

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 648**

[Docket No: 181031994-9022-02]

RTID 0648-XX033

Fisheries of the Northeastern United States; Atlantic Herring Fishery; 2019 Management Area 1A Sub-Annual Catch Limit Harvested

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

ACTION: Temporary rule; closure.

SUMMARY: Effective on November 27, 2019, NMFS is closing the directed fishery for Herring Management Area 1A, based on a projection that a threshold catch amount for that management area has been reached. Beginning November 27, 2019, through December 31, 2019, no person may, or attempt to fish for, possess, transfer, receive, land, or sell more than 2,000 lb (907.2 kg) of Atlantic herring per trip or calendar day in or from Management Area 1A from a vessel issued and holding a valid Federal herring permit. For the duration of this action, federally permitted dealers may not possess or receive, or attempt to possess or receive, more than 2,000 lb (907.2 kg) of herring from Management Area 1A per trip or calendar day from vessels issued and holding a valid Federal herring permit. This action is necessary to comply with the regulations implementing the Atlantic herring Fishery Management Plan and is intended to prevent overharvest of herring in Management Area 1A.

DATES: Effective 00:01 hr local time, November 27, 2019, through 24:00 local time, December 31, 2019.

FOR FURTHER INFORMATION CONTACT: Daniel Luers, Fishery Management Specialist, (978) 282-8457.

SUPPLEMENTARY INFORMATION: The Regional Administrator of NMFS for the Greater Atlantic Region 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 50 CFR 648.201 require that when the Regional Administrator projects that

herring catch will reach 92 percent of the Sub-Annual Catch Limit (sub-ACL) allocated in Management Area 1A designated in the Atlantic Herring Fishery Management Plan (FMP), through notification in the **Federal Register**, NMFS must prohibit for the remainder of the fishing year, vessels from fishing for, possessing, transferring, receiving, landing, or selling, or attempting to fish for, possess, transfer, receive, land or sell, more than 2,000 lb (907.2 kg) of herring per trip or calendar day in or from the specified management area from a vessel issued and holding a valid Federal herring permit.

The Regional Administrator has projected, 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 Management Area 1A by November 27, 2019. Therefore, effective 00:01 hr local time, November 27, 2019, no person may, or attempt to, fish for, possess, transfer, receive, land, or sell more than 2,000 lb (907.2 kg) of herring per trip or calendar day, in or from Management Area 1A, through December 31, 2019, from a vessel issued or holding a valid Federal herring permit. Vessels that have entered port before 00:01 hr local time, November 27, 2019, may land and sell more than 2,000 lb (907.2 kg) of herring from Area 1A from that trip. 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. All herring vessels must land in accordance with state landing restrictions.

Effective 00:01 hr local time, November 27, 2019, through 24:00 hr local time, December 31, 2019, federally permitted dealers may not purchase, possess, receive, sell, barter, trade or transfer, or attempt to purchase, possess, receive, sell, barter, trade or transfer more than 2,000 lb (907.2 kg) of herring per trip or calendar day from Management Area 1A from a vessel issued and holding a valid Federal herring permit, unless it is from a trip landed by a vessel that entered port before 00:01 hr local time, November 27, 2019, 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)(3)(B) to waive prior notice and the opportunity for public comment because it would be contrary to the public interest and impracticable. Further, in accordance with 5 U.S.C. 553(d)(3), NMFS also finds good cause to waive the 30-day delayed effectiveness. NMFS is required by Federal regulation to put in place a 2,000-lb (907.2-kg) herring trip limit for Management Area 1A through December 31, 2019, when 92 percent of the area quota is harvested. The 2019 herring fishing year opened on January 1, 2019, and Management Area 1A opened to fishing June 1, 2019. Data indicating the herring fleet will have landed at least 92 percent of the 2019 sub-ACL allocated to Management Area 1A have only recently become available. Once available data supports projecting that 92 percent of the sub-ACL will be caught, regulations at § 648.201(a) require NMFS to close the directed fishery and impose a trip and calendar day limit to ensure that herring vessels do not exceed the 2019 sub-ACL allocated to Management Area 1A. High-volume catch and landings in this fishery increase total catch relative to the sub-ACL quickly, especially in this fishing year where annual catch limits are unusually low. If implementation of this closure is delayed to solicit prior public comment, the sub-ACL for Management 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. In addition, the public had prior notice and full opportunity to comment on this process when these provisions were put in place. The public expects these actions to occur in a timely way consistent with the fishery management plan's objectives.

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

Dated: November 25, 2019.

Jennifer M. Wallace,

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

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