

322 CMR: DIVISION OF MARINE FISHERIES

322 CMR 9.00: MANAGEMENT OF SEA HERRING

Section

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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.

GSI Trigger means female herring greater than 28 cm total length with a mean GSI of 20% or female herring greater than 24 cm and less than 28 cm with a mean GSI of 15%.

GSI Sampling means at least two samples of 50 fish or more in either GSI trigger length category taken from commercial catches during a period not to exceed seven days apart.

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

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 encompassed by an imaginary line beginning at the intersection of the 43°30' N parallel of latitude and the Maine coast; thence in a southwesterly direction along the coasts of Maine, New Hampshire, and the Commonwealth to the intersection of the 70°00' W meridian of longitude; thence in a northerly direction along the 70°00' W meridian of longitude to its intersection with the 43°30' N parallel of latitude; thence in a westerly direction along the 43°30' N parallel of latitude to the point of beginning.

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.

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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.

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.

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

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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:

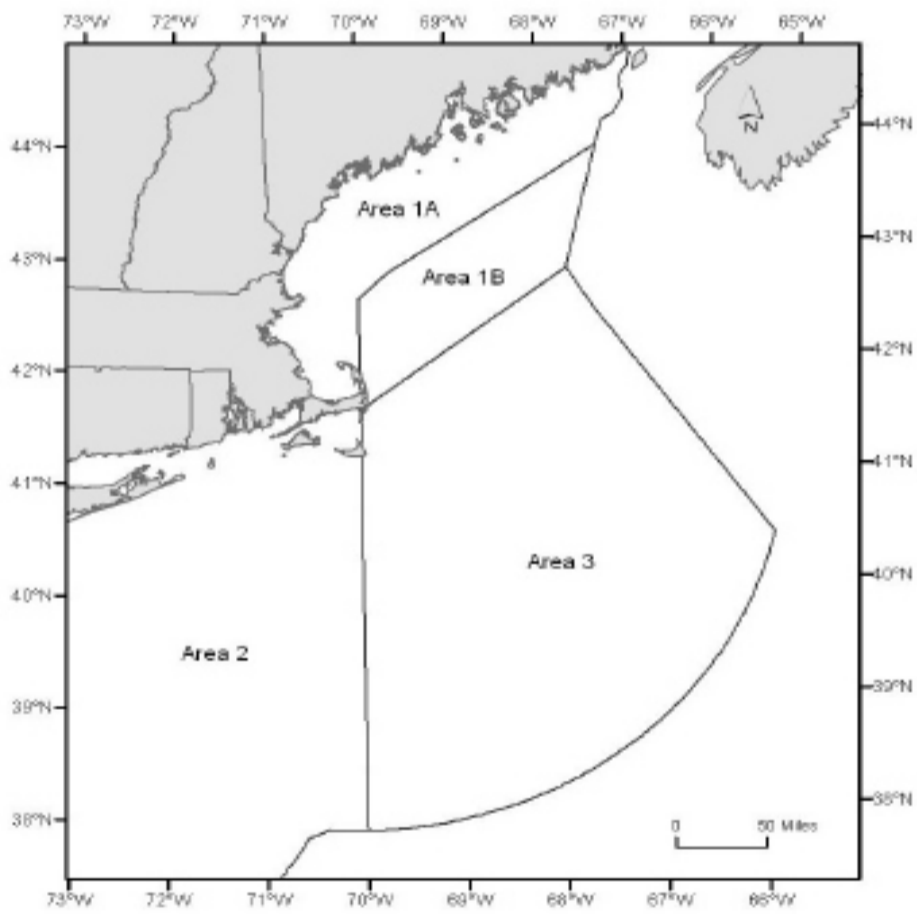
N Latitude	W Longitude
41°58'	70°00' at Cape Cod shoreline
42°38'	70°00'
42°53'	69°40'
43°12'	69°00'
43°40'	68°00'
43°58'	67°22' (the U.S.-Canada Maritime Boundary)

(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:

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9.03: Spawning Herring Protection

- (1) Prohibition. It shall be unlawful to possess or land any sea herring caught from the Massachusetts/New Hampshire Spawning Area seven days after the GSI trigger for herring from that area is reached.
- (2) Closure Duration. The prohibition of 322 CMR 9.03(1) shall extend for four weeks and may be extended by the Director if DMF sampling indicates that herring landings comprise more than 25% spawn herring.
- (3) Default Closure. It shall be unlawful to possess or land sea herring caught from the Massachusetts/New Hampshire Spawning Area during the period September 21st through October 18th provided the GSI trigger has not been reached by September 14th. This prohibition may be extended by the Director beyond October 18th if DMF sampling indicates that herring landings comprise more than 25% spawn herring.
- (4) Exceptions. A vessel may land or possess up to 2,000 lbs. of sea herring during the closure period described in 322 CMR 9.03.

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:

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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.

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(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.