

based on scientific and fishery-based knowledge; and

The directed shark fisheries in the Atlantic region exhibit a mixed species composition, with a high abundance of aggregated LCS caught in conjunction with hammerhead sharks. As a result, by slowing the harvest and reducing landings on a per-trip basis, both fisheries could remain open for the remainder of the year.

- Effects of catch rates in one part of the Atlantic region precluding vessels in another part from having a reasonable opportunity to harvest a portion of the aggregated LCS management group quota.

Based on dealer reports, and given NMFS' notice to the regulated community (80 FR 74999, December 1, 2015; 81 FR 18541, March 31, 2016; and 81 FR 44798, July 11, 2016) that a goal of this year's fishery was to provide fishing opportunities throughout the fishing season, NMFS has concluded that the aggregated LCS quota is being harvested too quickly to meet conservation and management goals for the fishery. If the harvest of these species is not slowed down, the fishery would likely close in mid-October. Closing the fishery would prevent fishermen from other parts of the Atlantic region from having the same opportunities to harvest the aggregated LCS quota later in the year.

On December 1, 2015 (80 FR 74999), NMFS announced in a final rule that the aggregated LCS and hammerhead shark fisheries management groups for the Atlantic region would open on January 1 with a quota of 168.9 metric tons (mt) dressed weight (dw) (372,552 lb dw) and 27.1 mt dw (59,736 lb dw), respectively. NMFS had published a proposed rule on August 18, 2015 (80 FR 49974) and accepted public comment. In the final rule, NMFS also announced that if it appeared that the quota is being harvested too quickly, thus precluding fishing opportunities throughout the entire region (*e.g.*, if approximately 20 percent of the quota is caught at the beginning of the year), NMFS would consider reducing the commercial retention limit to 3 or fewer LCS other than sandbar sharks and then later consider increasing the retention limit to 45 LCS other than sandbar sharks per vessel per trip around July 15, 2016, after considering the appropriate regulatory adjustment criteria. In March 2016, dealer reports indicated that landings had exceeded 20 percent of the quota, and NMFS therefore reduced the commercial Atlantic aggregated LCS and hammerhead shark retention limit from 36 to 3 LCS other than sandbar per

vessel per trip on April 2, 2016 (81 FR 18541; March 31, 2016) after considering the inseason retention limit adjustment criteria listed at § 635.24(a)(8). As NMFS announced in the 2016 shark season final rule (81 FR 44798; July 11, 2016), we increased the commercial Atlantic aggregated LCS and hammerhead shark retention limit from 3 to 45 LCS other than sandbar per vessel per trip after considering the regulatory criteria. Based on dealer reports through September 30, 2016, approximately 34 percent and 54 percent of the aggregated LCS and hammerhead shark quotas remain, respectively. At this point in the season, fishermen in the Atlantic region may not have an opportunity to fish in the region for the remainder of the year if the retention limits are not reduced.

Accordingly, as of 11:30 p.m. local time October 19, 2016, NMFS is reducing the retention limit for the commercial aggregated LCS and hammerhead shark management groups in the Atlantic region for directed shark limited access permit holders from 45 LCS other than sandbar sharks per vessel per trip to 25 LCS other than sandbar sharks per vessel per trip. If the vessel is properly permitted to operate as a charter vessel or headboat for HMS and is engaged in a for-hire trip, in which case the recreational retention limits for sharks and "no sale" provisions apply (§ 635.22(a) and (c)), or if the vessel possesses a valid shark research permit under § 635.32 and a NMFS-approved observer is onboard, then they are exempted from the retention limit adjustment.

All other retention limits and shark fisheries in the Atlantic region remain unchanged. This retention limit will remain at 25 LCS other than sandbar sharks per vessel per trip for the rest of the 2016 fishing season, or until NMFS announces via a notice in the **Federal Register** a fishery closure, is warranted.

The boundary between the Gulf of Mexico region and the Atlantic region is defined at § 635.27(b)(1) as a line beginning on the East Coast of Florida at the mainland at 25°20.4' N. lat., proceeding due east. Any water and land to the north and east of that boundary is considered, for the purposes of quota monitoring and setting of quotas, to be within the Atlantic region.

#### Classification

Pursuant to 5 U.S.C. 553(b)(B), the Assistant Administrator for Fisheries, NOAA (AA), finds there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be

impracticable and contrary to the public interest. Providing prior notice and an opportunity for comment is impracticable because the catch and landings that need to be reduced are ongoing and must be reduced immediately to meet conservation and management objectives for the fishery. Continued fishing at those levels during the time that notice and comment would take place would likely result in early closure of the fishery, contrary to the objectives of the existing conservation and management measures in place for these species. These objectives include providing equitable fishing opportunities and ensuring that bycatch and discards are minimized. Allowing fishing to continue at the existing rates even for a limited time is contrary to these objectives and would thus be impracticable. It would also be contrary to the public interest because continued catch at the current rates, even for a limited period, could result in eventual early quota closures and potential overharvests. The AA also finds good cause to waive the 30-day delay in effective date pursuant to 5 U.S.C. 553(d)(3) for the same reasons. This action is required under § 635.28(b)(2) and is exempt from review under Executive Order 12866. NMFS has concluded that reducing the retention limit of the Atlantic aggregated LCS and hammerhead management groups for directed shark limited access permit holders will slow the fishery catch rates to allow the fishery throughout the Atlantic region to remain open for the rest of the year.

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

Dated: October 14, 2016.

