

Herring Committee Report

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Portland, ME**



New England
Fishery Management Council

Presentation Outline

1. Review and discuss recommendations for Council consideration of adding river herring/shad as stocks in the Atlantic herring fishery (*20 slides*).
2. Review and provide input on MAFMC mackerel action, as it relates to Atlantic herring fishery (*5 slides*).
3. Initial discussion of 2019-2021 specifications (*10 slides*).

I: Federal management of RH/S (Doc #2)

Are river herring and shad (RH/S) in need of conservation and management through a federal FMP?

- NEFMC contract to update 2015 RH/S white paper.
- AP/Cmte and Council reviewed in April 2018 – no action taken.
- Council motion to remand issue to Herring Cmte for further discussion and recommendation.
- White paper has been updated and issue added to June 2018 Council agenda.

RH/S Timeline

- 2013 – NMFS decided not to list RH on ESA (revisit 3-5 yrs); expected decision January 31, 2019
- 2013 and 2016 – MAFMC decided not to initiate federal management of RH/S
- 2015 – NEFMC decided not to include 4 RH/S species in the Atlantic Herring FMP (revisit 3 years)
- 2015-2018 – Revised NS Guidelines, new actions, research

RH/S White Paper (Document #2)

Table of Contents

- Background/Introduction
- Previous Decisions
- Magnuson-Stevens Fishery Conservation and Management Act (MSA)
- Species and Fishery Information
- Stock Assessments
- Directed Fisheries
- Incidental Catch
- Updated Actions Since Last White Paper
- New Research
- Related Lawsuits
- Potential Actions
- Recommendations

Updates since April Meeting

- More detail on MSA requirements, 10 National Standards
- More detail on state and federal landings;
- Handful of new research summaries added;
- Reorganized management options;
- More detail on ecosystem component (EC) species;
- Examples of managing bycatch through IFQs;
- Summary of NMFS trawl survey index added to appendix;
- New appendix on recent dam removals on East Coast;
- General clean-up and text updates.

Previous Decisions: Rationale

- No technical basis that federal FMP would improve the conservation and management of these species, based on:
 - Directed fishing in state waters only - ASMFC management with state plans with review and approval process in place.
 - RH/S not being targeted in federal fisheries.
 - NMFS's finding that RH are not endangered or threatened.
 - NMFS's commitment to be engaged in RH conservation (TEWVG).
 - Federal catch caps set by the Councils recently implemented and had kept incidental catch low compared to historic levels.
 - Industry bycatch avoidance programs appear to be allowing the Atlantic herring and mackerel fisheries to operate within those limits.

Previous Decisions: Challenges Identified

- Lack of adequate scientific information to properly assess the RH/S stocks
- Influence of factors other than fishing mortality

Discussion Today...

- Does this rationale still hold today?
- Are challenges still the same?
- New information to support different approach?
- Could federal management through an FMP improve these challenges?

Updated Information: Previously reviewed

- Updated stock assessment

Overfished and overfishing status could not be determined; remains depleted and at near historic lows.

- Management efforts

TEWG, ASMFC state plans, NEFMC and MAFMC catch caps, portside sampling programs, habitat conservation and restoration efforts.

- Research efforts

Genetic studies, climate research, bycatch avoidance program in federal herring and mackerel fisheries.

- Performance of federal bycatch caps

Fisheries under caps in every year and area since 2014, except in 2018 for mackerel and SNE/MA MWT Herring, and SNE/MA BT in 2015.

