



New England Fishery Management Council

50 WATER STREET | NEWBURYPORT, MASSACHUSETTS 01950 | PHONE 978 465 0492 | FAX 978 465 3116

John F. Quinn, J.D., Ph.D., *Chairman* | Thomas A. Nies, *Executive Director*

MEMORANDUM

DATE: August 28, 2018
TO: Herring AP and Committee
FROM: Herring PDT
SUBJECT: Timing issues for upcoming herring actions

There are several moving parts potentially impacting the timing of upcoming herring fishery regulations. This memo includes background information and Herring PDT input on these timing issues.

Background

First, upon considering a request from the Council, NOAA Fisheries implemented an in-season action to reduce herring sub-ACLs for the remainder of the 2018 fishing year. The Council discussed preliminary results from the 2018 Atlantic herring benchmark assessment at the June Council meeting and recommended NOAA Fisheries reduce the Atlantic herring Annual Catch Limit (ACL) and area sub-ACLs. The recommendation was to reduce the ACL by about 50%, from 111,000 mt to 54,000 mt.

The intent was to lessen the impact of inevitable reductions for 2019-2021 based on assessment projections. The Council expected that maintaining 2017 catch levels would lessen the reductions needed in 2019. The Council suggested that the management area sub-ACLs should reflect 2017 fishing activity to the extent possible, noting that Area 2 should be higher because 2018 fishing in that area had already exceeded the 2017 level.

NOAA Fisheries recently published an announcement reducing 2018 catch limits effective August 23, 2018. Upon review of the Council request NOAA Fisheries noted that the Council recommendation of 54,000 mt still had an associated probability of overfishing of about 70%. NOAA fisheries determined that this risk of overfishing was too high, and implemented a catch limit equivalent to 50% probability of overfishing for 2018 (49,900 mt), which is the same standard used in setting previous specifications. NOAA subtracted this additional reduction from the Council's recommended sub-ACLs from Area 3 and Area 1A. Area 3 catch has dropped in recent years, and there has been minimal catch there in 2018 to date. NOAA projects it to be the least likely sub-ACL to be captured. Focusing part of the additional reduction to Area 3 rather than 1B would allow the midwater trawl fleet an opportunity to access available catch in Area 1B that may help mitigate the loss of potential catch from Area 3. Avoiding an additional reduction

to Area 2 is consistent with the Council's approach for this area to help avoid an early closure if the new limit is set too close to current catch amounts. Because purse seine fishing occurs nearly exclusively in Area 1A, reducing Area 1A quota will spread the reductions among the herring gear types rather than having impacts predominately on midwater trawl vessels. Current regulations dictate that this ACL will remain in place at the start of the 2019 fishing year unless a subsequent action replaces them.

Second, the Council is scheduled to take final action on Amendment 8 in September 2018. Amendment 8 is considering ABC control rule alternatives, and if one is adopted, it would determine the method for identifying future catch limits. However, Amendment 8 is not expected to be implemented until mid-2019, well after the Council is currently scheduled to make decisions on fishery specifications for 2019-2021 (in December 2018). The Council has been aware of potential timing issues related to aligning Amendment 8 implementation and subsequent specifications. 2018 specifications would need to rollover until Amendment 8 was effective, and a new specifications package would follow about mid-way through the 2019 fishing year.

Implementation delays of herring specifications have occurred in the past when development of actions are pushed back to incorporate updated assessment information, or other issues extend the timeline so it is not in place at the start of the fishing year (January 1). While it is not ideal to implement final catch limits midyear, it enables the Council to use the most updated information. This year is more problematic in that the estimated difference between the final 2018 ACL (i.e. the recent in-season reduction) and the 2019 ACL may be substantial. Simply rolling over the 2018 ACL until the 2019 ACL could be effective as part of a three year specifications package may not be workable; the fishery could exceed ultimate limits and the probability of overfishing would be too high.

PDT input

The PDT has developed an updated timeline summarizing the various milestones for these actions (Table 1). The first column includes the major milestones for Amendment 8 and the middle column summarizes the original milestones for the 2019-2021 specifications action. The proposed rule for the specifications package, if it uses a control rule from Amendment 8, cannot be published until after the amendment decision date for Amendment 8. Under the best case scenario that is expected to be April 2019. Under that scenario, specifications could not be implemented until about three months after that date, or August 2018. By August, a substantial amount of herring fishing usually takes place, the early winter herring fishery typically in Area 2 would be complete, and potentially most of the Area 1A quota in the inshore GOM for trimester 2 (June-September) would be harvested as well. Because 2019 catch limits are expected to be lower than 2018 limits, even after in-season adjustments are made to 2018 limits, the risk of exceeding management area sub-ACLs and overfishing may be too high if 2019 catches are not reduced earlier in the year.

