

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

**The Sheraton Providence Airport Hotel  
Warwick, Rhode Island  
January 7, 2011**

Section Approved March 2011

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2. **Motion to approve proceedings of May 3, 2010** by Consent (Page 1).
3. **Move to include a provision for a within-season adjustment by the northern contingent of the section of Area 1A additional landing days allowed for the SMBT and SPS vessels** (Page 13). Motion by David Pierce; second by Pat Augustine. Motion carried (Page 15).
4. **Move to include an additional provision to the addendum that each year, prior to the opening of Area 1A, the section members from Maine, New Hampshire and Massachusetts will meet to agree on the number of additional landing days for small-mesh bottom trawl and small purse seine vessels in Area 1A** (Page 15). Motion by Douglas Grout; second by Bill Adler. Motion carried (Page 17).
5. **Move to approve Addendum IV as amended for public comment** (Page 17). Motion by Terry Stockwell; second by Pat Augustine. Motion carried (Page 18).
6. **Motion to adjourn** by Consent (Page 19).

## **ATTENDANCE**

### **Board Members**

Terry Stockwell, ME, (AA proxy)  
Sen. Dennis Damon, ME (LA)  
Doug Grout, NH (AA)  
David Pierce, MA, proxy for P. Diodati (AA)  
William Adler, MA (GA)

Ben Martens, MA, proxy for Rep. Peake (LA)  
Mark Gibson, RI, proxy for R. Ballou (AA)  
Dave Simpson, CT (AA)  
Pat Augustine, NY (GA)

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

### **Ex-Officio Members**

Dave Ellenton, Advisory Panel Chair

Jeff Marston, Law Enforcement Committee

### **Staff**

Robert Beal

Chris Vonderweidt

### **Guests**

Jeffrey Marston, NH F&G  
Peter Mullen

Lori Steele, NEFMC  
Mary Beth Tooley

The Atlantic Herring Section of the Atlantic States Marine Fisheries Commission convened in the Ballroom of the Sheraton Providence Airport Hotel, Warwick, Rhode Island, January 7, 2011, and was called to order at 10:00 o'clock a.m. by Chairman Dennis Abbott.

### **CALL TO ORDER**

CHAIRMAN DENNIS ABBOTT: Good morning. I welcome everybody to our Atlantic Herring Section Meeting here in Warwick, Rhode Island. Let me say for the record that we do have quorum. We have the states of New York, Connecticut, Rhode Island, Maine, Massachusetts and New Hampshire.

### **APPROVAL OF AGENDA**

CHAIRMAN DENNIS ABBOTT: The first order of business would be the approval of the agenda. Does anyone have anything that they would like to add to the agenda today, anything they would like to discuss? Without that, I will say that the agenda has been approved.

### **APPROVAL OF PROCEEDINGS**

CHAIRMAN DENNIS ABBOTT: Approval of the proceedings from November 8, 2010; any objections to approving the proceedings from November 8<sup>th</sup>? Seeing none, that is accomplished.

### **PUBLIC COMMENT**

CHAIRMAN DENNIS ABBOTT: Public comment; is there anything that is not on our agenda today that someone would like to speak on? We have Mary Beth who would like to have a word.

MS. MARY BETH TOOLEY: To be somewhat repetitive, I think all of the section members have heard me speak to this before, but the participants in the fishery are very displeased with how the spawning regulations in the Gulf of Maine have been functioning and a waste of time, and we've been asking the section to review those.

We ask the section to again consider a review of the spawning regulations and the total closures versus the tolerance which the fishery operated under successfully for more than 20 years. I know that's not something you're considering for today or in this addendum, but to the extent that you can consider it in the near future. In the past we've been told there was not enough analysis or enough years under our belts under the total closure, and I think we are there

now, and we would request that the section and the commission and the states consider that.

CHAIRMAN ABBOTT: Could you speak a little closer to the mike, Mary Beth, what you just said in the last statement.

MS. TOOLEY: We have been complaining about the current regulations since they were implemented. We were told that no analysis could be done on the impacts of it until we had a few years operating under these regulations. We now have a few years operating under the regulations, and we still feel that the problem that we anticipated has come to pass. We'd like to see the section look at the regulations and review the tolerance that we worked under for more than 20 years successfully.

CHAIRMAN ABBOTT: Pat Augustine.

MR. PATRICK AUGUSTINE: Is there a sense that the results of that assessment would have an impact on our decision to move forward with this document?

MS. TOOLEY: No.

CHAIRMAN ABBOTT: Anything else? Without anything else, we will take that under advisement and we'll talk about how we want to proceed with that. At this time I would like to recognize Chris. The purpose of our meeting today is obviously to go over the draft of Addendum IV to Amendment 2.

### **CONSIDERATION OF DRAFT ADDENDUM IV FOR PUBLIC COMMENT**

MR. CHRISTOPHER M. VONDERWEIDT: I handed out the most recent version of Addendum IV. The only changes from the January 5th – there will be a date on the front cover and the only difference between the December one and the January one is that there is background on small purse seine state-only landings. Those are on Page 18. If you want to look at it, it's about a page worth of stuff.

I'll just go through the addendum. This is going to follow along with the addendum itself if you want to look at the content as I talk about it. For the introduction, the section had initiated and developed Addendum 3 about six months ago, and it went out for public comment and then came back and the section didn't move forward with any of the options during their meeting.

A large part of that was because there were a lot of moving parts and the very complicated nature of the options, and I think some of the section members weren't sure if they voted on early measures, how that would impact the late measures because it could change and everything, so the measures weren't – you didn't move forward with any of the management measures.

At the last section meeting this concept of allowing exemptions for small vessels was brought up again, and the section initiated Addendum IV to only include a couple of more straightforward simple options and also include small purse seines. Before it was just small-mesh bottom trawl vessels, but it includes a different gear type, which are small purse seines.

And, simply put, it just proposes an additional landing day or two additional landing days when the section has set days out for small-mesh bottom trawl vessels and small purse seine vessels with a C or a D federal category permit or a state-only permit. Small purse seines are defined as less than or equal to 65 feet. Just a quick note; this addendum only applies to Area 1A.

For a statement of the problem, days out may have disproportionately reduced landings for small-mesh bottom trawl and small purse seine vessels in 1A because the smaller vessels have small holds, don't have refrigeration, and it's thought that they can only fish for one day per landing event while the midwater and the larger purse seines have the ability to fish for more than one day prior to landing.

In the statement of the problem is that these small purse seine and small-mesh bottom trawl fisheries, while small, have been around for a long time, they're historic and they're very important to the local communities. For the background, I'm just going to basically go into all the different management things that relate to catching herring in Area 1A. Days out, everybody here is pretty familiar with that. Basically you can't land more than 2,000 pounds when days out have been set.

It's designed to prolong the supply of herring throughout the fishing season and also shift fishing pressure from an overutilized area like Area 1A to an underutilized area like Area 3. In the last few years the Area 1A TAC was reduced 15,000 metric tons between 2006 and 2008 and more recently it was around 40 percent – I think it was a 42 percent reduction from 2009 to 2010.

As a result there have been more days out, fewer landing days. During these years there was only two landing days on average in '08 and '09, and then there was zero, two and three landing days in 2010. You can see on Page 3 there is a little chart there that says all the different – it's Table 1 and it has all the specifics of the days out.

The concerns of these fishermen specifically, like I said before, is that they can only fish for one day per landing event. They don't have refrigeration and they have small holds while midwater and large purse seines can fish for several days before a landing event, and this concentrates all landings to two days of the week.

In addition, because of this concentrating all landings to two days of the week, the small-mesh bottom trawl and the small purse seine have to compete with the midwater and large purse seine because all these landings are coming in on only two days, which is thought to lower the price. I would like to point out, though, that there has been economic analysis conducted to support or refute these claims, but these are the concerns that went into initiating and developing this addendum.

As far as who can land herring in Area 1A, you need either a state or a federal permit. There are only three categories of a federal permit. There is Category A, Category C and Category D. Category A is limited access for all areas. There is no possession limit and these vessels qualified if they landed 500 metric tons between 1993 and 2003.

These vessels have IVR. They have to report through the IVR system. They have VTR on board. They have to submit VTR monthly and then they have VMS on board, the vessel monitoring system. Category C is the limited access incidental permit, 25 metric ton possession limit and they qualified if they landed 15 metric tons in one year between 1988 and 2003, and they have to report weekly through IVR, monthly through VTR.

