

The procedures must be in effect one year from the publication date of the Final Rule.

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Issued in Washington, DC, on December 4, 2003.

**Stacey L. Gerard,**

*Associate Administrator for Pipeline Safety.*

[FR Doc. 03-30655 Filed 12-11-03; 8:45 am]

**BILLING CODE 4910-60-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 031126296-3296-01; I.D. 111903B]

**RIN 0648-AQ84**

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

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

**ACTION:** Proposed 2004 specifications for the Atlantic herring fishery; request for comments.

**SUMMARY:** NOAA Fisheries proposes specifications for the 2004 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 January 12, 2004.

**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--2004 Herring

Specifications.” Comments may also be sent via facsimile (fax) to (978) 281-9135. Comments will not be accepted if submitted via e-mail or the Internet.

**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:

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 2004 Specifications

Taking into account existing scientific data and the ongoing activity to develop Amendment 1 to the Atlantic Herring Fishery Management Plan, the Council recommended at its May 2003 meeting that the 2003 specifications should be maintained for 2004, consistent with the PDT's recommendation. Based on the Council's recommendations, NMFS proposes the specifications and Area TACs contained in the following table.

#### SPECIFICATIONS AND AREA TACs FOR THE 2004 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
	(Area 2 and 3 only)
IWP	10,000
USAP	20,000
	(Area 2 and 3 only)
BT	4,000
TALFF	0
Reserve	0
TAC - Area 1A	60,000
	(January 1 May 31, landings cannot exceed 6,000)
TAC - Area 1B	10,000
TAC - Area 2	50,000
	(TAC reserve: 70,000)
TAC - Area 3	60,000

Maintaining the 2003 specifications for the 2004 fishing year is prudent and is unlikely to have significant biological consequences to the herring stock or its subcomponents in the short term. The Transboundary Resource Assessment Committee (TRAC) met in St. Andrew's, New Brunswick, from February 10-14, 2003. Both a U.S. and a Canadian assessment of the herring resource were presented and reviewed at the meeting. The two assessments diverged greatly and no consensus was reached regarding which assessment was more accurate or how the two could be reconciled. Because of this discrepancy, the TRAC information cannot be utilized at this time to support the development of different specifications for the 2004 fishing year. The expectation is that the analysis and evaluation of the TRAC results will continue and that the resulting information will inform the development of Amendment 1.

#### Classification

This proposed rule has been determined to be exempt from review under E.O. 12866.

The Council and NMFS prepared an initial regulatory flexibility analysis (IRFA) as required under 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-