

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

**Radisson Plaza-Warwick Hotel
Philadelphia, Pennsylvania
October 22, 2012
Approved February 19, 2013**

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1. **Motion to approve agenda** by Consent (Page 1).
2. **Motion to approve proceedings of August 7, 2012** by Consent (Page 1).
3. **Move to adopt Addendum V with the appendices (Page 2).** Motion by Doug Grout; second by William Adler. Motion carried (Page 2).
4. **Move that the technical committee move forward with a further study to include management and sub-area management for Area 3, Georges Bank area, and possible alternative sampling measures and have the technical committee report back at the next ASMFC Annual Meeting in 2013** (Page 9). Motion by Rep. Sarah Peake; second by Ritchie White. Motion carried (Page 11).
5. **Move that the 2013 specifications replicate the 2012 specifications in Area 1A** (Page 12). Motion by Terry Stockwell; second by Dennis Abbott. Motion carried (Page 12)
6. **Motion to adjourn** by Consent (Page 14).

ATTENDANCE

Board Members

Terry Stockwell, ME, proxy for P. Keliher (AA)
Steven Train, ME (GA)
Doug Grout, NH (AA)
G. Ritchie White, NH (GA)
Dennis Abbott, NH, proxy for Rep. Watters (LA)
Rep. Sarah Peake MA (LA)
William Adler, MA (GA)
David Pierce, MA, proxy for P. Diodati (AA)
Mark Gibson, RI, proxy for R. Ballou (AA)
Bill McElroy, RI (GA)

Rick Bellavance, RI, proxy for Rep. Martin (LA)
Dave Simpson, CT (AA)
Rep. Craig Miner, CT (LA)
Pat Augustine, NY (GA)
James Gilmore, NY (AA)
Brian Culhane, NY, proxy for Sen. Johnson (LA)
Peter Himchak, NJ, proxy for D. Chanda (AA)
Tom Fote, NJ (GA)
Adam Nowalsky, NJ, proxy for Asm. Albano (LA)

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

Ex-Officio Members

Matt Cieri, Technical Committee Chair

Jeff Kaelin, Advisory Panel Chair

Staff

Robert Beal
Toni Kerns

Mike Waine

Guests

Jeff Marston, NH F&G
Larry Miller, US FWS
Bob Ross, NMFS
Peter Burns, NMFS
Dan McKiernan, MA DMF

Nicola Meserve, MA DMF
Kristen Cevoli, Pew Charitable Trusts
Raymond Kane, CHOIR
Patrick Paquette, MSBA/RFA
Janice Plante, Commercial Fisheries News

The Atlantic Herring Section of the Atlantic States Marine Fisheries Commission convened in the Radisson Plaza-Warwick Hotel, Philadelphia, Pennsylvania, October 22, 2012, and was called to order at 8:00 o'clock a.m. by Chairman David Pierce.

CALL TO ORDER

CHAIRMAN DAVID PIERCE: Welcome this very early morning on the first day of ASMFC to Philadelphia for our Atlantic Herring Section Meeting. We have one hour devoted to this meeting. When planning for this meeting, I asked Toni if we had enough on the agenda to justify a Section meeting and she assured me that we did, and the agenda actually has grown.

She advised me that it would grow, but we have one hour to do all this so bear in mind that we have one hour to accomplish our business. It actually might be rather straightforward.

APPROVAL OF AGENDA

CHAIRMAN DAVID PIERCE: All right, you have before you our draft agenda. There is one item on this agenda they were going to delete – I am doing that with the advice of Toni – and that would be Number 7, the update on the New England Council Amendment 4 Court Case.

My understanding is, and correct me if I'm wrong Toni, that this will be covered at the river herring and shad meeting. Because we have just one hour, it makes sense for us not to cover it at this meeting. I'm assuming that everyone will be at that meeting river herring and shad meeting and at that time you will be updated on that court case relative to Amendment Number 4.

You probably have already seen in your handouts or on the disk that we have a couple of correspondence related to that lawsuit. Both of those letters are not directed towards us, I don't believe, but to the New England Council, and that would be from Earth Justice. You may have already referenced those particular documents, but at least you have them handy for the meeting later on with river herring and shad.

All right, is there anything else to add to the agenda; any revisions to the agenda that you would like to make? If not, then I would rule that we have adopted this agenda by consent. We will therefore be guided over this hour with that agenda.

APPROVAL OF PROCEEDINGS

CHAIRMAN DAVID PIERCE Proceedings from the August 2012 meeting; does anyone care to move to approve those proceedings? Bill Adler moves; seconded by Steve. Therefore, without objection we will consider those proceedings approved.

PUBLIC COMMENT

CHAIRMAN DAVID PIERCE Public comment; is there anyone in the audience that would care to comment on any issue relative to our Section business specific to sea herring; however, not to those items that are on the agenda since obviously there will be an opportunity to comment on those as we go along. All right, no comment from the public.

DISCUSSION OF COMPREHENSIVE SPAWNING REGULATIONS UNDER ADDENDUM V

CHAIRMAN DAVID PIERCE Next is review and approve comprehensive spawning regulations. At our last meeting we did approve Addendum V, which is related to the spawning sampling provisions, including comprehensive spawning requirements for the FMP. However, at that time we decided to wait until this meeting to give final approval, I guess you could say, until Toni was able to put together the different appendices that pertain to the specific spawning regulations. Toni, have I have missed anything; what you like to add to that? All right, Toni has a presentation to give that will describe what has been added to the addendum. After she is through, we will field some questions and then I will look for a motion to approve that addendum with the added appendices.

MS. KERNS: As Dr. Pierce stated, at the August meeting the board did approve final measures for Addendum V, and those included changes to the spawning herring size bins and the number of samples that were required. Just as a reminder, the spawning measures that were previously contained in the FMP were in four different management documents and some of the guidance was not completely clear because of the multiple management documents that they were in, and so there were some slight inconsistencies as a result of that.

There is now one clear set of guidelines for all of the spawning regulations in Appendix A. The management document, when it went out for public comments, stated that the Section would vote at its final meeting to approve the measures including the

comprehensive list of spawning regulations in Appendix A.

