

Copies of the assessments are available for review (see **ADDRESSES**).

### Management Options

NMFS requests comments on management options for this action. Specifically, NMFS requests comments on commercial management options including quota levels, regional and seasonal quotas, trip limits, minimum sizes, applying dead discards and state landings after a Federal closure to the quota, counting quota over- and underages, and fishery closure and opening notices. Additionally, NMFS request comments on recreational management options including retention limits, minimum sizes, authorized gear, and landing requirements. NMFS also seeks comment regarding deep water and prohibited shark species, display quotas, time/area closures and the organization of species groupings. Comments received on this action will assist NMFS in determining the options for rulemaking to conserve and manage shark resources and shark fisheries.

NMFS intends to publish an Issues and Options paper summarizing the different options under consideration and will announce the availability of this document at a later date. Within the comment period established in this action, NMFS will hold at least one scoping meeting to gather public comment on the implementation of new management measures for Atlantic sharks (time and location details of which will be announced in a subsequent **Federal Register** notification).

Based on the 2002 stock assessments, NMFS believes the implementation of new management measures via an amendment to the HMS FMP is necessary to rebuild or prevent overfishing of Atlantic sharks. NMFS anticipates completing this amendment and any related documents by January 1, 2004. NMFS is currently in the process of developing new interim management measures via a proposed and final rule. These interim management measures would address quotas and other management measures currently in place and would remain in effect until the amendment is finalized.

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

Dated: November 12, 2002.

**John H. Dunnigan,**

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

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 021101264-2264-01; I.D. 101802D]

RIN 0648-AQ33

#### Fisheries of the Northeastern United States; Atlantic Herring Fishery

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

**ACTION:** Proposed 2003 specifications for the Atlantic herring fishery; request for comments.

**SUMMARY:** NMFS proposes specifications for the 2003 Atlantic herring fishery. The regulations for the Atlantic herring fishery require NMFS to publish specifications for the upcoming year and to provide an opportunity for public comment. The intent of the specifications is to conserve and manage the Atlantic herring resource and provide for a sustainable fishery.

**DATES:** Comments must be received no later than 5 p.m., Eastern Standard Time, on December 16, 2002.

**ADDRESSES:** Copies of supporting documents, including the Environmental Assessment, Regulatory Impact Review, Initial Regulatory Flexibility Analysis (EA/RIR/IRFA), Essential Fish Habitat Assessment, and the Stock Assessment and Fishery Evaluation (SAFE) Report for the 2001 Atlantic Herring Fishing Year are available from Paul J. Howard, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950. The EA/RIR/IRFA is accessible via the Internet at <http://www.nero.nmfs.gov/ro/doc/nero.html>.

Written comments on the proposed specifications should be sent to Patricia A. Kurkul, Regional Administrator, National Marine Fisheries Service, 1 Blackburn Drive, Gloucester, MA 01930. Mark on the outside of the envelope: "Comments--2003 Herring Specifications." Comments may also be sent via facsimile (fax) to (978) 281-9371. Comments will not be accepted if submitted via e-mail or the Internet.

**FOR FURTHER INFORMATION CONTACT:** Paul H. Jones, Fishery Policy Analyst, (978) 281-9273, e-mail at [paul.h.jones@noaa.gov](mailto:paul.h.jones@noaa.gov), fax at (978) 281-9135.

**SUPPLEMENTARY INFORMATION:** Regulations implementing the Atlantic

Herring Fishery Management Plan (FMP) require the New England Fishery Management Council's (Council) Atlantic Herring Plan Development Team (PDT) to meet at least annually, no later than July each year, with the Atlantic States Marine Fisheries Commission's (Commission) Atlantic Herring Plan Review Team (PRT) to develop and recommend the following specifications for consideration by the Council's Atlantic Herring Oversight Committee: Allowable biological catch (ABC), optimum yield (OY), domestic annual harvest (DAH), domestic annual processing (DAP), total foreign processing (JVpt), joint venture processing (JVP), internal waters processing (IWP), U.S. at-sea processing (USAP), border transfer (BT), total allowable level of foreign fishing (TALFF), and reserve (if any). The PDT and PRT also recommend the total allowable catch (TAC) for each management area and subarea identified in the FMP. As the basis for its recommendations, the PDT reviews available data pertaining to: Commercial and recreational catch; current estimates of fishing mortality; stock status; recent estimates of recruitment; virtual population analysis results and other estimates of stock size; sea sampling and trawl survey data or, if sea sampling data are unavailable, length frequency information from trawl surveys; impact of other fisheries on herring mortality; and any other relevant information. Recommended specifications are presented to the Council for adoption and recommendation to NMFS.

#### Proposed 2003 Specifications

At its August 2002 meeting, the Council recommended specifications for the 2003 Atlantic herring fishery. Based on the Council's recommendations, NMFS proposes the specifications and Area TACs contained in the following table.

#### SPECIFICATIONS AND AREA TACs FOR THE 2003 ATLANTIC HERRING FISHERY

Specification	Proposed Allocation (mt)
ABC	300,000
OY	250,000
DAH	250,000
DAP	226,000
JVpt	20,000
JVP	10,000
IWP	10,000
USAP	20,000
BT	4,000
TALFF	0
Reserve	0

**SPECIFICATIONS AND AREA TACS FOR  
THE 2003 ATLANTIC HERRING FISHERY—Continued**

Specification	Proposed Allocation (mt)
TAC—Area 1A	60,000
TAC—Area 1B	10,000
TAC—Area 2	50,000 (TAC reserve: 70,000)
TAC—Area 3	60,000

There are two proposed changes from the specifications approved by NMFS for the 2002 fishery: A transfer of 10,000 mt from the Area 2 TAC reserve to the Area 3, TAC resulting in an Area 3 TAC of 60,000 mt and an Area 2 TAC reserve of 70,000 mt; and a restriction on USAP vessels to receive fish from Areas 2 and 3 only. A discussion of impacts of these proposed changes follows.