They have the vessel monitoring system on their boats. The only open access permit is Category D, which is an open access incidental. It has a three metric ton possession limit and there is no qualification criteria. These vessels have to report weekly and monthly through IVR and VTR, but they don't have to have VMS on board.

Looking at the number vessels fishing for herring with these permits to try and get an idea of what the impact might be, there are over 2,000 combined A, C

and D permits in 2009. This is 2009 because it is the last time they were tallied, but it goes back to the years 2007 and 2008 is the last time the bottom trawl and small purse seine were broken out.

There are less than a hundred vessels landing with bottom trawl gear, and we don't have the resolution of small mesh or large mesh, with the 6.5 inch being the small mesh to large mesh for 2007 and 2008, but there are less than a hundred vessels; and then there is less than six vessels and 2007 and 2008 for using purse seine gear to land herring. Hopefully, that gives a little bit of a picture of what the impacts might be.

As far as federal regulations on landing in Area 1A, the northeast multispecies small-mesh exempt areas are meant to regulate any vessels that fish using net size less than 6.5 with bottom trawls – they're only allowed to fish in the designated areas, the small-mesh exempt areas. A fisherman has to have one of these. Even if they don't want to keep any other species, they're still restricted to these areas.

And then there are few different types of permits that you can get to land in these areas, but there is a Category K which is open access, so there is an open access permit available, or A throughout, which is limited access. Now, these management areas are in the addendum on Page 5, but the one that is particularly relevant is the one off of New Hampshire, the small-mesh Area 1 that you see there.

Moving forward to the ASMFC spawning closures, the only other – or another regulation on these vessels is that there are default spawning closures or if states sample the dates can change a little bit, but now our spawning closures that come into play, August 15<sup>th</sup> in the eastern Gulf of Maine; September 1 for western Maine; and September 21 for Massachusetts/New Hampshire.

The delineations of these I think everybody is pretty familiar with it, but they're on Page 6, and particularly relevant is the Massachusetts/New Hampshire closure which begins September 21. Looking at the small-mesh bottom trawl landings specifically, the vessels that have used small-mesh bottom trawl have harvested less than 2 percent of the Area 1 TAC since 2005.

You can see it was 0.11 percent in '05, 0.41; about 1.5 in 2007 and 0.53 in 2008. If you look at these landings temporally, they're usually in July, August and September. Also, if you look at them spatially, the plus marks, which they kind of dissolve together,

but you can see that all the trips that landed greater than one metric ton were off of Ipswich Bay there, off New Hampshire, which coincides with the small-mesh Area 1 for the most part.

There are a couple of these points up by Maine and Nova Scotia, but talking with some of the data people, they felt that these are probably errors in the reporting rather than where people are landing. And if you look at them by year, this is 2008, 2009; 2005, 2206 and 2007 on the bottom, and they're generally concentrated in that small-mesh Area 1 area.

This is by quarter of all years combined. You can Quarter 3, which is July, August and September most of the landings come there as well for the small-mesh bottom trawl vessels. Taking all this into account, the seasonal and spatial distribution has concentrated along small-mesh Area 1A.

The landings coincide with the beginning of the Area 1A season, which is July 15<sup>th</sup>, and then the stoppage of fishing in that area, which is when the Massachusetts/New Hampshire spawning closure comes in into account September 21, so it leaves a pretty small window of fishing for these fishermen, and it coincides with what the reports of the small-mesh bottom trawl fishermen were prior to developing this addendum.

Also, Table 6, if you look at it, it has got number of trips, total days absent, and then the average trip length. All this is are the number of trips divided by the total days absent, so there are probably other factors that weigh into this of why it would be more than one day. But, if you just look at this, you can see the bottom trawl vessels with the C and D permit average one day of fishing per landing event, and the purse seine actually are two days, which is interesting as well; and if you go to the midwater, A categories are 4.3 days by average; and the pair trawler is 3.4 days.

Like I said, this is simply dividing the number of trips by the total days absent, and there are probably other factors, but this might provide a little bit of a clue if there are iniquities. The only sector of small-mesh bottom trawls that we haven't talking about would be the state-only permit holders. Maine and New Hampshire both prohibit the use of small-mesh bottom trawls.

Massachusetts has a coastal access permit, which is limited access and is currently under moratorium. There were 239 of these permits issued in '09, but only 30 applied for sea herring endorsement; and

between '05 and d'08 only three trips landing small amounts of herring. In 2009, that was the only year when there were any herring landings, but the person who pulled this data, Steve Correia, was unsure if the vessels could also have had federal permits.

The takeaway message is that with these constraints it's probably unlikely that there is much of a state-only herring fishery with small-mesh bottom trawls and an increase in effort is probably unlikely. That comes directly from Steve. Now, moving forward to the other proposed exempt group in this addendum, which are small purse seines, similar to the small-mesh bottom trawls, the small purse seines have landed less than 2 percent of the Area 1A TAC.

Since 2005 it was about 0.5 percent and then in 2007 about 1 percent; 2008, a less than 1 percent; and then 2009, that was the first year we actually saw some landings from C permit holders, but about 1.5 percent, so pretty low compared to the overall TAC for Area 1A. The small purse seine state landings, Maine had about 290 metric tons of state-only fishermen.

This was reported for all gear types with state-only permits who landed herring in Maine state waters, but the fixed-gear fishermen are the predominant gear type, so it's likely that it's a lot less than 290 metric tons, so it's pretty small in Maine. New Hampshire prohibits purse seines in state waters, so that's a non-issue. And Massachusetts has zero active purse seine state-only vessels. These are the ones with a coastal access permit that landed herring in 2010.

And like the small-mesh bottom trawl, Steve thought that it's very unlikely that there is going to be any increase in the near future or at least a significant one. River herring bycatch, this one is a little bit harder to pin down just based on the data constraints, but the section asked the plan development team and the technical committee to include river herring bycatch analyses in the addendum.

The technical committee looked at this about three-quarters of a year ago, eight months ago, and determined that the New England Fishery Science Center Observer Program data base is the best place to look with the most complete data. It has a low number of observed trips, and the technical committee strongly cautioned against extrapolating any of this date by the catch rate.

There are tables on Page 19-30 of the addendum that you can look at by gear type, and I would point out that these are not management area specific. The one

table that does look at bottom trawl gear are for bottom trawl and not small-mesh bottom trawl, and there was none for purse seine observed trips with C or D permits. There is some purse seine in there, but it's all A or B permit purse seine trips that were observed.

Moving forward to the management measures, like I said before, this is only for Area 1A. It only applies to vessels with a C or a D category federal permit or only a state permit, so it's an and/or there. All three would get the exemptions. It specifically states that the exemptions do not apply to A or B permit holders.

I've asked NMFS if a vessel could potentially hold an A permit and then also go out and get an open access permit to fish under these and didn't get a totally straightforward answer; so by stating that the exemption does not apply to A or B, it kind takes care of that. It also does not apply to any weeks where there seven days out, where there are times where the section has deemed it best to take seven days out, which is essentially a closure, so it would not allow these vessels to have like one additional day or two additional days when nobody else can fish.

There are only three options. Option A is status quo. Option B would be one additional landing day for small-mesh bottom trawl and small purse seines with a C and/or D and/or state-only permit, and this would be added to the week. For example, if the section has five days out, which is two landing days, by default it would be Monday and Tuesday for vessels and then the vessels which meet the exemption criteria, small-mesh bottom trawl, small purse seine, C-D, or state-only permit could fish on Monday, Tuesday and Wednesday. That is pretty simple and pretty straightforward. And Option C is the same thing except it proposes to give them two additional landing days. That concludes it.

CHAIRMAN ABBOTT: Thank you, Chris. Chris has done this enough times he has probably got it about memorized. Terry.

MR. TERRY STOCKWELL: Mr. Chairman, I have a comment, a question and a motion when you're ready. The comment is related to the Maine state waters purse seine fishery and remind you all that we have implemented a new pelagic license that is going into place this year, so we will be able to effectively monitor the landings on a weekly basis.



The question is assuming that this document moves forward for public comment, Chris, can we have all the tables updated to include 2009? A lot of the data that you had incorporated were from the previous addendum and they only went through 2008.

MR. VONDERWEIDT: I guess a short answer is not anytime soon, so probably not in time for the March meeting. I tried as best I could to update this stuff, but a lot of it is dependent on data that NMFS has as far as just even the number of permit holders and stuff, which I haven't been able to get from people.

A lot of it is – for example, the small-mesh bottom trawl analysis, I think it took Steve Correia to do the last time, and he had to have somebody put it into the GIS software for him to do the spatial and temporal stuff. I basically updated everything that was possible to update, but I could easily include it if I could get help from outside people that have the right software and have access to the data, but probably not by the March meeting and probably not with enough time to go out to public hearing.

