

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 648****[Docket No. 0907301205–0289–02]****RIN 0648–XA039****Fisheries of the Northeastern United States; Atlantic Herring Fishery; Temporary Removal of 2,000-lb (907.2 kg) Herring Trip Limit in Atlantic Herring Management Area 1A****AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.**ACTION:** Temporary rule.

SUMMARY: NMFS announces a temporary removal of the 2,000-lb (907.2 kg) trip limit for the Atlantic herring fishery in Management Area 1A (Area 1A). The trip limit removal is because catch data indicate that 95 percent of the total allowable catch (TAC) threshold in Area 1A has not been fully attained. Vessels issued a Federal permit to harvest Atlantic herring may resume fishing for and landing herring, in amounts greater than 2,000 lb (907.2 kg), consistent with their respective Atlantic herring permit categories, effective 0001 hrs, November 15, 2010, through 0001 hrs, November 17, 2010. At 0001 hrs, November 17, 2010, vessels will again be prohibited from fishing for, catching, possessing, transferring, or landing more than 2,000 lb (907.2 kg) of Atlantic herring per trip or calendar day.

DATES: Effective 0001 hours, November 15, 2010, through 0001 hours, November 17, 2010.

FOR FURTHER INFORMATION CONTACT: Lindsey Feldman, Fishery Management Specialist, 978–675–2179.

SUPPLEMENTARY INFORMATION:

Regulations governing the Atlantic herring fishery are found at 50 CFR part 648. The regulations require annual specification of optimum yield, domestic and foreign fishing, domestic and joint venture processing, and management area TACs. Final herring specifications for 2010–2012 published on August 12, 2010 (75 FR 48874). The 2010 total TAC is 91,200 mt, allocated to the herring management areas as follows: 26,546 mt to Area 1A, 4,362 mt to Area 1B; 22,146 mt to Area 2; and 38,146 mt to Area 3.

Regulations at § 648.201(a) require NMFS to monitor catch from the herring fishery in each of the herring management areas, using dealer reports, state data, and other available information, to determine when the catch of herring is projected to reach 95 percent of the TAC allocated. When such a determination is made, NMFS is required to prohibit, through publication in the **Federal Register**, herring vessel permit holders from fishing for, catching, possessing, transferring, or landing more than 2,000 lb (907.2 kg) of herring, per trip or calendar day, in or from the specified management area for the remainder of the closure period, with the exception of transiting as described below.

NMFS filed a temporary rule, effective November 8, 2010, in the **Federal Register**, projecting that 95 percent of the Area 1A TAC had been harvested. Based upon information indicating that 95 percent of the TAC would be reached by November 8, 2010, the temporary rule reduced the herring trip limit for all federally permitted herring vessels to 2,000 lb (907.2 kg) per trip in Area 1A; the trip limit reduction was effective through December 31, 2010.

The NMFS Northeast Regional Administrator has since determined, based upon the latest dealer reports and other available information, that the herring fleet has not yet taken 95 percent of the TAC as of November 8, 2010, and that there is approximately 5,000 mt of Atlantic herring quota still available in Area 1A. Therefore, to ensure that the herring fleet is able to take up to 95 percent of the TAC, consistent with applicable regulations and trip limits, this action temporarily removes the 2,000-lb (907.2 kg) trip limit implemented on November 8, 2010, and restores the trip limits, if any, in effect before November 8, 2010, until 0001 hrs November 17, 2010. This means that effective 0001 hrs, November 15, 2010, through 0001 hrs, November 17, 2010, vessels issued an All Areas Limited Access Herring Permit are authorized to fish for, possess, or land Atlantic herring with no possession restrictions; vessels issued an Areas 2 and 3 Limited Access Herring Permit are authorized to fish for, possess, or land Atlantic herring only if issued an open access herring permit or a Limited Access Incidental Catch Permit; vessels issued a Limited Access Incidental Catch Herring Permit are authorized to fish for, possess, or land up to 55,000 lb (25 mt); and vessels issued an open

access herring permit may not fish for, possess, or land more than 6,600 lb (3 mt) or Atlantic herring in Area 1A.

At 0001 hrs November 17, 2010, all federally permitted herring vessels will again be prohibited from fishing for, catching, possessing, transferring, or landing more than 2,000 lb (907.2 kg) of herring, per trip or calendar day, in or from Area 1A, through December 31, 2010. Vessels transiting Area 1A with more than 2,000 lb (907.2 kg) of herring on board may do so, provided such herring was not caught in Area 1A and that all fishing gear is stowed and not available for immediate use, as required by § 648.23(b).

Effective 0001 hrs, November 15, 2010, federally permitted dealers are advised that they may purchase more than 2,000 lb (907.2 kg) of Atlantic herring caught in Area 1A by federally permitted vessels until 0001 hrs November 17, 2010. At 0001 hrs November 17, 2010, federally permitted dealers will again be prohibited from purchasing herring from federally permitted herring vessels that harvest more than 2,000 lb (907.2 kg) of herring from Area 1A, through 2400 hrs local time, December 31, 2010.

Classification

This action is taken under 50 CFR part 648 and is exempt from review under E.O. 12866.

The Assistant Administrator for Fisheries, NOAA (AA), 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. This action temporarily removes the 2,000-lb (907.2 kg) herring trip limit in Area 1A from November 15 until November 17, 2010. As of 0001 hrs November 17, 2010, the Area 1A trip limit will again be reduced to 2,000 lb (907.2 kg) per trip or calendar day, until December 31, 2010. The Atlantic herring fishery opened for the 2010 fishing year at 0001 hrs on January 1, 2010. The Atlantic herring fleet was prohibited from fishing for, catching, possessing, transferring, or landing more than 2,000 lb (907.2 mt) per trip or calendar day on November 8, 2010, based on projections that 95 percent of the available Area 1A herring quota had been harvested. Catch data indicating the Atlantic herring fleet did not harvest the full amount of available quota have only very recently become available. If implementation of this temporary removal of the 2,000-lb (907.2 kg) trip limit is delayed to solicit

prior public comment, the remaining quota may not be fully harvested before the end of the 2010 fishing year on December 31. The AA 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: November 10, 2010.

Brian Parker,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

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