

A summary of the FRFA, which includes the IRFA and applicable sections of the 2003 specifications package, follows:

The reasons why this action is being taken by the agency, and the objectives of this final rule are explained in the preamble to the proposed rule and are not repeated here. This action does not contain any collection-of-information, reporting, recordkeeping, or other compliance requirements. This action is taken under authority of the Magnuson-Stevens Act and regulations at 50 CFR part 648.

Three comments were submitted on the proposed rule, but none of them were specific to the initial regulatory flexibility analysis. However, one individual commented on the economic impacts of the measures on the fishing industry; NMFS has responded to the comment (Comment 2) in the Comments and Responses section of the preamble to this final rule. No changes were made to the final rule as a result of the comments received.

All of the affected businesses (fishing vessels and dealers) are considered small entities under the standards described in NMFS guidelines because they have profits that do not exceed \$3 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 status quo OY should not result in a negative economic impact on the revenues of vessels, producer surplus, or consumer surplus.

The 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, should have a positive impact on vessels and processors. Landings from Area 3 increased from 12,884 mt in 2000 to 34,510 mt in 2001. The Council thus 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 only 15,388 mt out of a combined Area 2 TAC and Area 2 TAC Reserve of 120,000 mt. Thus, the transfer of 10,000 mt from the Reserve will still leave a substantial amount of TAC for the fishery to expand its activity in Area 2. If the TAC 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 a 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 farther offshore, increasing their operating costs and potentially reducing their profitability. The economic impact on USAP vessels from the 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 enter the fishery in 2003 that could fully utilize the 20,000 mt specification. The reduction of the specification to 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.

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

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