MR. WILLIAM A. ADLER: Mr. Chairman, a couple of questions. First of all, the PDT says that they don't – or Steve Correia says that he doesn't expect there would be a big influx of these boats. If I read this correctly, there is like 2,000 permits out there. I know you said less than a hundred or something actually use it, but some of them are open access. My first question is do you anticipate that there will be more people jumping into the – more boats jumping into this where the percentages, which are extremely low right now, would all of a sudden multiply? That's my first question, Mr. Chairman.

CHAIRMAN ABBOTT: Well, let just take a quick whack at that. If we look at the days-out scenario that we had this year – if you look on Page 3 and you look under 2010 at our days-out scenario, I think the fishing time for these folks from the small-mesh bottom trawlers begins July 15<sup>th</sup> and ends effectively when the spawning closures take effect.

And if you look at the amount of days that they had to land, it was quite a few. We went from four days of landing, three days of landing to seven days of landing. I think anecdotally what I was told through the fall and late summer that there wasn't an influx of boats this year into the fishery. That's anecdotally.

MR. VONDERWEIDT: Well, to answer kind of the question, I would defer to anybody in this room, and I don't really feel comfortable trying to predict whether or not there will be an influx. You guys are

closer to the fishermen and probably know what happened in the last year. Bill, as far as Steve's comment, that was specifically to vessels who are only fishing in Massachusetts state waters and have that coastal access permit, so it was a very small amount just in Massachusetts state waters. That's not referring to Massachusetts fishermen in federal waters or other federal waters in Area 1A.

MR. ADLER: All right, if I might, the next question was one of the options here is one day or two days extra. If we allowed five days of fishing for the big group and you allowed one or two days, you're basically saying they could go six or seven days of the week?

MR. VONDERWEIDT: Exactly.

MR. ADLER: And the last thing is the 2,000 pound limit that has been spread through this for everybody, that is for everybody right now, correct, and it stays that way?

MR. VONDERWEIDT: Whenever there is a closure, yes, you can always land 2,000 pounds.

MR. AUGUSTINE: To follow Bill's question, is there a management tool for adaptive management in this plan, in the overall plan, that in the event that we did have a great influx of vessels coming into, that the board could actually make a decision based on a catch rate or impact that the extra vessels might be having.

In other words, without having to go through a whole addendum process again, if we selected two days – if that turns out to be the case – and we underestimate the impact, what do we have to do, what could we do as a management board to bring that back into control? Is there something in our adaptive management of this FMP that will allow us to do that without having to go through a full-blown addendum process again?

I'm thinking further ahead than – and less ahead if like 2,000 vessels with the possibility of getting in – we know they're not all going to jump into it, but we may have a significant increase of 100 or 200, we don't know, so do you know of anything that we have or can do on this or would we have to go through a whole addendum process?

CHAIRMAN ABBOTT: Our answer I think would be we'd have to go through an addendum process if we thought the problem was significant enough to warrant such action. I think the general feeling is

with the catches down in the 1 and 2 percent area, that it wouldn't be significant, but I think it would be something that would have to have attention paid to it.

MR. AUGUSTINE: Just a follow-on, the concern is that if that does happen, there is no way to slow that number of vessels that fish in there the following year other than they're going to report, as I understand it.

How much work would it take to put in one little section that this addendum includes an adaptive management ability where the board can decide through board action in the case that happens – otherwise, we're looking at another year or two-year cycle, and I'm just looking at it as a protective measure so we don't put ourselves as a board in that position. I may be overconcerned about it, but I'd rather have it on the table now and discussed or disregarded as opposed to not even considering it.

CHAIRMAN ABBOTT: Good thought. First I would recognize Doug.

MR. DOUGLAS GROUT: Mr. Chairman, my thought on this is that we are a relatively nimble organization. This whole process of putting through this particular addendum is going to take place in about five months, so from start to finish; and so if we did recognize something like that at the end of one season, clearly we would have the ability to make the change in the next season through the adaptive management process of going through the addendum process.

MR. AUGUSTINE: Yes, that addresses my concern, Mr. Chairman.

CHAIRMAN ABBOTT: Yes, and that would have been my exact answer is that what we're doing today, as we started in November, we're hoping to have this approved in March, so we have the ability to act, but obviously we needed information. Lori Steele.

MS. LORI STEELE: Well, related to that I was going to raise a similar question, and I guess I just assumed that the strategy for adjusting the days out for these vessels would be similar to the strategy for addressing the days out for other vessels. I just kind of assumed that there would be a mechanism in this addendum and in the plan that says that the number of days out for these vessels can be adjusted during the season just like when the states get together and adjust the days out for the other vessels. That would be the suggestion that I would have to deal with an influx of effort. That way it can be managed on a

more real-time basis. The mechanism is already there. I just assumed it would apply consistently to all of the vessels in the fishery.

MR. VONDERWEIDT: What you just said was in Addendum III before, and one of the options was that these vessels would have different days of the fishery to reduce the competition when the larger vessels came in with millions of pounds and these smaller boats are considering themselves to have lower value fish because of the competition. The comments surrounding that were that this is – days out is already kind of a difficult process and states don't always agree, and so you tack on decisions of what days that are – or you tack on decisions of how many days that might be, how do you kind of agree on that.

You've only got three states during that time period so I think that was removed when it was put into Addendum IV because it was sort of how do you make those decisions. It's kind of more complicated and just lock it in and make it simple, one extra day at the end of the week, and so that's what it is, you know, to keep it simple, just historically why it's like that.

CHAIRMAN ABBOTT: It would also be my thought that could you do this in real time, and you'd have to establish some sort of triggers to take you down that road if you wanted to do that.

MS. STEELE: I guess I'm just a little unclear because doesn't the plan already – I'm just talking about the mechanism. If you set it at two days and you decided in the middle of the season there is too much effort from that sector coming in, we want to back it down to one day; don't you guys already get together and do that for the rest of the fishery?

That's the only thing I was suggesting is to have the mechanism in there to adjust during the season just like you do for the other permit holders in the fishery, changing it from four days down to three or whatever. That happens all the time. That was where I was not clear.

CHAIRMAN ABBOTT: That's a good thought; we'll keep that in mind. Terry.

MR. STOCKWELL: To Lori's point and Chris' answer, my intention, when we initiated this addendum, was to keep it as simple as possible. I don't remember how many times we've met over the last couple of years, but it has been quite a few. I don't think that the landings of this group are going to be significant.

As we go through our public comments, it is going to determine whether or not – assuming we approve this for public comment – that we approve one or two days. If we're really concerned about additional effort, then I suspect the section would then consider approving one additional day. If we're not, then we'll consider adding two additional days. To Doug's point, we have that ability to view this at the end of the season and make corrections the following year, and I don't want to complicate this addendum any more than need be.

MR. ADLER: All right, in other words, if we approve this addendum for either one or two days and then we have our usual days-out discussions and meetings, and we go from four days out for the big boats down to two, we can't take the small mesh – if we approve two days, we can't go back and say, well, we've cut them back to two days; we're going to cut you from two days to one day; we can't do that or we can do that if this addendum gets passed?

CHAIRMAN ABBOTT: That's not in the addendum.

MR. AUGUSTINE: Can't do it is the answer.

MR. ADLER: Can't do it, so if we approve two days there is always going to be two days no matter what we do with the other guys?

MR. AUGUSTINE: Until you change it.

CHAIRMAN ABBOTT: That's my understanding.

MR. VONDERWEIDT: Yes, if it's two days for the everybody, it will be three days for the small-mesh bottom trawl and the small purse seine. If you approve five days for the larger vessels, it is going to be six days so it's always plus one or plus two, depending on if it was Option B or C.

MR. ADLER: But you can't go from two to one?

MR. VONDERWEIDT: You can't go lower, no. It's always plus one or two.

CHAIRMAN ABBOTT: Further comments from the board? Dave Ellenton. I'll go to the public right now.

MR. DAVID ELLENTON: Do you want to take Mark?

CHAIRMAN ABBOTT: I would; Mr. Gibson.

MR. MARK GIBSON: It's not that important to me, but I would suggest you just go to the public with the status quo, one-day and two-day options; and if there are significant concerns expressed in the public comment record about lack of flexibility, at that point you could introduce another element in here to give the board the flexibility to shift from two or to one or to zero upon consultation of the section. It didn't seem like it's that difficult an element to put in there after comment. I wouldn't suggest you have to do it now.

