

We urge interested parties to review the NPRM and the regulatory evaluation prepared in support of the NPRM and make oral presentations regarding the issues we discuss in the documents. A summary of the NPRM follows:

- We propose to require rail carriers transporting certain types of hazardous materials to compile information and data on the commodities transported, including the transportation routes over which these commodities are transported.

- We propose to require rail carriers transporting certain types of hazardous materials to use the data they compile on commodities they transport to analyze the safety and security risks for the transportation routes used and one possible alternative route to the one used. Rail carriers would be required to utilize these analyses to transport these materials over the safest and most secure commercially practicable routes.

- We propose to require rail carriers to specifically address the security risks associated with shipments delayed in transit or temporarily stored in transit as part of their security plans.

- We propose to require rail carriers transporting certain types of hazardous materials to notify consignees if there is a significant unplanned delay affecting the delivery of the hazardous material.

- We propose to require rail carriers to work with shippers and consignees to minimize the time a rail car containing certain types of hazardous materials is placed on track awaiting pick-up or delivery or transfer from one carrier to another.

- We propose to require rail carriers to notify storage facilities and consignees when rail cars containing certain types of hazardous materials are delivered to a storage or consignee facility.

- We propose to require rail carriers to conduct security visual inspections at ground level of rail cars containing hazardous materials to inspect for signs of tampering or the introduction of an improvised explosive device (IED).

We are particularly interested in comments related to the feasibility and practicability from an operational perspective of the proposals in the NPRM, factors that should be considered by railroads in making routing decisions, and the costs that would be incurred to comply with the requirements proposed in the NPRM.

#### Documents

A copy of the December 21, 2006 NPRM, the regulatory evaluation prepared in support of the NPRM, and any comments addressed to this docket are available through the DOT Docket

Management System Web site: <http://dms.dot.gov> and/or Room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on January 3, 2007, under authority delegated in 49 CFR part 106.

**Robert A. McGuire,**

*Associate Administrator for Hazardous Materials Safety.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 061228342-6342-01; I.D. 122206A]

RIN 0648-AT66

#### Fisheries of the Northeastern United States; Atlantic Herring Fishery; 2007-2009 Specifications

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

**ACTION:** Proposed specifications; request for comments.

**SUMMARY:** NMFS proposes specifications for the 2007-2009 Atlantic herring fishery. 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 February 9, 2007.

**ADDRESSES:** Copies of supporting documents, including the Environmental Assessment, Regulatory Impact Review, Initial Regulatory Flexibility Analysis (EA/RIR/IRFA), and Essential Fish Habitat Assessment 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 also accessible via the Internet at <http://www.nero.gov>.

Written comments on the proposed rule may be sent by any of the following methods:

- Mail to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope "Comments, 2007-2009 Herring Specifications";

- Fax to Patricia A. Kurkul 978-281-9135;

- E-mail to the following address: [Herr2007to2009Specs@noaa.gov](mailto:Herr2007to2009Specs@noaa.gov).

Include in the subject line of the e-mail comment the following document identifier: "Comments, 2007-2009 Herring Specifications;" or

- Electronically through the Federal e-Rulemaking portal: <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Eric Jay Dolin, Fishery Policy Analyst, 978-281-9259, e-mail at [eric.dolin@noaa.gov](mailto:eric.dolin@noaa.gov), fax at 978-281-9135.

#### SUPPLEMENTARY INFORMATION:

##### Background

On September 28, 2006, the New England Fishery Management Council (Council) recommended specifications for the Atlantic herring fishery. At the time, Amendment 1 to the Atlantic Herring Fishery Management Plan (Amendment 1) was under development. The notice of availability for Amendment 1 was published in the **Federal Register** on September 6, 2006 (71 FR 52521), with the comment period ending on November 6, 2006. One of the measures recommended in Amendment 1 was the establishment of a 3-year specifications setting process. Because Amendment 1 was still under review when the Council submitted its proposed specifications, the specifications package included a contingency provision. If the measure proposed in Amendment 1 to establish 3-year specifications was approved by NMFS, then the specifications described in the Council's package would be set for 3 years; but if the measure was not approved, the specifications proposed by the Council would be implemented for the 2007 fishing year only. On December 6, 2006, NMFS partially approved Amendment 1, including the 3-year specifications setting process. As a result, the specifications proposed in this action would be set for 3 years. While Amendment 1 has been partially approved, the final rule implementing the Amendment is still under development. The proposed rule for Amendment 1 was published in the **Federal Register** on September 27, 2006 (71 FR 56446), and the comment period ended on November 13, 2006. NMFS expects to publish the final rule implementing the approved measures in Amendment 1 in the near future.

