

tuna relative to its total catch of all species of fish in that period.

For the reasons stated here and in accordance with the regulations at 50 CFR 300.29, NMFS announces that, after 12:01 a.m., October 28, 2001, through 1159 p.m., December 31, 2001, no U.S. vessel may use a purse seine fish to fish for tunas within the CYRA unless in compliance with the previously described measures.

#### Classification

This action is authorized by the regulations implementing the Tuna Conventions Act. The determination to take this action is based on the most recent data available. The aggregate data upon which the determination is based are available for public inspection at the Office of the Acting Regional Administrator (see **ADDRESSES**) during business hours. This action is taken under the authority of 50 CFR part 300, subpart C, and is exempt from review under Executive Order 12866.

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C., 601 *et seq.*, are not applicable.

The Assistant Administrator for Fisheries, NOAA (AA) finds for good cause under 5 U.S.C. 553 (b)(B) that providing prior notice and an opportunity for public comment on this action is unnecessary because the rule authorizing this action specifies that the Regional Director may close the fishery by direct notification to the owners or agents of U.S. vessels who are fishing in or are eligible to fish in the Convention Area. The AA finds for good cause under 5 U.S.C. 553 (d)(3) that a 30-day delay in effectiveness for this 2001 quota would be contrary to the public interest. Such a delay could allow the quota to taken and the quota exceeded before yellowfin tuna becomes an incidental catch fishery.

**Authority:** 16 U.S.C. 951–961 and 971 *et seq.*

Dated: October 31, 2001.

**Bruce C. Morehead**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*  
[FR Doc. 01–27850 Filed 11–5–01; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 010220043–1132–02; I.D. 102501A]

RIN 0648–AN78

#### Fisheries of the Northeastern United States; Atlantic Herring Fisheries; 2001 Specifications; Adjustment

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

**ACTION:** Inseason adjustment of the 2001 Atlantic herring specifications.

**SUMMARY:** NMFS adjusts the 2001 specifications for the Atlantic herring fishery by transferring 10,000 mt of U.S. at-sea processing (USAP) to joint venture processing (JVP). The intent is to reapportion allowable catches of herring within the fishery sectors to allow for the achievement of the objectives of the Fishery Management Plan for Atlantic Herring (FMP).

**DATES:** Effective November 6, 2001 through December 6, 2001. Comments must be received by December 6, 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 2001 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:** Joint Venture Processing (JVP) is the amount of herring purchased over the side from U.S. vessels and processed by foreign vessels in the Exclusive Economic Zone (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; the total amount allocated to processing by foreign ships (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 vessels of the United States that are larger than 165 ft (50.29 m) in length or 750 gross registered tons. JVP operations are restricted to Areas 2 and 3.

The regulations found at 50 CFR 648.200(e) allow NMFS, after consulting with the New England Fishery Management Council (Council), to adjust annual Atlantic herring specifications and TACs during any fishing by publishing notification in the **Federal Register** stating the reasons for such action and providing an opportunity for prior public comment. Any adjustments must be consistent with the FMP objectives and other FMP provisions.

#### JVP and JVPt

For the 2001 herring fishery, NMFS specified 10,000 mt of JVP. As of October 6, 2001, six U.S. vessels had delivered 5658.8 mt of herring or 56.6 percent of the allocation to 3 vessels of the Russian Federation. Recently, NMFS has received several letters from boat owners, processors, and JVP domestic partners requesting an increase of 10,000 mt to the JVP specification. These requests are based on the success of ongoing JVP operations in allowing additional markets for herring harvested by U.S. vessels.

The New England Fishery Management Council (Council), through its Herring Oversight Committee (Committee), recommended not to increase the 2001 JVP specification. The Committee felt that herring acquired by foreign processing vessels could compete directly with herring sold by shoreside processors, thus, inhibiting those processors from increasing their supply to existing markets or entering new markets. Most of the opponents of the JVP increase expressed concern it could affect future prospects for the new herring plant that opened in Gloucester this year. Other Committee members disagreed and noted that one plant cannot process the amount of herring currently being harvested. The Council, in a tie vote, concurred with the Committee's recommendation. The Mid-Atlantic Fishery Management Council (MAFMC) voted unanimously on October 11, 2001, to recommend an increase in JVP. They believe that an increase in JVP will benefit U.S. vessels from Mid-Atlantic ports currently involved in JVP operations. Several of these vessels hope to continue to work with foreign operators.

The public was notified in meeting notices that it would have prior opportunity to comment on the subject action at the Committee meeting on June 6, 2001, and at the September, 2001, Council meeting. Several concerned citizens, addressing impacts of an increase in JVP, presented verbal testimony at those meetings.

