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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 200428-0122]

RTID 0648-XA575

Fisheries of the Northeastern United States; Atlantic Herring Fishery; Adjustment to the 2020 Specifications

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

ACTION: Temporary rule; inseason adjustment.

SUMMARY: NMFS increases the 2020 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 2,942 mt of herring. This notice is intended to inform the public of these catch limit changes.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] through December 31, 2020.

FOR FURTHER INFORMATION CONTACT: Carrie Nordeen, Fishery Policy Analyst, (978) 281-9272; or Carrie.Nordeen@noaa.gov.

SUPPLEMENTARY INFORMATION: NMFS published final 2020 specifications for the Atlantic Herring Fishery Management Plan on May 6, 2020 (85 FR 26874), establishing the 2020 annual catch limit (ACL) and area sub-ACLs. Table 1 shows the

original herring specifications for 2020 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 2,942 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**.

Information from Canada's Department of Fisheries and Oceans indicates that the New Brunswick weir fishery landed 1,125 mt of herring through October 4, 2020. Therefore, the Regional Administrator determined, based on the best available information, that the New Brunswick weir fishery landed less than 2,942 mt through October 1, 2020. Effective [*insert date of publication in the FEDERAL REGISTER*], 1,000 mt will be re-allocated from the management uncertainty buffer to the Area 1A sub-ACL and ACL. This increases the Area 1A sub-ACL from 3,344 mt to 4,344 and the ACL from 11,571 mt to 12,571 mt. The 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 2020 (mt)

	Original Specifications	Revised Specifications
Overfishing Limit	41,830	41,830
Acceptable Biological Catch	16,131	16,131
Management Uncertainty	4,560	3,560
Optimum Yield/ACL	11,571	12,571
Domestic Annual Harvest	11,571	12,571
Border Transfer	100	100
Domestic Annual Processing	11,471	12,471
U.S. At-Sea Processing	0	0
Area 1A Sub-ACL (28.9%)	3,344	4,344
Area 1B Sub-ACL (4.3%)	498	498
Area 2 Sub-ACL (27.8%)	3,217	3,217
Area 3 Sub-ACL (39%)	4,513	4,513
Fixed Gear Set-Aside	30	30
Research Set-Aside	3% of sub-ACLs	3% of sub-ACLs

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR part 648, which was issued pursuant to section 403(b), 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 inseason 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 inseason 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 result 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 2020 herring specifications that were published May 8, 2020, 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 19, 2020.

Jennifer M. Wallace,
Acting Director, Office of Sustainable Fisheries,
National Marine Fisheries Service.

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