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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 151215999-6960-02]

RIN 0648-XF774

Fisheries of the Northeastern United States; Atlantic Herring Fishery; Adjustment to the Atlantic Herring Management Area 1A Annual Catch Limit

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

ACTION: Temporary rule; inseason adjustment.

SUMMARY: NMFS is adjusting the 2017 fishing year annual catch limit for Atlantic Herring Management Area 1A due to an underharvest in the New Brunswick weir fishery. This action is necessary to comply with the 2016-2018 specifications and management measures for the Atlantic Herring Fishery Management.

DATES: Effective October 24, 2017, through December 31, 2017.

FOR FURTHER INFORMATION CONTACT: Daniel Luers, Fishery Management Specialist, 978-282-8457, Fax 978-281-9135.

SUPPLEMENTARY INFORMATION: Regulations governing the Atlantic herring fishery are found at 50 CFR part 648. The regulations require annual specification of the overfishing limit, acceptable biological catch (ABC), annual catch limit (ACL), optimum yield (OY),

domestic harvest and processing, U.S. at-sea processing, border transfer, and sub-annual catch limits (sub-ACL) for each management area. The 2017 Domestic Annual Harvest was set as 104,800 metric tons (mt); an additional 9,384 mt was added to the sub-ACLs for the four herring management areas collectively from an underharvest during the 2015 fishing year, and 3 percent of herring catch was set aside for research in the 2016-2018 specifications (81 FR 75731, November 1, 2016). The ACL for the 2017 fishing year was 101,656 mt, and the adjusted ACL allocated to Area 1A was 31,115 mt.

Due to the variability of Canadian catch in the New Brunswick weir fishery, a 1,000-mt portion of the 4,000-mt buffer between ABC and OY (the buffer to account for Canadian catch) is allocated to Area 1A, provided New Brunswick weir landings are lower than the amount specified in the buffer.

The NMFS Regional Administrator is required to monitor the fishery landings in the New Brunswick weir fishery each year. If New Brunswick weir fishery herring catch through October 1 is less than 4,000 mt, then 1,000 mt will be subtracted from the management uncertainty buffer and allocated to the ACL and Area 1A sub-ACL. When such a determination is made, NMFS is required to publish a notification in the *Federal Register* to adjust the ACL and the Area 1A sub-ACL upward for the remainder of the fishing year.

The Regional Administrator has determined, based on the best available information, that the New Brunswick weir fishery catch for fishing year 2017 through October 1, 2017, was 1,732 mt. Therefore, effective October 24, 2017, through December 31, 2017, 1,000 mt will be allocated to the Area 1A sub-ACL, thereby increasing the fishing year 2017 Area 1A sub-ACL

from 31,115 mt to 32,115 mt. Because this increase to a sub-ACL also increases the stock-wide ACL, this allocation increases the 2017 stock-wide ACL from 101,656 mt to 102,656 mt.

Classification

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

The Assistant Administrator for Fisheries, NOAA (AA), finds good cause pursuant to 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment because it is impracticable and contrary to the public interest. This action increases the sub-ACL for Area 1A by 1,000 mt (31,115 mt to 32,115 mt) through December 31, 2017, thereby relieving a more restrictive catch limit. The regulations at 50 CFR 648.201(f) require such action to help mitigate some of the negative economic effects associated with the reduction in the Area 1A sub-ACL in the 2016-2018 specifications process. The herring fishery extends from January 1 to December 31. Data indicating the New Brunswick weir fishery landed less than 4,000 mt through October 1, 2017, only recently became available. Allowing for prior notice and public comment on this adjustment is impracticable because regulations require this allocation to occur as quickly as is practicable and for the remainder of the fishing year. Because the Management Area 1A fishery is generally fully prosecuted and closed between mid-October and mid-November, a delay in implementation of this action may result in the 1,000-mt allocation occurring after closure of Area 1A. If this occurred, it is unlikely that the additional 1,000 mt would be enough to warrant reopening the 1A fishery, and would thus result in incomplete harvest of the 1A sub-ACL. Further, this is a nondiscretionary action required by provisions in the 2016-2018 Atlantic

Herring Specifications and Management Measures (herring specifications), which previously provided notice to the public that this 1,000 mt allocation would occur if the Canadian catch level was sufficiently low, and offered full opportunity to comment on this. The adjustment required by the regulation is formulaic. It does not change existing regulations, but simply puts the predetermined adjustment into effect. 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 17, 2017.

Emily H. Menashes,
Acting Director, Office of Sustainable Fisheries,
National Marine Fisheries Service.

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