

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 Restrictions and Annual Specifications

9.01: Definitions

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

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

Gonad Somatic Index or GSI means for female herring the percentage obtained by the formula: [Gonad weight/(total body weight - gonad weight)] X 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 three Management Areas 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 100 adult herring taken randomly from commercial catch or fish surveys.

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

Southern Gulf of Maine means that portion of Management Area 1 south of 43°32' N parallel of latitude.

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

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

9.01: continued

Vessel Fishing for Mackerel means any vessel whose catch on board at any given time is at least 75% mackerel (*Scomber scombrus*) by weight.

9.02: Management Area Boundaries

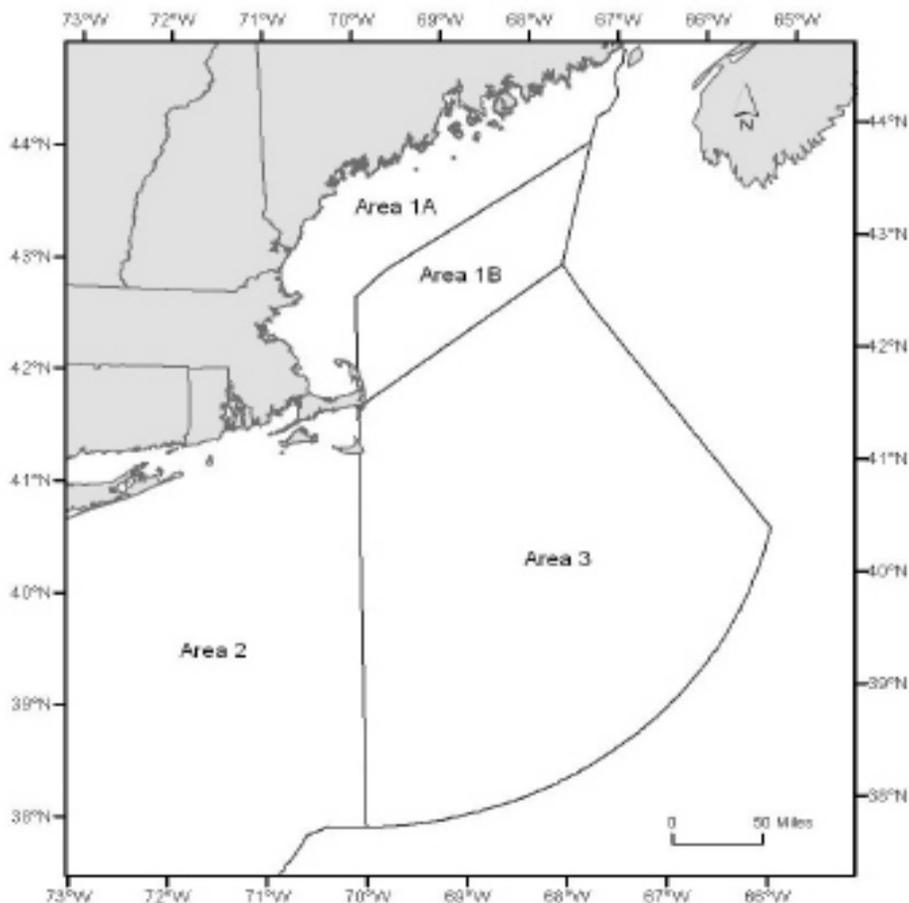
(1) Management Area 1. All U.S. waters of the Gulf of Maine (GOM) north of a line extending from the eastern shore of Monomoy Island at 41° 35' N latitude, 70° 00' W longitude, thence northeasterly to a point along the Hague Line at 42° 53' 14" N latitude, 67° 44' 35" W longitude, thence northerly along 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:

N Latitude	W Longitude
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.