**Increase to the Area 3 TAC**

The proposed increase in the Area 3 TAC from 50,000 to 60,000 mt, and concomitant decrease in the Area 2 TAC reserve from 80,000 to 70,000 mt will have no significant impact on the Atlantic herring stock or the Southern New England/Georges Bank Atlantic herring spawning component. Landings from Area 3 totaled 34,510 mt in 2001, a large increase over the 12,884 mt landed from Area 3 in 2000. This would suggest that the Area 3 TAC could be fully harvested in the future, especially if shoreside processors are able to expand markets and processing capacity. Harvest from Area 2 totaled 15,388 mt in 2001, well below the 50,000–mt TAC and 80,000–mt TAC reserve for that area. Therefore, the proposed TAC-reserve reduction to 70,000 mt in Area 2 is not expected to have any impact on the fishery.

**USAP**

No biological impacts on the stock of Atlantic herring are anticipated as a result of restricting USAP vessels to receiving fish from Areas 2 and 3 only. No vessel has fished under the USAP category since the FMP was implemented. However, if a USAP vessel has the opportunity to operate in or near Area 1 at a lower cost (for fuel, maintenance, or other operational expenses) than it would incur from fishing in Areas 2 or 3, and it is restricted from fishing in Area 1, the profitability of the USAP vessel could

be compromised. However, the prohibition on harvesting Area 1 fish for delivery to USAP vessels would leave more fish available to shoreside processors and bait dealers operating on the coasts of Maine, New Hampshire, and Massachusetts, the three states that border Area 1A (the inshore portion of Area 1). The quota for Area 1A was taken prior to the end of both the 2000 and 2001 fishing years.

**Classification**

This proposed rule has been determined to be not significant under Executive Order 12866.

The Council and NOAA Fisheries prepared an initial regulatory flexibility analysis (IRFA) as required by section 603 of the Regulatory Flexibility Act. The IRFA describes the economic impact that this proposed rule, if adopted, would have on small entities. A summary of the analysis follows:

A description of the reasons why this action is being considered, and the objectives of this proposed rule can be found in the preamble to this proposed rule and are not repeated here. This action does not contain any collection-of-information, reporting, or recordkeeping requirements. It would not duplicate, overlap, or conflict with any other Federal rules.

All of the affected businesses (fishing vessels and dealers) are considered small entities under the standards described in NOAA Fisheries guidelines because they have annual returns (revenues) that do not exceed \$3.5 million annually. The last full year of data available for the Atlantic herring fishery is for 2001. There were 146 vessels, 6 processors, and 190 dealers participating in the fishery in 2001. Given that vessels caught less than half the OY in 2001, the proposed status quo OY should not impact harvest levels in 2003.

The Council, in proposing an increase in the Area 3 TAC from 50,000 to 60,000 mt, and concomitant decrease in the Area 2 TAC reserve from 80,000 to 70,000 mt, considered only a zero-sum transfer that would not alter the proposed OY of 250,000 mt. Landings from Area 3 increased from 12,884 mt in 2000 to 34,150 mt in 2001. The Council sought to provide additional opportunity for the industry to increase its activity in Area 3. The Council did not consider transferring any TAC from Area 1 because that is the area in which

the fishery has historically concentrated its activity. In fact in 2001, landings from Area 1A and Area 1B totaled 68,130 mt, nearly attaining the combined TAC for both areas of 70,000 mt. Landings from Area 2 in 2001 were 15,388 mt out of a combined Area 2 TAC and Area 2 TAC Reserve of 130,000 mt. Thus the Council concluded that the transfer of 10,000 mt from the Reserve would still leave a substantial amount of TAC for the fishery to expand its activity in Area 2. If the transfer is fully utilized, an additional 10,000 mt would produce additional revenues of 1.2M (assuming \$120/mt) to vessels and a proportionate increase in profits to processors.

As noted above, landings from Area 1 in 2001 neared the total TAC for the area. The Council was concerned that future USAP activity, if allowed in Area 1, would have negative impact on firms that have historically harvested Area 1 fish for sale to shoreside processors. If the Area 1 TACs were attained, harvesting vessels that sell their catch to shoreside processors would have to fish further offshore, increasing their operating costs and potentially reducing their profitability. The economic impact on USAP vessels from prohibition on receiving fish harvested in Areas 1A and 1B cannot be directly measured since there is no history of over-the-side purchases upon which to base economic impacts.

The Council considered a Committee recommendation to reduce USAP by 5,000 mt, but rejected it based on comments that a vessel may operate under this specification in 2003 and be able to utilize 20,000 mt. The specification of 15,000 mt would reduce potential profits of USAP operations when compared to the status quo specification of 20,000 mt, although as yet, no part of USAP has been utilized. The Council did not consider a recommendation to increase USAP by 5,000 mt, because no vessel has fished under the USAP category since the FMP was implemented.

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

Dated: November 12, 2002.

**Rebecca Lent,**

*Deputy Assistant Administrator for  
Regulatory Programs, National Marine  
Fisheries Service.*

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