

322 CMR: DIVISION OF MARINE FISHERIES

322 CMR 9.00: MANAGEMENT OF SEA HERRING

Section

- 9.01: Definitions
- 9.02: Management Area Boundaries
- 9.03: Spawning Herring Protection
- 9.04: Vessel Size Limit
- 9.05: Fishing Limits for Management Area 1A

9.01: Definitions

For purposes of 322 CMR 9.00 only, the following words shall have the following meanings:

Commercial fisherman means any person who may catch, possess and land Atlantic sea herring for the purpose of sale barter or exchange or keeps for personal use any Atlantic sea herring taken under the authority of a commercial fishing permit and regulated fishery permit endorsement for sea herring issued by the Director under the authority at 322 CMR 7.01.

Division means the Division of Marine Fisheries.

Fish For means to harvest, catch or take, or attempt to harvest, catch or take any sea herring by any method or means.

Gonadal Somatic Index or GSI means the calculation of female herring gonad mass as a proportion of total body mass used to measure maturity, obtained by the formula:  $[\text{Gonad weight}/(\text{total body weight} - \text{gonad weight})] \times 100$ .

Land means to transfer the catch of any sea herring from any vessel onto any land or dock, pier, wharf, or other artificial structure.

Management Area means one of the four Management Areas - 1A, 1B, 2 and 3 - as specified in the Atlantic States Marine Fisheries Commission Atlantic Herring Fishery Management Plan (FMP) and NOAA Fisheries federal fishery management plan.

Management Area Quotas means that portion of the quota that is allocated to a Management Area as specified by the Atlantic States Marine Fisheries Commission under the authority of the interstate and federal management plans.

Massachusetts/New Hampshire Spawning Area means all waters north of Cape Cod bounded by the Massachusetts, New Hampshire and Maine coasts and 43°30' north latitude and 70°00' west longitude.

Primary Buyer means any dealer authorized by the Director, pursuant to M.G.L. c. 130, § 80, and 322 CMR 7.07: *Dealers Acting as Primary Buyers*, to purchase Atlantic sea herring directly from commercial fishermen.

Quota means the allowable annual commercial harvest of Atlantic sea herring as specified by the Atlantic States Marine Fisheries Commission under the authority of the interstate and federal management plans.

Sample means a batch of 80 or more adult herring taken randomly from commercial catch or fish surveys.

Sea Herring means that species of Atlantic sea herring known as *Clupea harengus*.

Spawn Herring means mature sea herring in ICNAF gonadal stages V and VI.

Trip means the period of time that begins when a fishing vessel departs from a dock, berth, beach, seawall, ramp or port to carry out commercial fishing operations and that terminates with the return to a dock, berth, seawall, ramp or port.

Vessel means any waterborne craft registered under the laws of the state as that term is defined in M.G.L. c. 130, § 1.

