PROCEEDINGS OF THE

ATLANTIC STATES MARINE FISHERIES COMMISSION

SHAD & RIVER HERRING MANAGEMENT BOARD

The Westin
Annapolis, Maryland
Hybrid Meeting

October 23, 2024

Approved August 6, 2025

Proceedings of the Shad & River Herring Management Board – October 2024

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- 4. Move to approve the updated River Herring Sustainable Fishery Management Plan from Maine, as presented today (Page 6). Motion made by Pat Keliher; second by Eric Reid. Motion passes by unanimous consent (Page 7).
- 5. Move to approve the updated Shad Sustainable Fishery Management Plans from Connecticut and Massachusetts, as presented today (Page 7). Motion made by Dan McKiernan; second by Cheri Patterson. Motion approved by unanimous consent (Page 7).
- 6. Move to adjourn by consent (Page 8).

ATTENDANCE

Board Members

Pat Keliher, ME (AA)

Rep. Allison Hepler, ME (LA)

Steve Train, ME (GA)

John Clark, DE (AA)

Roy Miller, DE (GA)

Lynn Fegley, MD (AA)

Cheri Patterson, NH (AA)

Allison Colden, MD, proxy for Del. Stein (LA)

Dennis Abbott, NH, proxy for Sen. Watters (LA) Russ Dize, MD (GA)

Doug Grout, NH (GA) Pat Geer, VA, proxy for Jamie Green (AA)

Dan McKiernan, MA (AA) James Minor, VA (GA)

Rep. Jennifer Armini, MA (LA)

Chris Batsavage, NC, proxy for K. Rawls (AA)

Chad Thomas, NC, proxy for Pop. Wray (LA)

Phil Edwards, RI, proxy for Jason McNamee (AA) Chad Thomas, NC, proxy for Rep. Wray (LA)

Eric Reid, RI, proxy for Sen. Sosnowski (LA)

Jerry Mannen, NC (GA)

David Borden, RI (GA)

Ross Self, SC, proxy for Blaik Keppler (AA)

Matt Gates, CT, proxy for Justin Davis (AA)

Mel Bell, SC, proxy for Sen. Cromer (LA)

Bill Hyatt, CT (GA)

Malcolm Rhodes, SC (GA)

John Maniscalco, NY, proxy for Marty Gary (AA)

Jim Gilmore, NY, proxy for Assy. Thiele (LA)

Doug Haymans, GA (AA)

Spud Woodward, GA (GA)

Emerson Hasbrouck, NY (GA) Erika Burgess, FL, proxy for J. McCawley (AA)

Heather Corbett, NJ, proxy for Joe Cimino (AA)

Adam Nowalsky, NJ, proxy for Sen. Gopal (LA)

Gary Jennings, FL (GA)

Ron Owens, PRFC

Jeff Kaelin, NJ (GA)

Daniel Ryan, DC Fisheries

Kris Kuhn, PA, proxy for Tim Schaeffer (AA)

Max Appelman, NMFS

Loren Lustig, PA (GA)

Rick Jacobson, USFWS

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

Ex-Officio Members

Wes Eakin, Technical Committee Chair

Jeff Sabo, Law Enforcement Committee Rep.

Pam Lyons Gromen, Technical Committee Chair

Staff

Bob BealCaitlin StarksKatie DrewToni KernsJeff KippJainita PatelTina BergerTracey BauerChelsea TuohyMadeline MusanteJames BoyleEmilie Franke

The Shad and River Herring Management Board of the Atlantic States Marine Fisheries Commission convened in the Capitol Ballroom via hybrid meeting, in-person and webinar; Wednesday, October 23, 2024, and was called to order at 11:29 a.m. by Chair Lynn Fegley.

CALL TO ORDER

CHAIR LYNN FEGLEY: We're going to get started one minute early. Welcome to the Shad and River Herring Management Board. My name is Lynn Fegley from the state of Maryland. I am happy to serve as your Chair today. To my right I have James Boyle, our Plan Coordinator, Wes Eakin, TC Chair and Dr. Katie Drew.

