

DECISION DOCUMENT

for

AMENDMENT 5

to the

Fishery Management Plan (FMP)

for

Atlantic Herring

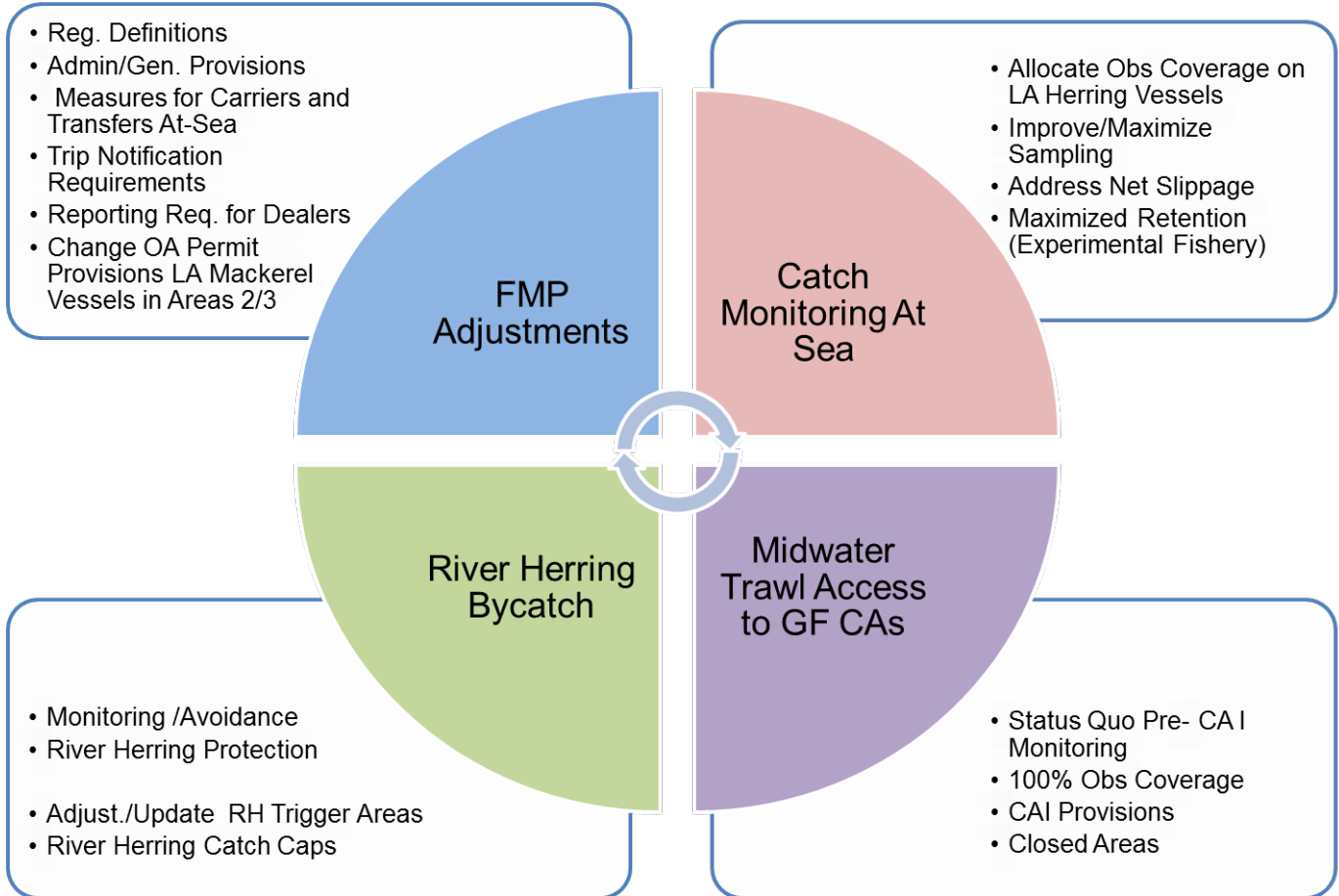


JUNE 2012 NEFMC MEETING

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Illustration of Management Measures Under Consideration

Amendment 5 to the Atlantic Herring FMP



Herring Permit Holders that May Be Subject to Amendment 5 Measures

Proposed Measures/Alternatives	Category A/B (LA Directed)	Category C (LA Incidental)	Category D (Open Access)
Section 3.1 – Adjustments to Fishery Management Program			
Regulatory Definitions	✓	✓	✓
Administrative/General Provisions	✓	✓	✓
Measures to Address Carrier Vessels	Apply to all carrier vessels regardless of permit category		
Transfer At-Sea Option 2 (A/B Only)	✓	Prohibited	Prohibited
Transfer At-Sea Option 3 (Herring vessels only)	✓	✓	✓
Trip Notification Requirements (pre-trip and pre-landing)	✓	✓	Only D vessels that use MWT gear and/or qualify for new OA permit for Areas 2/3*
Dealer Reporting Requirements	N/A	N/A	N/A
Changes to OA Provisions for Limited Access Mackerel Vessels in Areas 2/3	N/A	N/A	✓
Section 3.2.1 – Alternatives to Allocate Observer Coverage on Limited Access Herring Vessels			
Alternative 2 – 100% Coverage	✓	Option Under Consideration/TBD	N/A
Alternative 3 – SBRM Coverage as Minimum	✓	Option Under Consideration/TBD	N/A
Alternative 4 – Coverage based on Council Targets	✓	Option Under Consideration/TBD	N/A
Section 3.2.2 – Additional Measures to Improve/Maximize Sampling At-Sea			
• Option to implement requirements for safe sampling station, reasonable assistance, communication, visual access to codend/bunt, etc.	✓	Option Under Consideration/TBD	N/A
Section 3.2.3 – Measures to Address Net Slippage			
• Option 2 – Released Catch Affidavit	✓	Option Under Consideration/TBD	N/A
• Option 3 – Closed Area I Sampling Provisions	✓	Option Under Consideration/TBD	N/A
• Option 4 – Catch Deduction and Possible Trip Termination	✓	Option Under Consideration/TBD	N/A
• Maximized Retention (MR) Experimental Fishery	✓	Option Under Consideration/TBD	N/A
Section 3.3 – Measures to Address River Herring Bycatch			
Alternative 2 – Monitoring/Avoidance Options: -100% Observer coverage -Closed Area I (CAI) Sampling -Trigger-Based Monitoring -Two-phase bycatch avoidance	✓	Option Under Consideration/TBD	Option to include all D permit holders
Alternative 3 – Protection Options -Closed Areas -Trigger-Based Closed Areas	✓	Option Under Consideration/TBD	Option to include all D permit holders
Section 3.4 – Measures to Address Midwater Trawl Access to Groundfish Closed Areas			
Applies to all vessels fishing with midwater trawl gear, regardless of permit category			

The following decision tables in this document do not appear in the same order as the sections in the Amendment 5 public hearing document, but they are color-coded consistently, and page numbers from the public hearing document are provided for reference. The sections in this decision document have been ordered based on the (recommended) order they should be addressed at the June 2012 New England Council meeting.