As modified by Amendment 1, the regulations implementing the FMP require the Council's Plan Development Team (PDT), which advises the Council on technical matters pertaining to

herring management, to meet with the Atlantic States Marine Fisheries Commissions' (Commission) Technical Committee (TC) to review the status of the stock and the fishery and prepare a Stock Assessment and Fishery Evaluation (SAFE) report every 3 years. While a SAFE report will only be prepared every 3 years, the Herring PDT will be required to meet at least once during interim years to review the status of the stock relative to the overfishing definition, if information is available to do so. When conducting a 3-year review and preparing a triennial SAFE Report, the PDT/TC will report to the Council/Commission and recommend any necessary adjustments to the specifications for the upcoming 3 years. Specifications and TACs are conveyed to NMFS once approved by the Council, and published for public comment. If determined to be consistent with the FMP, final specifications are implemented.

The Council may adjust the fishery specifications in the interim years. If the Council determines that the specifications should be adjusted during the 3-year time period, it can do so during one or both of the interim years. No action is required by the Council to maintain the same specifications for all 3 fishing years; Council action is required only if the Council decides to recommend adjustments to the specifications during the interim years.

The Council is authorized, in consultation with the Commission, to set aside 0–3 percent of the TAC from any management area(s) to support herring-related research. This research set aside (RSA) would be administered through a process similar to that specified by the Mid-Atlantic Fishery Management Council in several of its fishery management plans. That mechanism would include the following elements: Individual research projects may apply for the use of more than one herring RSA allocation; researchers may request that the set-aside be collected separately from the research trip or as part of the research trip; and research compensation trips would not all necessarily have to be conducted by the same vessel, but would have to be conducted in the management area from which the set-aside was derived.

Specification of RSA amounts (percentages) for the upcoming fishing years is incorporated into the Council's fishery specification package every 3 years, and submitted to NMFS with any additional analysis required, as part of the specification package. For each proposal cycle, NMFS will publish a Request for Proposals (RFP) that specifies research priorities identified

by the Council and application procedures for funding through the RSA. Since specifications are now set for 3 fishing years, the proposal cycle will also cover 3 fishing years, unless the Council identifies new/different research priorities during the interim years and decides to publish a new RFP.

The Council determines the specific percentages for the RSAs and the management area(s) to which they apply during the fishery specification process. Currently, the herring fishery closes in a particular management area when it is projected that 95 percent of the area TAC has been/will be caught. The remaining 5 percent of the TAC is set aside for incidental catch in other fisheries (under a 2,000-lb (907 kg) trip limit) after the directed fishery is closed. The RSA is intended to be in addition to the current 5 percent set-aside for incidental catch once the directed fishery in a management area closes. For example, if the Council sets aside 3 percent of the Area 1A TAC to support research, then the Area 1A TAC would close when 92 percent is projected to be reached.

In the event that the approved proposals do not make use of any or all of the set-asides, NMFS is authorized to release the unutilized portion of the RSA back to its respective management area(s) when the final specifications are published. If there is unutilized RSA available, NMFS, at the request of the Council, may publish another RFP for either the second or third years of the 3-year specifications. In such case, NMFS would release the unutilized portion of the set-aside back to its respective management area(s) for the first year of the specifications and any other year that yields unutilized RSA, after an additional RFP is published. The Council also may decide not to publish another RFP, in which case NMFS is authorized to release the unutilized portion of the RSA back to its respective management area(s) for all 3 fishing years covered by the specifications.

On September 28, 2006, the Council proposed the following specifications (see Table 1) for the herring fishery for the 2007–2009 fishing years, with a requirement that the Council review the specifications during 2007 and determine whether adjustments should be made for the 2008 and 2009 fishing years.

