

Herring Committee Meeting

May 31, 2018

Deirdre Boelke, NEFMC

**Holiday Inn
Mansfield, MA**



**New England
Fishery Management Council**

Committee Tasking (Doc. #1)

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 (*under 10 slides*).
3. Initial discussion of 2019-2021 specifications (*5 slides*).
4. Other Business:
 - 1) RSA Program review (*10 slides*); and
 - 2) Discussion of possible options to mitigate potentially lower catch limits (*5 slides*).

I: Federal management of RH/S

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 #3)

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

Issues for Committee to consider during discussion:

- Does this rationale still hold today?
- Are challenges still the same?
- 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.

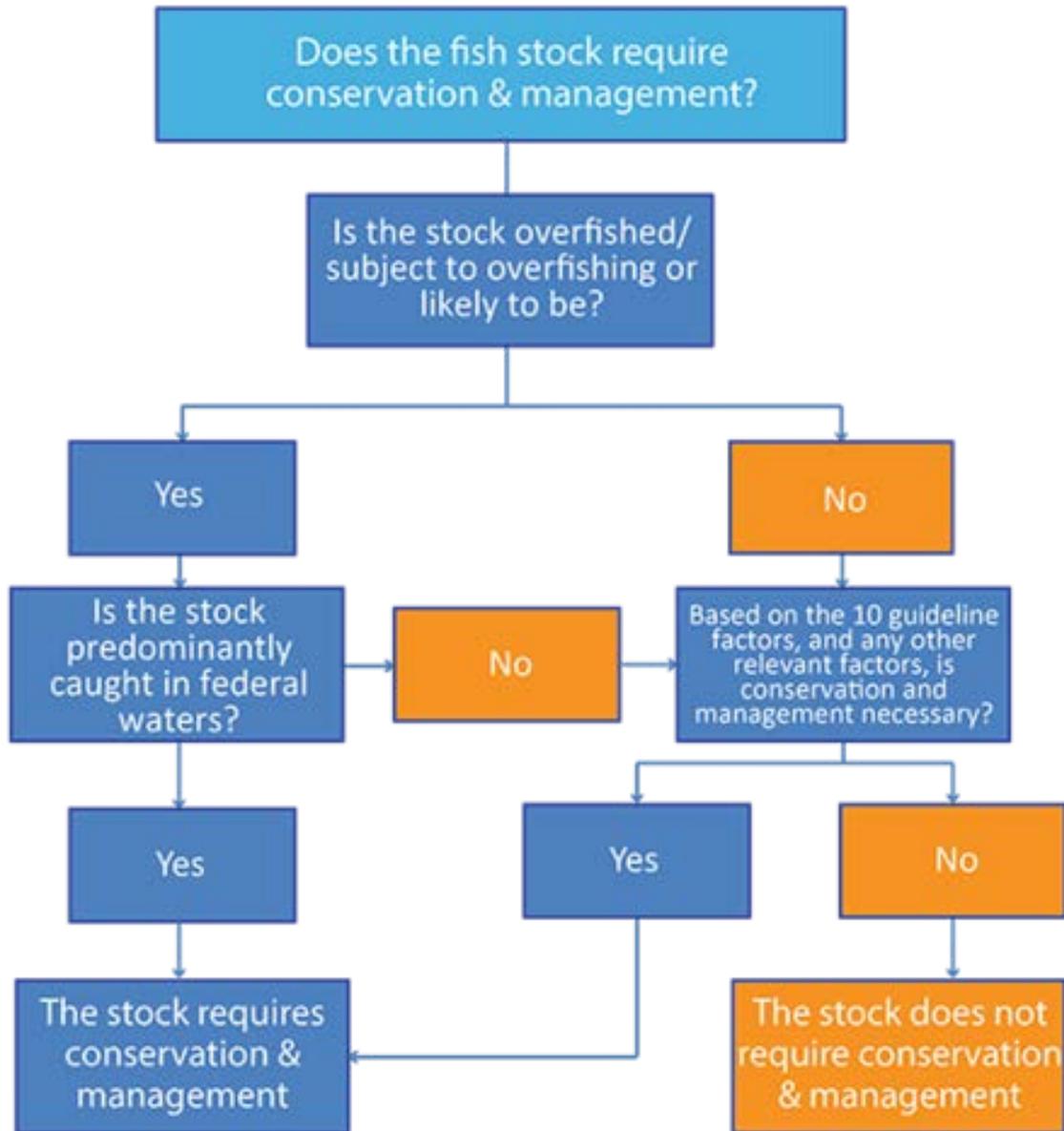
Magnuson-Stevens Act (MSA)