MR. STOCKWELL: Thanks, Mark. I agree with you concept, but we have hard enough time just get the aggregate landings much less being able to differentiate between the permit types. We're often stalling our days-out meetings until after the fleet has reported, and Matt will work up to the night before. I'm probably speaking for him at this point, but asking him to be able to tease apart that data and the gear types I don't think is reasonable at this point. If the section disagrees, I'm sure we can figure out a way to do it.

DR. MATT CIERI: And just so everyone is aware, in season you can't. The IVRs simply do not give you gear type. They give you vessel permit ID, but in a lot of cases that data doesn't tell you what they have been fishing with; they have been fishing small mesh or a purse seine or a midwater trawl. You won't know within season how that is going along.

CHAIRMAN ABBOTT: Okay, I'll go back to Dave Ellenton.

MR. ELLENTON: Mr. Chairman, I've probably got ten or eleven questions or comments with regard this document, but I'll reduce it down to as few as possible. When do these vessels fish; what period of the year do they fish?

DR. CIERI: It depends honestly on which part of this you're talking about. If you're talking about the small purse seines, by and large they're fishing throughout the entire season. If you talking the small-mesh bottom trawl that are fishing with the raised footrope trawl, they have very specific areas that are open during specific times.

MR. ELLENTON: But they're usually both – both gear types are usually done with fishing before the Area 1A is open to the midwater fleet?

DR. CIERI: The small mesh, they do actually complete some trips at the same time, after October

1<sup>st</sup>. In many cases some of the smaller purse seines actually do as well.

MR. ELLENTON: Okay, so their real concern is then how much money they can make or they're not making enough money when they're fishing at the same time as the midwater trawlers. The statement of the problem indicates that they're not making enough money herring fishing and their concern is that when they land their herring it's competing with the fish from the midwater trawlers and they get a lesser price. That's how I read the statement of the problem, the words behind the words, and yet we don't have an economic analysis. Is it Chris' intention to do an economic analysis that will go with this?

CHAIRMAN ABBOTT: Right here in the document it says no economic analysis has been conducted to support or refute that fact of whether they're economically advantaged or disadvantaged. There is a perception and a belief, but there is no proof. I think we've said that during the time we were trying to work on Addendum III, and we're saying it again here that the small-mesh folks are saying that but we have no proof evidence to really back that up. We state that in the document.

MR. ELLENTON: So the reason for the addendum is?

CHAIRMAN ABBOTT: The reason for the addendum is to allow –

MR. ELLENTON: Yes, in my opinion – I might be wrong but by opinion was the reason for the addendum is that these guys are concerned about the days that they land the fish, that they don't get enough money for fish, and that they've got an economic problem, and we're saying in this document that there is no economic analysis to support or refute their concerns.

CHAIRMAN ABBOTT: I think the clear fact in one of the other charts is that they effectively have less landing days than the larger boats.

MR. ELLENTON: Fishing days. That is where we get confused; we're talking about fishing days and landing days, and so the reason for addendum is?

MR. VONDERWEIDT: Plainly stated, the statement of the problem is just that as there have been more days-out reductions, these smaller vessels – the number of landing days equals the number of fishing days for these vessels; and for the larger vessels they

can fish for a couple of days at the front end, so the number of fishing days is more than the number of landing days for these vessels. That's the concerns of these fishermen, and that's the statement of the problem of why. It's just the number of fishing days. It's not the amount of money or anything like that. It's just how many days they can fish per week.

CHAIRMAN ABBOTT: How many days they can land, actually.

MR. ELLENTON: I didn't hear you, Mr. Chairman. And so they want to land on the day after; but if we got two landing days, they want to be the third day and the fourth day?

CHAIRMAN ABBOTT: That's correct; that's been clear throughout this whole process in both addendums. I think you know that.

MR. ELLENTON: I don't know how that helps. I'll just leave it at that; thank you.

MS. TOOLEY: Mr. Chairman, a question first for Chris. Terry had asked and I think it came up about updating the tables to 2009; and I just curious, Chris, do you not have access to the data? I just don't understand why you can't do that.

MS. VONDERWEIDT: Yes, there are a few factors. There was not having access to the data, not having access to the number of permits and also not having access to the geographic information system software like ARCMAP or ARC catalog, which are very expensive programs, in order to plot spatially the landings for the small-mesh bottom trawls, so it's kind of a combination of stuff, but there is a lot that goes into it; more than I would have suspected, probably.

MS. TOOLEY: So just to follow up, no one on the technical committee has access to this information?

DR. CIERI: Most of the technical committee members are actually on the Atlantic Herring PDT, and they're wrapped up doing Amendment 5.

MS. TOOLEY: Well, I think it's unfortunate to have such little data, particularly through 2009; but for the document as a whole – and I know we should not be debating the merits of this addendum simply commenting on the document itself and whether it's sufficient for public comment.

On Page 3 it states the concerns of small-mesh bottom trawl and small purse seine fishermen, and

this was the same that was in the previous document, so I don't know how it reflects small purse fishermen. I think if you're going to have a balanced document you need to have the concerns of this group as well as other fishermen in the fishery; so where are the concerns and how can we insert concerns from the long-term participants in the fishery who use larger purse seines and midwater trawls? There needs to be some balance.

And the first paragraph, the last sentence says that the absence of large holds and refrigeration on these vessels requires them to sell their fish on the same day they catch it. There is no requirement that says they have to sell it on the same day they catch it. Refrigerated water systems are not the only way to hold herring.

I've been in the industry a long time working with vessels that had no refrigerated systems at all, and there is ice. There are insulated totes. There are many, many ways in which you can hold fish, and it's done every single day in the industry. We need to be careful about the terms that we use. If this is really just anecdotal information about their concerns, then I think you need to have that balance of the other sector in the fishery which by and far lands most of the fish. I think that's important.

And then the other discussion about whether or not to frontload the document to give you the flexibility to adjust the days based on some influx of permits that we don't know the number of – we know the possible number is 2,000-plus – I just can't understand why you wouldn't frontload a document to give you the flexibility. It just makes absolutely no sense. I understand the limitations on the data because we've watched the process extremely closely over time and what Matt has to do to get ready for a meeting.

Right now, he is absolutely right, we would not have the information on a real-time basis. However, when Amendment 5 is implemented, we may very well have that information. We may have daily reporting. There are all kinds of alternatives that could get us there; so why you wouldn't want to do it up front, I just don't understand that. You have a large majority of the fishery and it feels like it's getting jerked around month by month through this process, and you can't deal with these supposedly small number of people. It seems like you should be able to do it.

MR. JEFF KAELIN: Mr. Chairman, I'm Jeff Kaelin. I'm here for Lund's Fisheries from Cape May, New Jersey. I just wanted to share our concerns with the way the document is set up, similar to what Dave and

Mary Beth were just saying. It is kind of one-sided. Some of these arguments I think really ought to have some economic analysis to support them.

We're active in a small menhaden fishery where we take a small boat out and we bring another one with us to put fish on board. That's called a carrier and there have been carriers in the herring fishery for about a hundred years, something like that. Really, I'm at the point, frankly, where we don't care if they have the damned day, because I don't want to spend another year screwing around with this, frankly, because we've got a lot of other things we should be doing.

But I do have concerns with the way the document has been set up. I think the justification that somehow the midwater trawlers are affecting the market negatively for these guys is unfounded. On the other hand, 1.5 percent or whatever they take is probably not a significant factor in terms of any market implications for those of us who are in the fishery the other time of the year, which is why I'm probably willing to give them the damned day and just get it over with.

I think the document doesn't really explain, as Mary Beth said, the other side of the issues, why other people who are more invested are concerned that one group is getting away with something that nobody else gets to do. I think those concerns need to be addressed in here. As far as the phantom 2,000 permits go, this is another issue that I'm getting pretty tired of talking about.

We've talked about it for years; and in fact as we look at data, as we get better data, which this industry has been prescribed to for as long as I've been in the fishery, which is about 25 years, we're learning more about this problem, supposed problem. In the Amendment 5 document we learned that there is probably about 300 D-permits that land herring.

This document says it's about 100. I think the difference is this document is probably focused more on the Southern New England and Gulf of Maine exemption area portions of the fishery. Those other boats might fall out if you go down to the Mid-Atlantic exemption area. Maybe it's 200, maybe it's a hundred, maybe it's 300; I don't really know. It's not a number of great concern.

