

Fishery Conservation and Management

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specifications must satisfy the criteria set forth in this section.

(d) On or about November 1 of each year, NMFS shall make a final determination concerning the specifications for Atlantic herring. Notification of the final specifications and responses to public comments shall be published in the FEDERAL REGISTER. If the final specification amounts differ from those recommended by the Council, the reason(s) for the difference(s) must be clearly stated and the revised specifications must be consistent with the criteria set forth in paragraph (b) of this section. The previous year's specifications shall remain effective unless revised through the specification process. NMFS shall issue notification in the FEDERAL REGISTER if the previous year's specifications will not be changed.

(e) *In-season adjustments.* (1) The specifications and TACs established pursuant to this section may be adjusted by NMFS, after consulting with the Council, during the fishing year 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 Atlantic Herring FMP objectives and other FMP provisions.

(2) If a total allowable catch reserve (TAC reserve) is specified for an area, NMFS may make any or all of that TAC reserve available to fishers after consulting with the Council. NMFS shall propose any release of the TAC reserve in the FEDERAL REGISTER and provide an opportunity for public comment. After considering any comments received, any release of the TAC reserve shall be announced through notification in the FEDERAL REGISTER.

[65 FR 77467, Dec. 11, 2000, as amended at 67 FR 3446, Jan. 24, 2002]

§ 648.201 Management areas.

Three management areas, which may have different management measures, are established for the Atlantic herring fishery. Management Area 1 is subdivided into inshore and offshore sub-areas. The management areas are defined as follows:

(a) *Management Area 1 (Gulf of Maine):* All U.S. waters of the Gulf of Maine

(GOM) north of a line extending from the eastern shore of Monomoy Island at 41° 35' N. lat., eastward to a point at 41° 35' N. lat., 69° 00' W. long., thence northeasterly to a point along the Hague Line at 42° 53'14" N. lat., 67° 44'35" W. long., thence northerly along the Hague Line to the U.S.-Canadian border, to include state and Federal waters adjacent to the States of Maine, New Hampshire, and Massachusetts. Management Area 1 is divided into Area 1A (inshore) and Area 1B (offshore). The line dividing these areas is described by the following coordinates:

AREA 1	
N. Latitude	W. Longitude
41°58'	70°00' at Cape Cod shoreline
42°38.4'	70°00'
42°53'	69°40'
43°12'	69°00'
43°40'	68°00'
43°58'	67°22' (the U.S.-Canada Maritime Boundary)
(1)	(1)

¹Northward along the irregular U.S.-Canada maritime boundary to the shoreline.

(b) *Management Area 2 (South Coastal Area):* All waters west of 69° 00' W. long. and south of 41° 35' N. lat., to include state and Federal waters adjacent to the States of Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, and North Carolina.

(c) *Management Area 3 (Georges Bank):* All U.S. waters east of 69° 00' W. long. and southeast of the line that runs from a point at 69° 00' W. long. and 41° 35' N. lat., northeasterly to the Hague Line at 67° 44'35" W. long. and 42° 53'14" N. lat.

§ 648.202 Total allowable catch (TAC) controls.

(a) If NMFS determines that catch will reach or exceed 95 percent of the annual TAC allocated to a management area before the end of the fishing year, or 95 percent of the Area 1A TAC allocated to the first seasonal period as set forth in paragraph (f) of this section, NMFS shall prohibit a vessel, beginning the date the catch is projected to reach 95 percent of the TAC, from fishing for, possessing, catching, transferring, or landing >2,000 lb (907.2 kg) of Atlantic herring per trip and/or >2,000

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lb (907.2 kg) of Atlantic herring per day in such area pursuant to paragraph (e) of this section, except as provided in paragraphs (c) and (d) of this section. These limits shall be enforced based on a calendar day, without regard to the length of the trip.

(b) NMFS may raise the percent of the TAC that triggers imposition of the 2,000-lb (907.2-kg) limit specified in paragraph (a) of this section through the annual specification process described in § 648.200. Any lowering of the percent of the TAC that triggers the 2,000-lb (907.2-kg) limit specified in paragraph (a) of this section must be accomplished through the framework adjustment or amendment processes.

(c) A vessel may transit an area that is limited to the 2,000-lb (907.2-kg) limit specified in paragraph (a) of this section with > 2,000 lb (907.2 kg) of herring on board, providing all fishing gear is stowed and not available for immediate use as required by § 648.23(b).

(d) A vessel may land in an area that is limited to the 2,000-lb (907.2-kg) limit specified in paragraph (a) of this section with > 2,000 lb (907.2 kg) of herring on board, providing such herring were caught in an area or areas not subject to the 2,000-lb (907.2-kg) limit specified in paragraph (a) of this section and providing all fishing gear is stowed and not available for immediate use as required by § 648.23(b).

(e) NMFS shall implement fishing restrictions as specified in paragraph (a) of this section by publication of a notification in the FEDERAL REGISTER, without further opportunity for public comment.

(f) The TAC for Management Area 1A is divided into two seasonal periods. The first season extends from January 1 through May 31, and the second season extends from June 1 through December 31. Seasonal TACs for Area 1A shall be set through the annual specification process described in § 648.200.

[65 FR 77467, Dec. 11, 2000, as amended at 67 FR 3446, Jan. 24, 2002]

§ 648.203 Vessel size/horsepower limits.

(a) To catch, take, or harvest Atlantic herring, a U.S. vessel issued an Atlantic herring permit must not exceed the specifications contained in § 648.4(a)(10)(i)(B). If any such vessel ex-

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ceeds such specifications, its permit automatically becomes invalid and the vessel may not catch, take, or harvest Atlantic herring, as applicable, in or from the EEZ.

(b) A U.S. vessel issued an Atlantic herring processor permit may receive and process herring, providing such vessel is ≤ 165 feet (50.3 m) in length overall, and ≤ 750 GRT (680.4 mt). A U.S. vessel that is > 165 feet (50.3 m) in length overall, or > 750 GRT (680.4 mt), may only receive and process herring provided that the vessel is issued an “Atlantic herring processor permit” described in § 648.4(a)(10)(ii) and that the total amount of herring received or processed by such vessel does not exceed the USAP established in accordance with § 648.200.

§ 648.204 Herring roe restrictions.

(a) Retention of herring roe. Herring may be processed for roe, provided that the carcasses of the herring are not discarded at sea.

(b) Limits on the harvest of herring for roe. The Council may recommend to NMFS a limit on the amount of herring that may be harvested for roe to be implemented by framework adjustment in accordance with § 648.206.

§ 648.205 VMS requirements.

(a) Except for Atlantic herring carrier vessels, the owner or operator of any vessel issued an Atlantic herring permit that caught or landed > 500 mt of Atlantic herring in the previous fishing year, or intends to catch or land, or catches or lands > 500 mt of Atlantic herring in the current fishing year, must have an operable VMS unit installed on board that meets the requirements of § 648.9. The VMS unit must be certified, installed on board, and operable before the vessel may begin fishing.

(b) A vessel owner or operator, except an owner or operator of an Atlantic herring carrier vessel, who intends to catch and land > 500 mt of Atlantic herring must declare such intention to the Regional Administrator prior to obtaining an Atlantic herring fishing permit for the fishing year.

(c) Except for Atlantic herring carrier vessels, the owner or operator of a vessel is prohibited from landing > 500