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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 648**

**[Docket No. 151215999-6960-02]**

**RIN 0648- XX022**

**Fisheries of the Northeastern United States; Atlantic Herring Fishery; Adjustment to the 2019 Specifications**

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

**ACTION:** Temporary rule; in-season adjustment.

**SUMMARY:** NMFS increases the 2019 Atlantic herring annual catch limit and Area 1A sub-annual catch limit by 1,000 mt. This action is required by the herring regulations when, based on data through October 1, the New Brunswick weir fishery lands less than 4,000 mt of herring. This notice is intended to inform the public of these catch limit changes.

**DATES:** Effective October 28, 2019, through December 31, 2019.

**FOR FURTHER INFORMATION CONTACT:** Alyson Pitts, Fishery Management Specialist, (978) 281-9352; or [Alyson.Pitts@noaa.gov](mailto:Alyson.Pitts@noaa.gov).

**SUPPLEMENTARY INFORMATION:** NMFS published final 2019 specifications for the Atlantic Herring Fishery Management Plan on February 8, 2019 (84 FR 2760), establishing the 2019 annual catch limit (ACL) and area sub-ACLs. Table 1 shows the

original herring specifications for 2019 and the specifications that are revised by this action for the remainder of the calendar year.

The NMFS Regional Administrator tracks herring landings in the New Brunswick weir fishery each year. The regulations at 50 CFR 648.201(h) require that if the New Brunswick weir fishery landings through October 1 are less than 4,000 mt, then NMFS subtracts 1,000 mt from the management uncertainty buffer and increases the ACL and Area 1A sub-ACL by 1,000 mt. When such a determination is made, NMFS is required to notify the New England Fishery Management Council and publish the ACL and Area 1A sub-ACL adjustment in the **Federal Register**.

The Regional Administrator has determined, based on the best available information, that the New Brunswick weir fishery landed less than 4,000 mt through October 1, 2019. Therefore, effective October 28, 2019, 1,000 mt will be re-allocated from the management uncertainty buffer to the Area 1A sub-ACL. This increases the Area 1A sub-ACL from 4,354 mt to 5,354 mt and the ACL from 15,065 mt to 16,065 mt. These revised specifications will be used to project when catch will reach 92 percent of the Area 1A sub-ACL or 95 percent of the ACL for the purpose of implementing a 2,000-lb (907-kg) herring possession limit in Area 1A or in all management areas, respectively.

**Table 1—Atlantic Herring Specifications for 2019 (mt)**

	<b>Original Specifications</b>	<b>Revised Specifications</b>
<b>Overfishing Limit</b>	30,668	30,668
<b>Acceptable Biological Catch</b>	21,266	21,266
<b>Management Uncertainty</b>	6,200	5,200
<b>Optimum Yield/ACL</b>	15,065	16,065
<b>Domestic Annual Harvest</b>	15,065	15,065

<b>Border Transfer</b>	0	0
<b>Domestic Annual Processing</b>	15,065	15,065
<b>U.S. At-Sea Processing</b>	0	0
<b>Area 1A Sub-ACL (28.9%)</b>	4,354	5,354
<b>Area 1B Sub-ACL (4.3%)</b>	647	647
<b>Area 2 Sub-ACL (27.8%)</b>	4,188	4,188
<b>Area 3 Sub-ACL (39%)</b>	5,876	5,876
<b>Fixed Gear Set-Aside</b>	39	39
<b>Research Set-Aside</b>	3 percent of sub-ACLs	3 percent of sub-ACLs

### **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, finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment on this in-season adjustment because it would be contrary to the public interest. This action allocates a portion of the management uncertainty buffer to the ACL and Area 1A sub-ACL for the remainder of the year. If implementation of this in-season action is delayed to solicit prior public comment, the objective of the fishery management plan to achieve the optimum yield (OY) in the fishery could be compromised. Deteriorating weather conditions during the latter part of the fishing year may reduce fishing effort, and could also prevent the ACL from being fully harvested. This would conflict with NMFS' legal obligation under the Magnuson-Stevens Fishery Conservation and Management Act to achieve the OY from a fishery on a continuing basis, resulting in a negative economic impact on vessels permitted to fish in this fishery. Moreover, the process being applied here was the subject of notice and comment rulemaking; the adjustment is routine and formulaic, required by regulation, and

is expected by industry. The potential to re-allocate the management uncertainty buffer was also outlined in the final 2019 herring specifications that were published February 8, 2019, which were developed through public notice and comment. Based on these considerations, 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 25, 2019.

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Jennifer M. Wallace,  
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National Marine Fisheries Service.

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