

into account the importance of fishery resources to fishing communities by utilizing economic and social data that are based upon the best scientific information available in order to:

- 4. In § 600.350, paragraph (c) is revised to read as follows:

**§ 600.350 National Standard 9—Bycatch.**

(c) *Definition—Bycatch.* The term “bycatch” means fish that are harvested in a fishery, but that are not sold or kept for personal use.

(1) *Inclusions.* Bycatch includes the discard of whole fish at sea or elsewhere, including economic discards and regulatory discards, and fishing mortality due to an encounter with fishing gear that does not result in capture of fish (i.e., unobserved fishing mortality).

(2) *Exclusions.* Bycatch excludes the following:

(i) Fish that legally are retained in a fishery and kept for personal, tribal, or cultural use, or that enter commerce through sale, barter, or trade.

(ii) Fish released alive under a recreational catch-and-release fishery management program. A catch-and-release fishery management program is one in which the retention of a particular species is prohibited. In such a program, those fish released alive would not be considered bycatch.

(iii) Fish harvested in a commercial fishery managed by the Secretary under Magnuson-Stevens Act sec. 304(g) or the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971d) or highly migratory species harvested in a commercial fishery managed by a Council under the Magnuson-Stevens Act or the Western and Central Pacific Fisheries Convention Implementation Act, that are not regulatory discards and that are tagged and released alive under a scientific tagging and release program established by the Secretary.

- 5. In § 600.516, paragraph (a) is revised to read as follows:

**§ 600.516 Total allowable level of foreign fishing (TALFF).**

(a) The TALFF, if any, with respect to any fishery subject to the exclusive fishery management authority of the United States, is that portion of the OY of such fishery, which cannot or will not be harvested by vessels of the United States. Allocations of TALFF are discretionary, except that the total allowable level shall be zero for fisheries determined by the Secretary to have adequate or excess domestic harvest capacity.

**PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC**

- 6. The authority citation for part 622 continues to read as follows:

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

- 7. In § 622.2, the definition of “Caribbean” is revised to read as follows:

**§ 622.2 Definitions and acronyms.**

*Caribbean* means the Caribbean Sea and Atlantic Ocean seaward of Puerto Rico, the U.S. Virgin Islands, and possessions of the United States in the Caribbean Sea.

**PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA**

- 8. The authority citation for 50 CFR part 679 is revised to read as follows:

**Authority:** 16 U.S.C. 773 *et seq.*; 16 U.S.C. 1540(f); 16 U.S.C. 1801 *et seq.*; 16 U.S.C. 3631 *et seq.*; Pub. L. 105–277; Pub. L. 106–31; Pub. L. 106–554; Pub. L. 108–199; Pub. L. 108–447; Pub. L. 109–241; Pub. L. 109–479.

- 9. In § 679.80, paragraph (a)(2) is revised to read as follows:

**§ 679.80 Initial allocation of rockfish QS.**

(a) \* \* \*

(2) *Duration.* The Rockfish Program authorized under this part expires on December 31, 2011.

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 648**

[Docket No. 061228342–7068–02]

**RIN 0648–XL69**

**Fisheries of the Northeastern United States; Atlantic Herring Fishery; Total Allowable Catch Harvested for Management Area 1A**

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

**ACTION:** Closure of Atlantic herring fishery for Management Area 1A.

**SUMMARY:** NMFS announces that, effective 0001 hours, November 14, 2008, federally permitted vessels may not fish for, catch, possess, transfer, or land more than 2,000 lb (907.2 kg) of Atlantic herring in or from Management

Area 1A (Area 1A) per trip or calendar day until January 1, 2009, when the 2009 TAC becomes available, except for transiting purposes as described in this notice. This action is based on the determination that 95 percent of the Atlantic herring total allowable catch (TAC) allocated to Area 1A for 2008 is projected to be harvested. Regulations governing the Atlantic herring fishery require publication of this notification to advise vessel and dealer permit holders that no TAC is available for the directed fishery for Atlantic herring harvested from Area 1A.

**DATES:** Effective 0001 hrs local time, November 14, 2008, for the remainder of the fishing year.

**FOR FURTHER INFORMATION CONTACT:** Christopher Biegel, Fishery Management Specialist, at (978) 281–9112.

**SUPPLEMENTARY INFORMATION:**

Regulations governing the Atlantic herring fishery are found at 50 CFR part 648. The regulations require annual specification of optimum yield, domestic and foreign fishing, domestic and joint venture processing, and management area TACs. The 2008 TAC allocated to Area 1A (72 FR 17807, April 10, 2007) is 45,000 mt (99,908,017 lb).

The regulations at § 648.202 require the Administrator, Northeast Region, NMFS (Regional Administrator) to monitor the Atlantic herring fishery in each of the four management areas designated in the Fishery Management Plan for the Atlantic Herring Fishery and, based upon dealer reports, state data, and other available information, to determine when the harvest of Atlantic herring is projected to reach 95 percent of the TAC allocated. When such a determination is made, NMFS is required to publish notification in the **Federal Register** of this determination. Effective upon a specific date, NMFS must notify vessel and dealer permit holders that vessels are prohibited from fishing for, catching, possessing, transferring, or landing more than 2,000 lb (907.2 kg) of herring per trip or calendar day in or from the specified management area for the remainder of the closure period. Transiting of Area 1A with more than 2,000 lb of herring on board is allowed under the conditions specified below.

The Regional Administrator has determined, based upon dealer reports and other available information, that 95 percent of the total Atlantic herring TAC allocated to Area 1A for the 2008 fishing year is projected to be harvested. Therefore, effective 0001 hrs local time, November 14, 2008, federally permitted

vessels may not fish for, catch, possess, transfer, or land more than 2,000 lb (907.2 kg) of Atlantic herring in or from Area 1A per trip or calendar day through December 31, 2008; except a vessel may transit Area 1A with more than 2,000 lb (907.2 kg) of herring on board, or land more than 2,000 lb (907.2 kg) provided such herring were not caught in Area 1A, and provided all fishing gear is stowed and not available for immediate use as required by § 648.23(b). Effective November 14, 2008, federally permitted dealers are also advised that they may not purchase Atlantic herring from federally permitted Atlantic herring vessels that harvest more than 2,000 lb (907.2 kg) of Atlantic herring from Area 1A through 2400 hrs local time, December 31, 2008,.

**Classification**

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

This action closes the Atlantic herring fishery for Management Area 1A until January 1, 2009, under current regulations. The regulations at § 648.201(a) require such action to ensure that Atlantic herring vessels do not exceed the 2008 TAC. The Atlantic herring fishery opened for the 2008 fishing year at 0001 hours on January 1, 2008. Data indicating the Atlantic herring fleet will have landed at least 95% of the 2008 TAC have only recently become available. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause pursuant to 5

U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment because it would be contrary to the public interest. If implementation of this closure is delayed to solicit prior public comment, the quota for this fishing year will be exceeded, thereby undermining the conservation objectives of the FMP. The AA further finds, pursuant to 5 U.S.C 553(d)(3), good cause to waive the thirty (30) day delayed effectiveness period for the reasons stated above.

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

Dated: November 12, 2008.

**Emily H. Menashes**

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