I also agree with the other statements that have been made. I don't understand why you can't put an earmark in this document to give you the flexibility. You may not have the data, but I think some of us

who are concerned about the potential for this sector to ramp up, frankly, we're correct in that the document should give you the flexibility, if you have data that there is a problem, to make a decision when we all meet together on a regular basis.

It's beyond me how that complicates this document to the extent that we can't move it in March. I don't get that piece. I would encourage the section to go back and put a marker in here to allow that flexibility. That's all it does. If you don't have good data, you can't make the decision. The other thing is this relates to Amendment 5. Because we don't know enough about the river herring bycatch issues and so forth, the D permits in this fishery absolutely should be required to have VTRs; VMS, rather and call in so that they can facilitate monitoring like everybody else does.

Now I don't know if you want to stick it in this amendment or not; we're talking about this Amendment 5, but it's simply unfair to give this sector additional access to the fishery but not also require the responsibility that they're involved in monitoring their catches for particularly river herring bycatch, which we know over the last three or four years is something that most people in New England apparently can't go to bed without a lousy night's sleep, at least if you live out in Cape Cod. The rest of us, you know, we've seen this stuff for a long time.

I think it's unfair that the section is not considering additional monitoring requirements or at least monitoring requirements that are equal to those that the rest of us have to go through. It facilitates better monitoring and better information for the fishery. If we don't do it in this addendum, we definitely ought to do it in Amendment 5, I think.

I know that you're the same folks that are going to sit around the table next week or the week after on Amendment 5, so I wanted to make that point. I think if you do that, if you make that requirement, most of these guys probably have VMS, anyway. If they have multispecies permits, they probably have VMS. I guess that's a question to Chris; do we know how many of these hundred vessels that landed herring as enumerated in your document have a vessel monitoring system in place already; do we know?

MR. VONDERWEIDT: No, that's a good point. Basically what is in the document, that would be the worse case scenario, so I think you're probably right to assume that some of them with multispecies

permits probably do have VMS or maybe most of them, as Matt just commented.

MR. KAELIN: If you extend these reasonable requirements to this category, this permit category, then you're moving towards eliminating this latent effort of the 2,000 permits that we've heard about forever. If your vessel is directing on herring, if you're A, B, C, D, you ought to call in and let people know where you're going to land so that your catch can be monitored I think and approach it from that perspective. I think we would be more inclined to go along with the idea that somehow they're downtrodden more than the rest of us and give them the day, but the monitoring piece is important. I guess those are the points I wanted to make. Thank you.

CHAIRMAN ABBOTT: Thank you, Jeff. We'll go back to the board. I'm going to go to Terry Stockwell and then to Pat.

MR. STOCKWELL: Thank you for your comments on adaptive management. They're compelling and I guess my question to Chris is can you develop a measure incorporated into this addendum that would allow us to accommodate adaptive management as we are able to differentiate between the gear and permit types and having it in this – I think as Pat was indicating earlier have it in here as a placeholder for the future is good while we know we can't apply it this coming year.

MR. VONDERWEIDT: Yes, I could just take the language from Addendum III; but just to be clear what that means, that would mean adding another option to the first set of management measures, which would be that it would be adaptive, and then there would also be questions about how to decide on it, so what happens if – right now the language for days out is that the states must agree.

It was written loosely like that on purpose. During Addendum III, one of the options was that if the states can't agree, then it goes back to the entire section. The details of how states come to that decision will further complicate management measures, but the language could be copied and pasted very easily.

MR. STOCKWELL: Can you actually lift that out so we can see it?

CHAIRMAN ABBOTT: We're trying to find the language from Addendum III about the adaptive management right now. Let's settle that first.

MR. VONDERWEIDT: The first part says “may land herring on different days of the week that are set for the rest of the fishery”, so that would be included as Options 3 and 4 in there. Option A would be status quo. Option B would be the same plus one by default. Option C would be plus two by default.

Option D would be one day but on different days of the week. Option 3 would be two days but different days of the week or some kind of a combination of that or number of days set by the section. There would be a few ways that you could incorporate that, and then there is an actual section at the end here. Okay, I think what I’m thinking about was the addendum that includes the seasonal and area restrictions or the seasonal allocation of quota, the tools in the toolbox addendum, so I’ll bring up the language that actually could speak to this.

MR. STOCKWELL: Those measures weren’t the ones I was interested in. I’m thinking of a mechanism for us when we have our days-out meetings. Say, for instance, we move forward with this and select two additional days, that we can then, through our annual days-out meetings, some time in the future be able to determine that there has been an influx of activity and we want to trim it down to one day.

CHAIRMAN ABBOTT: Which I think is back in Amendment 2, in my mind, where that is and whether we want to adapt that language.

MR. VONDERWEIDT: I misspoke, it’s Addendum I, but there are three options here. Option A is that states will continue to be set according to 4.3.1 effort control measures, which states the states must agree. Option B is that the full section will vote at the beginning of the year. Option C is that states adjacent to the management area, which is Maine, New Hampshire and Massachusetts, will try and agree; but if they don’t agree, it goes before the entire section for review during the next ASMFC Meeting Week or a special meeting of the section called by the chairman. It would be those options. That’s what I was thinking of.

MR. STOCKWELL: But that still doesn’t give us the flexibility to address –

MR. VONDERWEIDT: Well, it would be how that would be determine, I guess, but I see what you mean.

MR. STOCKWELL: We have that option no matter what and we strive for consensus, but I think the

consensus that we would be striving for would be to address the additional landing days of the C and D permits on our annual deliberations.

MR. VONDERWEIDT: I guess the short answer to your question would be, yes, we could create something.

MR. ROBERT E. BEAL: It’s just a question of clarification to Terry. In the language that we will work into the document; do you want that to be limited to the zero, one or two additional days and those one or two additional days would be subsequent to the open days for the entire fishery? In other words, do you want to provide the section with additional latitude beyond the one- or two-day options that are included in the document right now should the data become available in the future?

MR. STOCKWELL: I certainly don’t want to consider at this point adding – well, I don’t know. I’ve got to think about that one, Bob, as the conversation goes on.

MR. AUGUSTINE: This is to Bob’s point. The point that I tried to make early on was to have within the document the adaptive management part that allows the section to actually make the decision based on certain criteria, in this particular case whether it’s harvest, what has been caught, or whether it’s number of vessels that are going to participate.

We have to have something that is measurable rather than just out of hand say, well, that group thinks we have too much effort going on and therefore without the economic analysis that she had talked about, that’s not available to be able to make a conscious decision to control that extra effort. I was looking for something in the adaptive management – as Bob started to say, zero, one or two days. I want to go one step further.

If we go beyond one or two days at this go-around right now, what negative impact, if any, will it have on the other vessels if we’re satisfied that zero, one or two will satisfy the need for this go-round to accommodate the vessels that we’re talking about? The second question would be do we want to have it flexible enough so that the section could decide whether it goes at the beginning of the fishing period or at the end of the period, and I think that should be a part of this adaptive management process.

We might find after this next season that if we put it at the beginning, it will create a, quote-quote,

hardship of some sort on other vessels because they'll have an advantage of getting to the market a day earlier or whatever the case may be and/or at the end, which may work the other way. I'm talking very black and white and objective about the whole thing; where is the fairness here? How can we write this adaptive management so it gives the section not only the flexibility but the flexibility to make judgments on some hard information? How can we write that as simplistically as we can, Mr. Chairman? That would accommodate what we're trying to do.

CHAIRMAN ABBOTT: Okay, let me try to translate what you were saying. You want the section or the states to have the ability during the fishing season to also have the ability to affect those extra days?

MR. AUGUSTINE: Yes.

CHAIRMAN ABBOTT: In season?

MR. AUGUSTINE: Either the section or the state. To start with I say the section because –

CHAIRMAN ABBOTT: So when the section meets, as we met about five times either by telephone or face to face, when the adjusted the days out, you're saying that we should also have the ability at that time or we should consider adjusting those days for the people who are affected by the addendum, the small mesh and also the purse seiners; that is what you're saying?

MR. AUGUSTINE: You hit it right on the head, Mr. Chairman.

CHAIRMAN ABBOTT: Okay, and so everybody is clear on that, that's a good comment and we'll consider that in the next few minutes. Ben.

MR. BEN MARTENS: I really think that the adaptive measures sound great while we're sitting around this table and talking about it, but I just don't know how feasible it actually is in day-to-day basis while we're trying to manage the fishery over the course of the year. We're talking about it like some years these boats are landing less than a percent of the overall catch.