TABLE 1. COUNCIL-PROPOSED SPECIFICATIONS AND AREA TACS FOR THE 2007-2009

Atlantic Herring Fishery

Specification	Proposed Allocation (mt)
ABC	194,000
OY	145,000
DAH	145,000
DAP	141,000
JVPt	0
JVP	0
USAP	20,000 (Areas 2 and 3 only)
BT	4,000
TALFF	0
Reserve	0
TAC - Area 1A	50,000 [48,500 fishery; 1,500 RSA] (January 1 - May 31, landings cannot exceed 5,000)
TAC - Area 1B	10,000 [9,700 fishery; 300 RSA]
TAC - Area 2	30,000 [29,100 fishery; 900 RSA] (No Reserve)
TAC - Area 3	55,000 [53,350 fishery; 1,650 RSA]
Research Set Aside	3 percent from each area TAC (2008 and 2009 FY only)

Proposed 2007–2009 Specifications

For the 2007 Atlantic herring fishing year, NMFS proposes to implement the specifications recommended by the Council, which are detailed in Table 1. For the fishing years 2008–2009, however, NMFS proposes a further reduction in the Area 1A TAC from 50,000 mt to 45,000 mt, with a corresponding increase in the Area 3 TAC from 55,000 mt to 60,000 mt. The revisions for 2008–2009 are discussed in detail below and are set out in Table 2.

TABLE 2. PROPOSED SPECIFICATIONS AND AREA TACS FOR THE 2008-2009 ATLANTIC HERRING FISHERY

Specification	Proposed Allocation (mt)
ABC	194,000
OY	145,000

TABLE 2. PROPOSED SPECIFICATIONS AND AREA TACS FOR THE 2008-2009 ATLANTIC HERRING FISHERY—Continued

Specification	Proposed Allocation (mt)
DAH	145,000
DAP	141,000
JVPt	0
JVP	0
IWP	0
USAP	20,000 (Areas 2 and 3 only)
BT	4,000
TALFF	0
Reserve	0
TAC - Area 1A	45,000 [43,650 fishery; 1,350 RSA] (January 1 - May 31, landings cannot exceed 5,000)
TAC - Area 1B	10,000 [9,700 fishery; 300 RSA]
TAC - Area 2	30,000 [29,100 fishery; 900 RSA] (No Reserve)
TAC - Area 3	60,000 [58,200 fishery; 1,800 RSA]
Research Set Aside	3 % from each area TAC (2008 and 2009 FY only)

For all 3 years, the Council recommended the TAC in Area 1A at 50,000 mt, which is less than what has been landed from the area each year since the implementation of the FMP in 2000. In most of those years, the Area 1A TAC, which has been 60,000 mt, has been fully utilized. The Council's recommendation to reduce the Area 1A TAC to 50,000 mt was based on a number of factors, among them, concern that the inshore component of the Atlantic herring stock is the most vulnerable component of the stock complex. Although Area 1A is not synonymous with the "inshore stock component," there is a considerable amount of overlap. A risk assessment requested by the Council and performed by the PDT found that the Council's proposed action appears to be marginally successful in producing an exploitation rate that is consistent with  $F_{MSY}$  for the stock component, based on a reasonable range of estimated stock mixing ratios for summer and winter. The PDT stated that it would be

advisable to establish an Area 1A TAC that keeps exploitation of this component at or below  $F_{MSY}$ .

The rationale the Council used to recommend a reduction in the Area 1A TAC by 10,000 mt is sound; however, NMFS believes that the PDT risk assessment demonstrates that an even deeper cut in the Area 1A TAC is warranted. NMFS is especially concerned about the strong retrospective pattern identified in the stock assessment that was conducted in May 2006 by the Transboundary Resource Assessment Committee (TRAC) for biomass and fishing mortality estimates. The retrospective pattern overestimates SSB (averaging + 14.5 percent/year, and ranging between 1–24 percent) and underestimates fishing mortality. While the herring stock as a whole is currently in good shape, given the retrospective pattern identified, it is likely that, as more data are collected and analyzed, the health of the stock today will be found to be not as robust as the current data imply. Therefore, NMFS proposes to be more precautionary in setting the TAC for Area 1A in 2008 and 2009, to protect the inshore stock component. Reducing the Area 1A TAC an additional 5,000 mt in 2008 and 2009 is more risk averse than the measures recommended by the Council, and would help ensure that exploitation rates are more consistent with  $F_{MSY}$  over the next 3 years. NMFS believes that the extra amount of caution that a 45,000–mt Area 1A TAC affords is warranted, given the strong retrospective pattern in this stock assessment, and the output of the risk assessment.

