels and calculate the relative adjustment that would be needed for the retrospective on a year-to-year basis. We got that direction from the SSC last week, and now we are doing that work.

The PDT will meet again before the SSC meeting on September 16th and will prepare a document for the SSC, and then we'll go and present it to them on the 16th. It has been a good back and forth. Our SSC Chairman is very interested in working with the PDTs to try to get as much preliminary discussion out there as possible rather than just showing up at one meeting and hitting us with an ABC number.

The SSC Chairman actually came to the July PDT meeting and participated in the discussion with the PDT, so it has been a good, interactive process at least for herring. I don't know how it has worked for other species or other councils, but so far we've had a pretty working relationship with the SSC. That doesn't mean that any of us going to like the number

that comes out of it, but we've gotten clear guidance and we've had some good discussion.

REPRESENTATIVE ABBOTT: Senator Damon I think covered my points of the importance of us probably getting a copy of this and also the acronyms. I might say that this makes me look forward to a very exciting time being chair of this section in the next year.

CHAIRMAN STOCKWELL: I'm getting ready to congratulate you. Tom.

MR. FOTE: Pat brought up my comments about the summer flounder, and I'll go further in the next committee meeting about that. I find it very interesting that the council – and I'm looking at the council because that is what we're stuck with. As a matter of fact as I found on summer flounder, we don't even get a chance to vote. If the council doesn't go our way, our vote doesn't even count so they don't even ask us how we voted. When I look at this process, it allows us to be more restrictive, but if we have information that we have gathered we cannot actually be more liberal, and so you're asking us to do a one-sided thing.

I understand it is the law, but that is not really used anyplace else. You only want to see one side of the equation when we should be able to use two sides of the equation, so I have problems with the Magnuson Act with the way it was set up. The monitoring committee and what went on with the black sea bass was a perfect example where they didn't consider facts that the monitoring committee considered.

We're working through this process. It gives us a lot of anxiety in this process the way it is set up and the way the commission is being treated in the process and making me rethink whether we really need to attend some meetings since we actually just become a rubber stamp for what the SSC does.

You know, we talk about having specification meetings; well, the specification meetings are no longer specification meetings. We just basically go there and they say, well, you have no choice, so why spend all this money sending people to meetings and we're basically stuck with that? That's my concern here.

MS. STEELE: I just want to make one point to clarify. Yes, we are bound by the SSC recommendation on ABC, but there is nothing that says that we have to be more restrictive than that. Once you get your ABC recommendation, you adjust downwards to an ACL if there is management uncertainty.

There is nothing that says you can't set ACL equal to your ABC, but that would be a situation where you have no management uncertainty whatsoever. In this particular fishery we do have to make adjustments for at least the Canadian catch if nothing else. I mean, just a point of clarification; you know, there isn't a requirement to be more restrictive than what the SSC says. That really needs to be evaluated in the context of management uncertainty.

MR. FOTE: Yes, I understand that, but you have no choice. That's the only process you have now involved there. I also look at the other consideration here. I know most of us that are appointed to this commission, they go through a lengthy process. I have to go through the governor's qualifications and fill out about 15 to 20 pages of forms.

When I go to the legislature for approval, I fill out another 15 to 20 pages of reports – on a web page some places – every piece of property I own, every boat I own, every stock, every mutual fund is listed for the public review. When it comes to the SSC members, I don't know their qualifications. I don't know how their recommendations are working and working differently with each council. I don't know where they're getting their money from.

New Jersey has become very ethic sensitive because of what has been going on. It is a very drawn-out process right now. If somebody wants to take me to lunch, they can't if I'm wearing my commissioner hat. If they want to take me as a friend, that's another story. But that's the way the laws are going. I have no idea of where the SSC sits on those any of those ethics' rules, and that we're constrained to vote. I don't know how the selection process goes on every council because every council is different.

Since we deal with three different councils, we should know how those people are selected and where is our input on the selection of those people because we have input whatsoever, from what I understand, except for the council members or the recommendation. We have no rejection or basically a recommendation here.

If this is going to be a joint management process, we need a joint process to really be a joint process and not just a rubber stamp here. I mean, I'm basically probably going to order for the next meeting maybe 45 rubber stamps so we just rubber stamp – ASMFC

rubber stamps what the SSC does because that's the way I'm getting to feel here.

CHAIRMAN STOCKWELL: Well, I don't want to prolong this discuss too much longer. I've got Ritchie, then Doug, and then we're going to go to the next agenda item. We're running quite far behind.