If they double their effort, if they triple their effort, is that really going to impact the fishery that much so that we can't adjust it the next year if we see that's a problem? Is this something that we really need to spend a lot of time here today? I imagine this would be a very large discussion at the larger meeting as

well. They could potentially derail this amendment. I just don't necessarily see that this is something that we need to really spend a lot of time on when it's such a small portion of the fishery that could potentially expand into it.

MR. GROUT: I agree that I think we have a flexible management effort, as I stated before, that we can adapt fairly quickly given the data that we have. We're not going to have at this point in time the ability to make in-season adjustments because we won't have the information split out by gear types, but at the end of each season we should have that ability to see if there has been an influx, and that's where potentially the addendum process come in.

One possible way that I could see that we could make an adjustment to this to be able to not have to go through the addendum process is very similar to what we have in Addendum I where it says each year, at the beginning we decide whether to choose the shutdown of the fishery for each – whether we use 90 percent of the total allowable TAC or 95 percent of the total allowable TAC, to stop the fishery once they reach a seasonal quota that we have established. We could put in a part of the plan that says each year we will decide whether we're going to choose Option A or Option – one of the three options, either status quo, one extra day or two extra days.

That's the limit of the data right now. Maybe in the future we might have additional abilities to do something in-season but we don't have that now. If we find that there is such a problem that we need to have that data in-season, then maybe we will go to the adaptive management, to maybe may have another addendum to change that.

But right now let's give us the flexibility to do it on a year-to-year basis before we – because there may not be a problem that we're going to be running into. It's only a perceived problem that there could potentially be several hundred boats coming into this fishery. Keep in mind this is a very low-value fishery. These boats don't land that much.

Again, it's less each year except for one with the data that we have – they've landed less than 1 percent of the catch. It's not a big problem. They're just looking for a little equity in the amount of days that they're allowed to fish compared to the other vessels.

DR. CIERI: Just to give you guys and to sort of remind you about when the data are and when the data aren't available. The fishery sort ends on the calendar year and that data becomes available usually



by March or April from VTRs, which is actually what you guys need in order to actually process this information.

Normally you guys set some of the parameters for that fishing year at the annual meeting in November previous to the end of that year, and so you're not going to have that data from the previous year when you make your decisions at the annual meeting. You're not going to have that VTR data from the previous – from that year. You may want to think about, like I said, making it a little bit more flexible and doing something at the first meeting that you guys have to discuss days out.

DR. DAVID PIERCE: I agree that we seem to be making more of this than what we should. However, in light of what has been said already by industry advisors and some council members and council staff regarding the merits of our having in this addendum to bring to public hearings some provision for an in-season adjustment, it seems to me that we should do that.

Otherwise, we'll just go to public hearing to hear the same comments that you should have this in-season adjustment, so let's put it in and get comment regarding it. I would suggest that all we need to simply do – and we may not use it next year.

Again, it depends upon the data that is available consistent with the point that Matt made – but just simply a provision that there would be an in-season adjustment by the – and here is where it becomes the question of the section or the northern contingent of the section, Maine, New Hampshire and Massachusetts – I suggest the northern contingent – so there will be an adjustment of the Area 1A additional landing days allowed for the small-mesh bottom trawl and small purse seine vessels; that we just put it in there and then get comment on it to see if indeed we need to do that.

Some of the comment likely will be along the lines of, yes, you need to do that because of the possibility of additional effort coming in. A response might be, well, we're not going to know exactly how much effort has been added to this fishery until later on, maybe the next year, whatever. At least we'll have it in there and we can use if need be, if the data are available for us to make that kind of a choice. Let's put it in now as opposed to waiting for the public comment where we hear we should have had it in.

CHAIRMAN ABBOTT: Would you like to prepare a motion to that effect?

**DR. PIERCE: Yes, I can make a motion that we include in the draft addendum the provision for a within-season adjustment by the northern contingent of the section, Maine, New Hampshire and Massachusetts, of Area 1A additional landing days allowed for small-mesh bottom trawl and small purse seine vessels.**

CHAIRMAN ABBOTT: Second by Pat Augustine. Discussion on the motion? Bill Adler.

MR. ADLER: Yes, I think that's a good idea because also in this document, on Page 29, it looks like they talk about that the extra days would be following the days out or the days-in landing, and I think this flexibility could also say what if they came and they said, well, we want the two days before, not the two days after, and I think if you have flexibility in there you can make that decision if that's what happens.

DR. PIERCE: Mr. Chairman, back to the motion; it should be worded "section of Area 1A additional landing days"; just strike the word "for".

MR. GROUT: I was wondering if – I was going to make a similar motion, and I was wondering if the maker of the motion and seconder would agree to have this something – given the current data limitations, that we set prior to the season being opened so that we'd have something that each year prior to the opening of the fishery, the section members from the three northern states will meet to determine the number of additional landing days for small-mesh bottom trawl and purse seines in Area 1A. We could even put in the options that they could be either zero, one or two, but have it prior to the season; so that just like we're setting the days out, everybody knows ahead of time what they can plan for their fishery.

CHAIRMAN ABBOTT: Dr. Pierce, do you have a comment; will you accept that?

DR. PIERCE: If I accept it, then basically there are two things that we would be including. The first would be the flexibility to make a change within season and then, second, to say, similar to what we do with the larger vessels, the midtrawlers and the large purse seines, that we would set for everyone's benefit so they would know the days for landing that will be allowed by those gear types; so each year prior to the opening of the fishery – is that exactly what you want, Doug. That doesn't seem to be –

MR. GROUT: Would it be helpful if I made a substitute motion?

DR. PIERCE: Well, I don't mind a friendly as long as I understand what the friendly is. I didn't think that's exactly what you were getting at; to determine the landings for, that's not what you meant, I don't think.

MR. GROUT: What I was saying is if we start off the motion with "move to add a provision that each year prior to the opening of the fishery the section members from the states of Maine, New Hampshire and Massachusetts will meet to determine the number of additional landing days for small-mesh bottom trawl and purse seine vessels.

CHAIRMAN ABBOTT: At this point we're just scribbling on the board.

MR. GROUT: Where is the prior to the opening of the fishery each year?

CHAIRMAN ABBOTT: What we have essentially is two motion there right now, but we're going to decide on one. I guess the first question before us is would you like to make a substitute motion because his motion actually changes yours to an extent.

MR. BEAL: If I understand what we're trying to do, maybe we can craft a smooth layout of this; I don't know. It sounds like the section is trying to do two things. The first is what Doug is saying is that this will be an annual decision to allow zero, one or two extra days for these two types of vessels, and that would be something the full section does or the states do prior to the fishery start.

The second provision that Dr. Pierce is suggesting would be allow for an in-season adjustment to whatever decision was made prior to the beginning of the year based on data that becomes available as the fishery progresses through the year. It sounds like Doug and Dr. Pierce are seeking two different provisions; one to make a decision at the beginning of the year and the other is to allow changes to that decision as the fishery progresses. Is that what we're thinking?

CHAIRMAN ABBOTT: At this time let's a break and Doug and Dr. Pierce and Pat Augustine can work out a finalized motion.

(Whereupon, a recess was taken.)

CHAIRMAN ABBOTT: Take your seats; we're ready to go. David.

DR. PIERCE: Well, on a sidebar we agreed that it made sense for us to have two motions. The first one would be the one that I made regarding the in-season provision; again, to get public comment on that strategy; and another motion would be made consistent with the language that Doug has offered up that would entail or having this decision about the extra day being made at the beginning of the fishing season. That's our suggestion to you, Mr. Chairman, that there be two separate motions with mine being the first one on the list.

CHAIRMAN ABBOTT: Right now we have one motion on the board; it has been seconded; we've heard comment from the board. I think we're squared. Do we have any public comment related to this motion? Jeff Kaelin.

MR. KAELIN: I guess the question is are we going to be able to mix and match these things? I think what we were thinking about possibly – or at least I was – Dave Pierce's motion was the one that I was looking for.

CHAIRMAN ABBOTT: This is the Dave Pierce motion.

MR. KAELIN: I know that this one is. The other one, though, completely changes the focus of the addendum, so I guess my question is can you mix and match depending on when we go to public hearing?

CHAIRMAN ABBOTT: We have a motion before us seconded and we'll take discussion on the motion, Jeff.

MR. VONDERWEIDT: Just to understand this from the drafting side, would this adjustment provision happen through a section vote or through a days out with states adjacent to 1A?

DR. PIERCE: The northern contingent.

MR. VONDERWEIDT: The northern contingent and then could you call a special meeting just to discuss this or would it be done during an already scheduled days-out meeting?

