charges should reflect reasonable financial incentives to advance the overarching purpose of demurrage and that revenue is not itself the purpose. Second, transparency, timeliness, and mutual accountability by both rail carriers and the shippers and receivers they serve are important factors in the establishment and administration of reasonable demurrage and accessorial rules and charges. Just as this policy statement recognizes that there may be different ways to implement and administer reasonable rules and charges, carriers are encouraged to recognize the importance of working with rail users to develop reasonable solutions to unique situations those shippers and receivers may face.

The Board expects to take all of the principles discussed in this policy statement into consideration, together with all of the evidence and argument that is before it, in evaluating the reasonableness of demurrage and accessorial rules and charges in future cases.

Congressional Review Act. Pursuant to the Congressional Review Act, 5 U.S.C. 801–808, the Office of Information and Regulatory Affairs has designated this policy statement as non-major, as defined by 5 U.S.C. 804(2).

Decided: April 30, 2020.

By the Board, Board Members Begeman, Oberman, and Fuchs.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2020–09682 Filed 5–5–20; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 200428–0122]

RIN 0648–BJ13

Magnuson-Stevens Act Provisions; Fisheries of the Northeastern United States; Atlantic Herring Fishery; Framework Adjustment 6 and the 2019–2021 Atlantic Herring Fishery Specifications

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

ACTION: Final rule.

SUMMARY: We are approving regulations to implement Framework Adjustment 6 to the Atlantic Herring Fishery Management Plan, including the 2019–2021 fishery specifications and management measures, as recommended by the New England Fishery Management Council. This action is intended to establish the allowable 2020–2021 herring harvest levels and river herring and shad catch caps, consistent with the Atlantic Herring Fishery Management Plan. The specifications and management measures are necessary to meet conservation objectives while providing sustainable levels of access to the fishery.

DATES: Effective May 5, 2020.

ADDRESSES: Copies of this action, including the Environmental Assessment and the Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) prepared in support of this action, are available at: *https://s3.amazonaws.com/nefmc.org/Herring-FW6-DRAFT-final-submission.pdf*r from Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950. The supporting documents are also accessible via the internet at: *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Allison Murphy, Fishery Policy Analyst, 978–281–9122.

SUPPLEMENTARY INFORMATION:

Background

Regulations implementing the Atlantic Herring Fishery Management Plan (FMP) for herring are located at 50 CFR part 648, subpart K. Regulations at § 648.200 require the Council to recommend herring specifications for NMFS' review and publish in the **Federal Register**, including: The overfishing limit (OFL); acceptable biological catch (ABC); annual catch limit (ACL); optimum yield (OY); domestic annual harvest; domestic annual processing; U.S. at-sea processing; border transfer; the sub-ACL for each management area, including seasonal periods as specified at § 648.201(d) and modifications to sub-ACLs as specified at § 648.201(f); and research set-aside (RSA) (up to 3 percent of the sub-ACL from any management area) for 3 years. These regulations also allow the Council to recommend river herring and shad catch caps as part of the specifications.

Under the Magnuson-Stevens Fishery Conservation and Management Act, NMFS is required to publish proposed rules for comment after preliminarily determining whether they are consistent with applicable law. The Magnuson-Stevens Act permits NMFS to approve, partially approve, or disapprove framework adjustment measures proposed by the Council based only on whether the measures are consistent with the fishery management plan, plan amendment, the Magnuson-Stevens Act and its National Standards, and other applicable law. Otherwise, NMFS must defer to the Council's policy choices. Under the regulations guiding the herring specifications process, NMFS must review the Council's recommended specifications and publish notice proposing specifications, clearly noting the reasons for any differences from the Council's recommendations. NMFS must then publish a notice approving, disapproving, or partially approving these measures. NMFS is approving measures to implement Framework 6 as well as specifications and river herring/shad catch caps for the herring fishery, consistent with the Council's recommendations.