- 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: Doc. #3a

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



STEP 2 – page 3 of Doc. #3a

| NS1 Guidelines relative to stock in fishery decision – Ten Factors to consider | Preliminary input to consider - Presented to the Council in April 2018 | Individual Considerations |
|---|--|---------------------------|
| 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? | Uncertain , see Discussion Document for more | |
| 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 , primarily in state waters | |
| vi. Is the fishery important to the Nation or regional economy? | Yes , fishery much smaller now, but important for some communities, forage, and cultural importance | |
| vii. Is there a need to resolve competing interests and conflicts, and would an FMP further that resolution? | Maybe yes , there are several conflicts but uncertain if FMP could resolve them | |
| viii. Could an FMP produce more efficient utilization of resource? | Uncertain | |
| ix. Is this a developing fishery? Could FMP foster orderly growth? | No , this is not a developing fishery | |
| 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? | Uncertain , see Discussion Document for more | |

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

STEP 3 – page 5 of Doc. #3a

| Potential Committee Recommendation | Individual Consideration – Select one |
|--|--|
| <p>No Action – Maintain current management approaches</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> | |

AP/Committee input – April 2018

- **AP motion:** Recommend status quo (vote: 7/5/0)
- **AP Rationale:** Previous input holds true today (Section 1.2): Adequate measures in place, more fed management would not improve condition and science would not improve, ACLs would not be biologically based and likely only cause economic losses, stocks improving more in areas with more dam removals.
- Others commented Council should be risk averse and proactive due to environmental changes, more federal management could help potentially help ESA review process (signal Council doing all it can).
- **Cmte motion:** Initiate an action to consider RH/S be added as a stock in Herring FMP. But postponed until today.
- **Committee discussion:** Dam removals not enough, need many approaches

Committee Recommendation?

- **April Council Motion**

That the Council ask the Herring Committee to reconsider adding River Herring/Shad as a stock in the Herring FMP.

*The motion **carried** on a show of hands (12/5/1).*

- **Today**

Consider steps 1, 2, and 3 from worksheet.

Develop rationale for recommendation.

Additional info in appendix of worksheet from recent CCC meeting on this topic.

Part II

Input on MAFMC mackerel actions Document #4

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 (final action in June).

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.

| | SSC ABCs | | |
|------|---------------------------|---------------|---------------|
| | <u>P* (100%/typ), 3yr</u> | <u>5-year</u> | <u>7-year</u> |
| 2019 | 19,025 | 29,184 | 30,868 |
| 2020 | 26,183 | 32,480 | 34,016 |
| 2021 | 33,001 | 35,195 | 36,551 |

Mackerel Rebuilding Framework

- The ABC projections depend heavily on good 2015 year class, but estimates near the terminal year are typically uncertain.
- Mackerel FMAT recommends that no ABCs be set above 33,474 mt (standard P* for a 100% rebuilt mackerel stock).
- FMAT recommends any ABCs above that value be reduced to 33,474 mt (see yellow cells below).

| | FMAT ABCs | | |
|------|---------------------------|---------------|---------------|
| | <u>P* (100%/typ), 3yr</u> | <u>5-year</u> | <u>7-year</u> |
| 2019 | 19,025 | 29,184 | 30,868 |
| 2020 | 26,183 | 32,480 | 33,474 |
| 2021 | 33,001 | 33,474 | 33,474 |

Mackerel Rebuilding Framework

2018 Specifications

- **After ABC is identified, catch is reduced by:**

Deductions for Canadian catch estimates (2018 was 45%)

Accounting for recreational catch (2018 used 6.2%)

Consideration of management uncertainty (10% of commercial)

Estimate for discards (1.25%)

In-season management measures to utilize quota and consider potential impacts on herring fishery if AMs trigger.