MR. R. WHITE: Mr. Chairman, just a followup that Tom kind of started my question. Not being part of the council process – and there are others at the table here that are not – Lori, could you just quickly go through the process of how the SSC are selected? Do they have terms; could they be open to political pressure from states; and does the SSC operate on a vote or consensus? Could you kind of go through what the SSC is because I have no idea.

MS. STEELE: Well, I'm actually not terribly familiar with the selection process. I actually would defer to Terry. As a member of the executive committee, I believe they're chosen by the executive committee.

CHAIRMAN STOCKWELL: That is correct.

MS. STEELE: We had an SSC before we were required to use this SSC process. I believe that we did seek – I don't know if we sought applications, but we looked to our existing SSC members to determine if they wanted to stay on board. The selection process went through the council's executive committee.

MR. R. WHITE: Terry, is this basically a technical committee made up of state technical people; is that the makeup?

CHAIRMAN STOCKWELL: Not state; academic and university.

MR. R. WHITE: And do they have term limits and do you know if they have a set of rules that they operate under; do they vote, consensus?

CHAIRMAN STOCKWELL: They do, Ritchie, and I don't know it off the top of my head, but I'll be happy to e-mail it to you. Doug.

MR. GROUT: Mr. Chairman, this has been a great discussion. One of the things that I would like to follow up on from the section's perspective is whether there is interest on the section's part in participating in this specification process outside of the final setting that potentially is going occur at our annual meeting. Now, from the standpoint of the four administrative commissioners from Rhode Island north, we're on the council's Herring Oversight Committee. Is there a desire on the part of the rest of the section members here to participate in that October 6th meeting where the Herring Oversight Committee is going to be? Where is that going to be; do you know?

MS. STEELE: That will be in Portland.

MR. GROUT: In Portland, Maine. Is there a desire to get in at the front end of the process? As I said, we'll be there but are there other commissioners that would like to participate in it and make it a full section meeting?

CHAIRMAN STOCKWELL: We're going to wrap this up really quickly because we do have three other agenda items. I'm taking that as a sense of the section that they would like to participate in October 6th joint meeting. It is voluntary; you don't have to come if you don't want to. Unless there is an objection, I would work with staff to help facilitate this. Okay, to wrap this up really quickly, we have Peter and Pat and then, Tom, you want the last bite of the apple.

MR. FOTE: I just wanted to comment on you talked about the commissioners coming. You know, it is a short notice for most of the commissioners to basically do this. I looked at the summer flounder, scup and sea bass and bluefish meeting, and the only governors' appointees and legislative appointees that were there for scup, sea bass and summer flounder was basically the three commissioners from New Jersey.

Otherwise, it was all the state directors, so none of those commissioners were there. Dennis showed up for bluefish and he represented the whole state of New Hampshire, so luckily he was there. I made that comment and I got some pretty wise comments from the council members. One of the persons that actually made the comment, he worked for a group that actually paid him to be at meetings; so when he was at a commission meeting back then, he was getting paid to be here.

A lot of the commissioners have a tough time. I would like to come up and look at my schedule, but then it gets very costly, too, to the commission when we start running up these fantastic airfare bills because we're not doing three days; and when we're going to fly, it is a one-day turn around and they soak us for $500 for airfare. I understand Vince's concern here that the money goes up the wall.

CHAIRMAN STOCKWELL: It is an important fishery and an important resource for a lot of people. It is two months from now and we will work the issues out. Peter and then Pat and then we're done with this agenda item.

MR. HIMCHAK: Mr. Chairman, I just wanted to mention that the constitution of SSC was discussed at the last Mid-Atlantic Council Meeting. It can accommodate up to 20 members. We just had two people request to be removed from the SSC. The Mid-Atlantic Council is putting out a notice for nominations for candidates to essentially come before the executive committee of the Mid-Atlantic Council. An announcement will be coming from the Mid-Atlantic Council.

MR. AUGUSTINE: A final detail on that; we have a standard operating procedure, SOPPS, that has been developed as to the kind of credentials that the SSC members will have. Their resumes or vitae will come before the council members for review and approval or disapproval. In our case we ask existing SSC members if they know anyone that have the credentials that would be appropriate for filling in the areas where we don't have technical expertise. The council members still have the final say so as to whether they're approved and accepted or not. It is a two-year term. Unless a person asks to get off it, they normally are just allowed to stay on and on and on. Thank you, Mr. Chairman.