Those measures include spawning areas, spawning closures, tolerance provisions, bycatch allowance and other considerations. In the document itself I will be changing the figure. I do realize that figure is still incorrect. At the time I did not have a correct boundary figure that also contained the spawning area closures labeled, and so I think Matt actually will have one for me, and I will be able to put that into document in the two places as well as we removed all of the note sections that were in the document while it was out for public comment. Are there any questions?

CHAIRMAN PIERCE: Are there any questions for Toni? Terry.

MR. TERRY STOCKWELL: Mr. Chairman, not necessarily for Toni but for Matt when it is appropriate.

CHAIRMAN PIERCE: I'm sorry, I couldn't hear you.

MR. STOCKWELL: I have a question for Matt when it is appropriate.

CHAIRMAN PIERCE: Go ahead.

MR. STOCKWELL: Matt, following up on some conversations we had about a month ago about the disparity between the samples from your crew and Mike Armstrong's; could you relay to the Section on the resolution that you folks have worked out?

What I'm referring to is the Massachusetts/New Hampshire spawning area that the Maine DMR crew takes samples and there is often a delay in the spawning index between the Maine samples and the Massachusetts samples. Some of this delay has caused some concern to our fishermen, and Matt and I were in conversation about it and he has got a resolution that I would like him to share with the Section so it is public.

DR. MATT CIERI: It is actually in the presentation that I am going to give. For those of you who don't know, basically what ended up happening is we know that there are probably two spawning bodies of fish in this general area. Consistently we have been seeing one body that has been literally a week and a half to maybe two weeks behind the more northern body of fish that is actually in that area spawning.

This year it became actually very interesting because we were picking up samples from both laboratories. Some samples were fairly far along; other samples weren't. In conjunction with Massachusetts DMF, we sort of hatched this sort of plan of using sort of an average GSI component between the two.

Literally when we went through and we mapped out the differences between these two bodies of fish that we had sampled fairly regularly, the distance was less than ten nautical miles. Fish in one spot would be fairly close to spawning and fish to another spot weren't. Unfortunately, we still don't have a lot of that resolution spatially over years to determine where we should put a spawning area boundary.

Hopefully as Massachusetts DMF and Maine DMR work on this, we could hopefully at some point be able to put a line some place that would allow us in general to separate these two bodies of fish so that we don't run into that.

CHAIRMAN PIERCE: All right, are there any further questions of Toni on her explanation as to what has been added and clarified in the addendum? I see none; therefore, I would entertain a motion to adopt the Addendum V as amended with the added appendices. Doug.

MR. DOUGLAS GROUT: **I move we adopt Addendum V with the appendices.**

CHAIRMAN PIERCE: There is a motion from Doug; Bill Adler has seconded. Is there discussion on the motion? Okay, is there a need for a caucus? I assume not. I will entertain any comment from the audience on the motion. I see none; therefore, all in favor of the motion please signify by raising your hand; opposition; abstentions; null votes. **It is unanimous.** Thank you very much and thanks to Toni for all her work on Addendum V with different state staffs to get it in order.

TECHNICAL COMMITTEE REPORT

All right, next is a that has been prepared by Matt Cieri relative to the Nantucket Shoals Spawning Area. It is a white paper he has assembled for us. This was done at our request, and we were reminded of this request by Representative Peake at our last meeting, so thanks to Matt and whoever did help you, Matt, in putting this white paper together for our consideration. After he goes through this white paper, there may be some recommendations from Matt and I will look to the Section for a response.

DR. CIERI: Just so everyone is clear, this is actually a work product of the actual full technical committee, so I am here representing the technical committee and not me and my opinions. To start off with, you guys had asked for a detailed look at the potential for putting in spawning area management out on Georges Bank.

We took a look at that and this whole white paper is basically what we came up with as a technical team. For those of you who aren't familiar with this particular issue, managers and some stakeholders have indicated that there is interest in spawning area management in the Georges Bank/Nantucket Shoals Area. For those of you who have been around this for a while, the regional administrator, when implementing the FMP, on the federal side actually disapproved spawning closures in general; not just offshore but also inshore for a variety of different reasons.

One thing that I would like you to keep in mind is that we talk about it as one place, but Georges Bank/Nantucket Shoals is huge. It is literally size that we normally would find for all of our inshore spawning areas. It is stretched from the Hague Line all the south through Cape Cod. We will be talking a little bit about the differences between inshore and offshore components.

For the inshore complex we have a very complex set of management and monitoring objectives. We have got three different areas, all with spawning closure default dates as well as a very large sampling program that goes into implementing our current spawning regulations. This involves personnel from Massachusetts DMF, New Hampshire Fish and Game and Maine DMR.

We collect usually over a hundred fresh fish samples every year for this inshore spawning area management. Given all this, the technical committee had some issues that you guys might want to address and take a good hard look at and then decide if you want to do some sort of management action.

The first issue that the technical committee would like you guys to think about is your goals and objectives. The spawning closures are really not biological issues. That was pretty clear during the implementation of the FMP. The assessment only looks at yearly mortality, and so any savings that you have by putting in the spawning closures to prevent fish from being killed during the spawning time is usually made up for other mortality that occurs earlier in the year or earlier in the life cycle.

Remember, we don't have a minimum size, so all you're basically doing is protecting the fish while they're in the act of spawning; not before and not after. There isn't much of a biological issue. There are some concerns about disrupting fishing activities and disrupting spawning behavior on the actual spawning ground as well as physical disturbance of the egg bed.

The technical committee noted that other fisheries can exploit those spawning areas. We don't close our spawning areas to bottom trawling, for example. There hasn't been a lot of examination on the effects of other fisheries on the spawning beds in that particular area. The technical committee does know that there is some benefit for shifting some of the effort offshore.

Remember, our spawning area tolerance and our days-out provision taken together, what we tend to do is tend to put in more days at the beginning part of the year and then less days as you move further and further later in the year. When you put in the spawning closures, you start to notice that the catch rates do in fact go down.