**Section 3.2.1 – Alternatives to Allocate Observer Coverage
On Limited Access Herring Vessels
(p. 21 of public hearing document)**

Herring Committee Motions:

- Recommend to the Council as a preferred alternative for Section 3.2.1 Alternative 2, 100% coverage on Category A and B and C herring vessels, coupled with the Herring AP recommendation for Funding Option 2 – Federal and Industry Funds– with a maximum contribution of \$325 per sea day by the fishing industry, and Option 2 to authorize the States as service providers (MOTION CARRIED 7-3-1)
- Move that a waiver for an at-sea observer be granted for a fishing trip if NEFOP cannot provide an observer within 24 hours of the vessel’s notification of the prospective trip. A waiver will not be granted if the trip is to include tows in areas and at times associated with measures to avoid or protect river herring (MOTION CARRIED 9-0-1)

Alternatives/Options Under Consideration	Description *Four Alternatives with several options*
Alternative 1	No Action
Alternative 2	100% Observer Coverage
Alternative 3	Require SBRM Coverage
Alternative 4	Council Specified Targets
Decisions/Questions to Consider	
<ul style="list-style-type: none"> • Selection of coverage levels for herring limited access vessels and selection of permit categories to which the requirements apply • Should a “sunset” or review provision be included for alternatives with high levels of coverage (after 2-3 years)? • How will coverage be funded? (see following decision table) • Will States be authorized as service providers? (see following decision table) • Will waivers be granted under any circumstances if an observer cannot be provided? (see following decision table) 	
Herring Committee Recommendations	
Alternative 2, 100% coverage on Category A and B and C limited access herring vessels	
Herring AP Comments/Recommendations	
<ul style="list-style-type: none"> • No AP recommendation re. alternatives for allocating observer coverage • Partial support for 100% observer coverage, and general support for “sunset clause” of 2 years, but no motion passed. 	
Herring PDT Comments/Recommendations	
<ul style="list-style-type: none"> • No specific recommendations regarding which alternative to select, but several comments regarding industry-funding and service providers (see following tables) • Important to consider overlap with vessels subject to observer requirements in Mackerel Am14 – overlapping vessels would be subject to more restrictive requirements – coordination will be important • “Diminishing returns” important to consider when selecting options with high coverage levels – costs and benefits should be weighed carefully • PDT supports future re-consideration of a dockside monitoring program for the herring fishery 	
NMFS NERO Comments/Recommendations	
<ul style="list-style-type: none"> • Cannot support alternatives that require high levels of coverage because increased coverage is not affordable for the federal government at this time 	
Enforcement Committee Comments/Recommendations	
<ul style="list-style-type: none"> • The requirements for 100% observer coverage should be clearly defined. 	
Public Comments	
<ul style="list-style-type: none"> • 100% Observer Coverage on Category A/B Herring Vessels because they make up ~97% of the catch <ul style="list-style-type: none"> ▪ one of the most common comments from many individuals, fishermen, industry, and stakeholders ▪ minority do not support 100% observer coverage • Some (esp. industry) support for a time limit or a “sunset clause” (1-2 years) on the high levels of coverage • Some comments proposed 100% coverage in closed groundfish areas only 	
Other Important Considerations/DEIS References	
<ul style="list-style-type: none"> • MAFMC motion for Mackerel Amendment 14 – 100% coverage for midwater trawl mackerel vessels, 100% for Tier I bottom trawl/50% Tier 2 bottom trawl, and 25% tier 3 bottom trawl mackerel vessels; requirement to re-evaluate coverage every two years • Overlapping mackerel/herring vessels would be subject to most restrictive observer coverage requirements • Relationship between Amendment 5 observer allocations and SBRM will be discussed in Final EIS • Impacts – Section 5.2, p. 363 • Impacts on Fishery-Related Businesses and Communities – Section 5.2.6, p. 391 	

**Section 3.2.1 – Options for Funding
(p. 22 of public hearing document)**

Alternatives/Options Under Consideration	Description
Funding Options	Option 1 No Action option
	Option 2 Federal and Industry Funds
Additional Decisions/Questions to Consider	
<ul style="list-style-type: none"> • How will the details of the industry-funded program be developed and implemented? • How will costs be shared/distributed initially? How will this change or be changed over time? • What is the intent with respect to observer coverage for the Amendment 5 vessels in the interim/transition period (during the implementation of Amendment 5, if the industry-funded program takes longer)? 	
Herring Committee Recommendations	
Funding Option 2 – Federal and Industry Funds– with a maximum contribution of \$325 per sea day by the fishing industry	
Herring AP Comments/Recommendations	
Motion – To support Funding Option 2 – Federal and Industry Funds – with a maximum contribution of \$325 per sea day by the industry (CARRIED 5-4)	
Herring PDT Comments/Recommendations	
<ul style="list-style-type: none"> • Careful attention must be paid to designing an industry funded monitoring program; some elements of Am5, esp. industry-funded programs, may need more time to implement • An at-sea monitoring (ASM) program may be a more easily-attainable first step towards industry-funded monitoring by possibly reducing/eliminating sampling, training, and gear costs; any program should be adaptable and evolve over time to meet data collection needs of management, science, and industry • Consideration of a "Pelagic Industry-Funded Monitoring Program" for herring and mackerel may enhance long term management; possible incorporation of at sea monitoring and shoreside monitoring into a more comprehensive and cost-effective program 	
NMFS NERO Comments/Recommendations	
<ul style="list-style-type: none"> • Benefits of an industry-funded program should carefully be weighed against the costs to the industry 	
Enforcement Committee Comments/Recommendations	
<ul style="list-style-type: none"> • N/A 	
Public Comments	
<ul style="list-style-type: none"> • While there is a general desire to have the federal government cover the entire cost of the observer coverage, some feel that the cost of an observer can be split amongst industry and the federal government. • Several comments support full industry funding whenever government funding is not available. • Industry proposes to contribute \$325 per sea day to funding observer coverage in the herring fishery. 	
Other Important Considerations/DEIS References	
<ul style="list-style-type: none"> • Mid-Atlantic Council motion for industry-funding in Mackerel Amendment 14 - \$325 per day contribution of any vessel participating in the mackerel fishery, to fund the previously-specified observer goals in proportion to the required coverage levels for each tier; amount modifiable through specifications • Impacts of Options for Funding and Utilizing Service Providers on Fishery-Related Businesses and Communities – Section 5.2.6.1, p. 392 	