CHAIRMAN STOCKWELL: Thank you, Lori, and thank you all for a very good discussion. The next agenda item is Specification Process and Inconsistencies between Federal and ASMFC Plans. Chris.

SPECIFICATION PROCESS AND INCONSISTENCIES BETWEEN FEDERAL AND ASMFC PLANS

MR. VONDERWEIDT: I know we're behind so I'll try and move quickly. Basically, I was asked to put together a presentation highlighting the inconsistencies between the current specification and the ASMFC Plan and the Proposed Amendment 4 management. The ASMFC FMP being all-encompassing of all the documents that are used to manage this fishery from the ASMFC; the FMP was implemented in 1993.

Then Amendment 1 and Amendment 2 came along and they have overwritten the FMP, so these are the only documents that direct the management of the herring resource. There are two addendums for Amendment 1 and two addendums for Amendment 2. The specification process was established in Amendment 1 and then Amendment 2 expanded on the setting process.

All those things on the slide that Lori had with domestic at-sea harvesting and total allowable foreign fishing, that was all from Amendment 1. Then Amendment 2 expanded on this specification-setting process. The TAC boundaries were changed. It allowed the use of other analytical approaches when developing optimum yield and allowable biological catch.

It also gives a suggested schedule for this process between the ASMFC Technical Committee, the ASMFC Section, the Herring Plan Development Team and the Herring Committee, which involves about three meetings between the different groups. I don't think we've ever followed that. It also allowed for a three-year specification-setting process with the flexibility to adjust fishery specifications in interim years.

You probably remember that two years ago we did adjust our TAC specifications. I would just like to highlight that it largely uses language cut and pasted from the New England Fishery Management Council FMP. Sometimes it can be confusing when reading it as to which group it is actually talking about or directing as far as the process goes, so just keep that in mind.

The current specifications; this is exactly the same as what Lori had up there before so I'm not going to go into these in big detail, but what I will highlight are the minimum changes that would be necessary to have consistent language and specifications between the two plans. For starters we need a definition for catch in our plan. We would need to add an overfishing level definition and remove allowable biological catch.

The overfishing level, as Lori highlighted, was fishing mortality maximum times what the current biomass is, which is the exact same definition as we have currently for allowable biological catch. Then if you go one notch down from overfishing level from the Magnuson Act, you have another ABC, which is currently different than our ABC that is in our plan.

We could switch the ABC to the overfishing level; add acceptable biological catch, which is the scientific uncertainty; and then we would also add annual catch limit, which is the management uncertainty definition which actually coincides with

our definition of optimum yield, which is just defined as the amount of herring that provides the greatest benefit to the nation.

However, it is the number that is used and then subdivided into the TACs, which is what the ACL will be used for; so, for all intents and purposes it could replace that, and then possibly sub-ACL definitions. Right now we have total allowable catch. I will move forward one slide and just kind of show this; so, top left, allowable biological catch replaces with the overfishing level. These would be the same definition. You would just kind of change what the acronym was/

You could add acceptable biological catch so we would still have an ABC. It would be different, though. The U.S. Optimum Yield; this is a number that gets subdivided into Area 1A, 1B, 2 and 3. We would replace it overall with the annual catch limit, and that is, of course, the overfishing level, taking scientific uncertainty to get the ABC; taking management uncertainty to get the ACL; and then subdividing it.

Then amongst the areas we may want to change the language into sub-ACLs because that is the language that is currently being used. Maybe some other things to consider if the goal was consistency, that would be the JVP, IWP, total allowable foreign fishing, TAC reserve. I will highlight that there are a few options in Amendment 4 that have not been chosen or selected yet, so it may be premature to do that before seeing what happens in the federal plan.

Then the specification-setting process that I outlined before is very specific. It is just a recommended thing and we have never really followed it, so maybe loosening that language up would help us be consistent. I would also include in there accountability measures, which we're not positive how they're going to be dealt with, if they even need to be dealt with. There is a closure at 95 percent and the 3 percent research set-aside already in the plan, so one of the options in Amendment 4 is to not do anything further with the accountability measures. These are the kinds of things that may need to be changed. That's it.

CHAIRMAN STOCKWELL: Thanks, Chris. Questions for Chris. Pat.

MR. AUGUSTINE: Mr. Chairman, very quickly, so, Chris, what you're saying is on the first slide it would be pretty much essential that we develop those and move those forward to become a part of our plan? Then the second page is whether we want to or not?