A new stock assessment for herring was completed in June 2018. The assessment concluded that although herring were not overfished and overfishing was not occurring in 2017, poor recruitment would likely result in a substantial decline in herring biomass over the next several years. The stock assessment estimated that recruitment was at historic lows during the most recent five years (2013–2017), but projected that biomass could increase after reaching a low in 2019 if recruitment returns to average levels. The final stock assessment summary report is available on the Center's website (*www.nefsc.noaa.gov/publications/*). The Magnuson-Stevens Act requires NMFS to notify the Council if a fishery has become overfished or is approaching the condition of being overfished. According to the Act, ''a fishery shall be classified as approaching a condition of being overfished if, based on trends in fishing effort, fishery resource size, and other appropriate factors, the Secretary estimates that the fishery will become overfished within two years.'' In February 2019, we notified the Council that herring was approaching an overfished condition.

Based on the stock assessment and at the request of the Council, we reduced the 2018 ACL in August 2018 (83 FR 42450) (from 104,800 mt to 49,900 mt) and the 2019 ACL in February 2019 (84 FR 2760) (from 49,900 mt to 15,065 mt) through inseason adjustments to prevent overfishing and lower the risk of the stock becoming overfished. The ACL reduction for 2018 ensured at least a 50-percent probability of preventing overfishing, while the ACL reduction for

2019 reflected the Council's risk policy for herring and was consistent with the new ABC control rule developed in Amendment 8 to the Herring FMP.

The Northeast Fisheries Science Center has updated its schedule for stock assessments, and will now hold herring assessments every 2 years, with the next scheduled for June 2020. Accordingly, the Council and NMFS now plan to develop specifications every 2 years for the upcoming 3-year cycle. For example, the Council and NMFS will develop herring specifications in the summer/fall of 2020 for the 2021–2023 fishing years.

Approved Specifications

At its June 2019 meeting, the Council recommended maintaining status quo catch limits for 2019 and reducing catch limits for 2020 and 2021 (see Table 1). This rule approves herring specifications for 2019–2021 consistent with the Council's recommendations. These specifications are intended to provide for a sustainable herring fishery and to be consistent with the Council's harvest policy for herring.

Because the Herring FMP requires herring specifications for a period of 3 years, Framework 6 analyzes maintaining the status quo 2019 specifications that we implemented via inseason adjustment in early 2019 and new specifications for 2020 and 2021. Because Framework 6 will be effective after the end of 2019, this rule focuses on the 2020–2021 specifications.

TABLE 1—COMPARISON OF APPROVED ATLANTIC HERRING 2020–2021 SPECIFICATIONS (mt) TO 2019

	2019	2020–2021
Overfishing Limit	30,668	41,830—2020 69,064—2021
Acceptable Biological Catch	21,266	16,131
Management Uncertainty	6,200	4,560
Optimum Yield/Annual Catch Limit	*15,065	*11,571
Domestic Annual Harvest	15,065	11,571
Border Transfer	0	100
Domestic Annual Processing	15,065	11,471
U.S. At-Sea Processing	0	0
Area 1A Sub-ACL (28.9%)	*4,354	*3,344
Area 1B Sub-ACL (4.3%)	647	498
Area 2 Sub-ACL (27.8%)	4,188	3,217
Area 3 Sub-ACL (39%)	5,876	4,513
Fixed Gear Set-Aside	39	30
Research Set-Aside	(**)	(**)

*If New Brunswick weir landings are less than 2,942 mt through October 1, then 1,000 mt will be subtracted from the management uncertainty buffer and reallocated to the Area 1A sub-ACL and ACL. Thus, the Area 1A sub-ACL would increase to 4,344 mt, and the ACL would increase to 12,571 mt.

