

registration number and certificate will be valid for one year from the date on which it is issued.

(e) It shall be unlawful for any person to submit false, inaccurate or misleading information in connection with any registration request.

(f) Fees. Effective January 1, 2011, persons registering with NMFS must pay an annual fee. The annual schedule for such fees will be published in the Federal Register. Indigenous people engaging in angling or spear fishing must register, but are not required to pay a fee.

**§ 600.1415 Procedures for designating exempted states-general provisions.**

(a) States with an exempted state designation must:

(1) Submit state angler and for-hire vessel license holder data to NMFS for inclusion in a national or regional registry database; or

(2) Participate in regional surveys of recreational catch and effort and make the data from those surveys available to NMFS.

(b) Process for getting an exempted state designation:

(1) To apply for exempted state designation, a state must submit:

(i) A complete description of the data it intends to submit to NMFS;

(ii) An assessment of how the data conforms to the requirements of §§ 600.1416 or 600.1417;

(iii) A description of the database in which the data exists and will be transmitted; and

(iv) The proposed process, schedule and frequency of submission of the data.

(2) If NMFS determines the submitted material meets the requirements of §§ 600.1416 or 600.1417, NMFS will initiate negotiations with the state on a Memorandum of Agreement. The Memorandum of Agreement must include the terms and conditions of the data-sharing program. The Memorandum of Agreement and state designation may be limited to data-sharing related to only anglers or only for-hire fishing vessels.

(3) Following execution of a Memorandum of Agreement, NMFS will publish a notice of the exempted state designation in the **Federal Register**.

**§ 600.1416 Requirements for exempted state designation based on submission of state license holder data.**

(a) A state must annually submit to NMFS, in a format consistent with NMFS guidelines, the name, address and, to the extent available in the state's database, telephone number and date of birth of all persons and for-hire vessels and for-hire vessel operators who are

licensed to fish, or who are registered as fishing, in the EEZ, in the tidal waters of the state, or for anadromous species. The Memorandum of Agreement will specify the timetable for a state to compile and submit complete information on the telephone numbers and dates of birth for its license holders/registrants. The waters of the state for which such license-holder data must be submitted will be specified in the Memorandum of Agreement.

(b) A state is eligible to be designated as an exempted state even if its licensing program excludes anglers who are:

- (1) Under 16 years of age;
- (2) Over age 59 (see § 600.1416(d)(1));
- (3) Customers on licensed for-hire vessels;

(4) Customers on state-licensed fishing piers, provided that the pier license holder provides to the state complete angler contact information or angler effort information for users of the pier;

(5) On active military duty while on furlough; or

(6) Disabled or a disabled Veteran as defined by the state.

(c) Unless the state can demonstrate that a given category of anglers is so small it has no significant probability of biasing estimates of fishing effort if these anglers are not included in a representative sample, a state may not be designated as an exempted state if its licensing program excludes anglers that meet any of the following conditions:

- (1) Fishing on a state-licensed private vessel;
- (2) Fishing from privately-owned land;
- (3) Fishing on a public pier;
- (4) Fishing from shore;
- (5) Fishing in tidal waters of the state;

or

(6) Fishing as an occupant of a beach buggy, the operator of which is licensed or permitted to operate the vehicle on public beaches.

(d) Required enhancements to exempted state license-holder data. An exempted state must submit the following angler identification data by Jan. 1, 2012, or within two years of the effective date of the Memorandum of Agreement, whichever is later, and thereafter in accordance with the Memorandum of Agreement:

- (1) Name, address and telephone number of excluded anglers over age 59;
- (2) Name, address and telephone number, updated annually, of holders of state lifetime and multi-year licenses;
- (3) Name, address and telephone number of state combination license holders who fished in tidal waters in the prior year, or who intend to fish in tidal

waters. The Memorandum of Agreement will define the boundaries of the state's tidal waters for this purpose.

**§ 600.1417 Requirements for exempted state designation based on submission of recreational survey data.**

(a) To be designated as an exempted state based on the state's participation in a regional survey of marine and anadromous recreational fishing catch and effort, a state may submit to NMFS a proposal that fully describes the state's participation in a qualifying regional survey, and the survey's sample design, data collection and availability.

(b) A qualifying regional survey must:

(1) Include all of the states within each region as follows:

(i) Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia and Florida (Atlantic coast);

(ii) Florida (Gulf of Mexico coast), Alabama, Mississippi, Louisiana, and Texas;

(iii) Puerto Rico and the U. S. Virgin Islands;

(iv) California, Oregon and Washington;

(v) Alaska;

(vi) Hawaii; or

(vii) American Samoa, Guam and the Commonwealth of the Northern Mariana Islands.

(2) Utilize angler registry data, or direct field counts to obtain angler effort, or other appropriate statistical means to obtain fishing effort;

(3) Utilize angler registry data to identify individuals to be surveyed by telephone, if such regional survey includes a telephone survey component; and

(4) Meet NMFS survey design and data collection standards.

