

NOTICE OF AGENCY EMERGENCY RULE-MAKING

AGENCY: Department of Marine Resources

CHAPTER NUMBER AND TITLE: Chapter 36 Atlantic Herring; 2023 Season 2 Open

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

CONCISE SUMMARY:

The Days Out Commissioners have set zero landing days for October 1 through October 9, 2023 for Season 2 (Trimester 3; October 1 – December 31) of the Atlantic herring fishery. Two landing days have been designated beginning Tuesday, October 10 at 12:01 a.m. through Wednesday, October 11 at 11:59 p.m. followed by zero landing days through to Saturday, November 4. Four landing days have been designated starting Sunday, November 5 at 6:00 p.m. through Thursdays at 5:59 p.m., weekly. The Commissioner has determined that it is necessary to take emergency action to comply with the changes to the interstate management of the Atlantic herring resource and to reduce the risk of an overage in the Area 1A sub-ACL that could deplete the supply of Atlantic herring. The Commissioner hereby adopts this emergency regulation as authorized by 12 M.R.S. §6171(3)(C).

EFFECTIVE DATE: September 30, 2023

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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

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

For this period, 100% of the sub-ACL is allocated annually and further sub-divided into two seasonal periods. Season 1 is June 1 through September 30 and is allocated 72.8% of the sub-ACL. Season 2 is October 1 through December 31 and is allocated 27.2% of the sub-ACL. 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 Season 1 of 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 Season 2 of Management Area 1A in any Maine port will be limited to landing herring on days that have been designated landing days by 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 from 12:01 a.m. on October 1 through to 11:59 p.m. on October 9, 2023 for Season 2 (Trimester 3; October 1 – December 31) of the Atlantic herring fishery. Two landing days have been designated beginning Tuesday, October 10 at 12:01 a.m. through Wednesday, October 11 at 11:59 p.m., followed by zero landing days through to Saturday, November 4. Four landing days have been designated starting Sunday, November 5 at 6:00 p.m. through Thursdays at 5:59 p.m., weekly.

(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.~~ 5:59 p.m. Thursday. No vessel may land, take or possess more than 25,000 lbs per week. No permit holder may land, take or possess more than 25,000 lbs per week.

Exception: Harvesters using fixed gears (fishing weirs, stop seines, ~~and pound nets~~) 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.

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

Daily trip limit shall not exceed 55,000 lbs per day.

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

Daily trip limit shall not exceed 6,600 lbs per day.

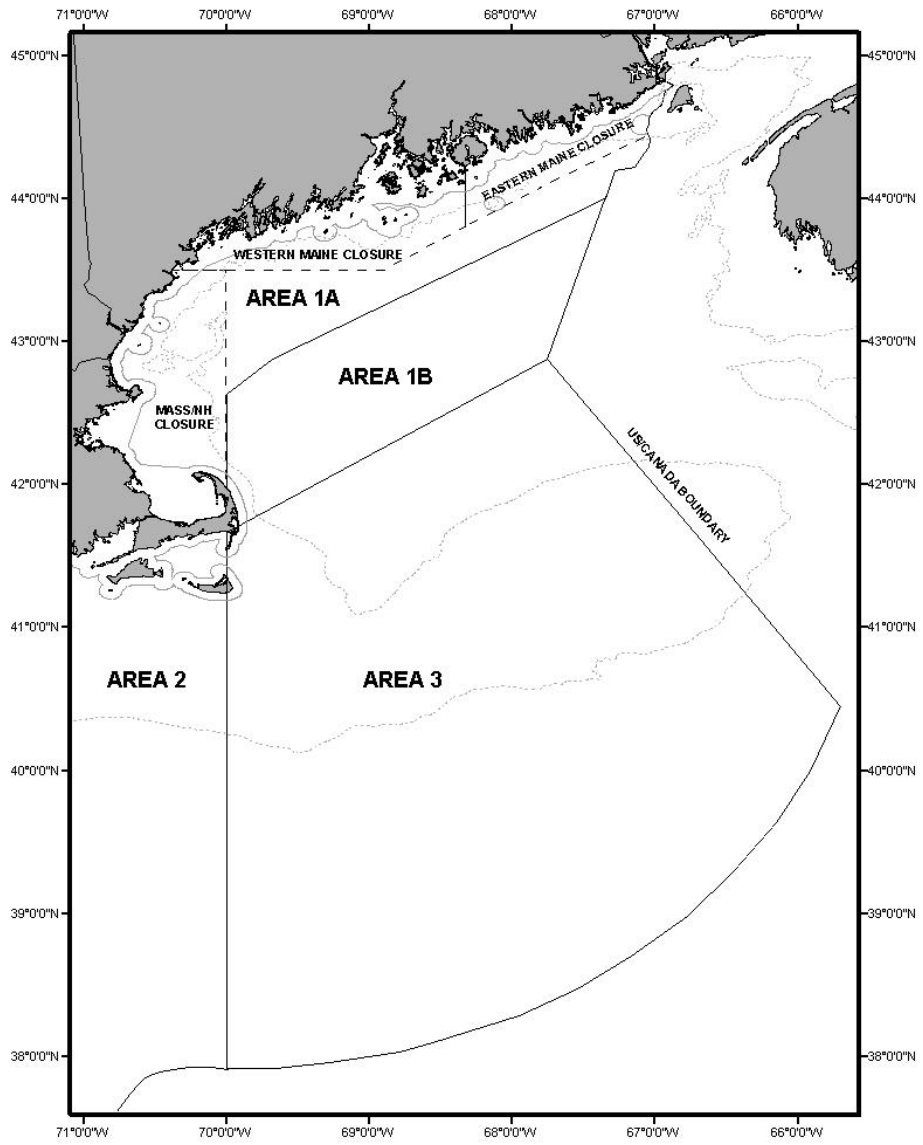
iii. Carrier Vessels:

