

wild and are shipping the wildlife between the United States and Canada or Mexico; and

(iii) You have not previously bought or sold the wildlife described in paragraph (k)(1)(i) of this section, and the shipment does not exceed 100 raw furs; raw, salted, or crusted hides or skins; or fur or skin parts; and

(iv) You certify on Form 3-177, Declaration for Importation or Exportation of Fish or Wildlife, that your shipment meets all the criteria in this section.

(2) You do not have to pay base inspection fees, premium inspection fees, or overtime fees if you are importing or exporting wildlife that is exempt from import/export license requirements as defined in § 14.92(a) or you are importing or exporting wildlife as a government agency as defined in § 14.92(b)(1)(ii).

(3) You do not have to pay base inspection fees, premium inspection fees, or overtime fees if you are importing or exporting wildlife that meets the criteria for "domesticated animals" as defined in § 14.4.

Dated: October 16, 2008.

**David M. Verhey,**

*Acting Assistant Secretary for Fish and Wildlife and Parks.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 061228342-7068-02]

RIN 0648-XM06

#### Fisheries of the Northeastern United States; Atlantic Herring Fishery; 2007-2009 Specifications

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule; adjustment of 2008 and 2009 Atlantic herring (herring) area total allowable catches (TACs).

**SUMMARY:** NMFS restores 900 mt of unallocated research set-aside (RSA) to the 2008 and 2009 herring Area 2 TACs

and 1,800 mt of unallocated RSA to the 2008 and 2009 herring Area 3 TACs. The adjustments are intended to reallocate herring RSA quota to the herring commercial fishery.

**DATES:** Effective December 9, 2008, through December 31, 2009.

**FOR FURTHER INFORMATION CONTACT:**

Carrie Nordeen, Policy Analyst, (978) 281-9272, fax (978) 281-9135, e-mail: [carrie.nordeen@noaa.gov](mailto:carrie.nordeen@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The 2007-2009 herring specifications (72 FR 17807, April 10, 2007) allocated RSA to each of the four herring management areas for 2008-2009 as follows: 1,350 mt to Area 1A, 300 mt to Area 1B, 900 mt to Area 2, and 1,800 mt to Area 3. In early 2008, NMFS received four research proposals in response to the 2008/2009 Herring RSA Program request for proposals; NMFS's Northeast Fisheries Science Center selected one proposal to be funded through the 2008/2009 Herring RSA Program. The project, conducted by the Gulf of Maine Research Institute, entitled "The Effects of Fishing on Herring Aggregations," requested and was awarded all of the RSA for Areas 1A and 1B (1,350 mt and 300 mt, respectively), but did not request RSA for Areas 2 and 3 (900 mt and 1,800 mt, respectively).

The regulations at § 648.207 stipulate that, in the event that the approved research projects do not make use of any or all of the RSA, the unutilized portion of the RSA shall be reallocated back to its respective management area(s). When multi-year TACs are specified and there is unutilized herring RSA available, NMFS, at the request of the New England Fishery Management Council (Council), could publish another request for funding proposals (RFP) for either the second or third years of the 3-year specifications. The Council also may decide not to publish another RFP, in which case NMFS may release the unutilized portion of the set-aside back to its respective management area(s).

At its October 7-9, 2008, meeting, the Council discussed the unallocated 2008 and 2009 herring RSA in Areas 2 and 3. Because there will not be insufficient time between October and the end of the 2008 fishing year and/or the start of the 2009 fishing year to publish another RFP, evaluate the proposals, and award RSA, the Council requested that NMFS release the unallocated RSA for Areas 2

and 3 back to its respective management areas, such that it would be available for harvest by the commercial fishery.

Therefore, this action restores 900 mt of herring to the Area 2 TAC and 1,800 mt of herring to the Area 3 TAC for the 2008 and 2009 fishing years. The resulting 2008 and 2009 herring TACs are 30,000 mt for Area 2, and 60,000 mt for Area 3.

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

This action restores unallocated herring RSA to herring Management Areas 2 and 3 for the 2008 and 2009 fishing years, such that it is available for harvest by the commercial herring fishery. Regulations at § 648.207 stipulate that unutilized RSA shall be reallocated back to its respective management area(s). In October 2008, the Council requested that NMFS release the unallocated RSA to the commercial herring fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause pursuant to 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment because it would be contrary to the public interest. Regulations at § 648.201(a) stipulate that NMFS shall prohibit vessels from possessing, catching, transferring, or landing herring from a management area when catch from that management area reaches 95 percent of its management area TAC. If implementation of this action is delayed to solicit public comment, the commercial herring fishery in Areas 2 and 3 may close prematurely in 2008, thereby undermining the economic objectives of the Atlantic Herring Fishery Management Plan. There was insufficient time to solicit prior public comment because of the timing of the Council's request that NMFS release the unallocated RSA quota to the commercial fishery. The AA further finds, pursuant to 5 U.S.C. 553(d)(3) good cause to waive the 30-day delayed effectiveness period for the reason stated above.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: December 2, 2008.

**Emily H. Menashes,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

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