Many of the vessels actually prosecute the offshore areas or the areas that are still open inside the Gulf of Maine, so there is some benefit with translocation of effort into the offshore component. However, that is one thing to keep in mind when you start talking about the inshore versus the offshore spawning area management. Many of the vessels that currently prosecute the offshore area have the ability to switch to purse seine. Most of them also do fish in the inshore during certain portions of the year. One thing that was noted when the New England Fishery Management Council looked at this issue fairly recently was there is a quote there about protection of the offshore spawning area may come as an expensive translocation of effort from offshore to inshore. Now, the inshore component of this stock is what we have considered to be or near full utilization.

What you would end up doing would be to put in spawning closures out on Georges Bank and Nantucket Shoals and people would actually not go there to fish. They would actually simply fish in the inshore Gulf of Maine instead. Now, all these areas are protected by TACs so this is what makes everything fairly complicated.

The other issue that the technical committee would like you guys to consider is we need data. The current inshore monitoring relies on a relationship

between gonadal somatic index and actual spawning condition, a visual spawning condition. In order to predict the closures, we use this gonadal somatic index, which is basically weighing gonads and weighing fish bodies in order to predict when spawning is going to occur usually a week to a week and half out.

However, the inshore component and the offshore component we know each of the individual fish grow at different rates in general, and so we would have to establish that relationship completely as to what GSI level translates into what spawning stage for the offshore component. For the inshore we have got a lot of data that does that.

Within your regulations, for example, you talk about a 15 percent or a 20 percent GSI. We don't know what those numbers are for the offshore component. There is a reason for that; mostly because we don't have fresh samples, and we will get into that a little bit later. The other thing to keep in mind is that unless you're willing to close or consider closing a large stretch of Georges Bank and Nantucket Shoals for weeks upon weeks upon weeks, more than likely you're going to want to look at some sort of sub-area management similar to what we have in the Gulf of Maine.

Georges Bank fish don't all spawn at once out there. There is usually a progression from the northeast peak to the southwest channel over the course of about a month and a half. Therefore, like the inshore part of the Gulf of Maine, you might want to look at sub-area management in order to keep things from being closed prematurely.

You also need fresh samples to determine the default dates, for example. If you're going to do sub-area management or if you're going to even treat as one big area, in the inshore spawning area management we tend to use these default dates if you don't have commercial samples. We don't know quite what that default date would be for the Georges Bank component partly because we don't know what kind of sub-areas we would set up and we also don't know what kind of a relationship between GSIs and gonadal somatic index are.

We need fresh samples. Currently we haven't been collecting fresh samples from Georges Bank because that component spawns roughly at about the same time as the inshore component. Because of staff time and personnel and whatnot, generally the way it usually works is fresh samples are actually taken directly to the laboratory and samples from the

Georges Bank component are usually frozen. Once you freeze a sample, it is no longer usable for GSI determination because frozen samples change the actual gonad structure so visual inspection doesn't work, and it also changes the relative water weight between gonads and body. Therefore, frozen sample can't be used. Once you freeze a sample, you can no longer use it for determining spawning closures.

The technical committee sort of thought about this for a little bit and given the lack of samples, you probably are going to want to look at somewhere between a two- and a three-year study of simply collecting fresh samples from Georges Bank and figuring out what is what; in general to see whether or not there is sub-structure out there with different groups of fish spawning at different times; what the gonadal somatic index versus the staging looks like; and when actually the peak of spawning honestly is.

Just to give you an idea of what that kind of looks like, this actually came out of this most recent assessment. I know it is hard to see. There are blue and red dots. The blue dots are where there is a decent amount of herring and the red dots is where you find a very large amount of herring. Now, this is from the acoustic survey back in 2002, so this is ten years old.

We have more recent information, but what you can see is at any time over a two-week cruise track you can find herring pretty much everywhere out there; some at higher concentrations, particularly as you come up to cultivator, but in general there is a very large swath of fish out there, all of which are queuing up for spawning.

That is a very large area in order to try to get some sort of management into effect. Remember, you're looking at an area that is almost from the southeast channel all the way out to the northeast peak and the Hague Line, so this is a very large area that is going to need to be sampled hopefully with the aid of commercial sampling.

Also notice that there doesn't seem to be any natural breaks; there is no natural clumping out there, and so therefore we're looking at a continuous spawning event at least in this year. In other years you actually can see some indication of some local groups, but it is very difficult. The tracks between these are 40 nautical miles because each one of those parallel tracks. That gives you an idea of the distance.

It's funny you guys are actually asking a scientist about stuff and we're going to tell you we need

money, time and people. The next issue is cash. The current inshore spawning closures require dedicated staff to work on this particular issue for Massachusetts DMF and Maine DMR. I know from Maine DMR I employ two people fulltime during part of the year in order to accomplish this task.

There is a person in the laboratory and there is a person that goes out sampling in the field. You need both of those because you can't do GSI calculations dockside. It requires a precise scale and laboratory conditions. You literally have to remove the gonads and weigh them separately. This requires a fairly precise scale that you're not going to get on the dock in Portland, for example.

You're looking by and large for two people. You also need to be able to train them. You also need to be able to give them their IT support, their overhead. The sampler needs a truck and a phone and access to VMS and all those things that require sampling that you guys might be aware of. When you actually run down and do the breakdown costs, you're looking at somewhere between 40 and 50K a year in order to employ two people parttime for this timeframe. Now, this would be probably for a start-up study; and you might looking a little bit more cost initially for training and that type of thing.

Afterwards you need an analyst. You need somebody who is going to sit down at a GIS do the computer generation. You basically need somebody like me that will sit down and do the analysis to give you guys the information. So with overhead and the usual costs of transport, you're probably looking at something a little bit more expensive than 40 to 50K per year. That would be for a three-year study and then every year after that.

Currently we do the inshore spawning monitoring using a combination of general fund money from the states, although you didn't hear me say that; ACCSP which funds a lot of the inshore Atlantic herring sampling; and IJ. Recently IJ funds have not been very available over the last like year, and ACCSP hasn't placed Atlantic herring as a high priority for commercial sampling.

We have actual concerns about whether or not we're going to have enough money to do our inshore monitoring, let alone a stand-alone project for offshore. What I'm saying is we need a dedicated source of cash and we need some money to help seed and do the startup to do this type of work if this is what you guys want to do.

