

## NOTICE OF AGENCY EMERGENCY RULE-MAKING

**AGENCY:** Department of Marine Resources

**CHAPTER NUMBER AND TITLE:** Chapter 36 Atlantic Herring; Zero Landing Days

**ADOPTED RULE NUMBER:** (LEAVE BLANK - ASSIGNED BY SECRETARY OF STATE)

**CONCISE SUMMARY:**

The Atlantic herring fishery Season 1 (June 1 – September 30) closes when 92% of the sub-ACL is reached. It is projected that landings reached the closure trigger following harvest on Friday, August 21, 2020. The Days Out Commissioners have designated zero landing days beginning on August 22, 2020 through to September 30, 2020 for the remainder of season 1. The Commissioner has determined that it is necessary to take emergency action to implement this closure to prevent the depletion of the supply of Atlantic herring and to comply with the changes to the interstate management of the Atlantic herring resource. The Commissioner hereby adopts this emergency regulation as authorized by 12 M.R.S. §6171(3)(C).

**EFFECTIVE DATE:** August 22, 2020

**AGENCY CONTACT PERSON:** Melissa Smith  
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## DEPARTMENT OF MARINE RESOURCES

### Chapter 36 Atlantic Herring

#### 36.01 Herring Management Plan

##### D. Catch restrictions.

License holders shall be informed by public notice in a newspaper circulated in the area affected of any restrictions herein.

##### (3) Effort Restrictions

###### (a) Management Area 1A, January 1 – May 31

The Atlantic herring sub-ACL in Management Area 1A is allocated by season. For the period of January 1 through May 31, 0% of the sub-ACL is allocated annually. Herring may only be landed from Management Area 1A on days that have been designated landing days by the Atlantic States Marine Fisheries Commission (ASMFC). ASMFC designates zero landing days between January 1 and May 31, annually.

###### (b) Management Area 1A, June 1 – December 31

The second season for Management Area 1A is June 1 through December 31; for this period, 100% of the sub-ACL is allocated annually. Area 1A sub-ACL will be monitored and managed in trimester periods as described in ASMFC's Atlantic Herring Fishery Management Plan. Atlantic herring may only be landed from Management Area 1A on days that have been designated landing days by the ASMFC. All vessels landing herring caught in Management Area 1A in any Maine port will be limited to fishing for and landing herring on days that have been designated landings days by the ASMFC.

All vessels landing herring caught in Management Area 1A in any Maine port are limited to one landing per 24 hour period (6 pm to 6 pm).

##### i. For the purpose of this subsection, the following terms shall be defined as follows:

“At-Sea Transfer”: to transfer herring from a vessel to another vessel before the harvester vessel has landed.

“Harvester vessel”: a purse seine vessel that is required to report the catch it has aboard (along with effort data under a gear code other than CAR) as the harvesting vessel on its Federal Vessel Trip Report.

“Carrier vessel”: a vessel that has received herring from another vessel and is not required to report that catch as its own on its Federal Vessel Trip Report; and, not rigged as a purse seine vessel.

“Purse seine vessel”: a vessel currently rigged and capable of harvesting fish with an encircling net with floats on the top edge, weights and a purse line on the bottom edge, and associated gear to set, purse and haul such a net, which may include, but not limited to, a hydraulically-driven block, roller gear, and/or skiff.

“Truck”: a truck, as a unit of measurement, is equal to 40,000 lbs.

##### ii. Harvester vessels:

Zero landing days have been designated starting Saturday, August 22, 2020 through to September 30, 2020. No harvester vessel may fish for, take or possess Atlantic herring prior to Sunday, July 19, 2020 at 6:00 pm. No harvester vessel may transfer Atlantic herring at-sea to a carrier vessel. No harvester vessel landing herring caught in waters within Management Area 1A in any Maine port may make more than one landing per 24-hour period (6 pm to 6 pm).

(A) For all harvesters issued a state Commercial Pelagic and Anadromous license with a Herring Harvester Permit that do not possess a Federal Limited Access Herring Permit:

~~All harvester vessels may possess and land Atlantic herring four days a week, beginning at 6:00 p.m. Sunday to 6:00 p.m. Thursday. No vessel may land, take or possess more than 25,000 pounds per week. No permit holder may land, take or possess more than 25,000 pounds per week.~~

Exception: Harvesters using fixed gears (fishing weirs, stop seines, and pound nets) are not subject to the harvest schedule detailed above. Weekly landing limits apply. No permit holder may land, take or possess more than 25,000 pounds per week.