The setting of ABC is tied to the availability of new scientific data. The May 2006 herring assessment completed by the TRAC recommended a new  $MSY$  of 194,000 mt. In response to the 2006 TRAC Assessment, the PDT recommended that ABC for the Atlantic herring fishery be set at 194,000 mt for the 2007–2009 fishing years. The Herring Committee and Council supported this recommendation, and NMFS concurs with the recommendation.

The FMP specifies that OY will be less than or equal to ABC minus the expected Canadian catch (C) from the stock complex. The estimate of the Canadian catch that is deducted from ABC will be no more than 20,000 mt for the New Brunswick weir fishery and no more than 10,000 mt for the Georges Bank fishery. The PDT, the Herring Committee, and the Council recommended that the assumed Canadian herring catch for 2007–2009 should remain at 20,000 mt. NMFS

concurr, and proposes that the maximum value of OY be 174,000 mt.

The FMP also states that the establishment of OY will include consideration of relevant economic, social, and ecological factors and that OY may be less than ABC C. The Council recommended, and NMFS is proposing a 29,000–mt buffer between the maximum OY and the recommended OY of 145,000 mt. This level of OY would allow the herring fishery to expand significantly above current levels without allowing landings to increase all the way to ABC, which could be detrimental to the stock complex over the long term, given the retrospective pattern in the stock assessment. A buffer between ABC and OY is intended to help ensure that adequate SSB is available to produce strong and healthy recruitment in fluctuating and unpredictable environmental conditions. The importance of herring as a forage species for other Northeast region fish, mammals, and seabirds is another reason that a buffer between ABC and OY is appropriate.

The OY of 145,000 mt is a level that can be fully harvested by the domestic fleet, resulting in a specification of DAH of 145,000 mt, precluding an allocation of TALFF. Setting DAH at 145,000 mt is reasonable, given the capacity of the herring fleet and the likelihood that landings will increase. The average herring landings from the most recent 5–year period (2001–2005) is 100,370 mt. The highest level of Atlantic herring landings in recent years was in 2001, when 120,025 mt were landed. The proposed DAH of 145,000 mt would allow a 45–percent increase in landings as compared to the 2001–2005 average, and a 20–percent increase in overall landings as compared to 2001, and is realistic, given fishery performance in recent years, and the information about industry operations in the specifications.

Since DAH is proposed to be set at 145,000 mt (of which 4,000 mt would be allocated for BT), DAP is proposed to be specified at 141,000 mt. It is possible, given the capacity of the current harvesting fleet, the potential for market expansion to occur, and the expressed intent (made clear through public testimony) of the U.S. industry to expand the Atlantic herring fishery, that processors will utilize the recommended DAP. Because the recommended DAP is sufficient to process the entire DAH (minus the BT), JVP is set at zero. JVP operations would likely compete with U.S. processors for product, which could have a substantial negative impact on domestic facilities in

a market-driven fishery. This is consistent with the following relationship, which is specified in the FMP:  $DAH = DAP + JVpt + BT$ .

The proposed USAP allocation of 20,000 mt could provide an additional outlet for harvesters and, therefore, increase the benefits to the U.S. industry. As in previous years, USAP activity would be restricted to TAC Areas 2 and 3.

The proposed TAC in Area 1B would be set at 10,000 mt, which is the same level it has been set at since 2001. The Area 1B TAC was exceeded in 2001, when 16,704 mt was landed; in 2004, when 13,282 mt was landed; and in 2006, for which the final landings tally is not yet available. In other years since 2001, the landings from Area 1B have been considerably lower (25 percent or more) than 10,000 mt.

The proposed TACs for Areas 2 and 3 are intended to permit the fishery to increase landings in those areas above the highest levels achieved in recent years. The highest recent landings in Area 2 were 27,198 mt in 2000; thus, the proposed allocation would allow the fishery to slightly exceed that level. The highest recent landings in Area 3 were 35,079 mt in 2001; thus, the allocation would allow the fishery to exceed that level by a considerable amount, because this is the area most likely to see expanded harvests.

