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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 0907301205-0289-02]

RIN 0648-XC500

Fisheries of the Northeastern United States; Atlantic Herring Fishery; Sub-ACL (Annual Catch Limit) Harvested for Management Area 2

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is closing the directed herring fishery in Management Area 2, because over 95 percent of the catch limit for that area has been caught. Effective 0001 hr, April 7, 2013, federally permitted vessels may not fish for, catch, possess, transfer, or land more than 2,000 lb (907.2 kg) of Atlantic herring (herring) per trip or calendar day in or from Management Area 2 until January 1, 2014, when the 2014 allocation for Area 2 becomes available. Also effective 0001 hr, April 7, 2013, federally permitted dealers may not receive more than 2,000 lb (907.2 kg) of herring caught within Management Area 2 per trip or calendar day.

DATES: Effective 0001 hr local time, April 7, 2013, through December 31, 2013.

FOR FURTHER INFORMATION CONTACT: Katherine Richardson, Policy Analyst, (978) 675-2125.

SUPPLEMENTARY INFORMATION: The reader can find regulations governing the herring fishery at 50 CFR part 648. The regulations require annual specification of the overfishing limit, acceptable biological catch, annual catch limit (ACL), optimum yield, domestic harvest and processing, U.S. at-sea processing, border transfer, and sub-ACLs for each management area. The 2013 Domestic Annual Harvest is 91,200 metric tons (mt); the 2013 sub-ACL allocated to Area 2 is 22,146 mt, and 0 mt of the sub-ACL is set aside for research (75 FR 48874, August 12, 2010).

The regulations at § 648.201 require the Administrator, Northeast Region, NMFS (Regional Administrator), to monitor the herring fishery in each of the four management areas designated in the Fishery Management Plan (FMP) for the 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 management area sub-ACL. When such a determination is made, NMFS must publish notification in the Federal Register and prohibit herring vessel permit holders from fishing for, catching, possessing, transferring, or landing more than 2,000 lb (907.2 kg) of herring per calendar day in or from the specified management area for the remainder of the closure period. Vessels may transit Area 2 with more than 2,000 lb (907.2 kg) of herring on board only under the conditions specified below.

The Regional Administrator has determined, based upon dealer reports and other available information, that the herring fleet has caught over 95 percent of the total herring sub-ACL allocated to Area 2 for 2013. Therefore, effective 0001 hr local time, April 7, 2013, federally permitted vessels may not fish for, catch, possess, transfer, or land more than 2,000 lb (907.2 kg) of herring per trip or calendar day in, or from Area 2 per calendar day through

December 31, 2013. A vessel may transit through Area 2 with more than 2,000 lb (907.2 kg) of herring on board, provided the vessel did not catch the herring in Area 2 and stows all fishing gear aboard, making it unavailable for immediate use as required by § 648.23(b). Effective 0001 hr, April 7, 2013, federally permitted dealers are also advised that they may not receive herring from federally permitted herring vessels that harvest more than 2,000 lb (907.2 kg) of herring from Area 2 through 2400 hr local time, December 31, 2013.

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 closes the herring fishery for Management Area 2 until January 1, 2014, under current regulations. The regulations at § 648.201(a) require such action to ensure that herring vessels do not exceed the 2013 sub-ACL allocated to Area 2. The herring fishery opened for the 2013 fishing year on January 1, 2013. Data indicating the herring fleet will have landed at least 95 percent of the 2013 sub-ACL allocated to Area 2 have only recently become available. If implementation of this closure is delayed to solicit prior public comment, the sub-ACL for Area 2 for this fishing year can 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. 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: April 4, 2013

Kara Meckley,
Acting Deputy Director,
Office of Sustainable Fisheries,
National Marine Fisheries Service.

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