After careful consideration of public comments and prior analyses regarding biological, economic, and social impacts of an increased JVP, NMFS has determined that there is no basis to conclude that an increase in JVP will have a substantially negative impact on shoreside processors. Furthermore, sufficient evidence exists to conclude that increasing JVP will have a substantially positive economic impact on the domestic harvesting sector and those entities that service vessels participating in the JVP. Descriptions of the economic and social impacts of this action are provided below.

#### USAP

The FMP requires a USAP specification to allow a specific amount of herring to be allocated to large U.S. processing vessels. The Council specified 20,000 mt of USAP, since specifying USAP at zero would have precluded large U.S. vessels from taking fish over the side while large foreign vessels are allowed to do so. Since the USAP specification has not been utilized, NMFS has determined that it is appropriate to transfer 10,000 mt from the USAP specification. This would leave 10,000 mt available for USAP.

#### Biological Impacts

Since the optimum yield (OY) of 250,000 mt is not affected by this inseason action, there would be no biological impacts to herring stocks that were not already contemplated in the environmental assessment accompanying the 2001 herring specifications. The only distinction between JVP and USAP, which does not alter the environmental assessment of the herring fishery in any significant way, is that JVP operations are restricted to Areas 2 and 3, while USAP operations could take place in any area.

#### Economic and Social Impacts

As of October 6, 2001, six U.S. vessels had delivered 5,658.8 mt of herring or 56.6 percent of the allocation to 3 vessels of the Russian Federation. Based on an estimated price of \$110 per mt, this results in \$622,468 in gross revenue earned collectively by the 6 vessels or, on the average, \$103,745 per vessel. Using an average of gross revenue earned over the last 4 weeks to project the amount that could be harvested in the future, NMFS estimates that the full allocation of 10,000 mt, valued at around \$1,100,000, could be harvested by early November. This additional 10,000 mt could potentially double gross revenues earned by domestic vessels.

As discussed in the economic analyses accompanying the 2001 submission for herring specifications, profits to U.S. vessels would be calculated by deducting the costs of participating in the JVP from revenues earned by selling over-the-side to foreign vessels. The calculation of economic value of the JVP to U.S. vessels requires a comparison of JVP and shoreside processing profitability. If there is limited shoreside processing demand, it is likely that vessels would derive substantial economic benefits from participating in joint venture operations. A positive impact of increased JVP is increased employment opportunities in affected communities. The JVP would benefit fuel and food providers and vessel servicing facilities as measured by economic multiplier effects.

If harvesting capacity was less than shoreside processing demand, and vessels that are participating in JVP operations would alternatively have landed herring in communities with processing facilities, negative economic and social impacts from reduced supply could result in reduced profits to shoreside processors, and reduced employment in processing plants, vessel servicing facilities, including stevedoring, and fuel and food vendors. However, as noted in the analyses accompanying the 2001 specifications, there is no evidence that shoreside processing demand is sufficient to meet harvesting capacity such that substantially negative economic and social impacts to processors or communities would ensue. Shoreside processing demand appears to be limited to the extent that the harvesting sector can easily participate in both an ongoing JVP and meet the demand of shoreside processors with limited economic impact on shoreside processing facilities and communities. In the future, this could change if shoreside facilities are able to increased the demand for their fish by developing export markets.

The 2001 Atlantic Herring Specifications adjusted for this inseason action are presented in the table below.

TABLE 1. 2001 ATLANTIC HERRING SPECIFICATIONS (ADJUSTED)

Specification	Amount (mt)
ABC	300,000
OY	250,000
DAH	245,000
TALFF	5,000
DAP	221,000
USAP	10,000
BT	4,000
JVPt	30,000

TABLE 1. 2001 ATLANTIC HERRING SPECIFICATIONS (ADJUSTED)—Continued

Specification	Amount (mt)
JVP—Area 2 and Area 3	20,000
IWP	10,000
Reserve	0
TAC—Area 1A	60,000
TAC—Area 1B	10,000
TAC—Area 2	50,000
	(80,000 TAC reserve)
TAC—Area 3	50,000

#### Classification

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

Because this action received prior public comment at Council meetings and any further delay would likely jeopardize the ability of U.S. and foreign vessels to access this increased herring allocation, there is good cause to waive additional opportunity for prior public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B), as such procedures would be contrary to the public interest. Similarly, because the inseason adjustment only provides for a transfer of the herring allocation from USAP to JVP and does not establish any requirements for which a regulated entity must come into compliance, it is unnecessary to delay for 30 days the effective date of this action. Therefore, the Assistant Administrator for Fisheries, NOAA, finds good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delayed effectiveness period for the inseason adjustment.

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

Dated: October 31, 2001.

**Bruce C. Morehead,**

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

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#### DEPARTMENT OF COMMERCE

#### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 010313064–1064–01; I.D. 103101B]

#### Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Commercial Haddock Harvest

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