DR. PIERCE: I haven't given much thought to that, but I assume we would use the same procedure we've used to date; you know, ideally a get-together in Portsmouth or wherever to talk about what needs to be done in response to data that is being provided to

us. Obviously, within-season adjustment is not something we will be in a position to do in 2011, but at least it goes out to public hearing and we could comment on it regarding its potential use.

CHAIRMAN ABBOTT: Okay, further comments to the motion? Seeing none, do you need the motion read?

DR. PIERCE: I'll read it, Mr. Chairman, if you'd like. **Okay, move to include a provision for a within-season adjustment by the northern contingent of the section of Area 1A additional landing days allowed for the SMBT and SPS vessels.**

CHAIRMAN ABBOTT: Any need to caucus; I don't think. All those in favor of the motion raise your hand. **The motion carries 6-0-0.** Okay, the next order of business; do we have a further motion? Doug Grout.

MR. GROUT: My motion, **Mr. Chairman, is to move an additional provision to the addendum that each year, prior to the opening of the fishery, the section members from the states of Maine, New Hampshire and Massachusetts will meet to determine the number of additional landing days for small-mesh bottom trawl and purse seine in Area 1A.**

CHAIRMAN ABBOTT: Could I ask if we should have it the beginning "prior to the opening of the 1A fishery"?

MR. GROUT: Sure. And, I was also just for clarification put in the number of extra landing days could be either zero, one or two.

MR. VONDERWEIDT: Can I get that last part again, Doug?

MR. GROUT: Sure, the number of extra landing days could be zero, one or two. If I can get a second, I could speak to this.

CHAIRMAN ABBOTT: Seconded by Bill Adler. Discussion on the motion? Go ahead, Doug.

MR. GROUT: I see these both as being complementary; one, it provides an option here that within the addendum we could choose to make changes every year to the number of extra landing days for these two gear types if this provision remains. The provision we just passed gives us the option in the future, if we do have the data

capabilities, to even go further and potentially make any in-season adjustments if the states choose to do that without having to go through the addendum process for either of these. I think it's beneficial and I think it could potentially give us more flexibility here.

MR. STOCKWELL: A couple of questions, Doug. One is do you want to specify that this would be at our initial meeting to determine the days out so we're specific as when we're going to do it or are you more open-minded about when it might be?

MR. GROUT: My assumption that it would always be – with that particular case that it would be whatever meeting we chose to. We could put that specifically in there, but I think it clearly gives us the ability to put at that time.

MR. STOCKWELL: Well, I'd like to tighten it up a little bit so it doesn't allude that we might have a separate meeting just to consider this one issue because I think it ties together what we're going to do for our landing days for the rest of the fleet. The other question and issue I guess I have with this is your inclusion of the number of days in there, because there are two other measures in the rest of the document that are options for either one day or two days.

I don't know whether or not we would want to then remove those – because if public comment comes along and we select one landing day, then this here would then allow us to add a second day or the other way around. Without the specific mention of days, I think it would be covered with the other motions.

MR. GROUT: Well, as long as you're – I had no problem leaving that out. I just thought if we ended up not having that clearly in there, that we would be limited to either having no extra days, one day or two extra days; and the way my motion read, if we hadn't chosen a day in the option, then it could be five days that we could choose, so I was trying to narrow it to the provisions of this addendum.

MR. STOCKWELL: In my efforts to stay simple in this addendum, this then puts an Option 4 in there rather than the three that we have right now, so I'd be more comfortable without the days listed in here and refer to Options B and C to determine the number of days that will be selected and commented upon.

MR. GROUT: If you're comfortable with that, I'm fine; and if the seconder is comfortable, I'll take it out. I was trying to tighten it up a little bit.

CHAIRMAN ABBOTT: Is the seconder fine with changing and the maker of the motion?

MR. ADLER: Yes.

MR. GROUT: Yes.

MR. STOCKWELL: We get along generally pretty well anyhow, but there does there need to be specific mention at the initial meeting to set days out in there or is the section comfortable with this language?

CHAIRMAN ABBOTT: As chair I would say I comfortable because I know we're going to have to meet prior to the 1A fishing season to set the days out, so that would be the logical time of doing it. It's usually a question of whether we do it at a special meeting or whether we do it – I know last year Mary Beth had some issue about when we should have the meeting, but it obviously should be done at a time adequate to inform the fishery of what our plans are.

MR. STOCKWELL: Well, just so industry can make their plans was my concern.

MR. GROUT: Absolutely.

MR. BEAL: Just a process question and not commenting either for or against the motion, obviously. If this passes, when Chris polishes up the addendum, does it really become the addendum can either be used to set a default, which is zero, one or two, that can be modified annually or is the addendum no longer going to be used to set a default of zero, one or two days and then the section will have to do that on an annual basis.

There are two ways to go about it. One is the section can take one day as our default unless it's modified prior to the opening to the season and/or in-season, or you can just say there is no default; and if the section takes no action at all each year, then the days ought to apply to all gear types, all vessels unless something is done by the section to allow separate days.

MR. GROUT: My intention is that with the approval of this addendum, we'd set something as a default and then we would have the flexibility with this particular provision in there to on an annual basis change it if we so needed.

CHAIRMAN ABBOTT: Is everyone comfortable with that, board members? Mark.

MR. GIBSON: What makes sense to me and I think would make sense to the public is do we have a suite of alternatives going from status quo that everybody is in the same days out to this body setting in an addendum the value zero, one or two days and then take public comment on another alternative, this one, which wouldn't set a default value, but would set up an annual specification process for determining that set of days, and then the last piece is the ability to make mid-course adjustments. That is what I think have, either states quo, one until we do something else, two until we do something or an annual specification process, depending on what it is. That's where I thought we were going.

MR. AUGUSTINE: That's what I thought.

MR. GIBSON: It wouldn't make sense to me to set a default value and then meet in the beginning of the year to change it. We're only trying to get public comment on it.

DR. PIERCE: I'm sort of losing track of where we are. If this motions passes, we'll be in a position to each year determine the additional days for the small-mesh bottom trawls and SPS vessels. Of course, the previous motion allows us to make an in-season adjusting if there is a reason for it. So, when we go to public hearing next week in Massachusetts, we'll have these motions. If this one passes we'll have these strategies in addition to three options to be considered by the public at our public hearings.

That would be for 2011. From the get-go, from the beginning it's zero additional days, one or two additional days. When we meet next in March, that decision will be made us on how we will start of 2011; zero, one or two. Then next year we'll leave it as is or – well, we'll make a determination to leave it zero, one or two, whatever we happen to decide for 2011. That's the key decision for our public hearing will be zero, one or two days for 2011, correct?

CHAIRMAN ABBOTT: Unless changed by action as a result of this motion.

DR. PIERCE: Unless changed by – now I'm losing it. So this motion deletes part of the additional addendum that is the options for zero, one and two?

CHAIRMAN ABBOTT: No, that stays.

MR. GROUT: That stays.

DR. PIERCE: Okay, so then when next we meet we will pick a day, zero, one or two, based upon public hearing comment? Good, okay.

CHAIRMAN ABBOTT: Further comments from the board? Mary Beth.

MS. TOOLEY: Well, I don't necessarily disagree with the intent of the motion. I did have a question, though. The way we currently do it, the northern contingent meets and has a discussion about days out, but the states have to agree, because you're really talking about a very small subset of the section, three different states.

And in this it doesn't say the states have to agree; it says the states will decide. So when we do it on days out currently, the states have to agree. If the states don't agree, then it has to go to the full section, which really provides the impetus for the states agree; because if you have to go to the full section, that takes much a much longer timeframe and is not beneficial for everyone.

So it kind of forces people to reach consensus, negotiate in good faith and come out the other end with something that people feel is fair. So from my perspective, I would think that you would want to have the same process for this as we do on all days out. I would think that in the plan that consistency across the board and different gear types and processes should be a goal that you would want. To the maker of the motion, I guess, would he consider that change?

MR. GROUT: I don't have a problem with that as being a refinement just for clarification, and I can see where you were concerned that may not be in this motion. It was certainly in my mind that still all three states would have to agree on this since we're working outside of the section.

CHAIRMAN ABBOTT: Doug, would you like to change the language.

MR. GROUT: So it will be to agree on – after the words “meet to”, delete “determine”. Is the seconder okay with this?

MR. ADLER: Yes. Do we need to put that part about or it will go to the section; do we need to put that part in?

CHAIRMAN ABBOTT: That's to be determined by the maker of the motion and the seconder of the motion?

