

Dated: November 1, 2012.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, performing the functions and duties of the Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is amended as follows:

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

■ 1. The authority citation for part 622 continues to read as follows:

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

■ 2. In § 622.49, paragraph (b)(14)(i) is suspended and paragraph (b)(14)(iii) is added to read as follows:

**§ 622.49 Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs).**

\* \* \* \* \*

(b) \* \* \*  
(14) \* \* \*

(iii) *Commercial sector*—(A) If commercial landings for yellowtail snapper, as estimated by the SRD, reach or are projected to reach the commercial ACL of 1,596,510 lb (724,165 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the commercial sector for the remainder of the fishing year. On and after the effective date of such a notification, all sale or purchase of yellowtail snapper is prohibited and harvest or possession of this species in or from the South Atlantic EEZ is limited to the bag and possession limit. This bag and possession limit applies in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, *i.e.*, in state or Federal waters.

(B) If commercial landings exceed the ACL, and yellowtail snapper is overfished, based on the most recent Status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register, at or near the beginning of the following fishing year to reduce the ACL for that following year by the amount of the overage in the prior fishing year.

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 648**

[Docket No. 0907301205-0289-02]

RIN 0648-XC156

**Fisheries of the Northeastern United States; Atlantic Herring Fishery; Sub-ACL (Annual Catch Limit) Harvested for Management Area 1A**

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

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS is closing the directed herring fishery in Management Area 1A, because 95 percent of the catch limit for that area has been caught. Effective 1200 hr, November 5, 2012, federally permitted vessels may not fish for, catch, possess, transfer, or land more than 2,000 lb (907.2 kg) per calendar day of Atlantic herring in or from Area 1A until January 1, 2013, when the 2013 allocation for Area 1A becomes available.

**DATES:** Effective 1200 hr local time, November 5 2012, through December 31, 2012.

**FOR FURTHER INFORMATION CONTACT:** Lindsey Feldman, Fishery Management Specialist, (978) 675-2079.

**SUPPLEMENTARY INFORMATION:** Regulations governing the Atlantic herring (herring) fishery are found at 50 CFR part 648. The regulations require annual specification of the overfishing limit, acceptable biological catch, annual catch limit (ACL), optimum yield, domestic harvest and processing, U.S. at-sea processing, border transfer, and the sub-ACL for each management area. The 2012 Domestic Annual Harvest was set as 91,200 metric tons (mt); the sub-ACL allocated to Area 1A for the 2012 fishing year (FY) was 26,546 mt and 0 mt of the sub-ACL was set aside for research in the 2010-2012 specifications (75 FR 48874, August 12, 2010). However, due to an over-harvest in Area 1A in 2010, the FY 2012 sub-ACL in Area 1A was revised to 24,668 mt on February 24, 2012 (77 FR 10978, February 24, 2012).

Section 648.201 requires the Administrator, Northeast Region, NMFS (Regional Administrator), to monitor the herring fishery in each of the four management areas designated in the Fishery Management Plan for the herring fishery and, based on dealer

reports, state data, and other available information, to determine when the harvest of herring is projected to reach 95 percent of the management area sub-ACL. When such a determination is made, NMFS must publish notification in the **Federal Register** and prohibit herring vessel permit holders from fishing for, catching, possessing, transferring, or landing more than 2,000 lb (907.2 kg) of herring per trip or landing more than once per calendar day in or from the specified management area for the remainder of the closure period. Transiting Area 1A with more than 2,000 lb (907.2 kg) of herring on board is allowed under the conditions described below.

The Regional Administrator has determined, based on dealer reports and other available information that 95 percent of the total herring sub-ACL allocated to Area 1A for 2012 is projected to be harvested on November 5, 2012. Therefore, effective 1200 hr local time, November 5, 2012, federally permitted vessels may not fish for, catch, possess, transfer, or land more than 2,000 lb (907.2 kg) of herring per trip (and landing herring no more than once per calendar day) in or from Area 1A through December 31, 2012. Vessels may transit through Area 1A with more than 2,000 lb (907.2 kg) of herring on board, provided such herring was not caught in Area 1A and provided all fishing gear aboard is stowed and not available for immediate use as stated in § 648.23(b). Effective 1200 hr, November 5, 2012, federally permitted dealers are also advised that they may not purchase herring from federally permitted herring vessels that harvest more than 2,000 lb (907.2 kg) of herring from Area 1A through 2400 hr local time, December 31, 2012.

**Classification**

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

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 impracticable and contrary to the public interest. This action closes the herring fishery for Management Area 1A until January 1, 2013, under current regulations. The regulations at § 648.201(a) require such action to ensure that herring vessels do not exceed the revised 2012 sub-ACL allocated to Area 1A. The herring fishery opened for the 2012 fishing year on January 1, 2012. Data indicating the herring fleet will have landed at least 95 percent of the revised 2012 sub-ACL

allocated to Area 1A have only recently become available. If implementation of this closure is delayed to solicit prior public comment, the sub-ACL for Area 1A for this fishing year can be exceeded, thereby undermining the conservation objectives of the FMP and requiring any

excess to be subtracted from the Area 3 sub-ACL for the fishing year following the total catch determination. The AA further finds, pursuant to 5 U.S.C. 553(d)(3), good cause to waive the 30-day delayed effectiveness period for the reasons stated above.

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

Dated: November 1, 2012.

**Lindsay Fullenkamp,**

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

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