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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No: 151215999-6960-02]

RIN 0648-XG512

Fisheries of the Northeastern United States; Atlantic Herring Fishery; 2018 Management Area 1B Directed Fishery Closure

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

ACTION: Temporary rule; directed fishery closure.

SUMMARY: Effective October 24, 2018, NMFS is closing the directed herring fishery in management Area 1B, based on a projection that a prescribed trigger for that area has been reached. Federally permitted vessels may not 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 Area 1B through December 31, 2018. Federally permitted dealers may not purchase more than 2,000 lb (907.2 kg) of herring from federally permitted vessels for the duration of this action. 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 Area 1B.

DATES: Effective 0001 hr local time, October 24, 2018, through December 31, 2018.

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

SUPPLEMENTARY INFORMATION: The reader can find regulations governing the herring fishery at 50 CFR part 648.

NMFS originally set the 2018 Area 1B sub-annual catch limit (ACL) at 3,552 mt, based on an initial 2018 sub-ACL allocation of 4,500 mt, minus a deduction for research set-aside catch and a reduction due to an overage of the Area 1B sub-ACL in 2016. In August, 2018, NMFS further reduced the Area 1B sub-ACL from 3,552 mt to 2,639 mt (83 FR 42450, August 22, 2018). This reduction (along with reductions in herring Management Areas 1A, 2, and 3) was based on the findings of the 2018 Atlantic Herring Stock Assessment Report, which concluded that herring stocks have suffered historic lows in recruitment of juveniles into the population since 2013. The Stock Assessment Review Committee Panel predicted that sharp cuts in future ACLs would be necessary to reduce the risk of overfishing, and recommended cuts be made in the 2018 catch. These cuts are intended to provide some conservation benefits for herring in 2018 and mitigate some of the impacts of estimated 2019 reductions on the herring industry.

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 § 648.201 require that when the Regional Administrator projects herring catch will reach 92 percent of the sub-ACL allocated in the Area 1B seasonal management area designated in the Atlantic Herring Fishery Management Plan (FMP), NMFS must prohibit, through notification in the **Federal Register**, herring vessel permit holders from fishing for, possessing, transferring, receiving, landing, or selling more than 2,000 lb (907.2 kg) of herring per trip or calendar day in or from that area for the remainder of

the fishing year.

The Regional Administrator has determined, based on dealer reports and other available information, that the herring fleet will catch 92 percent of the total herring sub-ACL allocated to Area 1B by October 24, 2018. Therefore, effective 0001 hr local time on October 24, 2018, through December 31, 2018, federally permitted vessels may not fish for, catch, possess, transfer, land, or sell more than 2,000 lb (907.2 kg) of herring per trip and calendar day, in or from Area 1B. Vessels that have entered port before 0001 hr on October 24, 2018, may offload and sell more than 2,000 lb (907.2 kg) of herring from Area 1B from that trip. A vessel may transit through Area 1B with more than 2,000 lb (907.2 kg) of herring on board, provided the vessel did not catch more than 2,000 lb (907.2 kg) of herring in Area 1B and its fishing gear is not available for immediate use as defined by 50 CFR 648.2.

Effective 0001 hr, October 24, 2018, federally permitted dealers may not receive herring from federally permitted herring vessels that harvest more than 2,000 lb (907.2 kg) of herring from Area 1B through 2400 hr local time, December 31, 2018, unless it is from a trip landed by a vessel that entered port before 0001 hr on October 24, 2018.

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. Further, in accordance with 5 U.S.C. 553(d)(3), NMFS finds good cause to waive the 30-day delayed effectiveness. NMFS is required by Federal regulation to immediately put in place a 2,000-lb (907.2-kg) herring trip limit for Area 1B through December 31, 2018. The 2018

herring fishing year opened on January 1, 2018, and Management Area 1B opened on May 1, 2018. Data indicating the herring fleet will have landed at least 92 percent of the 2018 sub-ACL allocated to Area 1B have only recently become available. Once these data become available projecting 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 limit to ensure that herring vessels do not exceed the 2018 sub-ACL allocated to Area 1B. High-volume catch and landings in this fishery increase total catch relative to the sub-ACL quickly. If implementation of this closure is delayed to solicit prior public comment, the sub-ACL for Area 1B for this fishing year may be exceeded, thereby undermining the conservation objectives of the FMP. If sub-ACLs are exceeded, the excess must 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: October 22, 2018.

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National Marine Fisheries Service.

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