**Section 3.2.1 – Options for Service Providers and Waivers
(p. 22-23 of public hearing document)**

Alternatives/Options Under Consideration	Description
State Agencies as Service Providers for Observer Coverage	<p>Option 1 No Action option</p> <p>Option 2 States Authorized as Service Providers</p>
Waivers in the event that an observer cannot be deployed	Specify instances when waivers can/cannot be issued
Decisions/Questions to Consider	
<ul style="list-style-type: none"> If an industry-funded monitoring program is adopted, the Council intends for the requirements for service providers to be consistent with those already adopted for other fisheries (scallops, groundfish). Does the Council want to consider an up-front authorization for State agencies to be service providers? Should streamlined/simplified requirements (that still ensure that data quality) be developed for States to be service providers? Are there specific instances where waivers should or should not be granted in the event that an observer cannot be provided? (for example, trips into river herring protection areas and/or groundfish closed areas, depending on the measures adopted in Am 5) 	
Herring Committee Recommendations	
<ul style="list-style-type: none"> Option 2 to authorize the States as service providers Waivers if NEFOP cannot provide an observer within 24 hours of the vessel's notification, except trips in areas to avoid or protect river herring 	
Herring AP Comments/Recommendations	
No specific comments/recommendations.	
Herring PDT Comments/Recommendations	
<ul style="list-style-type: none"> No specific comments/recommendations (see previous Herring PDT Reports for discussion/comments related to these options) 	
NMFS NERO Comments/Recommendations	
<ul style="list-style-type: none"> Expressed support for States complying with all service provider requirements 	
Enforcement Committee Comments/Recommendations	
<ul style="list-style-type: none"> N/A 	
Public Comments	
<ul style="list-style-type: none"> N/A 	
Other Important Considerations/DEIS References	
<ul style="list-style-type: none"> During completion of Amendment 5, Council staff will meet with NERO, NEFOP, and NEFSC staff to review existing regulations for service providers (scallops, groundfish) and edit/modify to apply to herring industry-funded monitoring program, if adopted in Am. 5 Impacts of Options for Funding and Utilizing Service Providers on Fishery-Related Businesses and Communities – Section 5.2.6.1, p. 392 	

**Section 3.2.2 – Management Measures to Improve/Maximize Sampling At-Sea
(p. 29-30 of public hearing document)**

Herring Committee Motions:

- Recommend as a preferred alternative, Section 3.2.2, Option 2, Sub-Options 2A-2F, p. 30 of the public hearing document (MOTION CARRIED 9-0-1)

Alternatives/Options Under Consideration	Description <i>*Two options to consider with multiple sub-options</i>
Option 1	No Action Option
Option 2 Note the sub-options (some or all) to be approved	(2A) Requirements for a Safe Sampling Station
	(2B) Requirements for “Reasonable Assistance”
	(2C) Requirements to Provide Notice
	(2D) Requirements for Trips with Multiple Vessels
	(2E) Communication on Pair Trawl Vessels
	(2F) Visual Access to the Net/Codend
Decisions/Questions to Consider	
<ul style="list-style-type: none"> • Selection of option for measures to improve/maximize sampling at-sea (proposed to apply to A/B/C permit holders) 	
Herring Committee Recommendations	
All sub-options under Option 2	
Herring AP Comments/Recommendations	
AP unanimously supports all sub-options under Option 2	
Herring PDT Comments/Recommendations	
<ul style="list-style-type: none"> • General support for measures under consideration to improve/maximize sampling at-sea (see previous PDT Reports for related discussion/comments) 	
NMFS NERO Comments/Recommendations	
<ul style="list-style-type: none"> • Support all sub-options under Option 2 to ensure safe sampling and improve data quality 	
Enforcement Committee Comments/Recommendations	
<ul style="list-style-type: none"> • Enforcement Committee generally supports (May 2009) 	
Public Comments	
<ul style="list-style-type: none"> • General support for measures to improve/maximize sampling at-sea • Some organizations oppose 2D and 2F because of perceived loopholes in the proposed language 	
Other Important Considerations/DEIS References	
<ul style="list-style-type: none"> • Option 2F intended to address operational discards (i.e., improve the observer’s ability to document any fish that remain the bottom of the net following the completion of a pumping operation) • Final language should be reviewed to reflect requirements for all major gear types in the fishery (midwater trawl, purse seine, bottom trawl) • Generally consistent with recommendations from Mid-Atlantic Council for Mackerel Amendment 14 (visual access to codend required as part of Am 14 measures to address net slippage) • Impacts – Section 5.3.1, p. 401 	

**Section 3.2.4 – Maximized Retention Alternative (Experimental Fishery)
(p. 36 of public hearing document)**

Herring Committee Motions:

- Recommend as a preferred alternative, Section 3.2.4, Option 1 – No Action (MOTION CARRIED 9-1-1)

Alternatives/Options Under Consideration	Description
Alternative 1	No Action option
Alternative 2	Evaluation of Maximized Retention Through the Annual Issuance of Exempted Fishing Permits
Decisions/Questions to Consider	
<ul style="list-style-type: none"> • Selection of maximized retention alternative 	
Herring Committee Recommendations	
No Action Alternative	
Herring AP Comments/Recommendations	
<ul style="list-style-type: none"> • May 2009 – AP passed a motion “that the issue of full retention in the New England fisheries be considered first in the Multispecies Committee before given further consideration by the Herring Committee” (CARRIED 6-4) 	
Herring PDT Comments/Recommendations	
<ul style="list-style-type: none"> • No specific comments/recommendations (see previous Herring PDT Reports for discussion/comments related to maximized retention and the development of these alternatives) 	
NMFS NERO Comments/Recommendations	
<ul style="list-style-type: none"> • N/A 	
Enforcement Committee Comments/Recommendations	
<ul style="list-style-type: none"> • N/A 	
Public Comments	
<ul style="list-style-type: none"> • N/A 	
Other Important Considerations/DEIS References	
<ul style="list-style-type: none"> • Impacts – Section 5.3.3, p. 434 	

Section 3.2.3 – Measures to Address Net Slippage
(p. 31 of public hearing document)

Herring Committee Motions:

- Recommend Option 4, Sub-Option 4C Closed Area I Provisions Trip Termination after ten slippage events by each gear type – midwater trawl (single and paired), purse seine, and bottom trawl (with an added exception for slippage under #3 spiny dogfish clogging the pump for all gear types). Language will be modified to reflect requirements for all gear types and for vessels that do not pump fish (MOTION CARRIED 7-1-2)

