



New England Fishery Management Council

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Council to Consider if Change in Priorities is Needed to Expand Scope of Work on Inshore Midwater Trawl Exclusion Zone

The New England Fishery Management Council has charged its Atlantic Herring Committee with further developing two focused items related to 2023 herring work priorities. Both requests were the result of considerable discussion during the Council's [April 18-20, 2023](#) meeting in Mystic, Connecticut.

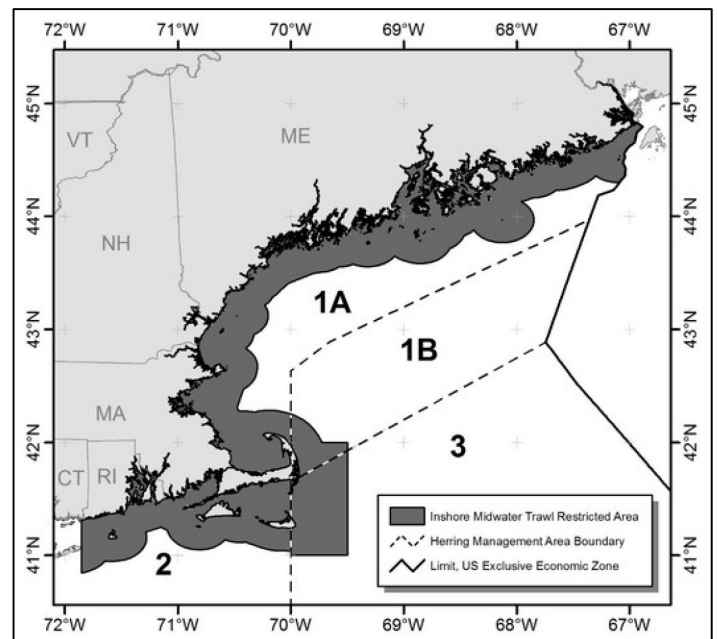
The Herring Committee's recommendations will come back to the Council in [June](#) for further consideration and may involve a change in priorities for herring. A change would require a two-thirds majority vote by the Council. The topics at hand were related to the Council's 2023 work plan to:

- Revisit the Inshore Midwater Trawl Restricted Area, also known as a buffer zone or exclusion zone, that was: (1) developed by the Council in Atlantic Herring [Amendment 8](#); (2) [implemented](#) by NOAA Fisheries; and (3) [vacated](#) by a U.S. District Court judge on March 29, 2022, meaning it is no longer in place (see map below); and
- Conduct an analysis to investigate what combination of factors may have led to the Greater Atlantic Regional Fisheries Office's (GARFO) low 2020 to 2022 river herring and shad bycatch estimates in the Atlantic herring fishery.



As the next step, the Herring Advisory Panel will meet [June 14, 2023](#) and the Herring Committee will meet the following week on [June 22, 2023](#) to:

- Work on a draft problem statement describing why revising the Amendment 8 Inshore Midwater Trawl Exclusion Zone may be warranted; and
- Consider whether a change in [2023 Council Priorities](#) is desired in order to task the Herring Plan Development Team (PDT) with additional



The inshore area shaded in dark gray above was implemented in Herring Amendment 8 as a zone where midwater trawlers were prohibited from fishing year-round. A court vacated the measure.



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analyses to “support and identify a range of options for time/area closures to avoid and minimize the catch of river herring and shad in the midwater trawl and small-mesh bottom trawl fisheries.”

Here is how these two directives to the Herring Committee came about.

RIVER HERRING AND SHAD: As a 2023 priority, the Council charged its Herring Plan Development Team with investigating why recent estimates of river herring and shad catch have been low relative to the past. The PDT met three times this winter to conduct the analyses. The findings are summarized in [this paper](#).

The PDT found that multiple factors contributed to the low 2020-2022 catch estimates. In short, these involve:

- Issues related to the life history of river herring and shad, such as when and where these stocks are located throughout the year;
- The number of monitored trips under the river herring and shad catch caps (see graphics at right for caps in the Atlantic herring fishery), which apply to trips with greater than 6,600 pounds of Atlantic herring landings;
- The overall decline of landings in the commercial fishery for Atlantic herring due to steep cuts in catch limits related to the [overfished status](#) of the resource; and
- Reduced observer coverage due to the COVID-19 pandemic and then delayed implementation of the Herring Industry-Funded Monitoring (IFM) Program, which is now [suspended](#) due to a lack of administrative funding.