Carrier vessels shall not operate as a harvester vessel on the same trip when operating as a carrier vessel.

(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.

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



Basis Statement

The Days Out Commissioners have set zero landing days for October 1 through October 9, 2023 for Season 2 (Trimester 3; October 1 – December 31) of the Atlantic herring fishery. Two landing days have been designated beginning Tuesday, October 10 at 12:01 a.m. through Wednesday, October 11 at 11:59 p.m. followed by zero landing days through to Saturday, November 4. Four landing days have been designated starting Sunday, November 5 at 6:00 p.m. through Thursdays at 5:59 p.m., weekly.

The Eastern Maine spawning closure remains in effect until October 8, 2023. The Western Maine and Massachusetts/New Hampshire spawning closure remains in effect until November 3, 2023.

The fishery will only move to four landing days, starting on November 5, 2023 if there is remaining Season 2 quota available at that time. Quota availability will depend on how much is landed during the prior two designated landing days of October 10-11 and if the 1,000 mt reallocations from the Canadian weir fishery to the Area 1A sub-ACL occurs.

The Commissioner has determined that it is necessary to take emergency action to comply with the changes to the interstate management of the Atlantic herring resource and to reduce the risk of an overage in the Area 1A sub-ACL that could deplete the supply of Atlantic herring. 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; 2023 Season 2 Open

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

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 Days Out Commissioners have set zero landing days for October 1 through October 9, 2023 for Season 2 (Trimester 3; October 1 – December 31) of the Atlantic herring fishery. Two landing days have been designated beginning Tuesday, October 10 at 12:01 a.m. through Wednesday, October 11 at 11:59 p.m. followed by zero landing days through to Saturday, November 4. Four landing days have been designated starting Sunday, November 5 at 6:00 p.m. through Thursdays at 5:59 p.m., weekly. The fishery will only move to four landing days, starting on November 5, 2023 if there is remaining Season 2 quota available at that time. Quota availability will depend on how much is landed during the prior two designated landing days of October 10-11 and if the 1,000 mt reallocations from the Canadian weir fishery to the Area 1A sub-ACL occurs. The Commissioner has determined that it is necessary to take emergency action to comply with the changes to the interstate management of the Atlantic herring resource and to reduce the risk of an overage in the Area 1A sub-ACL that could deplete the supply of Atlantic herring.

IS MATERIAL INCORPORATED BY REFERENCE IN THE RULE? ___ YES ___ NO [§8056(1)(B)]

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

This rulemaking sets four landing days for Season 2 of the Atlantic herring fishery in Area 1A. In light of this slight increase in FY2023 quota, and in recognition that harvest potential occurs in all coastal areas of Area 1A, the addition of 2 landing days in October is an attempt to resume opportunity within the herring fishery, post fishery disaster.

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE

Final action of effort control rules discussed during the Days Out meeting on September 14, 2023 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