MR. VONDERWEIDT: I'm just kind of trying to highlight what the differences. To be perfectly honest, we could go forward with what is in our amendment right now, and we could set joint specifications using different terminology and everything. The first one is different terminology. We're sure that it is going to be different terminology and would need to be changed if consistency was the goal. Yes, the second one is potentially depending on what happens in the federal plan.

MR. AUGUSTINE: Well, if that is the case, then, without spending a whole lot of time discussing what we need to do, should do or could have done, it seems to me that we should take the action to do your first slide. If there is way we can incorporate that and move it forward with the document that we have now, why don't we just do that as opposed to waiting later and then having to do it at a later time? If that makes sense I would suggest or make a motion unless we could just take it as a staff action.

CHAIRMAN STOCKWELL: Okay, if you can hang on a little bit, I think there is a motion all set. Doug.

MR. GROUT: Can I make the motion? Mr. Chairman, given the fact that most of that is just changing terminology to comply with the Magnuson Act and so we're consistent, **I would like to move to initiate an addendum to address inconsistencies between the NEFMC and the ASMFC Atlantic Herring Specification Definitions and Specification-Setting Process. Proposed measures will include inconsistencies as highlighted in the NEFMC and the ASMFC staff presentations as well as recommendations of the plan development team**.

MR. P. WHITE: Second.

CHAIRMAN STOCKWELL: The motion was made by Doug Grout and seconded by Pat White. Discussion. Bill Adler.

MR. ADLER: Just a question; is this in an amendment and can you change it with an addendum?

CHAIRMAN STOCKWELL: It is an addendum.
MR. ADLER: Already?

CHAIRMAN STOCKWELL: No, it is a motion to initiate an addendum.

MR. ADLER: An addendum; and I'm just saying if something is in an amendment, can it be changed by an addendum or does it need an amendment?

MR. ROBERT E. BEAL: These provisions are included in the adaptive management section of the last amendment the section put together so it can be changed through an addendum.

DR. PIERCE: I hope we can make this as simple as possible. I would hate to spend an evening at a public hearing to discuss change of terms that's rather not very fruitful. The last part of this motion says "as well as recommendations of the plan development team"; what does that specifically refer to; what are those recommendations; do we have them now; is this a motion to anticipate changes? It will be important for us to know what is meant by that.

EXECUTIVE DIRECTOR O'SHEA: Well, I think where you are, Mr. Chairman, is this is a motion to initiate an addendum, so this would give staff direction to go out and do the first part as well as get information on the second part and bring that back to you all at your next meeting to look at, so I would say at this point to be developed.

CHAIRMAN STOCKWELL: You okay with that, David?

DR. PIERCE: Yes, that's fine; staff will put some more time into this and give us an improved list as to what we need to do. I certainly have no objection moving forward in this way with this particular species since, after all, we're looking at a fishery that is predominantly if not almost entirely federal permit holders. We don't have a recreational fishery to concern ourselves with such as fluke, scup and sea bass. This I think is fairly straightforward and it makes sense to go in this direction.

CHAIRMAN STOCKWELL: Other section comments. Jeff, do you want to make a comment before we vote?

MR. KAELIN: Mr. Chairman, I don't see anything on paper about this thing, and I unfortunately had to talk to somebody when Chris made his presentation. Is this about the US AP and so forth possibly being dropped out of the council specifications? What specific specifications are inconsistent? I don't get it.

CHAIRMAN STOCKWELL: Chris, can you flash that slide back up, please.

MR. KAELIN: I'm sorry; I really apologize to take your time. I know you're busy and I wanted to comment on the agenda item.

MR. VONDERWEIDT: This is the one right here, Jeff. Basically, the terminology is –

MR. KAELIN: To make it consistent with the ACL/AM process?

MR. VONDERWEIDT: Yes.

MR. KAELIN: Okay, I've got it. All right, thank you very much.

CHAIRMAN STOCKWELL: Everybody set? Okay, all in favor please raise your hand; any opposed; nulls; abstentions. **Unanimous; thank you**. Vince.

EXECUTIVE DIRECTOR O'SHEA: I'll try to give you some cover here, Mr. Chairman. Just so everybody else knows, we have summer flounder that has already got a jam-packed agenda and we're nervous about the time we've given the Summer Flounder Board. I'm glad we're having so many comments from the Mid-Atlantic members here, but so folks know that you're trying to push this group through so we can put fair time to substantial issues on summer flounder, scup and black sea bass. I'd encourage you to keep doing that. Thanks.

