

- (2) Size, timing, or location of new or existing spawning area closures;
- (3) Closed areas other than spawning closures;
- (4) Restrictions in the amount of fishing time;
- (5) A days-at-sea system;
- (6) Adjustments to specifications;
- (7) Adjustments to the Canadian catch deducted when determining specifications;
- (8) Distribution of the TAC;
- (9) Gear restrictions (such as mesh size, etc.) or requirements (such as bycatch-reduction devices, etc.);
- (10) Vessel size or horsepower restrictions;
- (11) Closed seasons;
- (12) Minimum fish size;
- (13) Trip limits;
- (14) Seasonal, area, or industry sector quotas;
- (15) Measures to describe and identify essential fish habitat (EFH), fishing gear management measures to protect EFH, and designation of habitat areas of particular concern within EFH;
- (16) Measures to facilitate aquaculture, such as minimum fish sizes, gear restrictions, minimum mesh sizes, possession limits, tagging requirements, monitoring requirements, reporting requirements, permit restrictions, area closures, establishment of special management areas or zones, and any other measures included in the FMP;
- (17) Changes to the overfishing definition;
- (18) Vessel monitoring system requirements;
- (19) Limits or restrictions on the harvest of herring for specific uses;
- (20) Quota monitoring tools, such as vessel, operator, or dealer reporting requirements;
- (21) Permit and vessel upgrading restrictions;
- (22) Implementation of measures to reduce gear conflicts, such as mandatory monitoring of a radio channel by fishing vessels, gear location reporting by fixed gear fishermen, mandatory plotting of gear by mobile fishermen, standards of operation when conflict occurs, fixed gear marking or setting practices; gear restrictions for certain areas, vessel monitoring systems, restrictions on the maximum number of fishing vessels, and special permitting conditions;
- (23) Limited entry or controlled access system;
- (24) Specification of the amount of herring to be used for roe; and
- (5) Any other measure currently included in the FMP.

(e) *Emergency action.* Nothing in this section is meant to derogate from the authority of the Secretary to take emergency action under section 305(e) of the Magnuson-Stevens Act.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 000105004-0260-02 ;I.D. 120400A]

RIN 0648-A178

Fisheries of the Northeastern United States; Atlantic Herring Fisheries; 2000 Specifications; Adjustment; Closure

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

ACTION: Inseason adjustment of the 2000 Atlantic herring specifications; closure of Area 1A.

SUMMARY: NMFS adjusts the 2000 annual specifications for the Atlantic herring fishery including total joint venture processing (JVpt), joint venture processing (JVP), internal waters processing (IWP), U.S. at-sea processing (USAP), and total allowable catch (TAC) for Areas 1A and 1B. The intent is to reapportion allowable catches of herring within the fishery sectors and areas to allow for the achievement of the objectives of the Fishery Management Plan for Atlantic Herring (FMP). NMFS also announces that the directed fishery for Atlantic herring in Area 1A in the exclusive economic zone (EEZ) will be closed.

DATES: The closure of Area 1A is effective December 14, 2000 through 0001 hours, January 1, 2001. After 0001 hours, December 14, 2000, vessels may not fish for, possess, catch, transfer, or land more than 2,000 lb (907.2 kg) of Atlantic herring per trip and per calendar day. Comments on the inseason adjustment must be received by January 10, 2001.

ADDRESSES: Comments on the inseason adjustment should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. Mark on the outside of the envelope "Comments

on Inseason Adjustment of 2000 Atlantic 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: Myles Raizin, Fishery Policy Analyst, 978-281-9288, fax at (978) 281-9135.

SUPPLEMENTARY INFORMATION:

Inseason Adjustment

The inseason adjustment adjusts the 2000 specifications for the Atlantic herring fishery by transferring 5,000 mt specified for JVP and 15,000 mt specified for IWP to USAP, and transferring 15,000 mt of Atlantic herring from the Area 1B TAC to the Area 1A TAC. This action is consistent with the FMP.