#### Classification

This action is authorized by 50 CFR part 648 and has been determined to be not significant for purposes of Executive Order 12866.

The Council prepared an IRFA, as required by section 603 of the Regulatory Flexibility Act (RFA), which describes the economic impacts this proposed rule, if adopted, would have on small entities. A copy of the IRFA can be obtained from the Council or NMFS (see **ADDRESSES**) or via the Internet at <http://www.nero.noaa.gov>. A summary of the analysis follows:

#### Statement of Objective and Need

A description of the reasons why this action is being considered, and the objectives of and legal basis for this action, is contained in the preamble to this proposed rule and is not repeated here.

#### Description and Estimate of Number of Small Entities to Which the Rule Will Apply

During the 2005 fishing year, 143 vessels landed herring, 33 of which averaged more than 2,000 lb (907 kg) of herring per trip. The Small Business Administration's size standard for small

commercial fishing entities is \$4 million in gross sales. Thus, there are no large entities, as defined in section 601 of the RFA, participating in this fishery. Therefore, there are no disproportionate economic impacts between large and small entities.

#### Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

This action does not contain any new collection-of-information, reporting, recordkeeping, or other compliance requirements. It does not duplicate, overlap, or conflict with any other Federal rules.

#### Minimizing Significant Economic Impacts on Small Entities

Impacts were assessed by the Council and NMFS by comparing the proposed measures to the Atlantic herring landings made in 2005, the last complete year for which data is available. From a fishery-wide perspective, the proposed specifications are not expected to produce a negative economic impact to vessels prosecuting the fishery because it allows for landings levels that are significantly higher than the average landings in recent years. The proposed 2007–2009 specifications should allow for incremental growth in the industry, while taking into consideration biological information. However, because of the distribution of the Area TACs, and the reduction in the Area 1A TAC in particular, the proposed specifications could have a negative impact on various parts of the industry, despite the fact that overall landings levels could be higher than in recent years.

The specification of OY and DAH is proposed to be 145,000 mt for 2007–2009. At this level, there could be an annual increase of up to 51,610 mt in herring landings (relative to the 93,390 mt landed in 2005), or \$10.4 million in revenues, based on an average price (in 2005) of \$202/mt. This could allow individual vessels to increase their profitability under the proposed 2007–2009 specifications, depending on how many vessels ultimately end up qualifying for and participating in the fishery once it becomes a limited access fishery with the implementation of Amendment 1 in 2007. The magnitude of economic impacts related to the 141,000–mt specification of DAP will depend on the processing sector's ability to expand markets and increase capacity to handle larger amounts of herring during 2007–2009.

JVpt was zero in 2005, therefore there are no potential economic losses

associated with maintaining this specification in 2007–2009. Potential economic gains could be associated with the utilization of the 20,000 mt USAP, which has not been utilized in recent years. These gains could approximate \$4 million annually (based on an average price of \$202/mt) if all of the 20,000–mt allocation were utilized in 2007–2009.

The Area 1B TAC of 10,000 mt has been unchanged since the 2000 fishery. Since only 6,108 mt of herring were harvested in Area 1B in 2005, the proposed 2007–2009 specification of 10,000 mt could allow for an increased catch of 3,892 mt, which would equal \$786,000 (based on an average price of \$202/mt). This could allow individual vessels to increase their profitability under the proposed 2007–2009 specifications, depending on how many vessels ultimately end up qualifying for and participating in the fishery once it becomes a limited access fishery with the implementation of Amendment 1 in 2007.

The Council analyzed six alternatives for OY (the OY for the proposed action was already discussed above). Two alternatives would have retained the specifications implemented during the 2005–2006 fishing years, which would have maintained the OY at 150,000 mt. This OY would be roughly 40 percent greater than the average historical landings for this fishery (2001–2005), and would not pose a constraint on the fishery. Two alternatives would set OY at 145,000 mt, the potential impacts of which are discussed above. Two alternatives would have set OY at 170,000 mt. This OY would be roughly 60 percent greater than the average historical landings for this fishery (2001–2005), and therefore would not pose a constraint on the fishery.