CHAIRMAN STOCKWELL: Okay, thank you, Vince. Actually, we have two more agenda items. One is primarily focused in Northern New England and it is the result of a conversation that we had at several days-out meetings. I'm going to turn it over to Doug.

DISCUSSION AND ACTION ON SMALL-MESH TRAWL FISHERY

MR. GROUT: Mr. Chairman, I sent out an e-mail to the section members or had Chris do that for me, trying to give you a little preparation for this agenda item. As you know up in the Gulf of Maine with our Area 1A quota, the section members have worked very hard over the past several years to try and control the landings in this particular fishery up there so that we don't use up the quota quite as rapidly so that there is quota available throughout the season and through the fall.

Initially when we had a higher quota, we were able to do this by essentially limiting landings one or two days a week so that we were allowing landings five or six days a week. Recently with the reduction in quota that was set at the last specifications' process, we've have had a much more difficult time constraining the landings' rate to the extent that we've only been able to allow two or three landing days per week at most and sometimes even less.

Keep in mind here that the vast majority of the landings are done by large vessels, either purse seiners, mid-water trawlers or pair trawlers. However, there are a few small-mesh bottom trawl boats that do either target these fish or catch them as an incidental catch to their whiting fishing. They sell these herring to lobstermen for bait. They have small businesses.

What we've found is – and we were made aware of this last year when we started constraining the landing days to three days a week or less – that this is having a negative impact on their businesses because these boats, because they don't have the large capacities of the large boats or the catching capacities of these vessels, count on being able to land a relatively small amount of herring everyday or most days of the week.

When we had five landing days a week that wasn't a problem for them because then they just take a couple of days off, but now that we're down to two landing days per week this has had a significant impact on their businesses. What is happening is these boats, their customers are saying, "Well, I need herring on one day, but you can't give it to me three days later," because they're on a no landing provision, which limits them to only 2,000 pounds on no landing days.

As a result I've tried to put together a statement of the problem and flush out a few options to try and address this that would allow these boats to continue to fish during the no landing days and catch small amounts of herring. I've suggested two or three options; one, we would pare out a small portion of this quota.

As I've said they amount to less than 2 percent of the landings annually in Area 1A, and we could either have a fixed amount such we have already set aside for the Downeast Fixed Gear Fishery west of Cutler where we have cut out 500 metric tons and said they can fish on those and they can fish during the days-out provisions.

We could also do a percentage. We could come up with some kind of measure that would be a percentage of the quota. This might be something that we want to consider given the fact that we have a potential that our overall quotas are going to be reduced. The other options that I've presented are to increase their trip limits to various amounts.

The Category D permit holders, which is an open access bycatch fishery, are already limited in the federal plan to 6,667 pounds per day. The Category C permit holders have a much higher trip limit, but in these vessels that we're talking about 10,000 pounds is a lot of landings. As I stated towards the end of the memo to you folks, again, these have a very small impact on the resource.

Again, in 2007 there were only 19 boats and they landed about 725 metric tons total. In addition, if you take during the peak of the fishery, which is August and September, they only average about 3,600 pounds per trip. What I'm asking would like to move to initiate an addendum that would try and come up with some measures that would allow these boats to fish on the no landing days either under their own quota or under different trip limits. I'm also open to any other options that board members or the technical committee could come up with for this or we could strike some.

What I would like to do is initiate this addendum so that we could have this in place for the next fishing season. These boats have been disadvantaged for the past two fishing seasons, 2008 and 2009, when we've had these extremely limited landing days. With that description, I would be willing to take questions, but I am prepared to make a motion to initiate an addendum.

CHAIRMAN STOCKWELL: Thank you, Doug, for laying out a unique situation that I'm absolutely supportive of addressing. I have a little bit of angst about initiating the addendum today. I believe the white paper should go to the AP and the TC and that we should have this an action item at the fall meeting. I'm going to defer to the wisdom of the section here, but that would be my druthers.

I mean, just for instance, even though there are only a handful of Category C landings recently, there are 54 Category C and 2,200 Category D boats, and we need to look at the Maine fixed-gear 500 tons. If we're going to look at the very real likely of dropping the specifications, we're probably going to want to consider reducing the Maine fixed-gear percentages as well. I would like to do this once and do it well.

I think if we spend some time between now and the fall meeting we can have a fairly tight addendum proposed that we've already gone through some of troubleshooting on and we can move it ahead for implementation at next year's fishing year. Ritchie.

