

in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

4. Rights to Inventions Made Under a Contract or Agreement—Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the Recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

5. Clean Air Act (42 U.S.C. 7401 *et seq.*) and the Federal Water Pollution Control Act (33 U.S.C. 1251 *et seq.*), as amended—Contracts, other than contracts for commercial items, of amounts in excess of \$100,000 shall contain a provision that requires the Recipient to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 *et seq.*) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 *et seq.*). Violations shall be reported to NASA and the Regional Office of the Environmental Protection Agency (EPA).

6. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the Recipient.

7. Debarment and Suspension (E.O.s 12549 and 12689)—No contract shall be made to parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Nonprocurement Programs in accordance with E.O.s 12549 and 12689, "Debarment and Suspension." This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than E.O. 12549. Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion status and that of its principal employees.

Exhibit B to Part 1274—Reports

1. Individual Procurement Action Report (NASA Form 507)

The Agreement Officer is responsible for submitting NASA Form 507 for all cooperative agreement actions.

2. Property Reporting

As provided in paragraph (f) of § 1274.923, an annual NASA Form (NF) 1018, NASA Property in the Custody of Contractors, will be submitted by October 31 of each year. Negative annual reports are required. A final report is required within 30 days after expiration of the agreement (also see paragraph (g) of § 1274.923 for electronic submission guidance).

3. Disclosure of Lobbying Activities (SFLLL)

(a) Agreement Officers shall provide one copy of each SF LLL furnished under 14 CFR 1271.110 to the Procurement Officer for transmittal to the Director, Analysis Division (Code HC).

(b) Suspected violations of the statutory prohibitions implemented by 14 CFR part 1271 shall be reported to the Director, Contract Management Division (Code HK).

[FR Doc. 01-26622 Filed 10-26-01; 8:45 am]

BILLING CODE 7510-01-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 648

[Docket No. 011005245-1245-01; I.D. 092401C]

RIN 0648-AP37

Fisheries of the Northeastern United States; Atlantic Herring Fishery

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

ACTION: Proposed 2002 specifications for the Atlantic herring fishery; request for comments.

SUMMARY: NMFS proposes specifications for the 2002 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 herring resource and provide for sustainable fisheries. This rule would also correct and clarify the final rule implementing the Atlantic Herring Fishery Management Plan (FMP) by clarifying the vessel owners' or operators' reporting requirements.

DATES: Comments must be received no later than 5 p.m., Eastern Standard Time, on November 28, 2001.

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 2000 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. Comments may also be sent via fax to (978) 465-0492. The EA/RIR/IRFA is accessible via the Internet at <http://www.nefmc.org>.

Written comments on the proposed specifications should be sent to the Regional Administrator at the above address. Mark on the outside of the envelope: "Comments—2002 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.

Written comments regarding the collection-of-information requirements contained in this final rule should be sent to the Regional Administrator and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (Attn: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT:

Myles Raizin, Fishery Policy Analyst, (978) 281-9104, e-mail at myles.raizin@noaa.gov, fax at (978) 281-9135.

SUPPLEMENTARY INFORMATION:

Regulations implementing the 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 sub-area 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 2002 Specifications

The Council, at its June 2001 meeting, adopted recommendations for the 2002 specifications for the Atlantic herring fishery (see Table 1). The only change from the 2001 specifications was the recommended increase in estimated DAH/DAP by 5,000 mt, and the resulting decrease in TALFF to zero. Although the specification for JVP would remain unchanged from the 2001 allocation, the Council has recommended that harvest of herring under the JVP specification be limited to Management Area 2 (Area 2), rather than both Areas 2 and 3, as specified in 2001. Based on the Council's recommendations, NMFS proposes the specifications and Area TACs contained below in Table 1.

Table 1.