| Specification | Mackerel |
|--|----------|
| Overfishing Limit (OFL) | Unknown |
| Total Acceptable Biological Catch (ABC) from SSC | 19,898 |
| Canadian Deduction (Quota and 10% Management Uncertainty) | 8,889 |
| U.S. ABC = Annual Catch Limit (ACL) (Canadian catch deducted) | 11,009 |
| Recreational Allocation (6.2% of ACL) | 683 |
| Recreational Annual Catch Target (10% less than allocation to account for management uncertainty) | 614 |
| Commercial Allocation (93.8% of ACL) | 10,327 |
| Commercial Annual Catch Target (10% less than allocation to account for management uncertainty) | 9,294 |
| Landings or "Domestic Annual Harvest" (1.26% less than Annual Catch Target to account for expected discards) | 9,177 |

Mackerel Rebuilding Framework

- Currently the MAFMC is considering: 50% for Canadian catch, 3% for management uncertainty buffer, and 0.4% for discards.
- To manage landings, 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

- After deductions for other sources of catch, the commercial fishery will be allocated 6,420 – 14,019MT per year, depending on the ABC selected and the year. In 2018 the commercial fishery was allocated about 9,000 MT.
- 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.
- Does the Herring Committee have any input on the in-season measures under consideration?

Part III

Other Business: RSA Program Review Documents 5 and 5a

Dr. Mike Sissenwine and Ms. Deirdre Boelke

Part IV

Initial discussion of 2019-2021 specifications

Other Business: 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 | | | | |

Other Business

- Herring undergoing benchmark assessment (last in 2012).
- **Data** meeting in March and **Models** meeting in May.
- Working group currently drafting assessment document.
- Final peer review scheduled June 26-29, 2018 – independent peer reviewers meet in Woods Hole.
- Draft document could be available by mid-June.
- Final assessment report about one month after peer review meeting (late July).
- SSC meeting in August to review ABCs for 2019-2021 specs.
- September – Council presented assessment results and SSC recommendations for ABC.

Other Business

- Analyses are still preliminary, but we know the fishery has been supported for several years by large year class (2011). These fish passing out of fishery due to catch and old age.
- No evidence of strong recruitment to replace these fish; in fact, recent recruitment appears well below average.
- Still too early to predict management actions following assessment results, but if recruitment has been lower, it is likely catch limits will be lower.

Other Business

- 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.
- While fishery has not been harvesting full ACL in recent years, if specs not effective until August 2019, and substantial reductions needed, risk that catch could exceed ABC and OFL.

| Year | Sub-Area | sub-ACL (mt) | Catch (mt) | % Harvested |
|------|----------|--------------|------------|-------------|
| 2012 | 1A | 27,668 | 24,302 | 88% |
| | 1B | 2,723 | 4,307 | 158% |
| | 2 | 22,146 | 22,482 | 102% |
| | 3 | 38,146 | 39,471 | 103% |
| 2013 | 1A | 29,775 | 29,820 | 100% |
| | 1B | 4,600 | 2,458 | 53% |
| | 2 | 30,000 | 27,569 | 92% |
| | 3 | 42,000 | 37,833 | 90% |
| 2014 | 1A | 33,031 | 32,898 | 100% |
| | 1B | 2,878 | 4,399 | 153% |
| | 2 | 28,764 | 19,626 | 68% |
| | 3 | 39,415 | 36,323 | 92% |
| 2015 | 1A | 30,580 | 29,406 | 96% |
| | 1B | 4,922 | 2,889 | 59% |
| | 2 | 32,100 | 15,214 | 47% |
| | 3 | 44,910 | 33,256 | 74% |
| 2016 | 1A | 30,524 | 27,831 | 91% |
| | 1B | 2,844 | 3,657 | 129% |
| | 2 | 31,227 | 13,463 | 43% |
| | 3 | 42,765 | 18,631 | 44% |

Note: Shaded rows are sub-ACL overages. Source: GARFO

Other Business

- 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.
- Amendment I added that these adjustments could be made by framework action.

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.

Other Business and specs action

- If 2019 ABC needs to be reduced, does the Committee recommend 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 NMFS considers an action, the Council may want to provide specific input on exactly how adjustments would be applied.
- Does Committee recommend the Council initiate a specifications action for FY2019-2021?