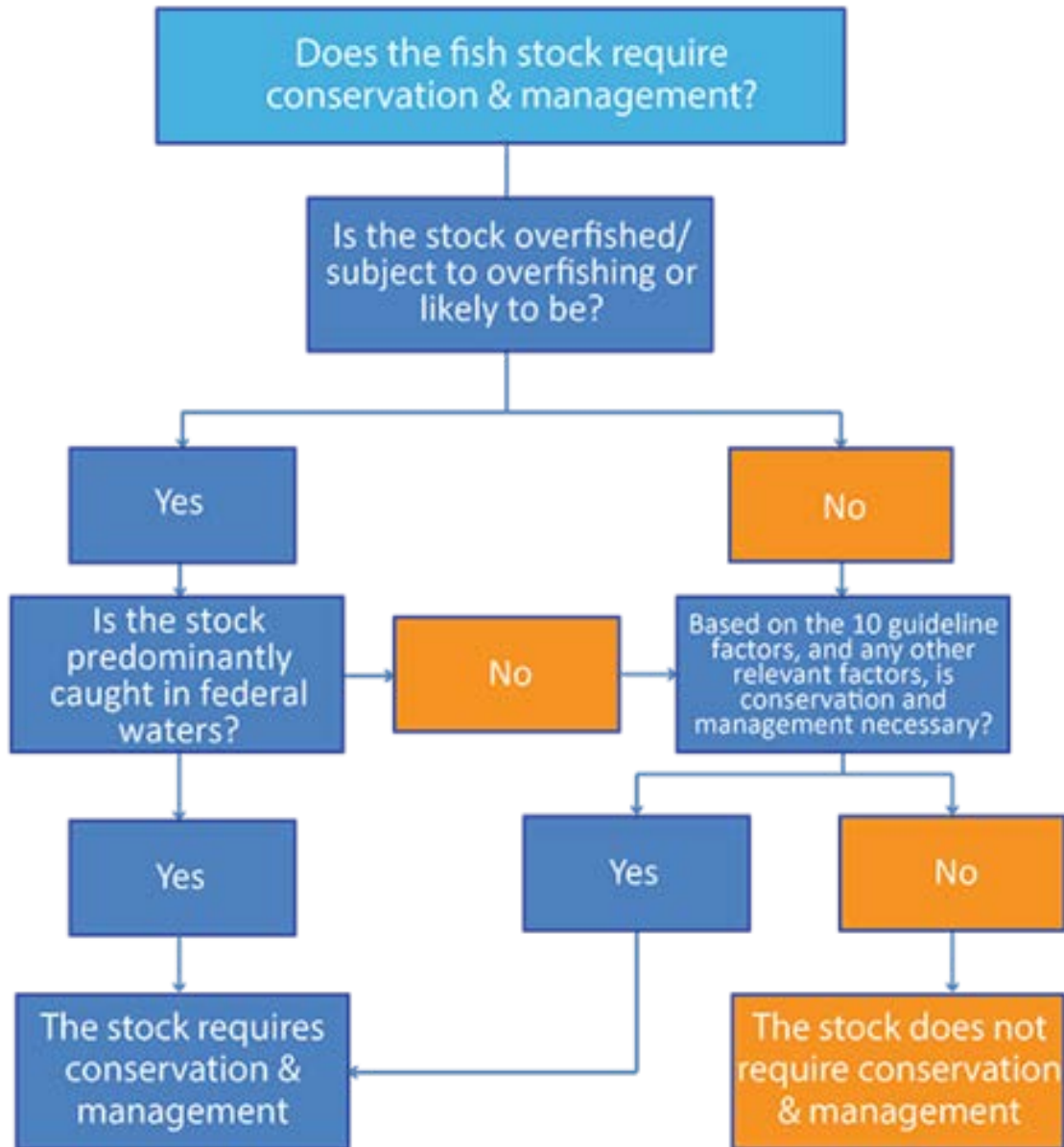
Magnuson-Stevens Act (MSA)

- Requires the Councils to prepare a FMP for each fishery under its authority for stocks that:
 - Are overfished/subject to overfishing
 - Require conservation and management
- *Not every fishery requires federal management.*
- *Council needs to consider requirements of MSA and NMFS guidance.*
- *List of 10 factors developed to help Council consider decision.*
No single factor is dispositive or required.
One or more of the factors, and any additional considerations that may be relevant to the particular stock, may provide the basis for determining that a stock requires conservation and management.