SPECIFICATIONS AND AREA TACs FOR THE 2002 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 only)
IWP	10,000
USAP	20,000
BT	4,000
TALFF	0
Reserve	0
TAC – Area 1A	60,000
TAC – Area 1B	10,000
TAC – Area 2	50,000 (TAC reserve: 80,000)
TAC – Area 3	50,000

TALFF

Recent growth in domestic utilization, as evidenced by new domestic processing capabilities, has already resulted in an increase in domestic harvesting. The increase in the domestic harvest, and future anticipated increases, resulted in the Council's recommendation for zero TALFF. The Council believes that setting TALFF at zero will further promote domestic interests in the utilization of the herring resource by providing industry with the means to continue development of additional markets.

The 2001 specifications for the Atlantic herring fishery included a small allocation for TALFF. At the time the Council made that recommendation, it was expected that the allocation of TALFF would enhance the probability that foreign vessels would engage in JVP, thus benefitting U.S. fishermen who have historically had difficulty in procuring markets for herring. The Council believed that growth in domestic utilization was inhibited by the lack of new markets, as evidenced by the lack of new processing capabilities. However, for the 2002 fishery, the Council recommended, and NMFS proposes, that setting the TALFF at zero will promote the continued growth in the domestic utilization of the herring resource. The expansion of existing processing capabilities and the opening of new domestic processor/freezer capacity suggest that domestic facilities are able to provide continued expansion in the domestic fishery, thus eliminating the allocation for directed foreign fishing. In addition, the Council recommended zero TALFF because it believed that the allocation of TALFF in 2001 damaged the working relationship between the U.S. and Canada on transboundary fishery issues.

JVP

Under the Atlantic Herring FMP, joint venture activities are allowed in all management areas, subject to an annual review process. In addition, these activities may be specified by management area. The annual review and management area allocation scheme provides the Council with the ability to consider the impact of JVP on shoreside processors. For fishing year 2001, joint ventures between domestic fishing vessels and foreign at-sea processing vessels could occur in Areas 2 and 3. However, for the 2002 specifications, the Council considered public comment and voted to recommend that such activities be limited to Area 2 only because it felt that Area 3 represents the best alternative fishing area for domestic vessels supplying shoreside domestic processors, especially when Area 1A is closed to fishing under existing state and Federal regulations. In addition, as noted in the annual Stock Assessment and Fishery Evaluation (SAFE) Report, shoreside demand is projected to increase in the near term as a result of expanded cannery production and the start-up of a freezer plant in Gloucester, MA. Area 3 represents the best opportunity for growth in the domestic harvesting sector to meet increasing demand for herring by shoreside processors. To allow JVP in Area 3 may

hinder the ability of harvesters to adequately supply shoreside processors.

This rule also proposes a technical change to § 648.7 (b)(1)(iii)(B) to clarify the Council's intent concerning the reporting requirements for owners or operators of vessels who have been issued Atlantic herring permits but who are not required to have a Vessel Monitoring System (VMS) unit on board the vessel. This rule would clarify that only owners or operators of vessels that catch 2,000 lb (907.2 kg) or more of Atlantic herring on any one trip in a week must submit an Atlantic herring catch report via the Interactive Voice Response (IVR) reporting system by Tuesday of the following week. Even if the herring has not yet been landed, the operator must estimate the amount of herring on board the vessel and report that amount via the IVR system. As currently written, the regulations imply that this provision applies at all times to any owner or operator of a vessel issued a Federal permit for Atlantic herring who is not required to have a VMS unit on board the vessel. In addition, this rule would also clarify that owners or operators of vessels that catch 2,000 lb (907.2 kg) or more of Atlantic herring, some or all of which is caught in or from the EEZ, on any trip in a week, must submit an Atlantic herring catch report via the IVR system for that week. As currently written, the regulations require that the reporting provision also applies at all times to vessels catching herring in or from the EEZ. A review of the FMP and background material germane to the issue shows that this clarifying change is consistent with Council intent.

Classification

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

The Council and NMFS prepared an Initial Regulatory Flexibility Act analysis that 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 action by NMFS is being considered and the objectives of this proposed rule are explained in the preamble to this rule and are not repeated here. This action does not contain any additional collection-of-information, reporting, or recordkeeping requirements. It will not duplicate, overlap, or conflict with any other Federal rules.