~~(B) For all vessels issued a Federal Limited Access Atlantic Herring Permit Category A:~~

~~The permit holder must have declared into the Atlantic Herring fishery by April 15th, annually, to be eligible to harvest between June 1 and September 30. Designated landing days for all vessels issued a Federal Limited Access Atlantic Herring Category A Permit are 6:00 p.m. Sunday to 6:00 p.m. Thursday. The weekly landing limit is 240,000 pounds (6 trucks).~~

~~(C) For all vessels issued a Federal Limited Access Atlantic Herring Permit Category C:~~

~~Designated landing days for all vessels issued a Federal Limited Access Atlantic Herring Category C Permit are 6:00 p.m. Sunday to 6:00 p.m. Friday. Daily trip limit shall not exceed 55,000 pounds per day.~~

~~(D) For all vessels issued a Federal Limited Access Atlantic Herring Permit Category D:~~

~~Designated landing days for all vessels issued a Federal Limited Access Atlantic Herring Category C Permit are 6:00 p.m. Sunday to 6:00 p.m. Friday. Daily trip limit shall not exceed 6,600 pounds per day.~~

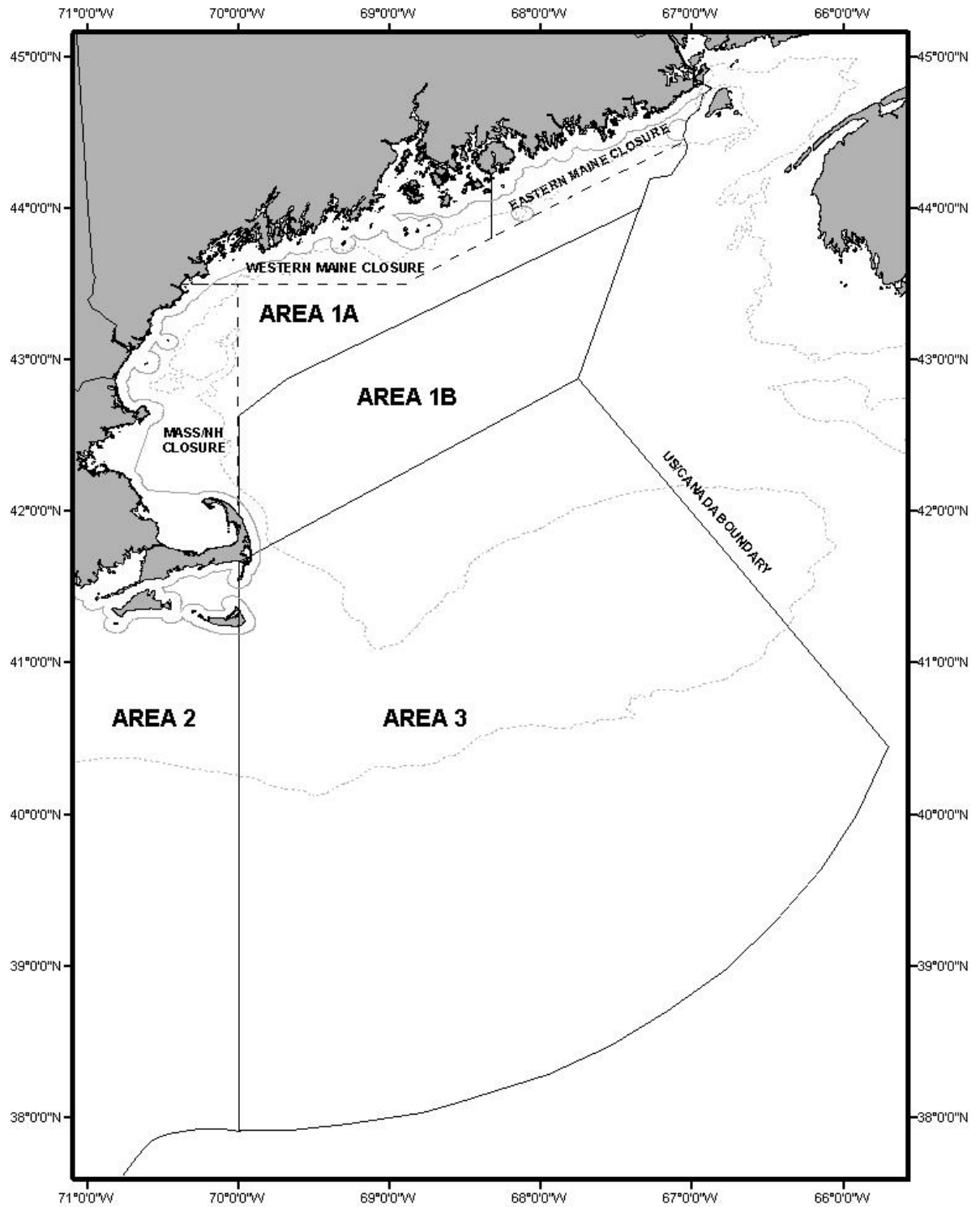
iii. ~~Carrier Vessels:~~

~~Carrier vessels shall not operate as a harvester vessel on the same trip when operating as a carrier vessel. Carrier vessels are prohibited from receiving at-sea transfers of Atlantic herring from a harvester vessel from June 1 to September 30, 2020.~~

(c) Exceptions.

Any vessel may possess herring as an incidental catch and land herring caught in Management Area 1A, 1B, 2 or 3, in any Maine port, as long as such herring do not comprise more than 10% of the total weight of the catch and not to exceed 2000 lbs per trip after the area has been closed to directed fishing.

An individual may fish or take by hook and line up to 100 Atlantic herring per day for personal use only.



## **Basis Statement**

The Atlantic herring fishery Season 1 (specifically, Trimester 2: June 1 – September 30) closes when 92% of the sub-ACL is reached. It is projected that landings reached the closure trigger following harvest on Friday, August 21, 2020. The Days Out Commissioners have designated zero landing days beginning on August 22, 2020 through to September 30, 2020 for the remainder of season 1. The Commissioner has determined that it is necessary to take emergency action to implement this closure to prevent the depletion of the supply of Atlantic herring and to comply with the changes to the interstate management of the Atlantic herring resource. The Commissioner hereby adopts this emergency regulation as authorized by 12 M.R.S. §6171(3)(C).