**Emily H. Menashes,**

*Acting 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. 130408348-3835-02]

RIN 0648-XE968

#### Fisheries of the Northeastern United States; Atlantic Herring Fishery; 2016 Management Area 1A Seasonal Annual Catch Limit Harvested

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

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS is closing the directed fishery for Atlantic herring in Herring Management Area 1A, based on a projection that a prescribed trigger for that area has been reached. Federally permitted vessels may not fish for, possess, transfer, receive, land, or sell more than an incidental amount of Atlantic herring in or from Area 1A through December 31, 2016, and federally permitted dealers may not purchase more than this incidental amount of herring from federally permitted vessels for the duration of this action. This action is necessary to comply with the regulations implementing the Atlantic Herring Fishery Management Plan and is intended to prevent over harvest in Area 1A.

**DATES:** Effective 00:01 hr local time, October 18, 2016, through December 31, 2016.

**FOR FURTHER INFORMATION CONTACT:** Shannah Jaburek, Fishery Management Specialist, (978) 282-8456.

**SUPPLEMENTARY INFORMATION:** Regulations governing the Atlantic herring fishery can be found at 50 CFR part 648, including requirements for setting annual catch allocations. NMFS set the 2016 Area 1A sub-annual catch limit (ACL) at 30,102 mt, based on an initial 2016 sub-ACL allocation of 31,200 mt, minus a deduction of 936 mt for research set-aside catch, plus an increase of 133 mt to account for unharvested 2014 catch. Additionally, NMFS further reduced the Area 1A sub-ACL of 30,102 mt by 295 mt to allow for the fixed gear set-aside, that, if unharvested, will be added back into the Area 1A sub-ACL after November 1. NMFS established these values in the 2013 through 2015 specifications (78 FR 61828, October 1, 2013) and a final rule implementing sub-ACL adjustments for 2016 (81 FR 12420, March 9, 2015). For Area 1A, NMFS restricts herring catch to the seasonal period from June 1 through December 31. NMFS prohibits vessels from catching herring during the seasonal period from January 1 through May 31.

The Administrator, Greater Atlantic Region, NMFS (Regional Administrator), monitors the herring fishery catch in each of the management areas based on vessel and dealer reports, state data, and other available information. The regulations at § 648.201 require that when Regional Administrator projects that herring catch will reach 92 percent of the sub-ACL allocated in the Area 1A seasonal management area designated in the Atlantic Herring Fishery

Management Plan (FMP), NMFS must prohibit, through notification in the **Federal Register**, herring vessel permit holders from fishing for, possessing, transferring, receiving, landing, or selling 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 fishing year.

The Regional Administrator has determined, based on vessel and dealer reports, state data, and other available information, that the herring fleet will have caught 92 percent of the herring sub-ACL allocated to Area 1A by October 18, 2016. Therefore, effective 00:01 hr local time, October 18, 2016, federally permitted vessels may not fish for, catch, possess, transfer, land, or sell more than 2,000 lb (907.2 kg) of herring per trip or calendar day, in or from Area 1A through December 31, 2016. With one exception, vessels that have entered port before 00:01 hr local time, October 18, 2016, may land and sell more than 2,000 lb (907.2 kg) of herring from Area 1A from that trip. The exception provides that a vessel may transit through Area 1A with more than 2,000 lb (907.2 kg) of herring on board, provided all herring was caught outside of Area 1A and all fishing gear is stowed and not available for immediate use as defined by § 648.2. In addition, all herring vessels must land in accordance with state landing restrictions.

Effective 00:01 hr local time, October 18, 2016, federally permitted dealers may not receive herring from federally permitted herring vessels that harvest more than 2,000 lb (907.2 kg) of herring from Area 1A through 2400 hr local time, December 31, 2016, unless it is from a trip landed by a vessel that entered port before 00:01 hr local time, October 18, 2016, and that catch is landed in accordance with state regulations.

#### **Classification**

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

NMFS 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 and impracticable. This action restricts the catch of herring in Area 1A for the remainder of the fishing year. Data indicating the herring fleet will have landed at least 92 percent of the 2016 sub-ACL allocated to Area 1A have only recently become available. Once these data become available, NMFS is required by Federal regulation to implement a 2,000-lb (907.2-kg) herring possession limit for Area 1A through December 31, 2016. The

regulations at § 648.201(a)(1)(i) require such action to ensure that herring vessels do not exceed the 2016 sub-ACL allocated to Area 1A. If implementation of this closure is delayed to solicit prior public comment, the sub-ACL for Area 1A for this fishing year will likely be exceeded, thereby undermining the conservation objectives of the FMP. If sub-ACLs are exceeded, the excess must also be deducted from a future sub-ACL and would reduce future fishing opportunities. NMFS further finds, pursuant to 5 U.S.C. 553(d)(3), good cause to waive the 30-day delayed effectiveness period for the reasons stated above.

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

Dated: October 13, 2016.

**Emily H. Menashes,**  
*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*  
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## **DEPARTMENT OF COMMERCE**

### **National Oceanic and Atmospheric Administration**

#### **50 CFR Part 679**

[Docket No. 150916863-6211-02]

RIN 0648-XE879

#### **Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Pot Catcher/Processors in the Bering Sea and Aleutian Islands Management Area**

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

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS is prohibiting directed fishing for Pacific cod by catcher/processors using pot gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 2016 Pacific cod total allowable catch allocated to catcher/processors using pot gear in the BSAI.

**DATES:** Effective 1200 hours, Alaska local time (A.l.t.), October 18, 2016, through 2400 hours, A.l.t., December 31, 2016.

**FOR FURTHER INFORMATION CONTACT:** Josh Keaton, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area