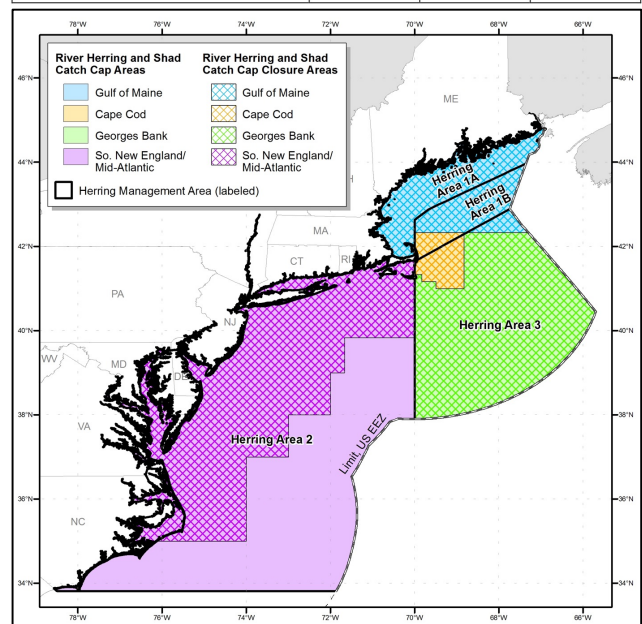
The PDT’s [report](#) was intended to wrap up the Council’s work on this 2023 river herring and shad priority.

However, after the Council discussed the information and considered [feedback](#) from its Herring Committee and Advisory Panel, which had both met in early April, the Council voted to send the issue back to the committee for further deliberation.

At the Council’s June 27-29, 2023 meeting, the Herring Committee will report on whether it recommends the Council change its priorities to consider time/area closures for midwater and small-mesh bottom trawl gear

**2023-2025 River Herring and Shad Catch Caps
(in Metric Tons)**

Gear Type/Catch Cap Area	2023	2024	2025
Midwater Trawl Gulf of Maine	76.7	76.7	76.7
Midwater Trawl Cape Cod	32.4	32.4	32.4
Midwater Trawl Southern New England and Mid-Atlantic	129.6	129.6	129.6
Bottom Trawl Southern New England and Mid-Atlantic	122.3	122.3	122.3



*A river herring and shad catch cap applies to vessels landing more than 6,600 pounds of Atlantic herring. The cap tonnages, as well as the areas and gear types they apply to, are shown above. NOAA Fisheries announced on April 24 that 96% of the 2023 Cape Cod catch cap had been reached and, on April 26, the agency implemented the Cape Cod Catch Cap Closure Area. Midwater trawl vessels may not fish for, possess, transfer, receive, land, or sell more than 2,000 pounds of Atlantic herring from the area through December 31, 2023. Details are posted [here](#).
– NOAA Fisheries graphic*



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to address conservation issues, which include bycatch of river herring and shad. If a change in priorities is adopted by the Council, the Herring PDT would provide supporting analyses as described in the “postponed motion” [on page 7 here](#). A change of this scope would: (1) potentially alter the impacted time/areas under consideration, as well as expand the gear types to be analyzed; and (2) need to account for the additional staff time required to complete the analyses.

INSHORE MIDWATER TRAWL EXCLUSION ZONE: U.S. District Judge Leo Sorokin [vacated](#) the Council’s Amendment 8 inshore midwater trawl restricted area for three primary reasons, which NOAA General Counsel [summarized](#) as follows:

- The [court found](#) the exclusion rationale was not factually based;
- The scope of the action was too broad and the adverse effects on the midwater trawl fleet were too severe compared to the potential benefits; and
- The measure did not comply with [National Standard 4](#) of the Magnuson-Stevens Fishery Conservation and Management Act, which requires that allocative measures must be reasonably calculated to promote conservation, in part because of the speculative biological benefits of the measure.

The Council made it a priority to revisit the measure in 2023. As a first step in addressing the issues raised by the court and providing proper justification for the potential need for action, the Council discussed the following draft problem statement:

“The Council intends to explore possible detrimental biological and socioeconomic impacts of user group conflicts related to availability of Atlantic herring through examination of the ecosystem role of Atlantic herring in the area included in Amendment 8 exclusion zone, Atlantic herring as prey for other species in this area, the incidental catch of river herring and shad and other species in this area, updated data on activity by all users in this area, and spatial and temporal variations on the Amendment 8 buffer zone that could address the concerns of the herring fishery and other stakeholders.”

The Council voted to send the problem statement to the Herring Committee for “further development and refinement.” The Council will review the committee’s work at its June meeting along with the river herring and shad issues.



Questions? Contact Dr. Jamie Cournane, the Council’s herring plan coordinator, at (978) 465-0492 ext. 103, jcournane@nefmc.org. Also visit the Council’s [herring webpage](#). – Massachusetts Division of Marine Fisheries photo