Again, you're looking at somewhere in the ballpark of 40, 50 maybe 60K that we have got to find funding for at least the startup and then continue to fund this for as long as you guys want to do this management regime. More than likely because of the fact that it overlaps with the inshore spawning component, you might be able to get some savings in personnel, but remember you're talking about both of these events happening at the same time, so you're going to need personnel to actually do these samples, which is going to require additional personnel and not just the same personnel that are in the lab.

So, how complex can it be? Like I was talking with Terry, this year like the last two years we have got two bodies of fish that are hanging out in the Massachusetts/New Hampshire closure. We know that there are two different groups of fish there. One group is behind the other about a week.

The spawning sample from Massachusetts showed at one point that there was a GSI of about 13 percent; and remember we go to 15 when we pull the trigger for actual closing in a week. The ones off of Maine were at 16 percent. They were roughly a week and a half apart. We took a look at this with Massachusetts DMF and we decided to average between the two to sort of get an average of what was going on in the area even though we know that there are two separate bodies of fish.

At certain points during this year, when we were sampling, the difference was between five and seven nautical miles between these two groups of fish. Now, this is for an area that we have really good adequate sampling for. We usually get somewhere between 20, 25 samples for spawning every single year out of this particular sub-area.

Trying to duplicate this out on Georges Bank and getting those lines right is going to take some time and it is going to take some effort. To wrap up, this is actually pretty doable. We can certainly get this done provided we get adequate time, personnel and money dedicated to doing this.

You guys will probably need to think about your goals and objectives and the idea that you may end up translocating some of that effort inshore. I am sure there is some management stuff that you can think about that would prevent that from happening. You need to understand there is going to be some data collection needs up front that you guys are going to want to see.

We're going to require a lot of spatial analyses which is going to require a level of expertise in order to get this accomplished. We need to come up with a dedicated funding for both short and long term; because even once you get the seed money to start the project, we need the money in hand in order to do this as long as you want to do the management regime. This will be a sizeable add-on to whatever spawning monitoring is already in place in your labs, literally about double. This is pretty much what I've got.

CHAIRMAN PIERCE: All right, very good job by the technical committee with you in the lead. I appreciate it very much. You have given us good guidance and you have given us some positive encouragement which I wasn't sure you were going to give, but you did. Are there questions of Matt? Ritchie.

MR. G. RITCHIE WHITE: Matt, a couple of questions. As to the shifting of effort inshore, I guess I don't quite understand that where the inshore components have quotas and are fully caught every year for the most part, so how does that have an additional impact? Then I have a follow-up question.

DR. CIERI: Well, this is actually something that I believe the plan development team came up with when they did this a few years ago. The issue is always that there is effort that happens in the Gulf of Maine, and by and large it is sort of spaced out when they're mixed and also when they're actually on the spawning ground.

There was concern that effort would be moved inshore at precisely the time in which the inshore component was actually spawning. Earlier in the year they have the ability to go and fish. What this would do would be to change the days-out regime such that allowing for more days later in the year to accommodate this increased effort because otherwise the fishery is just instantly going to close. What it would be you guys would ratchet down the days in June and July in order to extend the quota and that is really where the effort would come in would be September and October.

MR. WHITE: I guess I still don't quite understand because they're not spawning in June and July so why would there be – we would not be shutting off areas of spawning in Area 3, so why would that shift effort into Area 1?

DR. CIERI: Because if you know how that is going to go, what you will do is you will give less days in

June and July and more days later in the year. Your goal with area closures is to extend the quota as long as possible; so if you have got a whole lot of effort that comes in later, what you're going to do is you're going to limit the number of days that they can fish.

Actually a thousand metric tons won't come out of June or July; it will end up coming out in September and October. Because as effort moves into that particular area, you tend to back it off in June and July and then let it run after September. That is usually the pattern. The pattern is that rather than have the fishery close early when effort is increased, the following year you give less days up front and more days later on, effectively extending the quota and allowing for more catch to come out when they're not mixed.

MR. WHITE: On the issue that it is a large area and there are large components of herring out there, if we did want to afford some protection for spawning out there; couldn't we take a piece of it and not have a total closure but just have a closure that would protect a piece of the spawning stock?

DR. CIERI: Potentially, but unfortunately fish move. One of the things when you actually go through and you look at all those acoustic things; you can see that there are slugs of fish in certain locations and not others. That would be very similar to trying to set up something for the inshore component of just closing the Massachusetts/New Hampshire and not closing the rest of Maine.

MR. WILLIAM A. ADLER: Matt, first of all, the idea of dealing with the Georges Bank or offshore area, I'm not sure whether we can do it or is that a NMFS decision since it is not even in the inshore world. I potentially see a problem getting that through the system, especially with the previous decision by NMFS.

The second thing was you mentioned that the frozen samples can't be used; and if you're bringing samples in from Georges Bank, they get frozen. What would be the solution to do proper sampling and not freeze them; sample them out there; is that how you would do it?

DR. CIERI: To sort of the first point, that is actually a very good point. In the past we actually have seen spawning area closures actually extend beyond state jurisdiction. You guys do that through a landings prohibition. You could do something similar with Georges Bank. However, because it is not a federal

action, they won't monitor it, so therefore their observers at sea won't monitor it.

In many cases they couldn't, anyway, because they can't do this kind of work on the boat. We would still need that sort of dockside sampling despite whatever is happening on the federal side with Atlantic herring. For samples that are coming in from Georges Bank, the fish should be in fairly decent enough condition for the transport back.

It is once they get to the dock that they have to be sampled and usually that is when we normally freeze them because we have samples that are coming in from the inshore at the same time. The fresh samples go off to an individual to cut and Georges Bank samples are immediately frozen for processing later in November, usually after the area closes, for things such as age and those types of things. That is usually what ends up happening with the samples. We would have to start basically from scratch sampling Georges Bank.

MR. STOCKWELL: Matt, because we haven't protected spawning fish in Area 3; does a new benchmark accommodate this factor and/or the formula that we use for proposing the specifications allow for any protection in the offshore area?