MR. R. WHITE: Mr. Chairman, I support your proposal of it going to the technical committee and the advisory panel. That's the process we normally use. I also wanted to add that these permitted boats are not just New Hampshire boats. They're Maine and Massachusetts and possibly Rhode Island boats as well.

MR. P. WHITE: I, too, am supportive of where you're headed, Mr. Chairman. It was listed as just a discussion item on here. I totally support what Doug is trying to do and would be happy to support what I conceive as what his proposal is.

DR. PIERCE: Doug has done a very job touching base with us early on to get our initial reaction to what he has offered up. The logic for it is certainly not in space, it seems quite sound and it merits further discussion. Specifically, according to your suggestion, Mr. Chairman, I think the review and consideration by the technical committee is very warranted as well as by our advisory panel.

In addition to that, the enforcement committee should have a look at this because it has all sorts of concerns if we're going to have some sort of a quota for a segment of the sea herring fishery albeit it a small segment. Enforcement needs to be considered; monitoring as well. I definitely would like to have further insight into what might be the consequence of increasing effort in this segment of the sea herring fishery even with a specific cap on total amount of take and what would be the impact specific to bycatch. I know where these boats would be fishing and the time of the year when many of these boats would be fishing there is a river herring bycatch issue.

A small-mesh fishing, more small-mesh fishing might have an impact on the river herring bycatch, groundfish bycatch. We all need to continue our concern about small-mesh fishing in the Gulf of Maine. Clearly, you need small mesh if you're going to go after sea herring, and clearly there is a need for a continued supply of bait, especially provided by those boats that have been perhaps impacted in a rather adverse and maybe unfair way up to the point in time.

So, let's move it forward, let's have it analyzed with considerations to enforcement, monitoring, bycatch issues, and the potential amount of new effort that might enter this fishery in light of all of the groundfish restrictions that will be faced by the groundfish fishermen and by other fishermen coming up in 2010 with an increased limit up to 10,000 pounds or whatever that might provide incentive for more boats to get into this fishery as an alternative to groundfish, especially if they're in sectors and they're looking for something else to do. I support your suggestion, Mr. Chairman.

MR. GROUT: I support sending this information to the technical committee and the advisory panel and the law enforcement committee. I would like to have the process of the addendum initiated now. The reason is I'm concerned if we wait to actually initiate the addendum at the fall meeting, at that point the plan information document will be developed for our approval at the winter meeting in February.

Then it will go out to public hearing for comments for our final decisions in May. From my standpoint, and I don't know about your other states' standpoints, that is going to be a little bit too close to the beginning of the fishing season to establish any new rules that we might have to put in as a result of this addendum.

I am in favor and I would hope that the section would be in favor of starting the process now and including, as we develop the plan information document, the analysis by the technical committee and the comments by the AP and the law enforcement committee. I'm afraid if we wait until the fall, then you're going to put at least me up with my back against the wall to getting in some rules in time for that fishing season with the small-mesh fishery to start.

CHAIRMAN STOCKWELL: Vince, do you have a clarification?

EXECUTIVE DIRECTOR O'SHEA: No, just a question, Mr. Chairman. This discussion might be helped by knowing by what date does the section need to make a decision to accommodate the rule-making process. I think you ought to have that up front to see what we can accommodate.

CHAIRMAN STOCKWELL: Doug, what is your deadline? We just went through with our last addendum and moved forward a number of changes in the same time period. We certainly need to accommodate your needs.

MR. GROUT: Well, my needs are in a sense I look at we set our quota allocation process by season. We'll be doing that at the beginning of the year. The second half of the fishing season begins June 1. This fishery begins in July. If we approve this addendum in May and I need at least a month or two to get this thing out for my public hearing process. Then to have it in place, it is making things very, very tight for me. If it is approved in February, I have plenty of time to get this in. Mr. Chairman, I think we can do both; that is what I'm saying.

CHAIRMAN STOCKWELL: Other section thoughts? Dennis.

REPRESENTATIVE ABBOTT: I know we're running out of time and I didn't want to speak, but I feel compelled to. I support Doug's suggestion because I think we have the unintended consequence of penalizing these small boats. I don't think that when we got into this days-out situation that we realized that.

It is almost like we've created several Wal-Marts and the little mom-and-pop stores are taking it on the chin. I really think that we should start moving forward so that by next year we can consider offering some relief to our hard-pressed fishermen who are supplying bait to the local lobster fishermen, which I think will be very important next year.

CHAIRMAN STOCKWELL: Timing-wise, though, whether we initiate it today or in the fall, we're still not going to have the public hearings until after the fall meeting. What is the sense of the section? Go ahead, Doug.