**3 percent of each sub-ACL.

Several factors contributed to the Council's ABC recommendations for 2020–2021. The ABC is reduced from the OFL to account for scientific uncertainty. The Council's Scientific and Statistical Committee (SSC) and the Council determined that a conservative method of management, specifically one that accounts for scientific uncertainty, was essential due to the current status of the herring stock and the uncertainty surrounding estimates of biomass and recruitment. Another consideration was Amendment 8's new control rule harvest policy of reducing available harvest to explicitly account for herring's role as forage in the ecosystem. Subsequent to the Council's recommendations, in November 2019 we approved Amendment 8's ABC control rule. For 2021, the SSC was uncomfortable with increasing the ABC based on the recent assessment's projection that recruitment would increase from historical lows to average levels. Therefore, the SSC and Council recommended maintaining the 2020 ABC for 2021. The 2020 stock assessment is expected to update recruitment information and allow the Council to reconsider the 2021 ABC for the next specifications.

The ACL is reduced from ABC to account for management uncertainty. Currently, although the FMP allows for consideration of other aspects of management uncertainty (*e.g.,* uncertainty around discard estimates of herring caught in Federal and state waters), the only source for management uncertainty that is applied to the 2020–2021 ABCs are landings in the New Brunswick weir fishery. Because weir fishery landings can be highly variable, fluctuating with effort and herring availability, the Council recommended a management uncertainty buffer of 4,560 mt, consistent with average landings in the New Brunswick weir fishery over the last 10 years (2009–2018). The resulting ACL for both 2020 and 2021 is 11,571 mt. The Council also recommended and this rule approves a provision that if weir fishery landings are less than 2,942 mt through October 1, NMFS will subtract 1,000 mt from the management uncertainty buffer and reallocate that 1,000 mt to the Area 1A sub-ACL and ACL. Previously, this provision is allowed if New Brunswick weir landings are less than 4,000 mt through October 1.

Border transfer is a processing allocation available to Canadian dealers that is included in, and does not reduce, the domestic catch limits. The Magnuson-Stevens Act provides for the issuance of permits to Canadian vessels transporting U.S. harvested herring to Canada for sardine processing. The Council recommended and this rule approves 100 mt for border transfer for 2020 and 2021. The amount specified for border transfer has equaled 4,000 mt since 2000, but we reduced it to 0 mt as part of the 2019 inseason adjustment. The Council recommended 100 mt for border transfer in case there continues to be Canadian interest in transporting herring for sardine processing.

The Council recommended and this rule approves maintaining status quo river herring/shad catch caps for 2020–2021 (see Table 2). These catch caps were originally set for the fishery in the 2016–2018 specifications, and we maintained them in the inseason adjustment for 2019. Catch is tracked against river herring/shad catch caps on trips landing more than 6,600 lb (3,000 kg) of herring. Once a catch cap is reached, the possession limit for herring

vessels using that gear type and fishing in that area (or the corresponding catch cap closure area) is reduced to 2,000 lb (907 kg) of herring for the remainder of the fishing year. These caps are intended to meet the original catch cap goals to provide a strong incentive for the herring fleet to continue to reduce river herring and shad catch, while allowing the fleet to fully harvest the herring ACL.

TABLE 2—APPROVED RIVER HERRING/SHAD CATCH CAPS (mt) FOR 2020–2021

	Gulf of Maine	Cape Cod	Southern New England/ Mid-Atlantic	Total
Midwater Trawl	76.7	32.4	129.6	238.7
Bottom Trawl	n/a	n/a	122.3	122.3

The Council recommended status quo methods to set all other herring specifications, including the management area sub-ACLs, fixed gear set-aside, and research set-aside.

Final 2018 Fishery Accounting

On January 24, 2020, NMFS determined that there were no ACL overages in fishing year 2018 and no pound-for-pound reductions are required in 2020. Table 3 below summarizes final catch by management area.

