II. Discussion of Comment

GSA received two comments to the direct final rule from anonymous commenters. One of the comments was adverse to the direct final rule. The other comment was not applicable to the text or purpose of the direct final rule.

The adverse commenter expressed concern about the lack of analytical data regarding the administrative burden related to the current legal review process. Further, the commenter suggested that decisions related to contracts are legal questions, not business decisions.

GSA does not agree with the adverse comment because, in the absence of a statutory requirement for the contracting officer to receive legal approval prior to processing the final payment, the authority to process any payment resides in the warranted contracting officer, except for the instant clause regarding final payments referenced in the clause at 532.905–70(c). GSA has determined that the clause at 532.905–70 no longer works in the best interest of the Government or contractors because, among other things: (i) Approval by legal counsel does not preclude the contracting officer from denying such payment, and (ii) approval by legal counsel does not insulate the Government from any potential liabilities should the contracting officer process the payment.

III. Reason for Withdrawal

In consideration of the comment to the direct final rule, GSA has determined that the rule should be withdrawn in its entirety. This will allow more time to further examine the issues raised and determine the best course of action.

Accordingly, GSA withdraws the rule published at 85 FR 61871 on October 1, 2020. However, withdrawal of this rule does not preclude GSA from issuing another rule on the subject matter in the future or committing the agency to any future course of action.

List of Subjects in 48 CFR Part 532

Government procurement.
648.2. All herring vessels must land in accordance with state landing restrictions.

Effective 00:01 hr local time, November 25, 2020, through 24:00 hr local time, December 31, 2020, federally permitted dealers may not purchase, possess, receive, sell, barter, trade or transfer more than 2,000 lb (907.2 kg) of Atlantic herring per trip or calendar day from Area 1B 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 25, 2020.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR 648.201(a)(1)(i), which was issued pursuant to section 304(b), 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 is unnecessary and would be contrary to the public interest and impracticable. NMFS also finds good cause to waive the 30-day delayed effectiveness in accordance with 5 U.S.C 553(d)(3). NMFS is required by Federal regulation to implement a 2,000-lb (907.2-kg) herring trip limit for Management Area 1B through December 31, 2020, when 92 percent of the area quota is projected to be harvested. The 2020 herring fishing year opened on January 1, 2020, and Management Area 1B opened to fishing on May 1, 2020. Data indicating the herring fleet will have landed at least 92 percent of the 2020 sub-ACL allocated to Management Area 1B recently became available. Catch in this fishery increases 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 1B for this fishing year will likely be exceeded, undermining conservation objectives of the Fishery Management Plan. 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.


Jennifer M. Wallace,
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