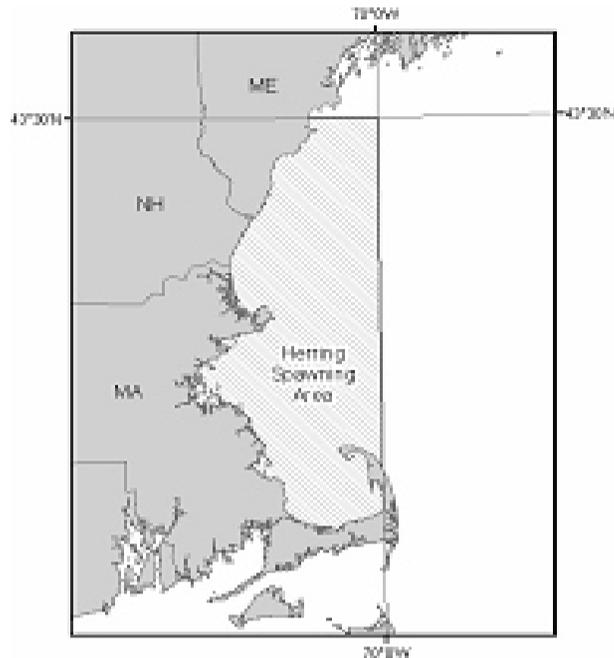
(3) Management Area 3. All U.S. waters east of 70° 00' W longitude and southeast of the line that runs from a point at 70° 00' W longitude and 41° 35' N latitude, northeasterly to the Hague Line at 67° 44' 35" W longitude and 42° 53' 14" N latitude.

(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 later stages of maturity just prior to spawning. 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 28 days, unless extended pursuant to 322 CMR 9.03(1)(d).
- (d) Closure Procedure. The closure date shall be announced five-days 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 25% 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 Restrictions and Annual Specifications

(1) Annual Specifications.

(a) Declaration of Limits. For Management Areas 1A, 1B, 2 and 3, as defined at 322 CMR 9.02, the Director may declare and adjust Atlantic sea herring commercial possession and landing limits, seasons, and no-fishing days to correspond to the limits established by the Atlantic States Marine Fisheries Commission, in accordance with 322 CMR 9.05(1)(b).

(b) Declaration Process. The Director shall make such declarations and adjustments described at 322 CMR 9.05(1)(a), as follows:

1. obtain written approval by a majority of the members of the Massachusetts Marine Fisheries Advisory Commission;
2. file a Notice of Declaration with the Secretary of State;
3. publish a Notice of Declaration through the Division's electronic listserv and on the Division's website; and
4. provide a Notice of Declaration directly to all primary buyers by e-mail or facsimile.

(2) Commercial Fishery Limits.

(a) General Provisions. It is unlawful for a vessel to possess or land Atlantic sea herring taken from Management Areas 1A, 1B, 2, or 3, as defined at 322 CMR 9.02, once the Director has closed the commercial Atlantic sea herring fishery in Massachusetts, in accordance with quota closure procedure 322 CMR 6.41: *Further Regulation of Catches*. The Director will close the fishery in response to a written determination by the Atlantic States Marine Fisheries Commission, after its review of Atlantic sea herring landings, that the Atlantic sea herring quota has been landed by the commercial fishery.

(b) Rules Specific to Management Areas. It shall be unlawful for any vessel to possess or land Atlantic sea herring taken from Management Area 1A, 1B, 2, or 3, as defined at 322 CMR 9.02, under the following circumstances:

1. Contrary to Management Area specific limits established by the Atlantic States Marine Fisheries Advisory Commission and implemented by the Director through a Declaration in accordance with 322 CMR 9.05(1); or
2. Once the Director has closed the commercial Atlantic sea herring fishery in Massachusetts for that specific management area, in accordance with quota closure procedure 322 CMR 6.41: *Further Regulation of Catches*. The Director will close the fishery in response to a written determination by the Atlantic States Marine Fisheries Commission, after its review of Atlantic sea herring landings, that the Atlantic sea herring management area quota for Management Areas 1A, 1B, 2 or 3 has been landed by the commercial fishery.

(3) Exceptions. Any vessel may land or possess up to 2,000 lbs. of sea herring during prohibited times established by 322 CMR 9.05.

REGULATORY AUTHORITY

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