DR. CIERI: That is the other thing that you guys can actually think about, and Terry brings up a good point. If your concern is about the relative exploitations of what is going on offshore and inshore, probably a more effective way of doing this would be to simply adjust your quotas accordingly. Rather than to do the movement of fish and effort using spawning closures, it would simply be to drop the quotas out in a particular area. Within the benchmark itself we don't account for spawning closures at all.

To the assessment this is one big, large complex of fish without any sub-structure, and so therefore there isn't really a lot of ways that the assessment could incorporate something like this. That being said, if we recognize that there is at least two components associated with this complex, one of the more effective ways of protecting individual components would be to simply allocate less quota.

REPRESENTATIVE SARAH K. PEAKE: Matt, I want to thank you and the technical committee since I was the instigator of this whole complex subject here. Thank you for putting together this paper. Even if somebody who hasn't spent their life as a fisheries

manager, it was easily understandable and relatively in plain English, so I appreciate that.

Just a couple of comments; and, of course, I would be in favor of moving forward with some of the goals and objectives that you have set forth in here. Ideally I would like to see the timeframe shortened. I think it is imperative that we do; because it is interesting when I read in your report that one of the goals or the things you realize were going to happen with a closure of the inshore areas is that it would some effort offshore and we have been successful in that; so successful as a matter of fact that the Area 3 TAC was fished at 103 percent most recently.

Clearly, Area 3 is no longer an area where it is being underutilized. It is being utilized to its capacity as we have determined and even has exceeded its capacity as we have determined through the setting of the TAC. I think your point about the need for sub-area management is right on the mark.

You look at the chart here and it is a huge area, and I know there are times that it is fished within visible sight. You can go to the parking lot above Lighthouse Beach in Chatham and see the boats fishing right offshore close to Chatham, and that is Area 3. And then, of course, as my colleague from Massachusetts here point out, there are times that they're fishing in federal waters. A question for you; when you mentioned the freezing of fish, did I hear you just now say that they bring the fish in fresh from Area 3 and it is frozen at the dock or is it frozen on the boat?

DR. CIERI: It is a combination of both, but there are ways, after I went back and took a look, of us getting fresh fish or relatively fresh. One of the things also to keep in mind when you start talking about samples that are coming from long distances is the steam time; you know, the quality of the fish when you get them back in.

Generally we like 12 hours between landing and getting it in front of Lisa, who is my cutter. That is whether the sample is landed on Sunday and needs to be processed Sunday night and driven up from Massachusetts, we go through a lot to do the inshore ones, and that requires overtime and people coming on weekends and those types of things.

The difficulty is that is fish that has been caught maybe six hours before that; maybe 12 hours before that. If it takes 16 hours to get those fish back from Georges Bank, then we need to figure out a better

system of getting those fish into a centralized location for people to cut.

REPRESENTATIVE PEAKE: What I'm thinking about is let's get to the cash section, also. I guess the question would be addressed to Bob. How do we as a commission go about identifying funding sources, setting our priorities in that way; is that something that would be appropriate for the legislator and governor's appointees that are meeting on Wednesday to discuss with the folks that we have helping us talk to people in congress. How should we proceed in that direction?

CHAIRMAN PIERCE: All right, we have left questions of Matt and gone to Bob for some guidance relative to one of the key issues raised by Matt and the technical committee. I will allow that since we're running out of time.

EXECUTIVE DIRECTOR ROBERT E. BEAL: Do you want me to come back to Ms. Peake's question after you finish the technical work?

CHAIRMAN PIERCE: There was one other question; so if you don't mind, Sarah, hold off for a moment. Doug, you had a question of Matt.

MR. GROUT: I was just wondering what do you do with the frozen samples; is there anything that you can get out of those? Are they still sitting in the freezer and is there anything we could get out of – it may not be quite as precise as figuring out at what GSI stage they are, but some timing as far as lay some groundwork for some potential spawning area closures. Is there any kind of information we can get out of those samples that could give the groundwork or base work for determining how and when we're going to need to collect these?

DR. CIERI: I don't know. To be quite frank, because we have only collected frozen samples, I have no idea what the relationship between fresh and frozen is for the Georges Bank component. I don't think you want me to make some assumptions. I could make some of those assumptions in the analysis, but it wouldn't hold water. We do use those samples.

Those samples go into the catch-at-age matrix. That is how we do the catch-at-age matrix in the actual assessment for Atlantic herring. We use the age and the length. We have ways of converting those back from frozen into fresh using algorithms to do so, and we have found that they're fairly robust.

We might be able to develop something like that; however, I wouldn't bet my life on it, especially because one of the things that we have noticed is that there is a lot of difference when you start talking about spawning and development and not yearly basis fish, how big they are. There is a lot of wiggle room. There is a lot of individual variation that goes in.

That is the reason why we only use fresh samples. Trust me; if we could have gotten away with frozen samples for the inshore component for monitoring, we would have a long time ago. This is literally two people's time for four months so that ends up being quite the price tag for a state agency.

CHAIRMAN PIERCE: All right, I am going to cut the questions off there; it is getting close to nine. Bob, if you would, could you address the question that was asked by Sarah. Before you provide an answer, let's remember that Matt's guidance to us represented the technical committee is this is doable, but obviously it will involve a lot and it involves funds. The document that was prepared for us indicates to continue our existing program in the Gulf of Maine and then add on some additional work in the Georges Bank area, it looks to me that it is around \$100,000 minimum for both initiatives, so let's bear that in mind.

EXECUTIVE DIRECTOR BEAL: I think as Representative Peake alluded to, it is all priorities. There is a limited of funding and we have a limited amount of ability to lobby for money and seek money. Are these herring projects higher priority than something else that will come up later in the week?

I think one of the things that allow the states a lot of flexibility is the Interjurisdictional Fisheries Act, the IJF money that Matt mentioned was zeroed out in 2012, so the states aren't getting those funds right now. That is one of the acts that we have spent a lot of our lobbying effort on for the last year or eight months or so to try to get that restored back to 2011 levels, which will be about \$2 million divided up among the states.

