

## 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). ASMFC monitors the consumption of the available Trimester 2 (June 1 – September 30) quota via NOAA Fisheries Atlantic Herring Quota Monitoring site and will initiate the move to zero landing days when the Area 1A quota has reached 95% of the available quota allowance. Full utilization of the Trimester 2 quota has been projected and thus, ASMFC designates zero landing days for the Atlantic herring fishery beginning 12:01am on Thursday, September 13, 2018. Fish taken on Wednesday, September 12, 2018 may be landed on Thursday, September 13 until 12pm. 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 12, 2018

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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 pm. ASMFC designates zero landing days for the remainder of Trimester 2 (June 1 – September 30).

~~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:~~

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

~~All harvester vessels may possess and land Atlantic herring seven days a week. At-sea transfers to carrier vessels are limited to one carrier vessel only and no more than 120,000 lbs per week. All harvester vessels landing herring caught in territorial waters within Management Area 1A in any Maine port are limited to making one landing per 24-hour period (6 pm to 6 pm).~~

~~(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. Designated landing days for all vessels issued a Federal Limited Access Atlantic Herring Category A Permit for Management Area 1A, Sub-ACL Trimester 2 (June 1 — September 30) shall be five consecutive days, beginning on 6:00 p.m. Sunday to 6:00 p.m. Friday and are limited to landing 640,000 lbs (16 trucks) weekly; and, harvester vessels may transfer to only one carrier vessel per week up to 160,000 lbs (4 trucks). All harvester vessels landing herring caught in Management Area 1A in any Maine port are limited to making one landing per 24-hour period (6 pm to 6 pm).~~

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

~~All harvester vessels utilizing either a purse seine or a small mesh bottom trawl may possess and land Atlantic herring seven days a week. Daily trip limit shall not exceed 55,000 lbs per day and at-sea transfers to carrier vessels are limited to one carrier vessel only and no more than 120,000 lbs per week. All harvester vessels landing herring caught in Management Area 1A in any Maine port are limited to making one landing per 24-hour period (6 pm to 6 pm).~~

~~All harvester vessels must send an email hail to DMR ([herring.dmr@maine.gov](mailto:herring.dmr@maine.gov)) three hours prior to landing that includes the following information:~~

- ~~• Name of harvester~~
- ~~• Name/Vessel ID~~
- ~~• Permit ID~~
- ~~• Landings number of license holder~~
- ~~• Total catch retained (including all catch transferred to any vessel who will not report it as their own catch)~~
- ~~• Name/Permit ID of Carrier, if transfer at-sea occurs~~
- ~~• Total amount of herring on board~~
- ~~• Date, time and location (dealer, city, state) of offload~~
- ~~• Estimated catch to be received, by weight, to each dealer (by dealer name and landings number)~~
- ~~• VTR number~~

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

~~All harvester vessels utilizing either a purse seine or a small mesh bottom trawl may possess and land Atlantic herring seven days a week. Daily trip limit shall not exceed 6,600 lbs per day and all at-sea transfers to carrier vessels are limited to one carrier vessel only and no more than 46,200 lbs per week. All harvester vessels landing herring caught in waters within~~

~~Management Area 1A in any Maine port are limited to making one landing per 24-hour period (6 pm to 6 pm).~~

iii. ~~Carrier Vessels:~~

~~All carrier vessels landing herring caught in Management Area 1A in any Maine port are limited to receiving at-sea transfers from one harvester vessel per week with a weekly landing limit of 160,000 lbs (4 trucks). All carrier vessels landing herring caught in Management Area 1A in any Maine port are limited to making one landing per 24-hour period (6 pm to 6 pm). Carrier vessels shall not operate as a harvester vessel on the same trip when operating as a carrier vessel.~~

~~All carrier vessels must send an email hail to DMR ([herring.dmr@maine.gov](mailto:herring.dmr@maine.gov)) three hours prior to landing that includes the following information:~~

- ~~• Name of harvester~~
- ~~• Name/Vessel ID~~
- ~~• Permit ID~~
- ~~• Landings number of license holder~~
- ~~• Total amount of herring aboard~~
- ~~• Harvester vessel name from whom carrier received catch~~
- ~~• Date, time and location (dealer, city, state) of offload at port~~
- ~~• Estimated amount to be received by weight to each dealer (by dealer name and landings number)~~
- ~~• VTR number (and any VTR numbers for harvester vessels from whom carrier has received at-sea transfer)~~

(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). 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). ASMFC monitors the consumption of the available Trimester 2 (June 1 – September 30) quota via NOAA Fisheries Atlantic Herring Quota Monitoring site and will initiate the move to zero landing days when the Area 1A quota has reached 95% of the available quota allowance. Full utilization of the Trimester 2 quota has been projected and thus, ASMFC designates zero landing days for the Atlantic herring fishery beginning 12:01am on Thursday, September 13, 2018. Fish taken on Wednesday, September 12, 2018 may be landed on Thursday, September 13 until 12pm. 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:

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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 align State of Maine regulations with those set forth by the ASFMC as determined by a memorandum dated September 10, 2018 indicating that the assigned Trimester 2 quota for Area 1A is projected to be fully consumed by Wednesday, September 12, 2018 and thus, zero landing days would commence on Thursday, September 13, 2018.

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 align State of Maine regulations with those set forth by the ASFMC as determined by a memorandum dated September 10, 2018 indicating that the assigned Trimester 2 quota for Area 1A is projected to be fully consumed by Wednesday, September 12, 2018 and thus, zero landing days would commence on Thursday, September 13, 2018.

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)]

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