9.02: Management Area Boundaries

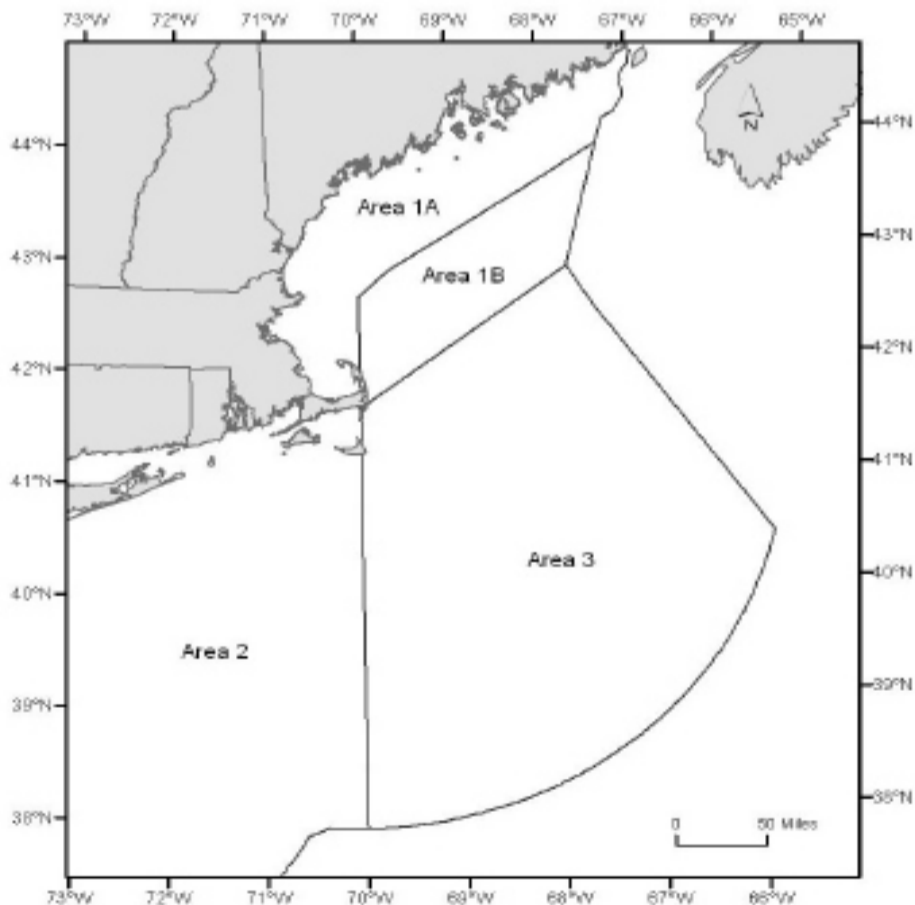
(1) Management Area 1. All U.S. waters of the Gulf of Maine (GOM) north of a line extending from the eastern shore of Monomoy Island at 41° 35' N latitude, 70° 00' W longitude, thence northeasterly to a point along the Hague Line at 42° 53' 14" N latitude, 67° 44' 35" W longitude, thence northerly along the Hague Line to the U.S. Canadian border, to include state and Federal waters adjacent to the States of Maine, New Hampshire, and Massachusetts. Management Area 1 is divided into Area 1A (inshore) and Area 1B (offshore). The line dividing these areas is described by the following coordinates:

<b>N Latitude</b>	<b>W Longitude</b>
41°58'	70°00' at Cape Cod shoreline
42°38'	70°00'
42°53'	69°40'
43°12'	69°00'
43°40'	68°00'
43°58'	67°22' (the U.S.-Canada Maritime Boundary)

(2) Management Area 2. All waters west and south of the Cape Cod shoreline at 70° 00' W longitude, to include state and Federal waters adjacent to the States of Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, and North Carolina.

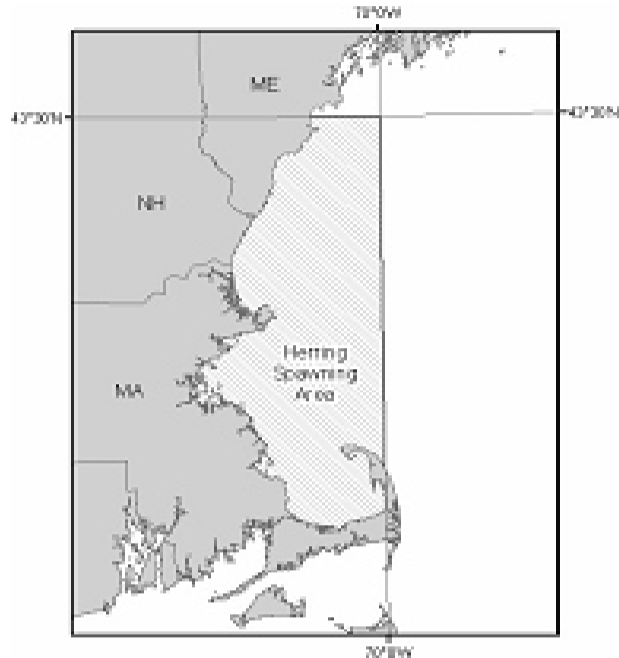
(3) Management Area 3. All U.S. waters east of 70° 00' W longitude and southeast of the line that runs from a point at 70° 00' W longitude and 41° 35' N latitude, northeasterly to the Hague Line at 67° 44' 35" W longitude and 42° 53' 14" N latitude.