Therefore, **the PDT recommends that the Herring Committee discuss a possible recommendation for the Council to request that NOAA Fisheries develop an independent action that would set 2019 catch limits closer to the start of the fishing year.** The Committee and Council could provide input on that action at the September meetings that are already scheduled, and NOAA Fisheries could consider and develop measures between then and the start of the 2019 fishing year on January 1. Potential milestones for that approach are summarized in the far right column of Table 1, under "proposed timing". Under this scenario, more time could

be spent focusing on 2019 measures now, and the Council could then develop specifications for 2020 and 2021 during the first half of 2019. The complexity of that action would be reduced because the Council would take final action after the amendment decision date for Amendment 8.

Another benefit of this approach is that more time may be needed to develop specifications than in previous packages. Since herring catches are dramatically lower the Council may want to consider alternatives for some aspects of the specifications that are typically unchanged from year to year. For example, research set-aside allocations, fixed gear set-aside allocations, border transfer allowances, specification of the management uncertainty buffer, sub-ACL allocations per herring management area, seasonal restrictions in herring management areas, methods for setting catch caps, etc. Many of these specifications typically rollover from year to year and alternatives are not always included. If the Council decides to consider alternatives for some of these elements of herring specifications, more time and resources will be needed to develop, analyze, and review the action compared to the length of time that is currently planned to meet final action for the December meeting.

Finally, the Northeast Regional Coordination Committee (NRCC) is in the process of reviewing and potentially adjusting the stock assessment schedules for all species managed by the New England and Mid-Atlantic Councils. Because stock assessment schedules may change, it may be necessary to adjust future specification cycles to be more consistent with future schedules. These decisions will not be final until late 2018, and the timing of this package may need to be adjusted to realign with the stock assessment schedule regardless.

Table 1 – Herring Actions with potential milestones and timing options

		Herring Amendment 8		Current Timing - 2019-2021 Specifications		Proposed Timing - Actions and Specifications	
		Action	Comments	Action	Comments	Action	Comments
2018	August					2018 rule publishes	Measures effective upon publishing until replaced by 2019 action
	Sept	Council takes final action	Meeting is Sept. 26-28	Council considers SARC 65 results	Meeting is Sept. 26-28	Council considers SARC 65 results and possible request for NMFS 2019 action	Meeting is Sept. 26-28
	Oct	FEIS finalized by Council staff		SSC recommends ABC based on Amendment 8		SSC considers 2019 ABC	Meeting is October 10
	Nov	FEIS is reviewed by NMFS	FEIS has 3-week review period	NRCC recommends assessment schedule		2019 rulemaking and NEPA document being drafted; NRCC recommends stock assessment schedule	
	Dec	FEIS finalized by Council staff		Council takes final action on specifications	Meeting is Dec. 4-6	2019 rulemaking and NEPA document in review; Council considers ABC rec. by the SSC	Meeting is Dec. 4-6
2019	Jan	NOAs and proposed rule publish	Amendment NOA has 60-day comment period; Proposed rule has 45-day comment period			2019 rule publishes; Council considers alternatives to include in new specifications (2020-2021)	Measures effective upon publishing until replaced by specifications; Meeting is January 29-31
	Feb		FEIS NOA has 30-day comment periods	EA reviewed by NMFS	EA has 3-week review period		
	March	Amendment decision and final rule publish	Amendment decision is 30 days after Amendment NOA comment period closes	EA finalized			
	April		Record of Decision has 30-day cooling off period	Proposed rule publishes	Proposed rule has 30-day comment period	SSC recommends ABC for new specifications (2020-2021)	SSC meets after decision date for Amendment 8
	May	Final rule effective	Effective date is 30 days after final rule publishes				
	June			Final rule publishes		Council takes final action on 2020-2021 specifications	Meeting is June 11-13
	July						
	August			Final rule effective	Effective date is 30 days after final rule publishes	EA reviewed by NMFS	EA has 3-week review period
	Sept					EA finalized	
	Oct					Proposed rule publishes	Proposed rule has 30-day comment period
	Nov						
	Dec					Final rule publishes	Effective date is 30 days after final rule publishes