Committee Worksheet: Appendix V

- 1. STEP 1** – Consider the MSA definition of *conservation and management*; is federal management required to rebuild, restore, or maintain RH/S?
- 2. STEP 2** – Review 10 factors from NMFS guidance, consider strawman input, and develop Committee responses. Additional considerations as well (i.e. NEFMC risk policy).
- 3. STEP 3** – Review potential actions and identify recommendation and rationale for Council consideration.

Conservation & Management Determinations



Primary Management Options

4.1 No Action - Maintain current management approach

- ASFMC/states – manage directed fisheries for RH/S through its Interstate FMP/state SFMPs
- NEFMC and MAFMC – manage RH/S catch in non-directed federal fisheries - Atlantic herring and mackerel
- TEWG – compile information that will be used by NMFS and ASMFC in the RH Conservation Plan
- NMFS currently reviewing previous negative finding for ESA listing – finding expected in January 2019.

4.1.1 No Action – but identify future work priority to modify measures already in place in Herring FMP

Council could modify current and/or consider new measures to further minimize negative impacts and reduce bycatch of RH/S.

For example, enhance monitoring, modify caps, adjust AMs when caps exceeded, consider payback measures if caps exceeded, etc.

Primary Management Options

4.2 Implement federal management of RH/S stocks/fisheries

- Option A - Add RH/S as stocks in the Atlantic Herring Fishery
- Option B – Identify RH/S as an ecosystem component species (see pages 46- 48 for more info)
- Manage RH/S through a new federal FMP

Committee Recommendation

(See Motion #1 and rationale)

- **Support No Action – maintain current management approach**

Rationale:

- Fisheries already adequately managed and federal FMP would not likely improve condition of stocks. Only sustainable state plans approved.
- No directed fishery in federal waters and bycatch caps control amount of incidental take with AMs that prohibit directed fishing when caps are reached.
- Best available science used developed by both federal and state scientists – peer reviewed and coast wide. An ACL would be proxy based and vast majority allocated to state fisheries.
- An EFH designation would not be a significant improvement over what is already occurring for RH/S under other species (salmon), and states have approved habitat programs.

STEP 2 – page 3 of Appendix V

NS1 Guidelines relative to stock in fishery decision – Ten Factors to consider	Committee Input (Presented by the maker of the motion)
i. Is stock an important component of environment?	Yes
ii. Is stock is caught by the fishery?	Yes, but only incidentally in federal waters.
iii. Can an FMP improve or maintain condition of stock?	No, reasons why included in motion.
iv. Is stock a target of a fishery?	No, not in federal waters.
v. Is the stock important to commercial, recreational, or subsistence users?	Yes, but much less than it was because of state restrictions on harvest.
vi. Is the fishery important to the Nation or regional economy?	Moderate important at best at this time.
vii. Is there a need to resolve competing interests and conflicts, and would an FMP further that resolution?	Maybe yes, but uncertain if FMP could resolve them.
viii. Could an FMP produce more efficient utilization of resource?	No
ix. Is this a developing fishery? Could FMP foster orderly growth?	No
x. Is the fishery already adequately managed by states, state/fed programs, or by federal regulations pursuant to other FMPs, industry self-regulation, consistent with MSA and applicable law?	Yes

Some opposition to Committee Motion

NS1 Guidelines relative to stock in fishery decision – Ten Factors to consider	Committee Input (Maker of the motion)	Opposition Input
i. Is stock an important component of environment?	Yes	
ii. Is stock is caught by the fishery?	Yes, but only incidentally in federal waters.	
iii. Can an FMP improve or maintain condition of stock?	No, reasons why included in motion.	Yes, new research and data collection could help assessment.
iv. Is stock a target of a fishery?	No, not in federal waters.	
v. Is the stock important to commercial, recreational, or subsistence users?	Yes, but much less than it was because of state restrictions on harvest.	
vi. Is the fishery important to the Nation or regional economy?	At this time, moderate importance at best.	Yes, very important to recreational economy (prey for that industry as herring is prey for lobster industry).
vii. Is there a need to resolve competing interests and conflicts, and would an FMP further that resolution?	Maybe yes, but uncertain if FMP could resolve them.	
viii. Could an FMP produce more efficient utilization of resource?	No	Yes, better info about resource and where caught.
ix. Is this a developing fishery? Could FMP foster orderly growth?	No	
x. Is the fishery already adequately managed by states, state/fed programs, or by federal regulations pursuant to other FMPs, industry self-regulation, consistent with MSA and applicable law?	Yes	No