(4) Management Area Map:



9.03: Spawning Herring Protection

- (1) Massachusetts/New Hampshire Spawning Area.  
 (a) Massachusetts/New Hampshire Spawning Area Map.



- (b) Massachusetts/New Hampshire Spawning Area Closure. To protect spawning sea herring, the Director shall close the Massachusetts/New Hampshire Spawning Area to sea herring fishing, as provided in 322 CMR 9.03(1)(f), when it is determined that sea herring are in spawning condition. The closure date will be projected in accordance with the formula and process set forth in the Atlantic States Marine Fisheries Commission's Interstate Fishery Management Plan for Sea Herring.
- (c) Closure Duration. Once the closure is enacted, it shall remain in effect for six weeks, unless extended pursuant to 322 CMR 9.03(1)(d) and (e).
- (d) Closure Procedure. The closure date shall be announced prior to the closure being enacted by:
1. Filing a Notification of Closure with the Secretary of State;
  2. Publishing the Notification of Closure through the Division's electronic listserv and on the Division's website; and
  3. Providing a Notification of Closure directly to all primary buyers by e-mail or facsimile.
- (e) Closure Extension. Sampling of sea herring taken from the Massachusetts/New Hampshire Closure Area shall begin during the last week of the initial closure period or at the end of the initial closure period. If one sample taken from the Massachusetts/New Hampshire Spawning Area is comprised of 20% or more spawn herring then the closure shall be extended for an additional 14 days. Any closure extension shall be announced in accordance with 322 CMR 9.03(d)1. through 3.
- (f) Limits on Sea Herring during the Closure. During the Massachusetts/New Hampshire Spawning Area Closure, or an extension thereof, it shall be unlawful for any vessel to possess or land more than 2,000 pounds of sea herring caught within the Massachusetts/New Hampshire Spawning Area.

9.04: Vessel Size Limit

It shall be unlawful for any vessel greater than 165 feet in overall length and 3,000 horsepower to land sea herring in the Commonwealth.

9.05: Fishing Limits for Management Area 1A

(1) January 1<sup>st</sup> through May 31<sup>st</sup>. During this period the commercial fishery for Atlantic sea herring in Management Area 1A is closed and it shall be unlawful for any commercial fisherman to retain, possess or land any Atlantic sea herring taken from Management Area 1A, except as authorized at 322 CMR 9.05(4).

(2) June 1<sup>st</sup> through December 31<sup>st</sup>. During this period it shall be unlawful for any commercial fisherman to retain, possess or land any Atlantic sea herring taken from Management Area 1A, except if the commercial fisherman holds a federal category Atlantic sea herring permit and has been issued a Statement of Permit Conditions by the Director, in accordance with 322 CMR 7.01(7), to implement those landing limits approved by the Atlantic States Marine Fishery Commission's Sea Herring Section.

(3) Quota Closure.

a. Management Area 1A Fishery. Once 92% of any seasonal quota allocation for Management Area 1A, established by the ASMFC Atlantic Sea Herring Board, is projected to be landed, the Division shall close the Atlantic sea herring fishery in Management Area 1A in accordance with 322 CMR 6.41(2).

b. Coastwide Atlantic Sea Herring Fishery. Once 95% of the annual Atlantic sea herring quota, as established by NOAA Fisheries, is projected to be landed, the Division shall close the Atlantic sea herring fishery in Management Area 1A in accordance with 322 CMR 6.41(2).

(4) Incidental Catch and Small-scale Fishery Allowance during Closed Periods. During any closed period established at 322 CMR 9.05, commercial fishermen may land up to 2,000 pounds of Atlantic sea herring during any trip or calendar day, whichever period of time is longer.

REGULATORY AUTHORITY

322 CMR 9.00: M.G.L. c. 130, §§ 2, 17A, 80 and 104.