JVP is the amount of herring purchased over the side from U.S. vessels and processed by foreign vessels in the EEZ; IWP is the amount of herring purchased over the side from U.S. vessels and processed by foreign vessels at anchor in state waters; JVPT is the sum of JVP and IWP; and USAP is the amount of herring purchased over the side from U.S. vessels and processed in the EEZ by U.S. vessels of the United States that are larger than 165 ft (50.3 m) in length overall or greater than 750 gross registered tons (680.4 mt). For fishing year 2000, JVP allocations were specified for Areas 2 and 3.

Regulations at § 648.200(e) allow NMFS, after consulting with the New England Fishery Management Council (Council), to adjust annual specifications for the Atlantic herring fishery during the fishing year by publishing notification in the **Federal Register** stating the reasons for such action and providing an opportunity for public comment. Any adjustments must be consistent with the FMP objectives and other FMP provisions.

2000 Herring Specifications

The FMP, which was submitted for Secretarial review by the Council on March 8, 1999, and partially approved on October 27, 1999, contains specifications for the 1999 fishery. The 2000 specifications are unchanged from those designated as 1999 specifications in the FMP (see Table 1). The FMP and the 2000 fishery specifications were implemented through a final rule published in the final rule section of this edition of the **Federal Register**.

TABLE 1. 2000 ATLANTIC HERRING SPECIFICATIONS (UNADJUSTED)

Specification	Recommended Amount (mt)
ABC	300,000
OY	224,000
DAH	224,000
DAP	180,000
USAP	0
BT	4,000
JVPt	40,000
JVP—Area 2	10,000
JVP—Area 3	5,000
IWP	25,000
Reserve	0
TAC—Area 1A	45,000
TAC—Area 1B	25,000
TAC—Area 2	50,000 (54,000 TAC reserve)
TAC—Area 3	50,000

Since submission of the FMP, the Council has received new information that has prompted the Council to reconsider the 2000 specifications and request NMFS to adjust those specifications for the remainder of the 2000 fishery. The adjusted specifications are presented in Table 2 and discussed here.

TABLE 2. 2000 ATLANTIC HERRING SPECIFICATIONS (ADJUSTED)

Specification	Recommended Amount (mt)
ABC	300,000
OY	224,000
DAH	224,000
DAP	180,000
USAP	20,000
BT	4,000
JVPt	20,000
JVP—Area 2 and Area 3	10,000
IWP	10,000
Reserve	0
TAC—Area 1A	60,000
TAC—Area 1B	10,000
TAC—Area 2	50,000 (54,000 TAC reserve)
TAC—Area 3	50,000

Adjustment to the TAC Specification for Herring in Areas 1A and 1B

Area 1A and 1B together comprise Area 1, also referred to as the Gulf of Maine (GOM) stock component of the herring fishery. In preparing the FMP

and specifications for the 1999 fishery, the Council received management advice from Stock Assessment Workshop 27 that cautioned that any increase in catch in the herring fishery should not come from Area 1. Information available at that time indicated that the historic fishery harvested, on average, approximately 70,000 mt per year from Area 1. Therefore, the Council established a TAC of 70,000 mt for Area 1, consistent with the scientific advice.

The 2000 specifications for herring contained in the FMP divided the 70,000 mt Area 1 TAC into a TAC of 45,000 mt in Area 1A and 25,000 mt in Area 1B. In setting the Area 1 TAC in the FMP, the Council noted that estimated landings from the area were relatively low in 1998 and early 1999. Area 1A landings for 1998 totaled only 43,586 mt, down from 67,608 mt in 1997. Since the majority of herring spawning occurs in Area 1A, the Council reacted to the reduction in landings in that area by specifying a TAC of only 45,000 mt TAC, to afford more protection for the spawning stock, noting that there was uncertainty as to whether the decline in 1998 was due to a drastic change in stock size or simply due to a change in availability. However, landings from Area 1A rebounded to an estimated 63,195 mt in 1999, causing the Council to reconsider the appropriate TAC for Area 1A. The Council concluded that the reduction in landings in 1998 was not a result of low herring abundance, but only in availability of fish in Area 1A in 1998. Therefore, the Council determined that there was no biological risk in increasing the TAC in Area 1A to 60,000 mt, while reducing the TAC in Area 1B to 10,000 mt. In addition, the Council noted in its request that any conservation concerns regarding spawning potential for Area 1A herring are further alleviated by the Atlantic States Marine Fisheries Commission's decision to close sub-areas in Area 1A to directed fishing during peak spawning periods.