That money can be used for a variety of projects and is used very effectively in the states for a lot of projects. The way the Act is being considered – it is up for reauthorization right now and it is being considered to move the authorization level up to \$5 million, I believe. There is room to work there; and if we're able to get more money put into that Act and that appropriation, then that is probably one of the

best avenues and it provides the most flexibility to the states.

That is one of the areas we're pushing on quite a bit. I think specific to your question, at the meeting on Wednesday morning we have the lobbyist I think updating on where we are with IJF, and is that the avenue that we want to put some of our efforts toward in lobbying is definitely a fair question and a fair discussion for that morning's workshop.

DR. CIERI: Just to sort of clarify what I said earlier, we're out of money for our inshore spawning monitoring as of this year. Once the ACCSP money is out – we have got a project in and I have no idea whether it will be funded.

When it comes to the current inshore spawning areas, we may be closing on default dates next year for a majority of the areas simply because we don't have the personnel to actually go out and do the sampling. All of this would have to be in addition to what we've got in hand right now for this year.

CHAIRMAN PIERCE: Matt has offered up some words of caution. I guess the Section now needs to determine the direction in which it would like to go. The question is do we believe, based upon what has been provided to us by Matt and the technical committee, that moving forward with the development of some sort of spawning protection for Georges Bank herring is worth the effort and worth the expense. Sarah.

REPRESENTATIVE PEAKE: Mr. Chairman, given the shifting in effort to the offshore area to Georges Bank, I don't want to just let this drop now. I am wondering if we can craft a motion in such a way that we could move forward at least in a preliminary way to lay some of the groundwork so that if we're able to identify funding we can move forward in a more robust way.

Matt, I like your recommendations and what I was thinking about – well, let me craft this as a motion and then we can discuss it that way or just loosely toss the ideas out there. What is your pleasure, Mr. Chairman?

CHAIRMAN PIERCE: Well, if you have got a motion ready to go, that would be wonderful. But if you're still hoping to put one together, that will mean we will have to have some further discussion on this. You're not prepared yet to make a motion?

REPRESENTATIVE PEAKE: I will give it a try. **I would move that the technical committee move**

forward with a further study to include management and sub-area management recommendations for Area 3, the Georges Bank area, and also to include possible alternative monitoring measures and that the technical committee report back to the Herring Section at the next annual meeting with their preliminary findings and recommendations.

CHAIRMAN PIERCE: Okay, I assume it is going up on the screen. I'll take a moment to make sure it correctly states your motion, Sarah.

REPRESENTATIVE PEAKE: I think I misspoke. I'm thinking a year so at the next annual ASMFC meeting.

CHAIRMAN PIERCE: So the gist of the motion is that you believe that the Section should agree that this should be moved forward for further exploration by the technical committee and that would also involve our inquiring whether or not – well, our engaging with the Policy Board regarding priority issues and whether this should be a priority. All right, is the motion correctly stated, Sarah?

REPRESENTATIVE PEAKE: Yes, Mr. Chairman, that is correct.

CHAIRMAN PIERCE: All right, **I will read the motion; move that the technical committee move forward with a further study to include management and sub-area management for Area 3, Georges Bank area, and possible alternative sampling measures and have the technical committee report back at the next ASMFC Annual Meeting in 2013.** That is a motion by Representative Peake; seconded by Ritchie. Is there discussion? Ritchie.

MR. WHITE: I assume that this is putting together a framework but we would not actually take any samples without getting funding. The commission can look at funding or individual commissioners could look at funding within their own states to see, for example, if the Commonwealth can find an additional person, then maybe it could proceed that way. That would be my understanding of the motion.

REPRESENTATIVE PEAKE: That is a very articulate way of organizing the thoughts that are knocking around between my ears. Thank you.

MR. PETER HIMCHAK: Mr. Chairman, I was just wondering what exactly is the – yes, I understand the intent of the motion is to go out and solicit funding

and do a doable project, but the motion reads technical committee, a further study include management and sub-area management; is that to examine the potential for shift in effort from Area 3 to inshore areas.

The sampling measures seem to be rather well explained by Matt, so I'm thinking if I voted for the motion, I wish it was more definitive in saying we're going to go and seek the funding sources and prioritize this.

MR. STOCKWELL: Thank you, Sarah and Ritchie. What I'm hearing you say is that you're looking to further develop the technical committee's white paper here. What I really want to underscore is to follow up on Matt's advice is the critical for funding. The state of Maine has put a lot of resources into the inshore spawning area and we're out of money now.

I would hope and expect that when a report comes back on the continued development of this, it is going to be bracketed with some very specific resource recommendations so that we can then make a decision of whether or not to source them out or to wait until times are a little bit more economically agreeable.

CHAIRMAN PIERCE: I am going to assume that if this motion passes the Section has given tentative approval for our moving forward with further examination of a Georges Bank spawning closure and it will involve, as indicated by Terry, further development of the technical committee recommendations with focusing on funding sources; will the money actually be available for this work to be done.

With that said, consistent with the motion we would get at the annual meeting of next year this information that would then enable us to make the determination that we should actually – that we have the money for it and that we can actually implement it; that it is feasible to do. That is my understanding of the motion that is before us now. Pat.

MR. PATRICK AUGUSTINE: Mr. Chairman, the point of information is there is nothing more than the issue of where is the money coming from and there are two questions. One is how much more effort will Matt and the technical committee have to put into this effort and take away from other work to further develop this white paper to a point where we can determine what the cost is going to be?

The second question is with the restrictions that we have had on our overall budget for the ASMFC – and it doesn't look as though we are going to get anymore – will this action require us to reestablish our priorities for 2013? If I look at this as being very important as compared to a monitoring program or these same monies going into a more aggressive monitoring program, in view of the fact that the herring situation is what it is, it just seems to me that there has to be a swap-off for consideration given. So the first question is how much effort will the technical committee have to put into developing further this white paper before we determine how much money it is going to cost to make it happen? If I can get that answer, Mr. Chairman, we could support this or not support it.

CHAIRMAN PIERCE: Okay, so the question is you said it was doable early on, Matt, more work needs to be put into this; how much more work do you think is possible?

