

NOTICE OF AGENCY EMERGENCY RULE-MAKING

AGENCY: Department of Marine Resources

CHAPTER NUMBER AND TITLE: Chapter 36 Atlantic Herring; 2020 Harvest Rules

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

CONCISE SUMMARY:

This rulemaking sets the start date for the mobile Atlantic herring fishery to commence on Sunday, July 19, 2020 and sets harvest parameters for the Atlantic Herring fishery as determined at the Days Out meeting held May 12, 2020. The Days Out Commissioners designated zero landing days June 1 through July 18, 2020. The Days Out Commissioners designated four consecutive landing days, beginning at 6:00 p.m. Sunday to 6:00 p.m. Thursday for vessels issued an Atlantic Herring Limited Access Category A Permit. These vessels are limited to landing 240,000 lbs (6 trucks) weekly. The Days Out Commissioners designated five consecutive landing days, beginning at 6:00 p.m. Sunday to 6:00 p.m. Friday for vessels issued an Atlantic Herring Limited Access Category C Permit. Limited access harvester vessels may transfer Atlantic herring at-sea to other limited access harvester vessels. All harvester vessels are prohibited from at-sea transfers of Atlantic herring to carrier vessels. 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.). Daily electronic landings reports are required. 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: May 30, 2020

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 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.

(2) Catch quota

Fishing for herring in Management Areas 1A, 1B, 2 and 3 is subject to the sub-annual catch limit (ACL) and fishing effort restrictions specified by the ASMFC Atlantic Herring Board and the NEFMC in accordance with their respective Fisheries Management Plans (FMP). The ACL is established annually by July 1 for the following year by ASMFC and NEFMC. Any reduction in the harvest will be determined in consultation with the ASMFC and NEFMC. No person shall land herring taken from a management area when 92% of the area's seasonal or sub-annual catch limit will be exceeded or if 95% of the coastwide annual catch limit will be exceeded.

(a) Exception. Up to 30 mt of the Area 1A sub-ACL is allocated for the fixed gear fisheries in Area 1A (weirs and stop seines) west of Cutler. This Fixed Gear Set Aside (FGSA) ~~set-aside~~ is available for harvest by fixed gear only within the fishing year until the FGSA ~~fixed-gear set aside~~ is fully utilized. The FGSA is exempt from Days Out Program measures. No person shall land herring taken from Area 1A with fixed gear when 92% of the fixed gear set-aside portion of the Management Area 1A sub-ACL will be exceeded.

(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:

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.

(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.