MR. VONDERWEIDT: I think as written right now that would mean that this would basically follow the same process as days out as written in Addendum I, which would be the states agree or it goes to the full section; and I guess unless you want to add something to it that says it's different that, I think the PDT has what they need.

CHAIRMAN ABBOTT: Is everyone happy? Jeff Kaelin.

MR. KAELIN: I think I'm getting a little clearer now, but the question I attempted to ask earlier when the other motion was up about our ability to mix and match some of these options, and I think Dr. Gibson just laid it out pretty clearly at least for me to understand what we're doing here, and that this would be another option in the document; an option other than the original proposal in this addendum, and that is that a decision could be made that you have either one or two days for all time until there is another addendum. This is another free-standing option just to clarify that there are two choices there, and so I think I now understand where we are, and Mark did a good job laying it out. I think that's the appropriate way to proceed.

CHAIRMAN ABBOTT: Seeing no further discussion, would you like the motion read? Would the maker of the motion read it for the record?

MR. GROUT: Move to include an additional provision to the addendum that each year, prior to the opening of Area 1A, the section members from Maine, New Hampshire and Massachusetts will meet to agree on the number of additional landing days for small-mesh bottom trawl and small purse seine vessels in Area 1A.

CHAIRMAN ABBOTT: Is there a need to caucus? Is the section ready to vote? All those in favor of the motion signify by raising a hand. **The motion carries 6-0-0.** Terry, do you have a motion you'd like to make?

MR. STOCKWELL: **I move to approve Addendum IV as amended for public comment.**

CHAIRMAN ABBOTT: Motion made by Terry Stockwell; obviously seconded by Pat Augustine. Discussion on the motion? No discussion from the board; Mary Beth from the public.

MS. TOOLEY: Mr. Chairman, I don't disagree with the motion, but I did wonder about some comments

we made about the document itself, if there were going to be any adjustments to the document. Chris outlined some of his concerns with trying to update to 2009, but I think if he could perhaps try one last time he may be successful, maybe not.

And, also, in that we feel that the document is out of balance in that it presents the opinions of one sector of the fishery without any opinions from the other sector of the fishery, and it does clearly state that the economic analysis is not available, so we are going on opinions here; so if that's what we're going to do and there are reasons why, we just need to have the balance of all sectors in the fishery and those opinions. So, does moving this document forward preclude the adjustments – you know, added information to the document or not?

CHAIRMAN ABBOTT: In my opinion with the difficulty of gathering the data and placing the data and also I don't know how much increased, if any, value that would have, I don't think that it's my intention to task the commission to go out and seek that information for inclusion into this document.

MS. TOOLEY: Well, just to follow up, I think that is particular to adding 2009. The information that's provided by the concerns of the small-mesh bottom trawl – and it says purse seine people, but I'm not sure that really is so – is not data. That's opinion, so that's their concerns and I don't think that you would be data gathering to perhaps interview a few people from other sectors of the fishery to express their concerns.

CHAIRMAN ABBOTT: Thank you for your comments. Pat Augustine.

MR. AUGUSTINE: Mr. Chairman, I agree; I'm concerned that we're using a statement is not supportable by facts, and it's a hell of a way – I hate to use that expression, too – it's a hell of a way to go forward with a document although I understand the importance of the document. If the members of the technical committee – Matt had said that most of the folks are working on Amendment 5. Is there any model or tool that could be made available to Chris to at least pull out some data that – none.

Okay, then I think we have to make that statement because I do think that our rationale for why we're doing this is based on – in my mind it's hearsay because there is no data to support it. Maybe we have to have a statement in it that says that within due time the technical committee will provide that

information. I'm not sure how we cover ourselves on that.

Here is a case that I hate to use the word lawsuit, but I see this as an opening for a possible lawsuit down the road. We're making a management decision that is going to have some economic impact on somebody, on some group, no matter how much or how little it is; and without having something else to fall back on and say, well, here is why we can't or here is what we're going to do – if we had to go back not on 2009 but go back to the previous three, four or five years and see what the economics were of that, maybe that previous data might come up with supporting our assumption that indeed is the problem and that we really have to go forward with it.

I'm not going to throw cold water on this. I seconded it because I think we have to go forward and take some action, but maybe Matt or Chris could respond to that and maybe help me a little bit.

DR. PIERCE: I support the motion and I think it makes great deal of sense. We've focused on this topic for quite a long time now, and I'd like to bring it to bed; that is, bring it to public hearing and get public comment on it. I support the motion and I support the addendum and bringing it to public hearing because the statement of the problem is really concise and it seems to be to the point.

The statement of the problem does not include any reference to the concerns of the small-mesh bottom trawlers or the small purse seine fishermen. Yes, indeed, their concerns are listed; why not put them in there? Clearly, we will get the concerns of the other vessels, the other gear types at the public hearing.

At the public hearing I intend to be rather pointed in my request to those members of the public attended who represent these gear types to provide us with some additional information that would corroborate the concerns, are these concerns legitimate, do they have any information to support those specific concerns that would be convincing as opposed to being just hearsay.

If they don't have any data, okay, fine enough, I'll factor that into my thinking when I make a final decision later on this year as to whether or not to adopt the addendum. The statement of the problem does not include that concern; and for that reason alone – well, I have other reasons, but that is one reason why I think the motion is appropriate.

CHAIRMAN ABBOTT: Further comments? Seeing none, are we ready to call the question?

MR. VONDERWEIDT: I just want to make sure that I understood what all the different options were agreed upon, so I talked with Bob.

CHAIRMAN ABBOTT: I guess all I have to read is the bottom part; move to approve Addendum IV as amended for public comment. Motion by Mr. Stockwell; seconded by Mr. Augustine. All those in favor raise your right hand. **The motion carries 6-0-0**; unanimous. Is there any other business to come before the section? Dr. Pierce.

### OTHER BUSINESS

DR. PIERCE: Just an update, if anyone can provide it – it's been a while since I've looked at the National Marine Fisheries Service Website what the landings were this past year in the sea herring fishery, Area 1A catch, specifically. Does anyone have that particular figure; did we go over the Area 1A quota; did we fall short of it?

CHAIRMAN ABBOTT: Matt, do you have those off the top of your head? I think we're over by a percent or 4 percent?

DR. PIERCE: Also, at the same time if you could let us know what the Georges Bank shortfall was, Area 3 shortfall, I'd appreciate that, too.

DR. CIERI: According to the National Marine Fisheries Service, Area 1A went over by a percent.

DR. PIERCE: Eight percent?

DR. CIERI: One percent. They have some dealer reported landings that they have added in, but according to the actual base IVRs, it's 1 percent. The shortfall for Area 3 is 60 percent.

DR. PIERCE: So we fell shy 60 percent of the Area 3 quota?

DR. CIERI: That's correct.

DR. PIERCE: Okay, if I may, Mr. Chairman, just one other bit of other business that relates to that; more of an update. If you recall, the section at our last meeting a motion was made and a position was taken by the section to request the New England Council to address the haddock bycatch cap.

CHAIRMAN ABBOTT: The letter was written.

DR. PIERCE: The letter was written and the letter went out. The New England Council did address it. To make a long story short, the Groundfish Committee is now dealing with that particular issue; and if I'm correct – and Lori Steele may have an update on this, too – the Groundfish Plan Development Team is working on the concept, working on that particular issue.

I suspect we'll get an update at the Groundfish Committee meeting coming up fairly soon as to what the Groundfish Plan Development Team has been able to do relative to that issue. That's I believe where we stand on the haddock bycatch cap issue.

CHAIRMAN ABBOTT: Okay, I think it might be appropriate also just to ask which states are going to be holding public hearings on this addendum. I think Maine, New Hampshire and Massachusetts.

MR. VONDERWEIDT: I think we're all set up.

CHAIRMAN ABBOTT: You guys are way ahead of me. We also I think had an action item at the last meeting about funding for the state of Maine. I checked with Chris where we requested ACCSP money for you, monitoring money?

DR. CIERI: Yes, enough to hire another person in addition.

CHAIRMAN ABBOTT: Good news. Are there any other comments or business? We will be meeting in March. We will have a herring meeting. Would that be an appropriate time to discuss days out for next year? I would assume it would be. There was something else I thought that should be on the agenda, too, but I can't remember what it was after reading the minutes yesterday. Anyone care to make a motion?

### ADJOURNMENT

MR. AUGUSTINE: Yes, move to adjourn and go home.

CHAIRMAN ABBOTT: Thank you all for coming.

(Whereupon, the meeting was adjourned at 12:00 o'clock noon, January 7, 2011.)