The Council determined that the maintenance of a 45,000-mt TAC in Area 1A for the 2000 fishery could result in an unnecessary and unintended adverse economic impact, since TAC in Area 1A in 2000 would be approximately 23,000 mt less than estimated 1999 landings. In Table E.58 of the Regulatory Impact Review (RIR) accompanying the FMP, the Council estimated that a 60,000-mt TAC in Area 1A, relative to 1997 landings, would yield a gain in total revenues of \$121,275, while a TAC of 45,000 mt

would yield a loss in total revenue of \$1,863,225, relative to 1997.

Adjustment to JVP and USAP

In July 1999, the Council approved recommendations for herring specifications for the 2000 fishery and subsequently submitted those recommendations to NMFS with an accompanying environmental analysis and RIR. The public was invited to comment on those recommendations at meetings of the Herring Committee and Council. At that time, the Council assumed that final regulations implementing the FMP would be effective prior to the beginning of the 2000 fishing year. However, in the final rule implementing the FMP, NMFS extended the 1999 specifications approved in the FMP to the 2000 fishery. NMFS informed the Council that its submission would be considered as an adjustment to the 2000 specifications, once the final rule implementing the FMP was published.

The 2000 specifications implemented by the FMP set USAP at 0 mt, JVPt at 40,000 mt, JVP at 15,000 mt, and IWP at 25,000 mt. In its submission, the Council recommended an adjustment that transfers 20,000 mt from JVPt, including 5,000 mt from JVP and 15,000 mt from IWP, to USAP, resulting in a USAP of 20,000 mt, a JVPt of 20,000 mt, and JVP and IWP of 10,000 mt each. In addition, the 10,000 mt specification of JVP now reflects the combined allocation in Areas 2 and 3, whereas, the 2000 specifications allocated 5,000 mt to Area 2 and 10,000 mt to Area 3.

There are currently no large U.S. vessels processing herring at sea in Areas 1, 2, or 3. However, the Council determined that capacity exists to process 20,000 mt. The Council does not want to deprive large U.S. vessels of the opportunity to accept herring over the side and process it at sea; large foreign boats have the potential to do this under joint venture arrangements. Specification of USAP is consistent with an objective of the FMP that directs the Council to adopt measures that would maximize domestic use and encourage value-added product utilization.

Closure of Area 1A

The regulations at 50 CFR 648.202 require NMFS to close, by notification action, the directed Atlantic herring fishery in any of the four management areas designated in the FMP, if the harvest of Atlantic herring is projected to reach 95 percent of the TAC allocated to that area. NMFS determined, based on available data, that 95 percent of the adjusted Area 1A TAC of 60,000 mt has been harvested. Therefore, NMFS

announces that the directed fishery for Atlantic herring in Area 1A in the EEZ will be closed. The closure of Area 1A is effective December 14, 2000 through 0001 hours, January 1, 2001. After 0001 hours, December 14, 2000, vessels may not fish for, possess, catch, transfer, or land more than 2,000 lb (907.2 kg) of Atlantic herring per trip. In addition, vessels may not land more than one trip or 2,000 lb (907.2 kg) of Atlantic herring

per calendar day. Vessels may transit Area 1A with more than 2,000 lb (907.2 kg) of herring on board providing all fishing gear is stowed and not available for immediate use as required by § 648.23(b).

Classification

This action is authorized by 50 CFR part 648 and is exempt from review under Executive Order 12866.

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

Dated: December 4, 2000.

Richard W. Surdi,

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

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