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 648**

[Docket No. 061228342-7068-02]

RIN 0648-XM38

**Fisheries of the Northeastern United States; Atlantic Herring Fishery; Total Allowable Catch Harvested for Management Area 1B**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

**ACTION:** Closure of Atlantic herring fishery for Management Area 1B.

**SUMMARY:** NMFS announces that, effective 0001 hours, December 24, 2008, federally permitted vessels may not fish for, catch, possess, transfer, or land more than 2,000 lb (907.2 kg) of Atlantic herring in or from Management Area 1B (Area 1B) per trip or calendar day until January 1, 2009, when the 2009 TAC becomes available, except for transiting purposes as described in this notice. This action is based on the determination that 95 percent of the Atlantic herring total allowable catch (TAC) allocated to Area 1B for 2008 is projected to be harvested. Regulations governing the Atlantic herring fishery require publication of this notification to advise vessel and dealer permit holders that no TAC is available for the directed fishery for Atlantic herring harvested from Area 1B.

**DATES:** Effective 0001 hrs local time, December 24, 2008, through December 31, 2008.

**FOR FURTHER INFORMATION CONTACT:** Christopher Biegel, Fishery Management Specialist, at (978) 281-9112.

**SUPPLEMENTARY INFORMATION:**

Regulations governing the Atlantic herring fishery are found at 50 CFR part 648. The regulations require annual specification of optimum yield, domestic and foreign fishing, domestic and joint venture processing, and management area TACs. The 2008 TAC allocated to Area 1B (72 FR 17807, April 10, 2007) is 9,700 mt.

The regulations at § 648.201 require the Administrator, Northeast Region, NMFS (Regional Administrator) to monitor the Atlantic herring fishery in each of the four management areas designated in the Fishery Management Plan for the Atlantic Herring Fishery and, based upon dealer reports, state data, and other available information, to determine when the harvest of Atlantic herring is projected to reach 95 percent of the TAC allocated. When such a determination is made, NMFS is required to publish notification in the **Federal Register** of this determination. Effective upon a specific date, NMFS must notify vessel and dealer permit holders that vessels are prohibited from fishing for, catching, possessing, transferring, or landing more than 2,000 lb (907.2 kg) of herring per trip or calendar day in or from the specified management area for the remainder of the closure period. Transiting during a closure with more than 2,000 lb of

herring on board is allowed under the conditions specified below.

The Regional Administrator has determined, based upon dealer reports and other available information that 95 percent of the total Atlantic herring TAC allocated to Area 1B for the 2008 fishing year is projected to be harvested. Therefore, effective 0001 hrs local time, December 24, 2008, federally permitted vessels may not fish for, catch, possess, transfer, or land more than 2,000 lb (907.2 kg) of Atlantic herring in or from Area 1B per trip or calendar day through December 31, 2008; except a vessel may transit Area 1B with more than 2,000 lb (907.2 kg) of herring on board, or land more than 2,000 lb (907.2 kg) provided such herring were not caught in Area 1B, and provided all fishing gear is stowed and not available for immediate use as required by § 648.23(b). Effective December 24, 2008, federally permitted dealers are also advised that they may not purchase Atlantic herring from federally permitted Atlantic herring vessels that harvest more than 2,000 lb (907.2 kg) of Atlantic herring from Area 1B through 2400 hrs local time, December 31, 2008.

**Classification**

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

This action closes the Atlantic herring fishery for Management Area 1B until January 1, 2009, under current regulations. The regulations at § 648.201(a) require such action to ensure that Atlantic herring vessels do not exceed the 2008 TAC. The Atlantic herring fishery opened for the 2008 fishing year at 0001 hours on January 1, 2008. Data indicating the Atlantic herring fleet will have landed at least 95 percent of the 2008 TAC have only recently become available and there is insufficient time to plan for prior notice and comment on this action. The Assistant Administrator for Fisheries, NOAA (AA) therefore, 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. If implementation of this closure is delayed to solicit prior public comment, the quota for this fishing year will be exceeded, thereby undermining the conservation objectives of the FMP. The AA further finds, pursuant to 5 U.S.C. 553(d)(3), good cause to waive the thirty (30) day delayed effectiveness period for the reasons stated above.

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

Dated: December 22, 2008.

**Alan D. Risenhoover,**

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

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 648**

[Docket No. 050613158-5262-03]

**RIN 0648-AT48**

**Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Extension of Emergency Fishery Closure Due to the Presence of the Toxin that Causes Paralytic Shellfish Poisoning**

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

**ACTION:** Temporary rule; emergency action; extension of effective period; request for comments.

**SUMMARY:** This action extends a temporary final rule initially published on October 18, 2005. The regulations contained in the temporary rule, emergency action, published on October 18, 2005, and subsequently extended several times at the request of the U.S. Food and Drug Administration (FDA), will expire on December 31, 2008. This temporary rule extends a closure of Federal waters through December 31, 2009. The FDA has determined that current oceanographic conditions and alga sampling data suggest that the northern section of the Temporary Paralytic Shellfish Poison (PSP) Closure Area remain closed to the harvest of bivalve molluscan shellfish, with the exception of sea scallop adductor muscles harvested and shucked at sea, and that the southern area remain closed to the harvest of whole or roe-on scallops. NMFS is publishing the regulatory text associated with this closure in this temporary emergency rule in order to ensure that current regulations accurately reflect the codified text that has been modified and extended numerous times, so that the public is aware of the regulations being extended through December 31, 2009.

**DATES:** The amendments to § 648.14 are effective from January 1, 2009, through December 31, 2009. The expiration date of the temporary emergency action