Alternatives/Options Under Consideration	Description *Four options to consider
Option 1	No Action option
Option 2	Require Released Catch Affidavit for Slippage Events
Option 3	Closed Area I Sampling Provisions put options all together
Option 4 Note the sub-options 4A-4D	(4A) Catch deduction and possible trip termination
	(4B) Closed area I provisions with catch deduction and possible trip termination
	(4C) Closed area I provisions with trip termination only (10 Events)
	(4D) Closed area I provisions with trip termination only (5 Events)
Decisions/Questions to Consider	
<ul style="list-style-type: none"> • Selection of option(s) to address net slippage – <i>Option 2 can be implemented in combination with Option 3 or Option 4</i> • Selection of permit holders to which measures apply (proposed A/B/C) • Further clarification of gear-specific provisions, as necessary 	
Herring Committee Recommendations	
Option 4C – CAI Provisions, trip termination after 10 events by management area and gear type. Slippage for dogfish will not count against the threshold for trip termination.	
Herring AP Comments/Recommendations	
No Herring AP Recommendation	
Herring PDT Comments/Recommendations	
<ul style="list-style-type: none"> • PDT does not support options that include catch deduction • Concerns with trip termination options (safety, fairness) • Released Catch Affidavit may be worthwhile to require on all trips, not just those with an observer on board 	
NMFS NERO Comments/Recommendations	
<ul style="list-style-type: none"> • Significant concern about effectiveness and legal justification of measures to address net slippage – alternatives lack a well-explained basis for the thresholds for trip termination and lack rationale • Concern about the slippage measures placing observers in an undo compliance/enforcement role unintentionally • Requiring a released catch affidavits for slippage events may not be necessary when an observer is on board 	
Enforcement Committee Comments/Recommendations	
<ul style="list-style-type: none"> • Motion – modify the third bullet of Option 3 on page 32 of the public hearing document as follows: Fish that have not been pumped or brought aboard may be released if the vessel operator finds that: 1. Pumping or bringing aboard the catch could compromise the safety of the vessel...To accommodate those operations which do not pump. This change from "pumped" to "pumped or brought" and "pump" to "pump or bring" also applies to Options 4A through 4D • The definition of slippage and the measures proposed in Am5 are based on experience in CAI with midwater trawls and pair trawls, not bottom trawls or purse seines, thus leaving its enforceability questionable 	
Public Comments	
<ul style="list-style-type: none"> • Many comments supporting a trip termination measure with either five or ten slippage events. • Some oppose not including operational discards in slippage definition. • Most of the herring industry does not support measures to address net slippage. It was noted that many herring vessels do not even have the capacity to hold 100,000 pounds. 	
Other Important Considerations/DEIS References	
<ul style="list-style-type: none"> • Slippage is specifically defined in Amendment 5 and does not include operational discards. Operational discards are addressed in Section 3.2.2 <i>Measures to Maximize Sampling</i>. • "Closed Area I Provisions" is a misnomer for Option 4 and the related sub-options. These options were initially developed based on the CAI rules but have been modified to better address implementation across the entire fishery (not just a small fishing area). They are no longer intended to mirror the Closed Area I rules exactly; the language in the specific sub-options correctly reflects the Council's intent with respect to the Amendment 5 measures to address net slippage. • The language of the measures to address net slippage that are ultimately recommended by the Council in Amendment 5 will reflect requirements for midwater trawl, purse seine, and bottom trawl herring vessels to which the measures apply. • Mid-Atlantic Council motion for Mackerel Amendment 14 – all three exceptions are not counted against trip termination threshold, and trip termination thresholds are for the entire mackerel fishery (not gear or area-specific) • Impacts – Section 5.3.2, p. 404 • Analysis of Available Slippage Data – Section 5.3.2.1, p. 405 (updated in May 22, 2012 Herring PDT/FMAT Report) 	

Section 3.1.1 – Regulatory Definitions *Transfer at Sea and Offload*
(p. 8 of public hearing document)

Herring Committee Motions:

- Recommend that the Council adopt Section 3.3.1B – Proposed Regulatory Definitions (MOTION CARRIED 10-0-1)

Alternatives/Options Under Consideration	Description
Option A	No Action option
Option B	Under this option, Amendment 5 would establish a regulatory definition of transfer at sea and a regulatory definition of offload
Decisions/Questions to Consider	
<ul style="list-style-type: none"> • Selection of option for proposed regulatory definitions 	
Herring Committee Recommendations	
Option B	
Herring AP Comments/Recommendations	
No objections to the proposed definitions	
Herring PDT Comments/Recommendations	
<ul style="list-style-type: none"> • N/A 	
NMFS NERO Comments/Recommendations	
<ul style="list-style-type: none"> • Support proposed definitions to better document the transfer of fish 	
Enforcement Committee Comments/Recommendations	
<ul style="list-style-type: none"> • N/A 	
Public Comments	
<ul style="list-style-type: none"> • N/A 	
Other Important Considerations/DEIS References	
<ul style="list-style-type: none"> • Impacts – Section 5.1.1, p. 333 	

Section 3.1.2 – Administrative/General Provisions
(p. 9-10 of public hearing document)

Herring Committee Motions:

- Recommend as a preferred alternative Section 3.1.2B – Proposed Administrative/General Provisions – Including 2A, 2B, and 2C (MOTION CARRIED 10-0-1)

Alternatives/Options Under Consideration	Description
Option A	No Action option
Option B	(2A) Expand possession restriction to all vessels working cooperatively in the Atlantic Herring Fishery (to include purse seine vessels and vessels that transfer herring at-sea); and/or (2B) eliminate the VMS “power down” provision for limited access herring vessels; and/or (2C) establish a new at-sea herring dealer permit
Decisions/Questions to Consider	
<ul style="list-style-type: none"> • Selection of option for proposed administrative/general provisions 	
Herring Committee Recommendations	
Option B, including 2A, 2B, and 2C	
Herring AP Comments/Recommendations	
No objections to the proposed administrative/general provisions	
Herring PDT Comments/Recommendations	
<ul style="list-style-type: none"> • N/A 	
NMFS NERO Comments/Recommendations	
<ul style="list-style-type: none"> • Support all proposed administrative/general provisions 	
Enforcement Committee Comments/Recommendations	
<ul style="list-style-type: none"> • Supports elimination of the VMS power-down provision 	
Public Comments	
<ul style="list-style-type: none"> • N/A 	
Other Important Considerations/DEIS References	
<ul style="list-style-type: none"> • Impacts – Section 5.1.1, p. 333 	

**ADDITIONAL PROVISION
HERRING COMMITTEE RECOMMENDATION JUNE 6, 2012**

Herring Committee Motion:

To require that all herring vessels must offload all fish before leaving the dock prior to the start of the next fishing trip unless there is confirmation by an observer or enforcement of weight on board that will be offloaded at the time of the next landing event (MOTION CARRIED 6-1-2)