APPROVAL OF AGENDA

CHAIR FEGLEY: The first thing that I want to do is ask for an Approval of the Agenda. I will update it though, one small change that did appear in supplemental materials, we will not be having the Advisory Panel report today, so that goes off the agenda. Is there anybody who is opposed to the agenda as it stands? Okay, none, we'll move forward by consent.

APPROVAL OF PROCEEDINGS

CHAIR FEGLEY: Then we're going to look at Approval of Proceedings from August, 2024. Are there any changes or additions? Roy Miller.

MR. ROY W. MILLER: Madam Chair, I just happened to notice when looking through the minutes, there was a reference on your Page 8 Peer Review Panel Report it says Dr. Conway. That is Dr. Conroy. I would like to make that correction. Thanks.

MS. FEGLEY: Okay, thank you, I'm going to assume that staff has that noted. Are there any other edits or changes to the agenda? All right, any opposition to the agenda as it stands? Seeing none; we will move forward.

PUBLIC COMMENT

CHAIR FEGLEY: The next thing on our agenda is Public Comment. We received some comment in writing, which we appreciate. Is there anybody from the public online or in the room? Okay, no public comment.

CONSIDER UPDATES TO SHAD AND RIVER HERRING SUSTAINABLE FISHERY MANAGEMENT PLANS (SFMPS)

CHAIR FEGLEY: This is our action item, we've got several Shad and River Herring Sustainable Fishery Management Plans to consider today, we'll be looking for motions. We're going to go through a little bit step by step here, we're going to consider New Hampshire, then we're going to consider Maine, and then we're going to do Massachusetts and Connecticut together. With that I'll kick it over to Wes Eakin.

MR. WES EAKIN: Thanks, Madam Chair. We'll just jump right into it. Today I have four SFMP updates for Board consideration, two for river herring from New Hampshire and Maine, and two for American shad in Massachusetts and Connecticut. Then we also have a proposal to reopen New Hampshire's River Herring Fishery following a closure in 2021. Just a bit of background about SFMPs and what is required of them, as well as the sustainability definition in the FMP. The Amendments 2 and 3 of the Shad and River Herring FMP require states wishing to have a fishery submit a SFMP that would demonstrate the stock could support commercial and/or recreational fishery that will not diminish future stock reproduction and recruitment. These plans are updated and reviewed every five years.

NEW HAMPSIRE RIVER HERRING SFMP AND PROPOSAL TO REOPEN FISHERY

MR. EAKIN: We'll start with New Hampshire's SFMP update. New Hampshire manages their river herring fishery on a statewide basis, in lieu of river specific or species specific. Data from six rivers within the Great Bay estuary are combined to develop the Great Bay indicator stock and that is used to develop their sustainability metrics. Harvest and answers primarily for personal use as

bait in the striped bass fishery, as well as bait in the lobster fishery.

Between 2010 and 2020, the statewide landings ranged from just over 5,000 fish to just under 22,000 fish, and 95 to 100 percent of that harvest occurs in the estuary. The new additions to the SFMP include updated mortality rates, standard error calculations for the original time count estimates, updated information from the 2024 River Herring Benchmark Stock Assessment, and an updated escapement target.

New Hampshire has developed two sustainability targets, one for fisheries dependent, which is an exploitation rate of less than 20 percent on the Great Bay indicator stock, and one for fisheries independent, which is an escapement target of 94,589 fish. New Hampshire will review both of these sustainability targets on an annual basis, to determine if there is a management action necessary.

Those management actions are if the fishery dependent target is not met, no additional days or areas are prohibited to harvest the river herring. Implement will lower daily harvest limits for state permitted harvesters, and/or implement a daily catch limit for recreational anglers. If the fisheries independent target is not met, the fishery will close in all state waters.

This plan was recommended for approval by the TC. Moving into New Hampshire's proposal to reopen the river herring fishery. As I mentioned, the fishery was closed in 2021, due to low spawning run counts in 2019 and 2020, leading to a failure to meet your fisheries independent target. If approved today, New Hampshire is proposing to reopen their fishery for 2025.

New passage estimates in Exeter River have been above the fishery's independent escapement target level for the past four years. New Hampshire has also given some reasons for the low run counts in 2019 and 2020. They attribute that to low water temperatures and decreased flows during the early part of the spawning season.