## Rule-Making Fact Sheet

(5 M.R.S., §8057-A)

AGENCY: 13-188- Department of Marine Resources

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON:

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CHAPTER NUMBER AND RULE: Chapter 36 Atlantic Herring; Zero Landing Days

STATUTORY AUTHORITY: 12 M.R.S. § 6171

DATE AND PLACE OF PUBLIC HEARING(S): NA

COMMENT DEADLINE: NA

PRINCIPAL REASON(S) OR PURPOSE FOR PROPOSING THIS RULE: [see §8057-A(1)(A)&(C)]

The Atlantic herring fishery Season 1 (specifically, Trimester 2: June 1 – September 30) closes when 92% of the sub-ACL is reached. It was projected that landings reached the closure trigger following harvest on Friday, August 21, 2020. The Days Out Commissioners have designated zero landing days beginning on August 22, 2020 through to September 30, 2020 for the remainder of season 1.

IS MATERIAL INCORPORATED BY REFERENCE IN THE RULE? \_\_\_YES\_\_\_X\_\_\_ NO [§8056(1)(B)]

ANALYSIS AND EXPECTED OPERATION OF THE RULE: [see §8057-A(1)(B)&(D)]

This rule will temporarily close the Area 1A Atlantic herring fishery until the opening of Season 2 (October 1 through December 31) upon which updated Days Out measures will be determined.

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE

Recent outcomes from the Friday, August 21, 2020 Days Out meeting.

ESTIMATED FISCAL IMPACT OF THE RULE: [see §8057-A(1)(C)]

Enforcement of these proposed amendments will not require additional activity in this Agency. Existing enforcement personnel will monitor compliance during their routine patrols.

**FOR EXISTING RULES WITH FISCAL IMPACT OF \$1 MILLION OR MORE, ALSO INCLUDE:**

*ECONOMIC IMPACT, WHETHER OR NOT QUANTIFIABLE IN MONETARY TERMS:*

[see §8057-A(2)(A)]

*INDIVIDUALS, MAJOR INTEREST GROUPS AND TYPES OF BUSINESSES AFFECTED AND HOW THEY WILL BE AFFECTED:* [see §8057-A(2)(B)]

*BENEFITS OF THE RULE:* [see §8057-A(2)(C)]

*Note: If necessary, additional pages may be used*