**Section 3.1.3.2 – Measures to Address Carrier Vessels
(p. 11 of public hearing document)**

Herring Committee Motions:

- Recommend as a preferred alternative Section 3.1.3.2 Option 3 – Dual Option for Carriers (VMS or LOA) (MOTION CARRIED 10-0-1)

Alternatives/Options Under Consideration	Description *Three Options to consider
Option 1	No Action option
Option 2	Require VMS on carrier vessels for declaration purposes and eliminate seven-day enrollment period
Option 3	Dual option for Carriers (VMS or current LOA)
Decisions/Questions to Consider	
<ul style="list-style-type: none"> • Selection of option to address carrier vessels 	
Herring Committee Recommendations	
Option 3 (Dual)	
Herring AP Comments/Recommendations	
Motion – To support Option 3 for carrier vessels (Dual Option for Carriers – VMS or LOA) (CARRIED 3-0-6)	
Herring PDT Comments/Recommendations	
<ul style="list-style-type: none"> • N/A 	
NMFS NERO Comments/Recommendations	
<ul style="list-style-type: none"> • Support Option 3 (Dual) 	
Enforcement Committee Comments/Recommendations	
<ul style="list-style-type: none"> • N/A 	
Public Comments	
<ul style="list-style-type: none"> • General support from industry comments for Option 3 (Dual) 	
Other Important Considerations/DEIS References	
<ul style="list-style-type: none"> • Impacts – Section 5.1.2.1, p. 337 	

**Section 3.1.3.3 – Measures to Address Transfers at Sea
(p. 12 of public hearing document)**

Herring Committee Motions:

- Recommend as a preferred alternative Section 3.1.3.3 Option 3 – Prohibit Transfers At Sea to Non-Permitted Vessels (MOTION CARRIED 9-1-0)

Alternatives/Options Under Consideration	Description *Three Options to consider
Option 1	No Action option
Option 2	Allow only vessels participating in the limited access directed fishery for Atlantic herring (Category A or B permits) to transfer herring at sea
Option 3	Allow only vessels that possess a federal Atlantic herring permit to transfer herring at sea
Decisions/Questions to Consider	
<ul style="list-style-type: none"> • Selection of option to address transfers at sea 	
Herring Committee Recommendations	
Option 3	
Herring AP Comments/Recommendations	
Motion – To support the No Action Option for Transfers At Sea (CARRIED 5-1-3)	
Herring PDT Comments/Recommendations	
<ul style="list-style-type: none"> • Generally agree that the amount of herring affected by this activity is minimal 	
NMFS NERO Comments/Recommendations	
<ul style="list-style-type: none"> • N/A 	
Enforcement Committee Comments/Recommendations	
<ul style="list-style-type: none"> • Option 2 (restrict transfers at sea to only vessels with category A or B limited access herring permits) is enforceable and Option 3 (allow transfers between vessels possessing category A, B, C or D permits) is unenforceable. • Option 2 prohibits tuna boats from receiving bait transfers at sea. Option 3 would require tuna boats to hold a herring permit and adhere to all the reporting requirements in order to receive herring as bait while at sea. 	
Public Comments	
<ul style="list-style-type: none"> • Suggested by many that there should be no change in the current transfer at-sea provisions • Support for new Federal At-Sea dealer permit for carrier vessels to minimize double-counting of landings (Section 3.1.2) 	
Other Important Considerations/DEIS References	
<ul style="list-style-type: none"> • Impacts – Section 5.1.2.2, p. 340 	

**Section 3.1.4 – Trip Notification Requirements
(p. 14 of public hearing document)**

Herring Committee Motions:

- Recommend as a preferred alternative Section 3.1.4 Option 2 – Modify and Extend Pre-Trip Notification Requirements AND in Section 3.1.4, Option 3 – Extend Pre-Landing Notification Requirement (MOTION CARRIED UNANIMOUSLY)

Alternatives/Options Under Consideration	Description *Three Options to consider
Option 1	No Action option
Option 2	Modify and Extend the Pre-Trip Notification Requirements – extend pre-trip notification system and add a gear declaration to pre-trip VMS notifications
Option 3	Extend Pre-landing Notification Requirement
Decisions/Questions to Consider	
<ul style="list-style-type: none"> • Selection of option(s) for trip notification requirements – <i>Option 2 can be implemented in combination with Option 3</i> • Selection of permit categories to which requirements apply (proposed A/B/C) 	
Herring Committee Recommendations	
Option 2 AND Option 3 (pre-trip and pre-landing notifications)	
Herring AP Comments/Recommendations	
Motion – To support 48 hours lead time for notification requirements (CARRIED UNANIMOUSLY)	
Herring PDT Comments/Recommendations	
<ul style="list-style-type: none"> • PTNS should be interpreted generally; may be implemented through a new/different system • Pre-trip notification system can be costly; notification requirements should apply to the same vessels subject to observer coverage requirements in Am5 • May want to consider mixed trip (herring/mackerel) pre-trip declaration 	
NMFS NERO Comments/Recommendations	
<ul style="list-style-type: none"> • Support Option 2 AND Option 3 for all limited access herring vessels to facilitate monitoring • Support 48 hours advanced notice for pre-trip notifications 	
Enforcement Committee Comments/Recommendations	
<ul style="list-style-type: none"> • N/A 	
Public Comments	
<ul style="list-style-type: none"> • N/A 	
Other Important Considerations/DEIS References	
<ul style="list-style-type: none"> • Mid-Atlantic Council Motion Amendment 14 – consistent with Herring Committee recommendation (48-hour pre-trip notification, 6-hour pre-landing notification) • Impacts – 5.1.3, p. 344 	

Section 3.1.5 – Reporting Requirements for Federally Permitted Herring Dealers
(p. 16 of public hearing document)

Herring Committee Motions:

- Recommend as a preferred alternative Section 3.1.5 Option 2 with Sub-Option 2B – require dealers to accurately weigh all fish and require documentation for individual landings submissions on how species composition of mixed catch is estimated (MOTION CARRIED UNANIMOUSLY)