In the Cocheco River they had equipment failure and fishery modifications in 2016 that led to a loss of ladder efficiency and decreased river herring passage. In the Exeter River, the Great Dam and Fishway was removed in 2016. The next dam up in Pickpocket Fishway or the Pickpocket Dam and Fishway, which is over 15 kilometers upstream, did not have good returns, despite observing thousands of fish passing the former dam location.

New Hampshire took some corrective actions. In the Cocheco River they converted the fishway back to how it operated prior to 2016, offered more consistent water flows, and the Exeter, it was determined that the river herring reaching the Pickpocket Fishway was not providing accurate population estimate of those fish migrating past the former dam location, therefore they developed a new counting methodology using visual time counts at the former Great Dam location, beginning in 2021.

These two figures here are the current sustainability targets. The figure on the left is the fisheries independent target that shows that exploitation has remained at or below 20 percent. The figure on the right is a fisheries independent target, that shows that they have had escapement above their escapement target for the past four years.

In summary, New Hampshire has made the following as a case for reopening their fishery. They have exceeded the fisheries independent target for the past four consecutive years. The majority of the harvest comes from the Exeter River, which is already very restrictive, where there is only 2 days of fishing allowed per week, with one tote of fish per day.

The Cocheco River will remain closed while improvements to the fishway and fish passage continue. Harvest on the Cocheco is minimal, and the river's closure likely won't increase fishing

pressure on other systems in New Hampshire. The remaining rivers, the Great Bay Indicator Stock can support harvest opportunities while continuing to meet New Hampshire's sustainability targets.

Last month the TC reviewed New Hampshire's request to reopen, and during that review the TC referenced the TC Guidance Document that recommends a five-year consecutive year above the targets occur before reopening. The TC was hesitant to go against the previously established guidance.

But they also acknowledged that it is unclear whether the decrease in spawning run counts in 2019 and 2020 were true reflection of abundance or due to methodology. The TC was unable to reach a consensus of wanting to recommend for or against New Hampshire reopening the fishery a year earlier than recommended. With that I would be glad to take any questions.

CHAIR FEGLEY: Any questions from the Board about this presentation? Okay, no questions. What I would like to do, because we're going to need an action on both approving a plan and the proposal to reopen the fishery. I wanted to, Cheri Patterson, I wanted to turn to you to see if you had any additional thoughts or comments for the Board before we make that decision.

MS. CHERI PATTERSON: Thank you, Madam Chair. It is a recommendation from the TC to keep a fishery closed for five years. It's not something that is definitely a mandate and such. We have very good reasons for wanting to open it a year ahead of that, you know a four-year closure as opposed to a five-year closure.

When we did the dam removal in downtown Exeter, fish were obviously going up through, they just dropped out and spawned before they hit the next fishway, which was as indicated 13 kilometers above where the former dam was in downtown Exeter. We were anticipating to

have fish counts occur at that fish ladder, thinking they were going to go right up through. They did not. They dropped out and they spawned in the lower section. We did notice the difference in species. We noticed that there was a lot more bluebacks, which want the riverine habitat as opposed to the impoundment habitat, that were noted in our sampling, as well as we still have a very good range of ages, so we did not note any discrepancy or any missing ages at all, since we have been sampling in that river since the dam was removed.

As for the Cocheco River, we are still very cautious there. We did pull out internal modifications that we had put in to increase the efficiency of the fish ladder. Obviously, that worked this year. We had a count of 77,000 fish that went through the Cocheco fish ladder. But this was the first year that we had any, what I would call respectable returns to the Cocheco.

We are going to keep the Cocheco closed until we get a few more years of decent returns back to that system. We had very little harvest activity in the past in the Cocheco River. It's not going to produce in the ordinant pressure and in the other river system that we would want to open up, so if you have any questions feel free to ask. Thank you.

CHAIR FEGLEY: Thank you very much, Cheri, for that. Any further questions? Does anybody have any questions on this issue before we go to a motion? Okay, seeing none, does anybody have a motion for the Board? Cheri Patterson.

MS. PATTERSON: Thank you, I'll wait until it gets up, oh, there we go. I move to approve the updated River Herring Sustainable Fishery Management Plan and proposal to reopen the fishery from New Hampshire, as presented today.