The proposed action would establish the following TACs: Area 1A, 50,000 mt in 2007, and 45,000 mt in 2008 and 2009; Area 1B, 10,000 mt in 2007–2009; Area 2, 30,000 mt in 2007–2009; and Area 3, 55,000 mt in 2007, and 60,000 mt in 2008 and 2009. Only the Area 1A TAC would be constraining, given recent landings history. The impacts of such a reduction are considered, in turn, for the purse seine fleet, the single midwater trawl fleet, and the paired midwater trawl fleet.

In 2005, the currently active purse seine fleet caught 27 percent of the Area 1A TAC. With a 10,000–15,000–mt reduction in the Area 1A TAC, it the proportion of the herring catch by the purse seine fleet remains the same and the decrease in the Area 1A TAC cannot be made up from fishing in other areas, there would be a 2,700–mt loss in catch

under the proposed action during 2007, and a 4,050 mt loss in catch in 2008 and 2009. Using the 2005 average price of herring of \$202 per metric ton, this loss in catch would be worth \$545,400 and \$818,000, respectively, across the sector (there are four vessels in the currently active purse seine fleet). To make up for such a loss, these vessels would have to either increase their proportion of the herring catch in Area 1A relative to midwater trawlers, or move to other areas. Moving to offshore areas may be problematic due to the size of the vessels. There were no landings from Area 3 by the purse seine fleet in 2005. Moving offshore would also entail additional operating costs.

With a 10,000–15,000–mt decrease in the Area 1A TAC, the impact of the proposed action on the single midwater trawl fleet is difficult to predict, because the PS/FG only area eliminates single midwater trawl vessels from Area 1A during the most productive part of the Area 1A fishery (June through September). The establishment of a PS/FG only area might intensify the race to fish in Area 1A, as all midwater trawl vessels (single and paired) try to catch fish from the area prior to the closure to trawling on June 1.

If herring are plentiful in Area 1A during the spring (Area 1A catches increase in May, historically), the single midwater trawlers may be able to maintain their historical proportion of the Area 1A TAC. However, it is likely that purse seine vessels and midwater pair trawl vessels would also participate in the pre-June race in order to keep their landings on par with previous years. In addition, single midwater trawl vessels might convert to purse seine gear in order to fish in Area 1A in the summer.

In 2005, the currently active single midwater trawl fleet caught 18 percent of the Area 1A TAC. If the proportion of the herring catch by the single midwater trawl fleet remains the same, and the decrease in the Area 1A TAC cannot be made up from fishing in other areas, there would be a 1,800–mt loss in catch under the proposed action during 2007, and a 2,700–mt loss in catch in 2008 and 2009. Using the 2005 average price of herring of \$202 per metric ton, this loss in catch would be worth \$363,600 and \$545,400, respectively, across the sector (there are four vessels that were active in Area 1A from 2003–2005 in the single midwater trawl fleet). To make up for such a loss, the single midwater trawl vessels would have to either increase their proportion of the herring catch in Area 1A relative to purse seine vessels, or move to other areas. Moving to offshore areas may be

problematic for two of the four single midwater trawl vessels since these two are relatively smaller vessels and have only landed herring from Area 1A during 2003 through 2005, indicating an inability to fish offshore. The other two vessels are somewhat larger and have Area 3 catch history so their loss of Area 1A catch may be mitigated by their ability to fish in Area 3. If the single midwater trawl vessels make up their catch in Areas 2 and 3, the cost to harvest the fish will increase (depending on their home port with respect to Area 2) due to increased steaming costs.

Since the 10,000–mt to 15,000–mt reduction in TAC is proposed in Area 1A, the single midwater trawl fleet may have to rely more on Area 1B. The Area 1B TAC has historically not been reached every year (60 percent was utilized in 2005). Since Area 1B is farther from shore than Area 1A, the cost of harvesting herring will increase. Area 1B will only be able to provide limited relief for vessels impacted by the reduction in the Area 1A TAC since it is limited to 10,000 mt. Since a shortfall of 10,000 mt to 15,000 mt in Area 1A could not be made up entirely in Area 1B, the Area 1B season may be shortened.