Alternatives/Options Under Consideration	Description *Two options and multiple sub-options to consider
Option 1	No Action option
Option 2 Note the Sub-Options 2A, 2B, 2C	Require federally-permitted herring dealer to accurately weigh all fish; Potential Sub-Options:
	(2A) <i>Require dealer to annually document how composition of mixed catch is estimated; OR</i>
	(2B) <i>Require dealers to document how composition of mixed catch is estimated for every landings submission; AND IOR</i>
	(2C) <i>Require dealers to obtain vessel representative confirmation of SAFIS transaction record at first point of sale</i>
Decisions/Questions to Consider	
<ul style="list-style-type: none"> • Selection of option(s) for reporting requirements for federally-permitted dealers – Option 2 can be implemented in combination with Option 2A OR 2B, AND Option 2C 	
Herring Committee Recommendations	
Option 2 with Sub-Option 2B	
Herring AP Comments/Recommendations	
Motion – To support Option 2 – require dealers to accurately weigh all fish. The AP generally supports Option 2B and is concerned with Option 2C, and would like further clarification regarding how the requirement for weighing fish will be administered (CARRIED 6-3-0)	
Herring PDT Comments/Recommendations	
<ul style="list-style-type: none"> • No specific PDT comments/recommendations (see previous PDT reports for comments/discussion related to the development of these options) 	
NMFS NERO Comments/Recommendations	
<ul style="list-style-type: none"> • There is no appreciable difference between Option 2 and status quo • Sub options 2A and 2B will not provide sufficient data for quota monitoring because it is qualitative • Sub-option 2C may increase administrative and reporting burden • Implementing any of the sub-options as requirements make them compliance measures that would affect future vessel permit issuance (similar to VTR and VMS compliance). 	
Enforcement Committee Comments/Recommendations	
<ul style="list-style-type: none"> • The proposed dealer reporting measures are currently not enforceable • Concern: if industry has to validate dealer reports in the SAFIS database, there will likely be compliance issues because fishermen don't currently have access to the SAFIS database 	
Public Comments	
<ul style="list-style-type: none"> • Overall support for requirement to accurately weigh fish with two general themes: first is support for a requirement to weigh with scales, and second, to verify volumetric measurements 	
Other Important Considerations/DEIS References	
<ul style="list-style-type: none"> • Mid-Atlantic Council Motion Amendment 14 – consistent with Herring Committee recommendation (dealers required to accurately weigh fish and specify how composition of mixed catch is estimated for every transaction) • Impacts – Section 5.1.4, p. 349 	

Section 3.1.6 – Changes to Open Access Permit Provisions for Limited Access Mackerel Vessels in Areas 2 and 3

(p. 18 of public hearing document)

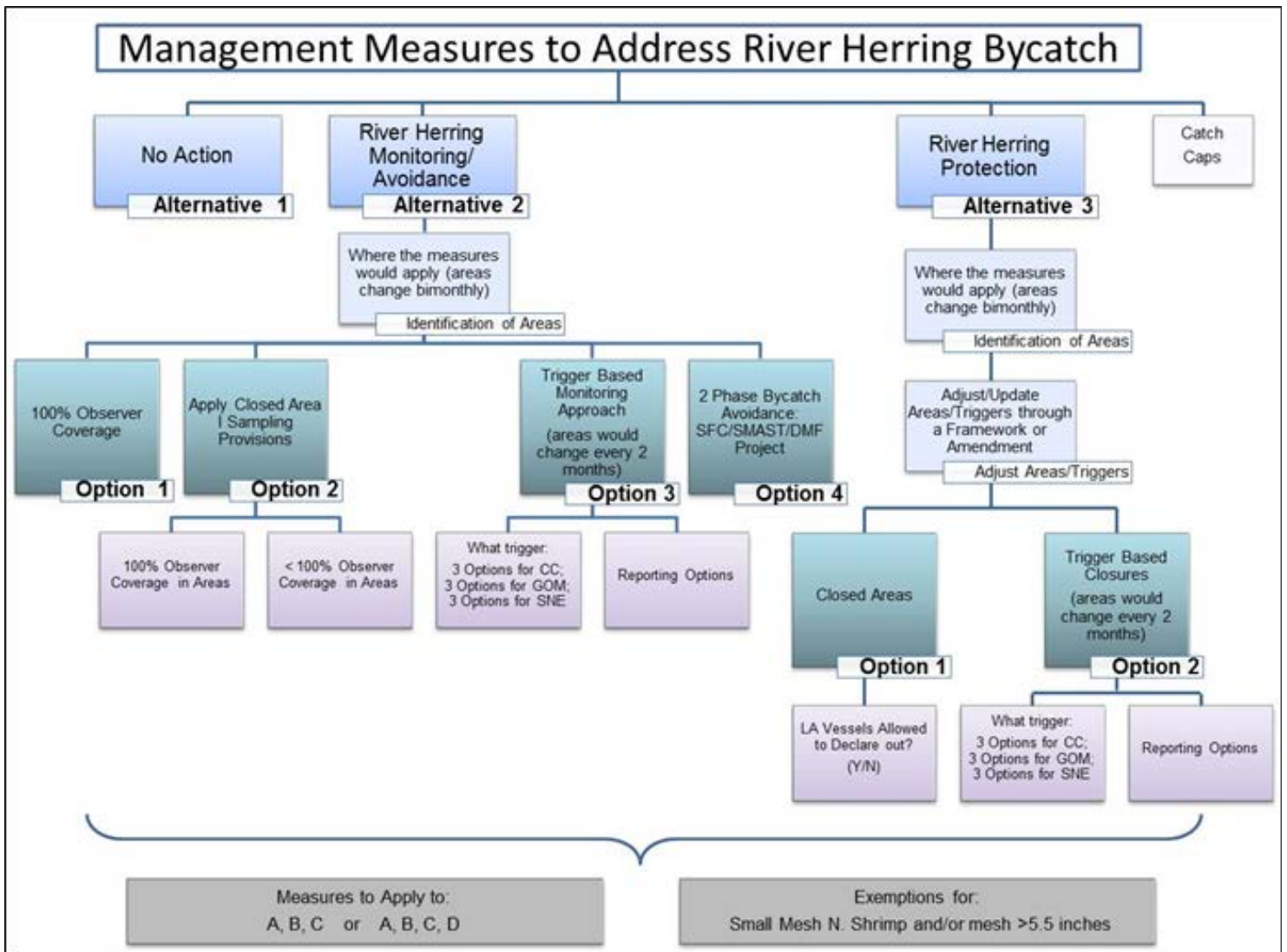
Herring Committee Motions:

- Recommend as a preferred alternative Section 3.1.6 Option 2 for Limited Access Mackerel permit holders (all three tiers) – 20,000 pound possession limit in Areas 2/3 for vessels that also possess a limited access mackerel permit, and that the possession limit could be adjusted in the future through the specifications process (MOTION CARRIED UNANIMOUSLY)