All of the affected businesses (fishing vessels and dealers) are considered small entities. These entities qualify as 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 herring fishery is the year 2000. There were 169 vessels, 6 processors, and 104 dealers participating in the fishery in 2000. Given that vessels caught less than half the current OY in 2000, the proposed status quo OY is not likely to result in any significant impact on the revenues of vessels, producer surplus or consumer surplus.

For the 2001 fishery, the Council recommended 5,000 mt of TALFF and 10,000 mt of JVPt. As part of its justification, the Council noted that if foreign vessels availed themselves of the opportunity to harvest some or all of the TALFF specification, and if those vessels are obligated to engage in JVP ventures with U.S. fishing vessels, there would be a positive impact on the revenues of those U.S. vessels participating in JVP ventures. Such economic benefits of TALFF would be indirect, since only the JVP portion of the venture would produce revenues for U.S. vessels. However, the indirect benefit of TALFF would be offset by the negative indirect impact such activity might have on the competitiveness of U.S.-exported herring on world markets.

The proposed 2002 specifications contain the same JVP specification as the 2000 fishery; hence, they have the same potential revenue impact. As noted above, TALFF itself does not directly generate any revenues to U.S. vessels. At an estimated value of \$120/ton to the vessel, full utilization of the JVP would result in total revenues of \$1.2 million. This would represent an increase in overall fleet revenues of 10 percent, although this is an optimistic projection, since the price paid for herring under joint ventures is generally slightly less than the average price paid by shoreside processors and dealers for non-joint venture herring.

The Council considered other options for TALFF, ranging up to 20,000 mt and JVP ranging up to 40,000 mt. In all cases, they assumed that the JVP specifications would be twice as much as the TALFF allocation. The highest TALFF level considered (20,000 mt)

would increase potential revenues to U.S. vessels by as much as four times (at 40,000 mt of JVP), or up to \$4.8 million, if all of the JVP specification were utilized. However, the Council concluded that if U.S.-processed herring could be sold into global markets, the economic benefits could be greater than the benefits derived from TALFF and TALFF-enhanced JVP. The Council further noted that U.S. exports of herring are minimal, with the frozen bait market in Canada being the major market. Herring caught directly by foreign vessels could compete in this market and negatively impact revenues to U.S. exporters. Eliminating TALFF would reduce foreign competition and increase the chances for U.S. market expansion, benefitting both U.S. processors and U.S. vessels delivering herring shoreside. The Council expects that, if global markets will purchase U.S. herring, the economic benefits would be far greater if those fish are processed and exported by U.S. companies, rather than by foreign ventures. Eliminating TALFF will reduce foreign competition and increase the chances for market penetration by U.S. exporters and, therefore, increase overall economic benefits through both value-added production and overall market expansion.

This action clarifies a collection-of-information requirement subject to the Paperwork Reduction Act (PRA) and which has been approved by OMB under control number 0648-0212. Public reporting burden for this collection of information is estimated to average 4 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see ADDRESSES) and to OMB at the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC. 20503 (Attention: NOAA Desk Officer).

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

Dated: October 23, 2001.

William T. Hogarth,

*Assistant Administrator for Fisheries,
National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

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

2. In § 648.7, paragraph (b)(1)(iii)(B) is revised, paragraph (b)(1)(iii)(C) is redesignated as paragraph (b)(1)(iii)(D), and a new paragraph (b)(1)(iii)(C) is added to read as follows:

§ 648.7 Recordkeeping and reporting requirements.

* * * * *

(b) * * *

(1) * * *

(iii) * * *

(B) An owner or operator of any vessel issued a permit for Atlantic herring that is not required by § 648.205 to have a VMS unit on board and that catches ≥ 2,000 lb (907.2 kg) of Atlantic herring on any trip in a week must submit an Atlantic herring catch report via the IVR system for that week as required by the Regional Administrator.

(C) An owner or operator of any vessel that catches ≥ 2,000 lb (907.2 kg) of Atlantic herring, some or all of which is caught in or from the EEZ, on any trip in a week, must submit an Atlantic herring catch report via the IVR system for that week as required by the Regional Administrator.

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[FR Doc. 01-27168 Filed 10-26-01; 8:45 am]

BILLING CODE 3510-22-S