DR. CIERI: Well, frankly, we have collected fresh samples from Georges Bank. I have been talking with Mike. It is not the level that we need by anybody's stretch of the imagination, but we have figured out how to do it, which is the first step, in consultation with Massachusetts DMF, and we have been – I think both labs have been picking up like maybe three or four samples a year fresh from Georges Bank. That is very far shy of the hundred-plus that you will need.

As far as whether or not we can take a look at things, yes, fortunately, I'm no longer chair for the technical committee after this meeting and so I've got a little bit of free time, although I won't volunteer myself too much. Otherwise, Terry will throw something at me, but I could probably think about this for a little bit and maybe paw through some of the bottom trawl data and some other things. But in general I hate to really tell you guys until somebody shows us the money and gives us money for sampling, we're stuck.

CHAIRMAN PIERCE: All right, we have a serious time constraint, so I'm going to have to go to the audience to see if there is a question or comment on the motion. Jeff, you're chair of the advisors. There obviously is no advisors' report; however, if you care to comment on the motion, please do so.

MR. JEFF KAELIN: Jeff Kaelin with Lund's Fisheries. I am not speaking as the AP Chair because we haven't had this discussion as an AP. I remember back when we set the spawning closures up in the

Gulf of Maine we asked the question what about dragging in those areas. Now, in Maine you can't trawl so maybe the effects are limited.

Matt said a couple of things that spawning closures aren't necessarily a biological issue and there are concerns about disrupting spawning behaviors and egg beds. I guess I would have to ask, as somebody who has been around this fishery since the early eighties, what is the problem that we're trying to address?

We don't have a stock that is overfished and overfishing is not occurring. We get an estimated yield from the spawning stock biomass, which by some estimates are at historical highs, and then from the yield we take 25 percent off MSY for precaution. I wonder why we're going to do this. What is the biological benefit based on the potential costs of displacing the herring fishery.

Then, of course, there is a lot of trawling that takes place on Georges Bank for flounders. We have got a scallop fleet out there. We have three or four scallop boats, too, so I guess our herring boats would not catch herring with a midwater trawl, but we would go scalloping in the area and tow up herring egg beds. Does that make any sense to anybody?

It certainly does not make sense to me. Again, I have to ask from a biological perspective what is the problem we're trying to solve? If this motion passes, which I hope it does not, I think it ought to be vetted with the Northeast Fisheries Science Center also and make sure that they're part of your technical committee investigation. In the past we have had advice from the science center that this is not necessary to protect Atlantic herring. Those are some of my concerns and I hope the motion is defeated. Thank you.

CHAIRMAN PIERCE: All right, apologies to the audience; I have to come back to the Section. It is nine o'clock and we have an action item that we still have to address. I'm going to have to call the question in light of the time. Is there a caucus needed?

(Whereupon, a caucus was held.)

CHAIRMAN PIERCE: Pete, you kept raising your hand; I need to be respectful; go ahead.

MR. HIMCHAK: Yes, Mr. Chairman, I would move that we table this motion until the February meeting or the winter meeting, whenever it occurs.

CHAIRMAN PIERCE: I'm sorry, Pete, we have already caucused. It is going to be inappropriate to table at this time. All those in favor of the motion please signify by raising your hand, 4 in favor; those opposed, 3 opposed. **The motion carries so we will turn to the technical committee for further work on this particular issue.** This is not a done deal obviously.

A lot more work needs to be done and the Section will have another opportunity to determine whether or not this is something we want to do. Also, there will be some further work done with Bob specific to the amount of funds that would be necessary to do this and then, of course, how does it fit in with the ASMFC priorities. That is additional important work that needs to be done.

DISCUSSION OF ADDENDUM I SPECIFICATIONS FOR AREA 1A

CHAIRMAN PIERCE: I'm sorry, Tom, I have to go on to the next item and that is the 2013 Addendum I Specification scheduled for 8:40. It is now after 9:00 o'clock and we have lobster at quarter after. This is the dilemma of one-hour meetings early on the first day.

MS. KERNS: Addendum I states that the board annually specifies for Area 1A quota periods and whether or not to allow fishing before June 1st in those quota periods; the percent harvest that triggers the closure of the directed fishery either at 90 or 95 percent in a quota period; and if quota can be rolled over into the remaining quota period for Area 1A.

For the 2012 fishing year the board set Period 1 with 72.8 percent of the quota available from June 1st through September 30th and for Period 2 27.2 percent of the quota available from October 1 through December 31st. The fishery is closed at 95 percent of the quota and there is rollover from the unused quota from Period 1 to Period 2. These are also the same specification that the Section set in 2011 as well.

CHAIRMAN PIERCE: All right, Toni, so the action you are indicating we need to take would be to do what, adopt the same option for 2013 fishing year?

MS. KERNS: You need to set the specifications for the 2013 fishing year. It is up to the Section on what you want to specify.

MR. STOCKWELL: Are you ready for a motion, Mr. Chair?

CHAIRMAN PIERCE: Yes, I am.

MR. STOCKWELL: **I move that the 2013 specifications replicate the 2012.**

CHAIRMAN PIERCE: All right, a motion has been made by Terry Stockwell and seconder is Dennis. Is there discussion on the motion? I see no discussion. I do, however, see a question from the audience, so I will go to the audience. Go ahead, Patrick.

MR. PATRICK PAQUETTE: Patrick Paquette, recreational fishing advocate from Massachusetts. I am also a member of the Atlantic Herring AP. Just as you consider the motion, I would just like to point out or maybe staff could make sure that it is clarified how effective that 95 percent closure buffer is working. My understanding is that we're exceeding – closing at 95 percent, the current way that is being done we tend to exceeding that. We're over in 1A now, I believe, right?

MS. KERNS: We are not currently over in 1A. We have not exceeded the quota in 1A.

MR. PAQUETTE: In 1A but we have in every other area this year, correct?

MS. KERNS: This is specifically for Area 1A that we're specifying these periods for. We're not specifying for the other areas.

DR. CIERI: And it is also 95 percent of the sub-period quotas.

MR. PAQUETTE: I understand so my point is that we have – the 95 percent as it is currently being applied has led to a 2012 – we have gone over in every other sub-area and this is the last sub-area?