With decreases in the Area 1A TAC of 10,000 mt to 15,000 mt under the proposed action, the impact on the midwater pair trawl fleet could also be large. It is difficult to predict what the impact will be on the midwater pair trawl fleet, because at the time the new Area 1A TAC would be implemented, the PS/FG only area will be in effect. Without knowing what portion of an Area 1A TAC of 60,000 mt the pair trawl fleet might land with the implementation of a PS/FG only area, it is difficult to know what a reduction of 10,000 mt to 15,000 mt might mean to the fleet.

In 2005, the currently active pair trawl fleet caught 55 percent of the Area 1A TAC. If the proportion of the herring catch by the pair trawl fleet remains the same and the decrease in the Area 1A TAC cannot be made up from fishing in other areas, there would be a 5,500–mt loss in catch under the proposed action in 2007, and a 8,250–mt loss in 2008 and 2009. Using the 2005 average price of herring of \$202 per metric ton, this catch is worth \$1,111,000 and \$1,666,500 respectively, across the sector (there are 12 vessels in the pair trawl fleet that were active from 2003–2005). To make up for such a loss, pair trawl vessels would have to either increase their proportion of the herring catch in Area 1A relative to purse seine vessels, or move to other areas. All pair

trawl vessels have Area 3 catch history, so their loss of Area 1A catch may be mitigated by their ability to fish in Area 3. If the pair trawl vessels make up their catch in Areas 2 and 3, the cost to harvest the fish will increase (depending on their home port with respect to Area 2) due to increased steaming costs.

Since the 10,000–mt to 15,000–mt reduction in TAC is proposed in Area 1A, the pair trawl fleet may also have to rely more on Area 1B. Since Area 1B is farther from shore than Area 1A, the cost of harvesting herring may increase. Area 1B will only be able to provide limited relief for vessels impacted by the reduction in the Area 1A TAC since it is limited to 10,000 mt. Since a shortfall of 10,000 mt to 15,000 mt in Area 1A could not be made up in Area 1B, the Area 1B season could be shortened.

Two alternatives considered by the Council would have established the same TACs as were established in 2005–2006: Area 1A, 60,000 mt; Area 1B, 10,000 mt; Area 2, 30,000 mt; and Area 3, 50,000 mt. Only the Area 1A TAC might be constraining, given recent landings history. The fourth alternative would have been similar to the last two alternatives, except the Area 3 TAC would be 70,000 mt for all 3 years. The increase in the Area 3 TAC of 20,000 mt could result in a potential economic gain of \$4 million, using the 2005 average price of herring of \$202 per metric ton, which would most likely accrue to trawlers since purse seiners usually are not able to fish in Area 3.

The fifth alternative (the Council-recommended) would have been similar to the proposed action, except the Area 1A TAC would be 50,000 mt for all 3 years, and the Area 3 TAC would be 55,000 mt. The potential impacts of a 10,000–mt reduction in Area 1A have already been discussed above. The increase in the Area 3 TAC of 5,000 mt could result in a potential economic gain of \$1 million, using the 2005 average price of herring of \$202 per metric ton, which would most likely accrue to trawlers, since purse seiners usually are not able to fish in Area 3.

The sixth alternative would have been similar to the proposed action, except the Area 1A TAC would be 45,000 mt for all 3 years, with an Area 3 TAC of 60,000 mt. The potential impacts of a 15,000–mt reduction in Area 1A have already been discussed above. The increase in the Area 3 TAC of 10,000 mt could result in a potential economic gain of \$2 million, using the 2005 average price of herring of \$202 per metric ton, which would most likely accrue to trawlers, since purse seiners

usually are not able to fish in Area 3. The seventh alternative analyzed by the Council is similar to the sixth alternative, except the Area 2 TAC would be 45,000 mt for all 3 years, and the Area 3 TAC would be 70,000 mt. The increase in the Area 2 TAC of 15,000 mt could result in a potential economic gain of \$3 million, using the 2005 average price of herring of \$202

per metric ton, which would most likely accrue to trawlers, since purse seiners usually are not able to fish in Area 3. The increase in the Area 3 TAC of 20,000 mt could result in a potential economic gain of \$4 million, using the 2005 average price of herring of \$202 per metric ton, which would most likely accrue to trawlers, since purse seiners usually are not able to fish in Area 3.

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

Dated: January 4, 2007.

**Samuel D. Rauch III,**

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

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