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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 151215999-6960-02]

RIN 0648-XG087

Fisheries of the Northeastern United States; Atlantic Herring Fishery; 2018 River Herring and Shad Catch Cap Reached for Midwater Trawl Vessels in the Mid-Atlantic/Southern New England Catch Cap Area

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is reducing the Atlantic herring possession limit for federally permitted vessels fishing with midwater trawl gear in the Mid-Atlantic/Southern New England Catch Cap Closure Area, based on a projection that the threshold catch for the corresponding catch cap area has been reached. This action is necessary to comply with the regulations implementing the Atlantic Herring Fishery Management Plan and is intended to limit the harvest of river herring and shad in the Mid-Atlantic/Southern New England Catch Cap Area.

DATES: Effective 00:01 hr local time, March 14, 2018, through December 31, 2018.

FOR FURTHER INFORMATION CONTACT: Daniel Luers, Fishery Management Specialist, (978) 282-8457.

SUPPLEMENTARY INFORMATION: Regulations governing the Atlantic herring fishery

can be found at 50 CFR part 648, including requirements for setting annual catch cap allocations for river herring and shad. NMFS set the 2018 catch cap in the Mid-Atlantic/Southern New England Catch Cap Area at 129.6 mt. NMFS established this value in the 2016 through 2018 herring specifications (81 FR 75731, November 1, 2016).

The NMFS Administrator of the Greater Atlantic Region (Regional Administrator) monitors the herring fishery in each of the catch cap areas based on vessel and dealer reports, state data, and other available information. The regulations at § 648.201 require that when the Regional Administrator projects that river herring and shad catch will reach 95 percent of a catch cap for vessels fishing with a specified gear type in a specified catch cap area, NMFS must prohibit, through notification in the *Federal Register*, federally permitted herring vessels fishing with that gear type from fishing for, possessing, catching, transferring, or landing more than 2,000 lb (907.2 kg) of herring per trip or calendar day in or from that specified catch cap closure area for the remainder of the fishing year.

The Regional Administrator has determined, based on available information, that the herring midwater trawl vessels will have caught 95 percent of the river herring and shad catch cap allocated to the Mid-Atlantic/Southern New England Catch Cap Area by March 14, 2018. Therefore, effective 00:01 hr local time, March 14, 2018, federally permitted vessels fishing with midwater trawl gear 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 the Mid-Atlantic/Southern New England Catch Cap Closure Area through December 31, 2018. Midwater trawl vessels that have entered port before 00:01 hr local time, March 14, 2018, may land and sell more than 2,000 lb (907.2 kg) of herring from the Cap Closure Area from that trip. Midwater trawl vessels may transit through

the Mid-Atlantic/Southern New England Catch Cap Closure Area with more than 2,000 lb (907.2 kg) of herring on board, provided all herring in excess of 2,000 lb (907.2 kg) was caught outside of this area and all fishing gear is stowed and not available for immediate use as defined by § 648.2.

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 restricts the catch of herring in the Mid-Atlantic/Southern New England Catch Cap Closure Area for the remainder of the fishing year. Data have only recently become available indicating that herring midwater trawl vessels will have caught 95 percent of the river herring and shad catch cap allocated to that gear type in the Catch Cap Area. Once NMFS projects that river herring and shad catch will reach 95 percent of the cap for the Catch Cap Area, NMFS is required by Federal regulation to implement a 2,000-lb (907.2-kg) herring trip and calendar day possession limit for Cap Closure Area through December 31, 2018. The regulations at § 648.201(a)(4)(ii) require such action to ensure that herring vessels do not exceed the river herring and shad catch cap allocated to midwater trawl vessels in the Mid-Atlantic/Southern New England Catch Cap Area. If implementation of this closure is delayed to solicit prior public comment, the midwater trawl catch cap for the Mid-Atlantic/Southern New England Catch Cap Area for this fishing year will be exceeded, thereby undermining the conservation objectives of the Atlantic Herring Fishery Management Plan. For the reasons stated

above, NMFS further finds, pursuant to 5 U.S.C 553(d)(3), good cause to waive the 30-day delayed effectiveness period.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: March 12, 2018.

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

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