MS. KERNS: The board is not specifying 95 percent of the Area 3 area. This is strictly for Area 1A and we have not gone over in 1A.

DR. CIERI: And for the sub-quotas; this is only for those period quotas, Period 1, Period 2, Period 3. That is what we use the 95 percent on and not the overall quota. That is set by the National Marine Fisheries Service.

CHAIRMAN PIERCE: Okay, back to the Section; Terry.

MR. STOCKWELL: Following up on Patrick's comment, just a clarification on the motion. Mike, we ought to insert Area 1A.

CHAIRMAN PIERCE: **All right, good suggestion so that clarifies it for all concerned. All right, the motion is move that the 2013 specifications replicate the 2012 specifications in Area 1A.** Motion by Mr. Stockwell; seconded by Mr. Adler. Is there a need for a caucus? I see none. All those in favor please raise your hand; any opposition; any null votes. **Okay, unanimous, so the motion passes.**

DISCUSSION OF ISFMP POLICY BOARD TASKS

Finally we are on to discuss the ISFMP Policy Board task of flexibility and delayed implantation under the FMP, and I will turn to Toni and ask her for an explanation.

MS. KERNS: The Compliance Committee reported to the Policy Board on a number of issues. They included two tasks, to have three of the species boards report back to the Policy Board on ways to have additional flexibility and delayed implementation within their fishery management plans.

There was concern from this Compliance Committee to the commission's ability to respond to states that are deviating from a fishery management plan. They found that there are not sufficient options to address short-term noncompliance and deviations that don't impact the conservation of the particular fish species.

When I went back and looked at the fishery management plan for Atlantic herring, there were a couple of provisions where the Section may want to consider delayed implementation if the Section feels that this is something necessary or an issue for the Atlantic Herring Plan. Those sections include the days-out provisions and the Area 1A season closures and some of the spawning regulations.

Again, the Compliance Committee was not concerned with regulations that impact the conservation of the management but just when states are not implementing measures that don't impact conservation, so just a delay in the implementation. Secondly is looking at flexibility, and the Section would need to consider whether or not they think that there is a need for increased flexibility within the Section.

The Compliance Committee recommended that this be most important for the boards that are managing fully rebuilt stocks. This is particularly looking at in-season adjustments within management plans, and so that would be done often through Section action. The

one thing that the Compliance Committee had recommended was that when boards and sections consider flexibility, that they keep in mind that there should be some transparency for the public process in moving forward with that.

Several of the measures that are within the FMP for herring do allow for adjustment via board action, and so many of the measures do allow for flexibility while there still are some measures that have to be done through addendum. I don't have any specific recommendations in the FMP because I wanted to have some feedback from the Section on issues where you thought you might need more flexibility. When I went back and looked through some of the history, there weren't areas where I had seen any discussions of the need to be able to do something more timely that you haven't already considered and made a decision on.

CHAIRMAN PIERCE: All right, we are responding to a directive from the Policy Board to discuss this issue and then report back to the Policy Board if indeed we have any issues we would like to raise for its consideration relative to the need for increased flexibility within our Herring Plan and I assume also whether there are any problems with delayed implementation that have caused us some grief and there needs to be some sort of a response.

At least that is my take on it. Does anyone have any reaction to the task given to us from the Policy Board; any concerns to raise; anything we need to bring to the Policy Board for its consideration? I believe that Toni is indicating that she has none. Okay, none that are obvious to her. Ritchie.

MR. WHITE: We might be able to comment back to the Policy Board about how well our ability in 1A with the days out works. It doesn't always work well for the amount of meetings that the commissioners have to attend, but I think we do a pretty good job of responding to the stock and the industry through that process. That might be a model for some other fisheries possibly.

CHAIRMAN PIERCE: If there is no objection, we can highlight that one aspect of the way in which flexibility is used by the states bordering the Gulf of Maine to deal with a very difficult charge of trying to spread the Area 1A quota out for as long as possible; again working with industry input. With no objection, we can highlight that for the board. We will do that. Is there anything else that we need to consider and bring forward to the Policy Board for its information? Doug.

MR. GROUT: Well, just briefly to even further highlight some of the things, any area without any kind of addendum can implement these days-out provisions. For example, if you wanted to have a days-out provision in Area 3, all the adjoining states just need to get together and work to develop a days-out system without any kind of addendum process. That is what is in the plan right now.

The other thing such as any kind of quota adjustments in season because we're working together with the federal government and the councils to manage this, that is something that I don't think really – it would be very difficult to have any kind of flexibility on quota management up and down on that.

CHAIRMAN PIERCE: Okay, with no objection we will also highlight those particular points as well relative to its applicability to other areas. Terry.

MR. STOCKWELL: One precautionary note we should add to those two previous points is the staff time and commission time that it takes to allow for that flexibility. It requires an inordinate amount of commissioner time and staff time and technical committee time to do the herring specifications, as we all know, so I think we should provide that voice of caution to the Policy Board.

CHAIRMAN PIERCE: We will add that and I also suggest we add that the industry input has been vital for the successful operation of this particular approach. Without industry support for the approach, it would have failed a long time ago. Is there anything else? All right, if there is nothing else, I believe we have concluded our business. Tom.

MR. THOMAS FOTE: Mr. Chairman, I was very upset at the way the meeting has been conducted. When you go to certain people multiple times and when people have not asked one question and to basically cut the commissioners off to go to the audience, come back and refuse to basically address commissioners for the first time while allowing other commissioners to talk two or three times, that is not the way we process at a meeting. Every commissioner should have an opportunity to speak once on an issue, and I find that very disheartening the way this meeting was conducted.

CHAIRMAN PIERCE: Dissatisfaction is noted, Tom. I gave reasons for the actions that I took at the time you so noted. Short time, the need to get through the agenda, that led to the outcome that we have before you. Again, I apologize if the proceedings weren't the way you like them.

ADJOURNMENT

CHAIRMAN PIERCE : All right, with no objection we will adjourn the meeting.

(Whereupon, the meeting was adjourned at 9:15 o'clock a.m., October 22, 2012.)