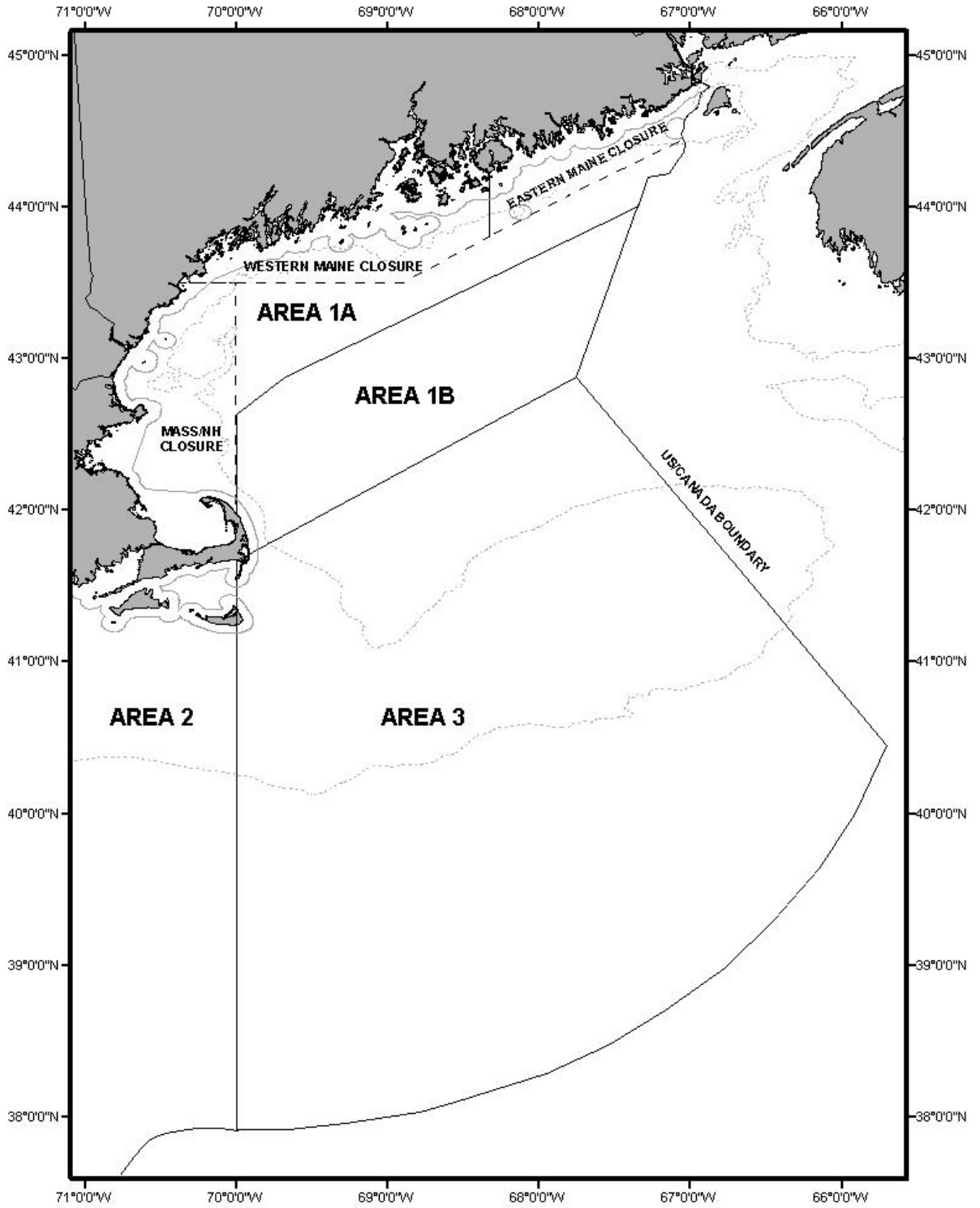
iii. Carrier Vessels:

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

This rulemaking sets the start date for the mobile Atlantic herring fishery to commence on Sunday, July 19, 2020 and sets harvest parameters for the Atlantic Herring fishery as determined at the Days Out meeting held May 12, 2020. The Days Out Commissioners designated zero landing days June 1 through July 18, 2020. The Days Out Commissioners designated four consecutive landing days, beginning at 6:00 p.m. Sunday to 6:00 p.m. Thursday for vessels issued an Atlantic Herring Limited Access Category A Permit. These vessels are limited to landing 240,000 lbs (6 trucks) weekly. The Days Out Commissioners designated five consecutive landing days, beginning at 6:00 p.m. Sunday to 6:00 p.m. Friday for vessels issued an Atlantic Herring Limited Access Category C Permit. Limited access harvester vessels may transfer Atlantic herring at-sea to other limited access harvester vessels. All harvester vessels are prohibited from at-sea transfers of Atlantic herring to carrier vessels. 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.). Daily electronic landings reports are required. 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: 13-188- Department of Marine Resources

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON:

Amanda Ellis, Department of Marine Resources, 21 State House Station, Augusta, Maine 04333-0021 Telephone: (207) 624-6573; web address: <http://www.maine.gov/dmr/rulemaking/>

CHAPTER NUMBER AND RULE: Chapter 36 Atlantic Herring; 2020 Harvest Rules

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)]

This rulemaking sets the start date for the mobile Atlantic herring fishery to commence on Sunday, July 19, 2020 and sets harvest parameters for the Atlantic Herring fishery as determined at the Days Out meeting held May 12, 2020.

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 proposed rule also sets a shortened harvest season to allow for a higher level of landing over a shorter period of time to balance bait need with economic viability.

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE

Final action of effort control rules discussed during the Days Out meeting on May 12, 2020 have been incorporated into this regulation.

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