STEP 3 – page 5 of Appendix V

Potential Committee Recommendation	Committee Recommendation
<p>No Action – Maintain current management approaches</p>	<p>See Cmte Motion #1 (AP motion from April)</p>
<p>No Action – Option A Maintain current management approaches and recommend a future work priority to consider modifications to RH/S measures in a future action</p>	
<p>Federal Management through the Atlantic Herring FMP – Option A Add all four species (or sub-set if feasible?) All MSE requirements would need to be developed in future action</p>	
<p>Federal Management through the Atlantic Herring FMP – Option B Add RH/S as Ecosystem Component Species</p>	
<p>Federal management through new FMP for RH/S Could be joint with other Councils?</p>	

Part II

Input on MAFMC mackerel actions Document #3

2018 fishing year to date

- Mackerel RH/S catch cap reached and AMs triggered Feb. 27 (trip limit reduced to 20,000 lbs for all areas and all gear types).
- *About 90% of mackerel quota harvested.*
- Herring RH/S catch cap for SNE MWT also reached and AMs triggered March 14 (2,000 lb possession limit for MWT in SNE/MA area).
- *About 20% of herring quota for Area 2 harvested.*

MAFMC working on two actions:

1. Atlantic mackerel Closure Provisions Framework

Framework to increase mackerel possession limit from zero to 5,000 or 10,000 pounds when AM is triggered.

MAFMC selected 5,000 pound possession limit (June 5)

2. Atlantic Mackerel Rebuilding Framework with Specifications

Framework to set mackerel specifications for 2019-2021 including rebuilding plan and adjusting AMs for mackerel and RH/S (final action in August).

Mackerel Rebuilding Framework

- Recent mackerel assessment concluded stock is overfished and overfishing is occurring.
- SSC approved three ABC options (Standard P* risk policy (3-year); 5-year rebuilding, and 7-year rebuilding timeframe)
- The 5 and 7 year alternatives would require the MAFMC to modify their risk policy.
- Range of ABCs vary between 19,000 – 33,000 mt over the three year time period.
- 2018 ABC just under 20,000 mt.

Mackerel Rebuilding Framework

- To manage landings in-season, MAFMC is considering either:

In-Season #1

- 3% mngmt uncertainty buffer
- 1st Close at 80%, then...
 - Dir: 40,000 lb trip limit
 - Inc: 5,000 lb trip limit
- 2nd Close at 98% of DAH
 - All: 5,000 lb trip limit

In-Season #2

- 3% mngmt uncertainty buffer
- 1st Close at 85%, then...
 - Dir: 20,000 lb trip limit
 - Inc: 5,000 lb trip limit
- 2nd Close at 98% of DAH
 - All: 5,000 lb trip limit

Mackerel Rebuilding Framework

- MAFMC also considering leaving the RH/S cap where it is (82MT) or scaling it down or up with the potential changes being considered for mackerel catch limits.
- The measures adopted in the second framework will likely supersede any measures adopted in the first framework, which is considered a 2018 stopgap fix (5,000 possession limit).
- **Herring Committee consensus statement to recommend Council send a letter of support for measures under consideration.**

Part III

Initial discussion of 2019-2021 specifications

Discussion of possible options to mitigate potentially lower catch limits.