CHAIR FEGLEY: We have a motion on the board from Cheri Patterson, and a second from Dan McKiernan. Is there any discussion on the motion? Pat Keliher.

MR. PATRICK C. KELIHER: I should have asked this before the motion, Cheri, but is the plan to have some limited harvest or a regular harvest, or are you still going to wait a year, a proving and waiting year before the harvest?

MS. PATTERSON: No, we're hoping to open up harvest under the same rules that we had prior, with the exception of closing the Cocheco. We have other rivers closed, we have the Oyster closed, we have the Taylor closed and the Exeter River we have just two days of harvest allowed, two days.

CHAIR FEGLEY: Okay, any other questions? Just to be clear, the proposal, it's a year early to open with the reasons given. Any other discussion? Allison Colden.

MS. ALLISON COLDEN: Obviously very great information presented and lots of supporting rationale for the action on reopening in New Hampshire. Obviously, as Cheri pointed out, the technical guidance is not a requirement, it's not a mandate. My only hesitation, slight hesitation here is that as much as technical guidance is for the states to understand what the Technical Committees are comfortable with.

I also think it gives states and stakeholders important expectations on the types of data that are required to bring a technical committee to a place of comfort in evaluating these types of decisions. I'm not necessarily adamantly opposed, but I do have a little bit of hesitation moving forward against the technical guidance that currently exists, and kind of what we all understand to be the needs for the Technical Committee to help us make these types of decisions.

CHAIR FEGLEY: Steve Train.

MR. STEPHEN R. TRAIN: I can support this motion, but I have a question more about the procedure. Maybe I need some more clarity. Cheri told us what they plan to do, but the motion says that we're opening up their fishery.

Are we going to be able to do motions like this from now on for every state, and not have specifics in it? Do we have a copy of as the plan presented somehow its voted? I mean I want their fishermen to fish, but the motion seems broader than what we're actually voting on.

CHAIR FEGLEY: Yes, Toni.

MS. TONI KERNS: I think I'm correct on this, and James, let me know if I'm wrong. But the SFMP lays out what rivers they plan on opening and what rivers they plan on keeping closed, so that is the updated river herring SFMP that is listed in that motion there.

CHAIR FEGLEY: Right, so the proposal is very detailed. Rick Jacobson.

MR. RICK JACOBSON: I'm a little confused with the rationale for reopening a year early. As I heard it there were four different potential drivers of the low counts that were observed that led to the closure in the first place. One of those were technical difficulties with the ability to count at the established counting point, the fishway.

Another was that dam removals, and that some number of the individuals that would have otherwise been counted further downstream had dropped out, because they are spawning in the intervening place. If either of those were the driver, well those are just technical anomalies that led to an aberrant low count, and I would be inclined to say after four years of consistently high counts to approve the proposal.

But on the flip side there was also something in the original presentation that suggested the low count might have been a product of environmental factors, water temperature and low water. If in fact they were driven in that initial closure by environmental factors, that seems a very different issue. I was wondering if there can be any clarity. Was this truly an aberrant low count because of technical issues, or was it potentially a low count because there truly were fewer fish?

CHAIR FEGLEY: Thank you for that question, James, do you want to try to field that, or Cheri Patterson, why don't you address that.

MS. PATTERSON: Thank you for the question. Those two years that reflected low counts actually had environmental issues that are consistent amongst any year, right, whether you have good runs or not. We have other fish ladders, or other rivers that would have higher counts normally, or high counts, so that we wouldn't necessarily have had to close down the fishery, based on the two river systems that I talked about, the Exeter and the Cocheco. But because of those environmental conditions, those rivers were also low. Let's go back to the Exeter. We always have those environmental conditions; every fish passage system does. Sometimes you have high flows that prevent fish passage systems from being efficient. Sometimes you've got the cold temperatures that would prevent the early run of alewives to make it up through, but your bluebacks make it up through.

It's just the environmental conditions can change year to year, but this was kind of an anomaly, where we had two big river systems that had, I don't want to say big river systems, but river systems that had good runs. Dam removal prevented us from effectively counting one of those systems, and a modification to the Cocheco failed to produce what we were hoping it to do.

