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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No: 181031994-9022-02]

RIN 0648-XG872

Fisheries of the Northeastern United States; Atlantic Herring Fishery; 2019 Management Area 2 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 March 9, 2019, NMFS is closing the directed fishery for Herring Management Area 2, based on a projection that a threshold catch amount for that management area has been reached. Beginning March 9, 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 2 from a vessel issued and holding a valid 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 2 per trip or calendar day from vessels issued and holding a valid 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 2.

DATES: Effective 00:01 hr local time, March 9, 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-ACL allocated in Management Area 2 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 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 2 by March 9, 2019. Therefore, effective 00:01 hr local time, March 9, 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 2, through December 31, 2019, from a vessel issued or holding a valid herring permit. Vessels that have entered port before 00:01 hr local time, March 9, 2019, may land and sell more than 2,000 lb (907.2 kg) of herring from Area 2 from that trip. A vessel may transit through Area

2 with more than 2,000 lb (907.2 kg) of herring on board, provided all herring was caught outside of Area 2 and all fishing gear is stowed and not available for immediate use as defined by § 648.2.

Effective 00:01 hr local time, March 9, 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 2 from a vessel issued and holding a valid herring permit, unless it is from a trip landed by a vessel that entered port before 00:01 hr local time, March 9, 2019.

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 2 through December 31, 2019. The 2019 herring fishing year opened on January 1, 2019. Data indicating the herring fleet will have landed at least 92 percent of the 2019 sub-ACL allocated to Management Area 2 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 2. 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 2 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: March 6, 2019.

Karen H. Abrams,
Acting Director,
Office of Sustainable Fisheries,
National Marine Fisheries Service.

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