

NOTICE OF AGENCY EMERGENCY RULE-MAKING

AGENCY: Department of Marine Resources

CHAPTER NUMBER AND TITLE: Chapter 36.01; Herring Management Plan

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

CONCISE SUMMARY:

Atlantic 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). The Atlantic Herring Section held a Days Out conference call on September 18, 2018 to determine the landing days for Trimester 3 (October 1 – December 31) and designated five consecutive landings days for all vessels. Trimester 3 will open at 12:01 a.m. on Monday, October 1, 2018 and harvesters may land Atlantic herring through to 11:59 p.m Friday, October 5. Starting October 7, 2018, landing of Atlantic herring will resume the schedule of 6 p.m. on Sundays through to 6 p.m. on Fridays. All vessels landing herring caught in Management Area 1A in any Maine port are limited to one landing per 24 hour period (6:00 p.m. to 6:00 p.m.). The Commissioner has determined that it is necessary to take emergency action to implement these limitations 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: September 29, 2018

AGENCY CONTACT PERSON: Melissa Smith
AGENCY NAME: Department of Marine Resources
ADDRESS: 21 State House Station
Augusta, Maine 04333-0021
WEB SITE: <http://www.maine.gov/dmr/rulemaking/>
E-MAIL: Melissa.Smith@maine.gov
TELEPHONE: (207) 624-6558
FAX: (207) 624-6024
TTY: (207) 633-9500 (Deaf/Hard of Hearing)

DEPARTMENT OF MARINE RESOURCES

Chapter 36 Herring Regulations

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, Sub-ACL Trimester 1 (January 1 – May 31)

Atlantic 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). Atlantic States Marine Fisheries Commission (ASMFC) designates zero landing days between January 1 and May 31, annually.

(b) Management Area 1A, Sub-ACL Trimester 2 (June 1 – September 30)

Atlantic herring may only be landed from Management Area 1A by vessels issued a Federal Limited Access Atlantic Herring Category A, C, or D Permit on days that have been designated landing days by the Atlantic States Marine Fisheries Commission (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. ~~except fish that were taken prior to Wednesday, September 12, 2018 may be landed on Thursday, September 13, 2018 before 12 p.m.~~ ASMFC designates zero landing days for the remainder of Trimester 2 (June 1 – September 30).

(c) Management Area 1A, Sub-ACL Trimester 3 (October 1 – December 31)

Atlantic 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). Trimester 3 is open at 12:01 a.m. on Monday, October 1, 2018 and harvesters may land Atlantic herring through to 11:59 p.m Friday, October 5. Starting October 7, 2018, harvesters may land Atlantic herring from 6 p.m. on Sunday through to 6 p.m. on Friday. All vessels landing herring caught in Management Area 1A in any Maine port are limited to one landing per 24 hour period (6:00 p.m. to 6:00 p.m.). Harvester vessels do not need to declare into the Atlantic Herring fishery for Trimester 3.

(d) 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 not to exceed 2000 lbs per trip.

Any license holder or vessels landing herring taken from Management Area 1A with fixed gear are not subject to effort restrictions imposed by this subsection.

Basis Statement

Atlantic 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). The Atlantic Herring Section held a Days Out conference call on September 18, 2018 to determine the landing days for Trimester 3 (October 1 – December 31) and designated five consecutive landings days for all vessels. Trimester 3 will open at 12:01 a.m. on Monday, October 1, 2018 and harvesters may land Atlantic herring through to 11:59 p.m Friday, October 5. Starting October 7, 2018, landing of Atlantic herring will resume the schedule of 6 p.m. on Sundays through to 6 p.m. on Fridays. All vessels landing herring caught in Management Area 1A in any Maine port are limited to one landing per 24 hour period (6:00 p.m. to 6:00 p.m.). The Commissioner has determined that it is necessary to take emergency action to implement these limitations 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: Department of Marine Resources

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON:

Melissa Smith, Department of Marine Resources, 21 State House Station, Augusta, Maine 04333-0021 Telephone: (207) 624-6558; E-mail: Melissa.Smith@maine.gov, web address: <http://www.maine.gov/dmr/rulemaking/>

CHAPTER NUMBER AND RULE: **Chapter 36.01**

STATUTORY AUTHORITY: **12 M.R.S. §6171(3)(C)**

DATE AND PLACE OF PUBLIC HEARING: NA; Emergency Rulemaking

COMMENT DEADLINE: NA; Emergency Rulemaking

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

This rule is intended to establish the open harvest days for the Atlantic herring fishery Trimester 3, October 1 – December 31. The Atlantic Herring Section held a conference call on September 18, 2018 to determine the landing days for Trimester 3 and designated five consecutive landing days for all vessels.

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)]

The adopted rule(s) seek to maintain a balanced supply of Atlantic Herring within the State of Maine. The rule is intended to have a long-term positive impact on both the Atlantic Herring and Lobster fishery.

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE (including up to 3 primary sources relied upon) [*see* §§8057-A(1)(E) & 8063-B]

This rule is intended to establish the open harvest days for the Atlantic herring fishery Trimester 3, October 1 – December 31. The Atlantic Herring Section held a conference call on September 18, 2018 to determine the landing days for Trimester 3 and designated five consecutive landing days for all vessels. Landing of Atlantic herring will commence at 12:01 a.m. on Monday through to 11:59 p.m. Friday October 5, 2018. Starting Sunday, October 7, 2018, landing of Atlantic herring will resume a 6 p.m. Sunday through 6 p.m. Friday schedule as has been established in previous fishing seasons.

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

Enforcement of this amendment would 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)]