They were hoping that we didn't have to clean up the ladder three times a day, you know do it by hand, we were hoping to have these modifications that U.S. Fish and Wildlife Service actually designed for us. We were hoping that that would just be allowing the fish to do a complete swim through. For two years that didn't happen.

We ended up tearing out those modifications, in order to revert the fish ladder back to the way it was originally designed, and we started seeing the decent returns at that point in time.

At the Exeter, what we changed for counting the fish was doing time counts down by the former dam that was removed, as opposed to relying on the next fish passage system for those counts.

We were thinking about coming to this Board last year, but the TC indicated that they wanted to see more daily time counts, in order to increase the statistical validity of what we were seeing in time counts, so we did that this year. We had prior to this year an average of three time counts a day. This year we had an average of six time counts a day.

Some days we had nine-time counts. We're still seeing over a hundred thousand passing through, where the former dam was, essentially. We had the fish there in the Exeter, it's just that we didn't have counts as to when the fish were there at the particular location. Did that help or do you need other clarity?

MR. JACOBSON: I believe it helped. I believe that it reinforces my notion that in fact the low counts were an aberration affiliated with technical issues, as opposed to truly environmental issues, so thank you.

CHAIR FEGLEY: Thank you, Cheri, and I have Dennis Abbott.

MR. DENNIS ABBOTT: I live on the Lamprey River, the river we're talking about, and where the fishery would be prosecuted is right in the middle of town. I guess methods of fishing could be with some gillnets, if possible, but there has been one existing old fashioned stick net with a box that protrudes out in the back of the Community Church in the middle of our town.

It's not being operated now, but it is owned by one gentleman who is 75 years old, and I don't picture him making much of a dent in the fishery if it's reopened, that tends it with a rowboat when he does fish. Some of the locals say he's not a good fisherman and he doesn't really know how to set the poles, et cetera and et cetera, but he does catch, and he's been, I won't say probably a thorn in

the side of Cheri and myself through the years. Since it's been open, he has an attorney friend that likes to call us and wants to see this open. For Jerry Collins, I wouldn't mind seeing this open at this time. I also have pictures here in my iPad what pictures were taken 10 years ago of the weir and whatever, but I don't think anybody needs to see that. It won't harm the fishery if Jerry Collins is able to operate his little fishing weir.

CHAIR FEGLEY: Thank you, Dennis, really appreciate that context. Is there any other discussion around this motion? Okay, so I'm going to try it. Is there any opposition to this motion? Fantastic, so this motion is considered approved by consent, and you know what, I'm going to go ahead and read it into the record.

The motion is, move to approve the updated River Herring Sustainable Fishery Management Plan and Proposal to reopen the fishery from New Hampshire as presented today. Thank you for that, and Maine, you are up next. Wes Eakin, take it away.

MAINE RIVER HERRING SFMP

MR. EAKIN: Moving on to Maine's SFMP Update. Maine has 36 municipalities that maintain exclusive river herring harvest rates. Currently 22 of those municipalities are in the existing SFMP, and in 2024, 19 commercial river herring fisheries were executed by those 22 municipalities. Fourteen municipalities do not fish, because they are not covered under the SFMP, and Maine has approximately 230 waters that support river herring population.

River herring harvest is strictly controlled by municipalities that are granted exclusive harvest rates by the state. There is one fishing location and one harvester per watershed. The season starts when the first fish arrive, June 5, with an option to extend until June 15th approved. Currently there is a 3-consecutive day lift period that allow fish upstream to spawn, and there is no fishing in the watershed

above a municipality that has exclusive harvest rights.

New additions to Maine's SFMP include five additional commercial fisheries, updated fisheries independent surveys, recalculated 25th percentile metric, updated Z estimates from the most recent river herring benchmark stock assessment, and a new age requirement. For fisheries to be added to the fisheries management plan, Maine has defined sustainability as follows.

It must demonstrate a repeat spawning ratio of greater than 20 percent, Z estimates of less than or equal to 1 before a commercial fishery begins, and annual release of 235 spawning fish per surface acre, and an age structure that demonstrates the presence of older fish. For management triggers, if a run demonstrates a declining trend in the three-year average in run counts, the fishery will close for the following year.

