

the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A Major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective November 27, 2009.

#### *N. Judicial Review*

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the District of Columbia Circuit Court within 60 days from the date final action is published in the **Federal Register**. Filing a petition for reconsideration by the Administrator of this final action does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review must be filed, and shall not postpone the effectiveness of action.

Thus, any petitions for review of this action making findings of failure to submit PM<sub>2.5</sub> SIPs for the nonattainment areas identified in section II above, must be filed in the Court of Appeals for the District of Columbia Circuit within 60 days from the date final action is published in the **Federal Register**.

#### **List of Subjects in 40 CFR Part 52**

Environmental protection, Administrative practice and procedure, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: November 19, 2009.

**Gina McCarthy,**

*Assistant Administrator, Office of Air and Radiation.*

[FR Doc. E9-28257 Filed 11-25-09; 8:45 am]

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## **DEPARTMENT OF COMMERCE**

### **National Oceanic and Atmospheric Administration**

#### **50 CFR Part 648**

[Docket No. 090206144-9697-02]

RIN 0648-XT09

#### **Fisheries of the Northeastern United States; Atlantic Bluefish Fishery; Commercial Quota Harvested for New Jersey**

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

**ACTION:** Closure of commercial fishery.

**SUMMARY:** NMFS announces that the Atlantic bluefish commercial quota available to New Jersey has been harvested. Vessels issued a commercial Federal fisheries permit for the Atlantic bluefish fishery may not land bluefish in New Jersey for the remainder of calendar year 2009, unless additional quota becomes available through a transfer. Regulations governing the Atlantic bluefish fishery require publication of this notification to advise New Jersey that the quota has been harvested and to advise vessel permit holders and dealer permit holders that no commercial quota is available for landing bluefish in New Jersey.

**DATES:** Effective 0001 hours, November 25, 2009, through 2400 hours, December 31, 2009.

#### **FOR FURTHER INFORMATION CONTACT:**

Sarah Heil, Fishery Management Specialist, (978) 281-9257.

#### **SUPPLEMENTARY INFORMATION:**

Regulations governing the Atlantic bluefish fishery are found at 50 CFR part 648. The regulations require annual specification of a commercial quota that is apportioned on a percentage basis among the coastal states from Florida through Maine. The process to set the annual commercial quota and the percent allocated to each state is described in § 648.160.

On May 4, 2009, NMFS published the final specifications for the Atlantic bluefish fishery (74 FR 20423). The initial Federal coastwide commercial quota for Atlantic bluefish for the 2009 calendar year was set equal to 4,991,000 lb (2,263 mt). The initial commercial quota was adjusted by transferring 4,838,000 lb (2,194 mt) from the initial recreational allocation, resulting in a total commercial quota of 9,828,000 lb (4,458 mt). The percent allocated to vessels landing bluefish in New Jersey is 14.8162 percent, resulting in an initial commercial quota of 1,441,702 lb (653.95 mt).

The regulations at § 648.161(b) require the Administrator, Northeast Region, NMFS (Regional Administrator), to monitor state commercial quotas and to determine when a state's commercial quota has been harvested. NMFS then publishes a notification in the **Federal Register** to advise the state and to notify Federal vessel and dealer permit holders that, effective upon a specific date, the state's commercial quota has been harvested and no commercial quota is available for landing bluefish in that state. The Regional Administrator has determined, based upon dealer reports and other available information, that New Jersey has harvested its quota for calendar year 2009.

The regulations at § 648.4(b) provide that Federal permit holders agree, as a condition of the permit, not to land bluefish in any state that the Regional Administrator has determined no longer has commercial quota available. Therefore, effective 0001 hours, November 25, 2009, further landings of bluefish in New Jersey by vessels holding Atlantic bluefish commercial Federal fisheries permits are prohibited for the remainder of the 2009 calendar year, unless additional quota becomes available through a transfer and is announced in the **Federal Register**. Effective 0001 hours, November 25, 2009, federally permitted dealers are also notified that they may not purchase bluefish from federally permitted vessels that land in New Jersey for the remainder of the calendar year, or until additional quota becomes available through a transfer.

#### **Classification**

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

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

Dated: November 23, 2009.

**Emily H. Menashes,**

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

[FR Doc. E9-28397 Filed 11-23-09; 4:15 pm]

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## **DEPARTMENT OF COMMERCE**

### **National Oceanic and Atmospheric Administration**

#### **50 CFR Part 648**

[Docket No. 061228342-7068-02]

RIN 0648-XT07

#### **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:** Temporary rule; closure.

**SUMMARY:** NMFS announces that, effective 0001 hours, November 26, 2009, 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, 2010, when the 2010 total allowable catch (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 TAC allocated to Area 1A for 2009 is projected to be harvested by November 26, 2009. 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 2.

**DATES:** Effective 0001 hrs local time, November 26, 2009, through December 31, 2009.

**FOR FURTHER INFORMATION CONTACT:** Aja Peters-Mason, Fishery Management Specialist, (978) 281-9195.

**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 2009 TAC allocated to Area 1A (72 FR 17807, April 10, 2007) is 45,000 mt; 1,350 mt of the TAC is set aside for research, which leaves in a TAC of 43,650 mt for the commercial fishery.

The regulations at § 648.201 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 (FMP) 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 (907.2 kg) 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 2009 fishing year is projected to be harvested. Therefore, effective 0001 hrs local time, November 26, 2009, 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, 2009. Vessels transiting Area 1A with more than 2,000 lb (907.2 kg) of herring on board may land this amount provided such herring was 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 26, 2009, 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, 2009.

**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 contrary to the public interest. This action closes the Atlantic herring fishery for Management Area 2 until January 1, 2010, under current regulations. The regulations at § 648.201(a) require such action to ensure that Atlantic herring vessels do not exceed the 2009 TAC. The Atlantic herring fishery opened for the 2009 fishing year at 0001 hours on January 1, 2009. Data indicating the Atlantic herring fleet will have landed at least 95 percent of the 2009 TAC have only recently become available. 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 23, 2009.

**Emily H. Menashes,**

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

[FR Doc. E9-28403 Filed 11-23-09; 4:15 pm]

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