Alternatives/Options Under Consideration	Description *Three options to consider
Option 1	No Action option
Option 2	Increase the open access possession limit to 20,000 pounds in areas 2/3 for vessels that also possess a Federal limited access mackerel permit
Option 3	Increase the open access possession limit to 10,000 pounds in areas 2/3 for vessels that also possess a Federal limited access mackerel permit
Decisions/Questions to Consider	
<ul style="list-style-type: none"> Selection of option for open access permit provisions for limited access mackerel vessels in Areas 2 and 3, and limited access mackerel permit categories to which measures apply 	
Herring Committee Recommendations	
Option 2 for all three tiers of limited access mackerel permit holders, and the ability to adjust the possession limit for this permit in the future through specifications (in addition to framework adjustment or other action)	
Herring AP Comments/Recommendations	
Motion – To support Option 2 – Increase the Open Access Possession Limit to 20,000 Pounds in Areas 2/3 for Limited Access Mackerel Vessels (CARRIED 6-1-2)	
Herring PDT Comments/Recommendations	
<ul style="list-style-type: none"> Initial concern about potential for increased directed fishing in Areas 2/3 (and potential for increased encounters with river herring); updated analysis of numbers of limited access mackerel vessels with open access herring permits suggests that substantially fewer vessels would likely obtain the new herring permit, thereby reducing concerns 	
NMFS NERO Comments/Recommendations	
<ul style="list-style-type: none"> N/A 	
Enforcement Committee Comments/Recommendations	
<ul style="list-style-type: none"> No specific comments/recommendations 	
Public Comments	
<ul style="list-style-type: none"> Some support for Option 2 regarding the establishment of the new open access herring permit form limited access mackerel fishery participants, especially from industry participants 	
Other Important Considerations/DEIS References	
<ul style="list-style-type: none"> Impacts – Section 5.1.5, p. 356 Updated information about limited access mackerel vessels provided in May 22 Herring PDT/Mackerel FMAT Report 	

Summary of Measures Under Consideration to Address River Herring Bycatch

Decisions to be Made



Section 3.3 – Measures to Address River Herring Bycatch
(p. 39 – 59 of public hearing document)

Herring Committee Motions:

- To recommend as a preferred alternative to address river herring bycatch Alternative 2, Option 4 – Two-Phase Bycatch Avoidance Approach based on SMAST/SFC Project (MOTION CARRIED UNANIMOUSLY)

Alternatives/Options Under Consideration	Description *Three Alternatives to Consider
Alternative 1 (Section 3.3.1)	No Action option
Alternative 2 River Herring Monitoring/Avoidance (Section 3.3.2)	Option 1: 100% Observer coverage Sub-Options: for measures to apply to only A/B/C vessels OR for measure to apply to all vessels
	Option 2: Apply closed Area I sampling provisions Sub-Options: Require 100% Observer Coverage OR Less than 100% Observer Coverage OR for measure to apply to only A/B/C vessels OR to all vessels (A/B/C/D)
	Option 3: Trigger based monitoring approach Sub-Options: for two different catch reports, AND for management measures to apply when trigger is reached (Option 1 or 2 under 3.3.2)
	Option 4: Two Phase bycatch avoidance approach based on SFC/SMAST/DMF project
Alternative 3 River Herring Protection (Section 3.3.3)	Option 1: Closed area Sub-Option: Mechanism for LA herring vessels to declare out of the fishery for a period of time
	Option 2: Trigger Based closed Areas Sub-Options: for river herring catch triggers; reporting options; and management measures that would apply when trigger is reached
Decisions/Questions to Consider	
<ul style="list-style-type: none"> • Do the catch monitoring measures adopted by the Council in Amendment 5 so far adequately address concerns about river herring bycatch at this time? If not, what specific concerns/issues should be further addressed through measures adopted in this section? • Selection of alternative for river herring bycatch, and corresponding option • If Alternative 2 is selected, an option or option(s) for river herring monitoring/avoidance should be selected. The permit categories to which the measures apply should be selected. • If Alternative 3 is selected, an option for closed areas should be selected. The permit categories to which the measures apply should be selected. Declarations in/out of fishery and exemptions should be addressed (shrimp/groundfish). • If trigger based options are selected under Alternative 2 or 3, triggers should be selected for each of the three areas, and a reporting option should be chosen. 	
Herring Committee Recommendations	
Alternative 2, Option 4	
Herring AP Comments/Recommendations	
<ul style="list-style-type: none"> • Motion – The AP opposes trigger-based options in the river herring alternatives because they are infeasible and unworkable (CARRIED UNANIMOUSLY) • Motion – That the AP supports River Herring Alternative 2, Option 4 – Two-Phase Bycatch Avoidance Approach Based on SFC/SMAST/DMF Project as the preferred alternative (CARRIED 6-2-1) • AP passed a motion in August 2010 to recommend that river herring measures be applied to A/B/C and D permit holders 	
Herring PDT Comments/Recommendations	
<ul style="list-style-type: none"> • The river herring/shad stock complex is depleted and mitigation of impacts should be considered. However, the benefits from any measure are uncertain due to lack of information. • Objectives for river herring management measures should consider costs to the industry versus potential benefits to river herring • Likely that any measures to address river herring bycatch will have similar impact on shad bycatch 	
NMFS NERO Comments/Recommendations	
<ul style="list-style-type: none"> • Concern about effectiveness of time/area management due to variability of distribution of river herring and interactions with fishery • Support for the SMAST/SFC river herring avoidance program to continue to investigate providing real-time, cost-effective information on river herring distribution and fishery encounters 	
Enforcement Committee Comments/Recommendations	
<ul style="list-style-type: none"> • Motion – To recommend that, in general, some of the options in the river herring section are difficult to enforce and difficult for the industry to comply with, and the whole section should be simplified so a clear decision may be made • There is concern about how the catch is determined that would trigger additional measures. Reporting Option 1 proposes complicated reporting requirements and, as a result, could cause enforcement issues. 	
Public Comments	
<ul style="list-style-type: none"> • Most public comments addressed the establishment of a river herring catch cap (see following decision table) 	
Other Important Considerations/DEIS References	
<ul style="list-style-type: none"> • Mid-Atlantic Council Motion Amendment 14 – hotspot requirements of Amendment 5 for mackerel/longfin squid vessels frameworkable • Impacts – Section 5.4, p. 438 (see also Appendices IV, V, and VI in Volume II) 	

Section 3.3.5 – River Herring Catch Caps (p. 59 of public hearing document)

Herring Committee Motions:

- Recommend Section 3.3.5 on p. 59 of the public hearing document for a river herring catch cap, which the Council would consider through a framework adjustment (MOTION CARRIED 6-0-3)