MR. GROUT: To help further the discussion I have a motion that I would like to put up. **I move to initiate an addendum to address the reduction in landings that small-mesh bottom trawl vessels have under the Area 1A days-out agreement in 2008 and 2009.**

Management measures to be included in the draft addendum will include but are not limited to allocation of a fixed percentage of the Area 1A TAC based on historical landings to small-mesh bottom trawl vessels; two; allocation of a fixed amount of the Area 1A TAC based on historical landings – I'm sorry, this looks like it might be – oh, yes, I did say percentage the first time – **based on a fixed amount of historical landings to small-mesh bottom trawl vessels; three, sub-options for 1 and 2 which allow small-mesh bottom trawl vessels to land up to 2,000 pounds per day or prohibit them from landing once the quota has been harvested; four, options to allow small-mesh vessels to land in excess of 2,000 pound bycatch allowance on the days out of the fishery; and, five, other measures as recommended by the PDT, TC, AP and approved by this section. A draft addendum will be presented at the annual meeting for consideration by the section.**

CHAIRMAN STOCKWELL: Second by Pat Augustine. Discussion; David.

DR. PIERCE: I'm still not certain that postponing this until our November meeting is going to be a big problem for the states. I really do think we have some more time, and I feel uncomfortable moving this forward right now, especially since this is not supposed to be an action item. This is a discussion item on the agenda. **I would move to postpone this action until our November meeting.**

CHAIRMAN STOCKWELL: Is there a second on that? Seconded by Peter.

EXECUTIVE DIRECTOR O'SHEA: You have a motion to postpone and you have the second now. The motion to postpone is debatable with regard to the merits of the impacts of postponing it; not the merits of the motion itself.

CHAIRMAN STOCKWELL: Thank you for the clarification. Discussion on the motion to postpone. Pat.

MR. AUGUSTINE: Well, here is another situation where we have identified a problem and those parties concerned and participating are aware of it. The way the addendum has been presented, it would encompass all of those concerns stated by Doug Grout. More importantly, here is another situation where we're going to delay an action that could either offset or correct the situation, so why delay for three months.

If in fact the technical committee or the PDT can muster up some time – and I guess I would have to ask the staff if they can do that and come forward with some clarification between now and then, then I think we have attacked the problem in a professional way and the way we should and that this is the way this section should be operating. To delay it for any reason at this particular point in time in my mind is not justified. I would support this motion. I would not support the motion to postpone.

MR. ADLER: I'm going to disagree with my colleague next to me. I think that this is only a move to move it forward. It isn't agreeing or accepting anything, but it just gets the ball rolling. We can take a look at it in the fall and either keep the ball rolling or do whatever we want to do at that time.

CHAIRMAN STOCKWELL: Other section comments on the motion to postpone? Seeing none, state caucus.

(Whereupon, a caucus was held.)

CHAIRMAN STOCKWELL: Okay, on the motion to postpone; those in favor please signal. **Okay, the motion to postpone fails. We're back to the main motion**. Pat.

MR. P. WHITE: I just had a question of Doug, if I could, Mr. Chairman; he said that this was part of a first step and there was a second step, or did I misunderstand you for what you were intending for the November meeting?

MR. GROUT: No, the way I saw the process was that we would initiate the addendum right now and these issues as well as the solution to the problem could go to the technical committee and the AP and the law enforcement for their input, either saying, yes, there is – give us feedback on these five suggested items or maybe give us additional items. At the same time the PDT can be developing the plan information document for consideration by the public if we approve that at the fall meeting.

CHAIRMAN STOCKWELL: My read is that you're looking to have this motion perfected between now and the fall meeting and accommodate the TC and the AP comments and the enforcement and the other issues that Dr. Pierce raised?

MR. GROUT: The plan information document would include this. In fact, I have another perfection right now.

CHAIRMAN STOCKWELL: Well, given staff resources and time, it is a tall order. Any other section comments? David.

DR. PIERCE: Yes, it is a tall order. Fine enough; I can see this is going to pass, and that means we will have an opportunity for some real thoughtful discussion as to what the plan development team will bring forward, the technical committee, et cetera, et cetera. I want to emphasize that as part of this initiative, when next we meet to discuss this particular motion and the input from those who will advise us, I would like to see an evaluation of the data base to the extent that it can be evaluated to help us get a better understanding as to what we can anticipate for bycatch concerns.