If the Z estimates exceed 1.67 from the previous year, the number of fishing days will be reduced until those Z estimates fall below 1.67. If the repeat spawning of 20 percent is not achieved, fishing days again will be reduced until that rate exceeds 20 percent. Finally, if river herring populations that don't demonstrate the presence of fish ranging from Age 3 to 7 for more than 3 consecutive years, that will result in a reduction of fishing days. This plan was recommended for approval by the TC, and I can take any questions.

CHAIR FEGLEY: Okay, any questions on the Maine SFMP? Okay, seeing no questions, this one also requires action. Is there a motion from the Board? Pat Keliher.

MR. KELIHER: If you have a prepared motion, Madam Chair. I would move to approve the updated River Herring Sustainable Fisheries Management Plan for Maine as presented today.

CHAIR FEGLEY: Excellent, and I got a second from Eric Reid. Is there any discussion on the motion? John Clark.

MR. JOHN CLARK: I should have asked sooner, I'm just curious. The highlights in the table of contents, is that about confidential data from Maine, and plus Maine misspelled New Hampshire in that table of contents as Hew Hampshire.

CHAIR FEGLEY: Is that about confidential data, do you know?

MR. JAMES BOYLE IV: I haven't checked the table of contents exactly, but there are two versions of the SFMP, one with confidential data and one without. They were ready for the TC to review the confidential data if necessary, and so that might just be a leftover on the table of contents in the non-confidential version.

CHAIR FEGLEY: Any other discussion around this motion? Is there any opposition to the motion? Great, it passes by consent and we have passed the motion to approve the updated River Herring Sustainable Fishery Management Plan for Maine, as presented today, and now we are going to move on to Massachusetts and Connecticut. Take it away, Wes.

MASSACHUSETTS AMERICAN SHAD SFMP

MR. EAKIN: The last two we have updates for Massachusetts and Connecticut for American shad. Currently Massachusetts is proposing a continued recreational harvest of American shad in the Merrimack and Connecticut Rivers, all of their state waters are catch and release, and have been so since 2012.

Their sustainability targets for the Merrimack are the fish count list, the 25th percentile at the Essex Dam Fish Lift over the time series. They will also use a Z estimate of 0.98 as a warning threshold. In the Connecticut they will use the 25th percentile of the Holyoke Dam Fish Lift over the time series, which is 140,000 shad.

They will also use sustainability metrics for the Connecticut, as defined in the Connecticut

SFMP, which I'll go over next. It's a management action, for the management action threshold there are three consecutive years below the benchmark will trigger Mass Wildlife and DMF and Connecticut, if it's in the Connecticut River, to review, our ploy would be to consider reducing harvest. This plan was recommended for approval by the TC.

CONNECTICUT AMERICAN SHAD SFMP

MR. EAKIN: For Connecticut, Connecticut is proposing to continue the commercial and recreational harvest on the Connecticut River. Their sustainability targets are the passage at Holyoke, which is 140,000 fish. Recruitment is 25th percentile of the time series, and escapement of 90 percent. Connecticut uses a stoplight approach for the management action threshold. Green is when all three indicators are positive, yellow is two out of three, orange one out of three, and red if all indicators are negative. Their management response will vary, depending on which indicators are positive. It's important to note that all metrics for this plan since the last update have consistently been above the threshold or trigger values indicating a green stock status and a low level of management concern. This plan was also recommended for approval by the TC.

CHAIR FEGLEY: Any questions? Anybody have a motion? Cheri Patterson or Dan McKiernan.

MR. DANIEL McKIERNAN: Thank you, I'll make that motion to approve the updated Shad Sustainable Fisheries Management Plan from Connecticut and Massachusetts, as presented today.

CHAIR FEGLEY: Awesome, we have a motion from Dan McKiernan and a second from Cheri Patterson. Any discussion on the motion? Is there any opposition to the motion? Excellent, approved by consent, and that is a motion to approve the updated Shad Sustainable Fishery Management Plan from Connecticut and Massachusetts as presented today.

ADJOURNMENT

That takes us to the last item on our agenda, which is Other Business. Is there any Other Business to come before the Board? Excellent, thank you for the discussion and do we have a motion to adjourn? Any opposition to adjourning? We're adjourned, thank you.

(Whereupon the meeting adjourned at 12:01 p.m. on October 23, 2024)