Alternatives/Options Under Consideration	Description
	Mechanism to implement a river herring catch cap through a framework adjustment or the fishery specification process, following the completion of a stock assessment by ASMFC
Decisions/Questions to Consider	
	<ul style="list-style-type: none"> • Selection of mechanism to establish a river herring catch cap in the Atlantic herring fishery
Herring Committee Recommendations	
	Mechanism to implement a river herring catch cap through a framework adjustment
Herring AP Comments/Recommendations	
	No AP agreement regarding a river herring catch cap.
Herring PDT Comments/Recommendations	
	<ul style="list-style-type: none"> • Herring PDT provided detailed background paper regarding the development of river herring catch caps in Amendment 5 (Volume II); see 2009-2011 Herring PDT reports for related recommendations • Coordination between the Atlantic herring and mackerel fisheries is essential under any river herring catch cap
NMFS NERO Comments/Recommendations	
	<ul style="list-style-type: none"> • Support establishing a river herring catch cap in a future framework to directly control river herring fishing mortality with less compliance and administrative burden than time/area management • Suggest consideration of a joint cap for herring and mackerel fisheries in Area 2 Jan-April
Enforcement Committee Comments/Recommendations	
	<ul style="list-style-type: none"> • No specific comments/recommendations
Public Comments	
	<ul style="list-style-type: none"> • Many comments support an immediate catch cap for river herring, which some suggested is already authorized in Amendment 1 to the Atlantic Herring FMP • A few comments also indicated a need to include river herring (and shad) as stocks in the Atlantic herring fishery
Other Important Considerations/DEIS References	
	<ul style="list-style-type: none"> • Language in Amendment 1 Final EIS already appears to authorize the establishment of catch caps and bycatch caps through framework adjustment or fishery specification process • Coordination between Mid-Atlantic and New England Councils is essential; complicated by geographic extent and seasonality of herring and mackerel fisheries; Mid-Atlantic Council also considering caps for shad, which have not been specifically considered by the NE Council • Mid-Atlantic Council Motion Amendment 14 – implement mortality caps for shad/river herring in the mackerel fishery through a framework adjustment (2014 earliest implementation) • Mid-Atlantic Council Motion – no action in Amendment 14 to incorporate river herring/shad as stocks in the mackerel fishery, but will initiate Amendment 15 to add as stocks in the fishery • Impacts – Section 5.4.7, p. 485 (see also Appendix VII in Volume II)

Section 3.3.4 – Mechanism for Adjusting/Updating River Herring Areas/Triggers (p. 59 of public hearing document)

Alternatives/Options Under Consideration	Description
	Areas and triggers to be reviewed by PDT every three years as part of the specifications process; adjustments to triggers and areas can be made during specifications process. Framework adjustment process can also be used to modify/adjust triggers and areas during the interim years.
Decisions/Questions to Consider	
	<ul style="list-style-type: none"> • Approval of mechanism to adjust triggers (if established) and areas for river herring monitoring/avoidance/protection – through framework adjustment or fishery specification process, including a review of existing triggers/areas every three years during the specifications process

**Section 3.4 – Midwater Trawl Access to Groundfish Closed Areas
(p. 60 of public hearing document)**

Herring Committee Motions:

- Recommend Alternative 4, Option 4A for midwater trawl access to groundfish closed areas – Apply Closed Area I Provisions with 100% Observer Coverage, to all current year-round closed areas (MOTION CARRIED 9-1-0)

Alternatives/Options Under Consideration	Description *Five Alternatives to Consider with multiple options and sub-options
Alternative 1	No Action option
Alternative 2	Pre-Closed Area I Provisions: Criteria for midwater trawl vessel access to the groundfish closed areas would be based on provisions prior to the implementation of the Closed Area I rule
Alternative 3	100% Observer Coverage
Alternative 4 Note Option 4A and 4B	Apply Closed Area I Provisions Option 4A: Require 100% observer coverage on all trips in groundfish year round closed areas when fishing may occur Option 4B: Less than 100% observer coverage
Alternative 5	Closed Areas
Decisions/Questions to Consider	
<ul style="list-style-type: none"> • Selection of alternative for midwater trawl access to year-round groundfish closed areas • What is the rationale for this measure? 	
Herring Committee Recommendations	
Alternative 4, with Option 4A – CAI sampling provisions and 100% observer coverage	
Herring AP Comments/Recommendations	
Motion – To support Alternative 1 – No Action – for Measures to Address Midwater Trawl Access to Groundfish Closed Areas (CARRIED 5-4)	
Herring PDT Comments/Recommendations	
<ul style="list-style-type: none"> • No specific comments/recommendations (primarily a policy decision) 	
NMFS NERO Comments/Recommendations	
<ul style="list-style-type: none"> • The majority of groundfish bycatch on midwater trawl vessels in the closed areas is haddock. There is a haddock catch cap already in effect for the herring fishery • The data do not indicate that prohibiting midwater trawl fishing in groundfish closed areas is necessary for groundfish conservation 	
Enforcement Committee Comments/Recommendations	
<ul style="list-style-type: none"> • No specific comments/recommendations 	
Public Comments	
<ul style="list-style-type: none"> • Some environmental organizations commented that the only exception to the groundfish closed areas should be under an EFP for experimental/scientific purposes • Some comments suggest to re-establish measures for midwater trawl vessel access to the groundfish closed areas through Alternative 2 in Amendment 5 (pre-CA I provisions); and comments from some fishermen support the no action alternative (Alternative 1) • Some suggest that midwater trawl fishing in groundfish closed areas should only be allowed if observers are aboard the vessels going into closed groundfish areas 100% of the time. 	
Other Important Considerations/DEIS References	
<ul style="list-style-type: none"> • Impacts – Section 5.5, p. 487 	

**Section 3.5 – Additional Measures that can be Implemented through a Framework Adjustment to the Herring FMP (or Fishery Specifications)
(p. 65 of public hearing document)**

If any new management measures are adopted in Amendment 5, changes to those measures and related adjustments would be added to the list of measures that can be implemented through a framework adjustment to the Herring FMP in the future. Currently, this document proposes to add river herring catch caps as one measure that could be implemented through a framework adjustment to the Herring FMP. Other measures related to Amendment 5 are listed in the table below.

Decisions/Questions to Consider
Approval of additional measures to be added to list of measures that can be modified through framework adjustment and fishery specification process
Add to List of Measures that can be Implemented through a Framework Adjustment
<ul style="list-style-type: none"> • Adjustments to possession limit for limited access mackerel vessels fishing in Areas 2/3 • Changes to trip notification requirements and declarations • Changes to dealer reporting requirements • Adjustments to measures to address net slippage (sampling provisions, exceptions for trip termination threshold, trip termination threshold amounts/divisions by area and/or gear type) • Provisions related to industry-funded catch monitoring program (cost sharing provisions, service provider requirements, waivers) • River herring monitoring/avoidance/protection areas (if established) • River herring triggers (if established) • Changes to criteria/provisions for accessing year-round groundfish closed areas • Catch caps/bycatch caps
Add to List of Measures that can be Implemented through Fishery Specifications
<ul style="list-style-type: none"> • Adjustments to possession limit for limited access mackerel vessels fishing in Areas 2/3 • River herring monitoring/avoidance/protection areas (if established) • River herring triggers (if established) • Catch caps/bycatch caps