Specific to river herring, I know what is going to happen. I know what happens, for example, in the fall in Ipswich Bay. With a lot more boats out there fishing with small-mesh bottom trawls, it is not going to be a pretty sight, I don't think, but I stand to be corrected depending upon what the data base actually shows. I hope it reveals something that we can actually use, as well as potential groundfish catch with all this small-mesh fishing.

CHAIRMAN STOCKWELL: Thank you; duly noted. Other comments from the section? Caucus, please.

(Whereupon, a caucus was held.)

CHAIRMAN STOCKWELL: Those in favor of initiating the addendum please raise your hands. **It looks like it is unanimous to me**. Thank you, Doug, for doing the heavy lifting. Vince.

EXECUTIVE DIRECTOR O'SHEA: Mr. Chairman, two comments. One is as some people have pointed out, this was a discussion item that has now morphed into something more than that. The first would be to put a marker in. I think getting a solid problem statement up front in the document has shown to be a good investment in previous exercises. One with this action would be – my sense is there is a commitment from both the maker of the motion and the other states to help staff early on to get a good problem statement going forward so you can get the most out of the PDT.

Then the second is in terms of timing my sense from the conversation is the goal here would be that the section would like to take final action at the February meeting, that that is the intent embedded in this motion. That is relevant in terms of timelines and in terms of when we've got to get things from different folks and bring things back to you all.

CHAIRMAN STOCKWELL: Thank you, Vince. Next on the agenda is Tina. Doug, do you have a follow up?

MR. GROUT: Yes, just one other item that I think we need to keep in mind for this addendum is we do have a fixed quota for the Downeast Fixed-Gear

Fishery west of Cutler. In light of the fact – isn't it west?

CHAIRMAN STOCKWELL: No, actually it is west. It was part of my angst in initiating the addendum today because I wanted some more time to think about it, but I will.

MR. GROUT: I think we need to at least look at potentially having an option in the addendum that would give us an option to set it as a percentage as opposed to a fixed amount. I don't know whether we should try and carve that in right now or just give a sense to the PDT to include it.

CHAIRMAN STOCKWELL: No, I'll work with staff to make that happen. David.

DR. PIERCE: Yes, just one word of caution; once the sea herring industry in particular learns of this action, they will be very vocal in their concern, and they will also, in some cases, I suspect urge specific set-asides for them as well. Those of us who were involved in the discussions about the set-aside for the Downeast know that there were other groups that came forward and urged, with very good reasons, for specific amounts of the overall quota to be set aside for them. This will reopen that box and we will have to deal with it at the ASMFC level and it might even prompt some discussion at the federal level as well, give Lori some more work.

CHAIRMAN STOCKWELL: It is indeed a slippery slope. Tina.

NOMINATIONS FOR ATLANTIC HERRING ADVISORY PANEL

MS. TINA BERGER: Mr. Chairman, briefly we sent a call for nominations to include non-traditional stakeholders on the advisory panel. We received a small number of nominations that were reviewed by the Advisory Panel Oversight Committee in conjunction with some members of the section. They felt that they wanted to re-solicit more nominations and we have done so. If anyone on the section has ideas of folks that they think would fit those non-traditional seats, please forward that call for nominations along.

Right now I have here action for new nominations to the Atlantic Herring Advisory Panel. They are Mike Anderson, an inshore commercial trawler from New Hampshire; Michael Watosky, a recreational angler filling New Hampshire's at-large seat; Stephen Weiner, a commercial bluefin tuna fisherman and CHOIR representative, filling Massachusetts at-large seat; and Jeff Kaelin, a commercial trawl and purse seine representative, filling New Jersey's commercial seat. I offer those for your consideration and approval.

MR. GROUT: **I move we approve all nominations**.

CHAIRMAN STOCKWELL: Seconded by Bill Adler. Discussion. **Without objection, welcome to Mike Anderson, Michael Watosky, Steve Weiner, and Jeff Kaelin.** David.

DR. PIERCE: Mr. Chairman, in light of some of the discussions we had early on relative to the presentation given by Matt and also by Lori, I think it would be appropriate for us to weigh in on the desire for there to be a benchmark assessment for sea herring, so **I would move that this section request the Northeast Fishery Science Center perform a benchmark assessment for sea herring in 2010.**

ADJOURNMENT

CHAIRMAN STOCKWELL: Seconded by Doug Grout. Is there any discussion? Is there any objection? **Without objection, the section will request this assessment.** Any other business before the section? Congratulations, Representative Abbott, you're taking over the helm and this meeting is adjourned.