2019-2021 Specifications

- Draft Action Plan - Document #6
- Objective – set specifications and RH/S catch caps in Atlantic herring fishery for 2019-2021.
- Action will use best scientific information available, results from 2018 benchmark assessment, if approved.
- Action will use ABC control rule from Amendment 8, if adopted and approved.

		Herring Amendment 8		2019-2021 Specifications	
		Action	Comments	Action	Comments
2018	June	Public hearings	<i>Public hearings start 10 days after the DEIS NOA publishes</i>	Council initiates specifications; SARC 65	<i>Meeting is June 12-14; SARC 65 is June 26-29</i>
	July				
	August				
	Sept	Council takes final action	<i>Meeting is September 26-28</i>	Council takes final action on ABC	<i>Meeting is September 25-27</i>
	Oct	FEIS is finalized by Council staff			
	Nov	FEIS is reviewed by NMFS	<i>FEIS has 3-week review period</i>		
	Dec	FEIS is finalized by Council staff		Council takes final action on specifications	<i>Meeting is December 4-6</i>
2019	Jan	NOAs and proposed rule publish	<i>Amendment NOA has 60-day comment period; Proposed rule has 45-day comment period</i>		
	Feb		<i>FEIS NOA has 30-day comment periods</i>	EA reviewed by NMFS	<i>EA has 3-week review period</i>
	March	Amendment decision and final rule publish	<i>Amendment decision is 30 days after Amendment NOA comment period closes</i>	EA finalized	
	April		<i>Record of Decision has 30-day cooling off period</i>	Proposed rule publishes	<i>Proposed rule has 30-day comment period</i>
	May	Final rule effective	<i>Final rule effective 30 days after final rule publishes</i>		
	June			Final rule publishes	
	July				
	August			Final rule effective	<i>Effective date is 30 days after final rule publishes</i>
	Sept				
	Oct				
	Nov				
	Dec				

- Herring undergoing benchmark assessment (last in 2012).
- **Data** meeting in March and **Models** meeting in May.
- Working group currently drafting assessment document.
- Final meeting scheduled for June 26-29, 2018 – independent peer reviewers meet in Woods Hole.
- Draft document expected one week before peer review (June 19).
- Final assessment report about one month after peer review meeting (late July).
- SSC meeting in mid-August to review ABCs for 2019-2021 specs.
- But decision on Amendment 8 ABC control rule will not be know until September.

Current thinking on timing

- September – Council presented assessment results and final action on Amendment 8, including selection of an ABC CR.
- October - SSC meet to recommend ABC based on A8 final action.
- December – Final action on 2019-2021 specs.
- *Originally had timeline set up for SSC to meet in August and Council approve ABC in Sept, but this is problematic.*

Need for action sooner?

- ABC in 2018 is 111,000 MT.
- On Jan. 1, 2019 specs rollover.
- If the updated assessment projects substantially lower ABCs, and is approved, ABCs for 2019 likely need to be lower than current levels.
- There are ways for NMFS to make an adjustment before new specifications would go in place.

- The original Herring FMP gave NMFS the authority to adjust specifications. The Regional Administrator can change the amounts on an annual or in-season basis after consulting with the Council.

Section 648.200 (e) In-season adjustments.

The specifications and sub-ACLs established pursuant to this section may be adjusted by NMFS to achieve conservation and management objectives, after consulting with the Council, during the fishing year in accordance with the Administrative Procedure Act (APA). Any adjustments must be consistent with the Atlantic Herring FMP objectives and other FMP provisions.

- If 2019 ABC needs to be reduced, does the Council support NMFS taking action to lower the 2019 ABC?
- Is there interest in reducing 2018 catches to minimize the reduction potentially needed in 2019?
- If reductions are recommended (for 2019 or 2018 and 2019), would they be stock wide reductions applied the same across all herring management areas?
- If Council supports an action, may want to provide specific input on exactly how adjustments should be applied.
- Committee recommendation for Council to initiate specifications action for FY2019-2021, no specific recommendation about earlier actions.