TABLE 3—FINAL FISHING YEAR 2018 ACCOUNTING BY MANAGEMENT AREA

Management area	Sub-ACL (mt)	Landed herring (mt)	Discarded herring (mt)	Total herring catch (mt)	Herring catch as a percentage of the sub-ACL
1A	28,038	24,861	0	24,861	88.7
1B	2,639	2,210	0	2,211	83.8
2	8,200	7,032	38	7,071	86.2
3	11,318	9,736	0	9,736	86
Total	50,195	43,839	39	43,878	87.4

Given that this rule suspends carryover from fishing year 2019 into 2020 and no ACL overages occurred in fishing year 2018, the specifications summarized in Table 1 are approved with no modification.

Other Approved Measures

This rule updates the ''overfished'' and ''overfishing'' definitions to make them more consistent with the 2018 herring stock assessment and definitions used for other stocks in the region, consistent with Framework 6. The updated definitions are:

The stock is considered overfished if stock biomass is less than ½ the stock biomass associated with the Maximum Sustainable Yield (MSY) level or its proxy (*e.g.,* Spawning Stock Biomass at MSY (SSB_{MSY}) or proxy). The stock is considered subject to overfishing if the estimated fishing mortality rate (F) exceeds the fishing mortality rate associated with the MSY level or its proxy (*e.g.,* F_{MSY} or proxy).

Over time, the parameters used to assess the herring stock have changed, and so have the corresponding projections used to evaluate stock status and set catch levels. The updated definition is more flexible because it can incorporate any estimate of biomass that is warranted (total biomass, SSB, or relevant proxy), depending on what is used in the stock assessment and considered the best available science. The new definitions are consistent with many overfishing and overfished definitions used in the region, as well as parameters in the new ABC control rule developed in Amendment 8.

Previously, regulations at § 648.201 require carryover of up to 10 percent of the unharvested catch in a herring management area shall be added to that area's sub-ACL for the fishing year following when total catch is determined. For example, total catch for 2018 would be determined in 2019. If there was unharvested catch in 2018, the unharvested catch in a management area (up to 10 percent of the initial sub-ACL for that area) would be added to the area's sub-ACL for 2020. This carryover increases the sub-ACL for that management area, but it does not increase the total ACL.

This rule approves the suspension of carryover of unharvested catch for the 2020 and 2021, consistent with the recommendation in Framework 6, such that unharvested catch in 2018 and 2019 will not be added to sub-ACLs for 2020 and 2021, respectively. Suspending carryover is approved because the amount of carryover from 2018 (just under 5,000 mt) is substantial relative to the ACL for 2020 and 2021 (11,571 mt), and could have unintended consequences on the stock or fishery. For example, if carryover is harvested in specific management areas early in the year, other areas that are typically fished later in the year may be constrained by the ACL such that the sub-ACLs in those areas cannot be fully harvested. Estimated 2019 year end catch is less than 85 percent of the ACL for 2019 (15,574 mt), so there may also be a substantial amount of unharvested catch that would have otherwise been carried over relative to the reduced ACL for 2021 (11,571 mt). Furthermore, given the low estimate of herring biomass, concentrating fishing effort and catch in certain management areas may have negative impacts on the herring stock. Continuation of the suspension of carryover into 2021 is consistent with the Council's conservative management due to the current status of the herring stock and the uncertainty surrounding estimates of biomass and recruitment.

Regulatory Clarifications

We are implementing the following administrative changes to the herring regulations under the authority of section 305(d) to the Magnuson-Stevens Act, which provides that the Secretary of Commerce may promulgate

regulations necessary to carry out an FMP or the Magnuson-Stevens Act.

First, in §§ 648.4, 648.7, 648.10, 648.11, 648.14, 648.15, 648.80, 648.83, 648.86, 648.201, 648.202, 648.204, and 648.205, this rule simplifies the names of herring vessel permits. Previously, each herring vessel permit has two names used in regulations, the first name specifies the permit type (*i.e.,* limited or open access) and herring management area and the second name assigns a category letter to each permit type. For example, the All Areas Limited Access Herring Permit is also known as a Category A Herring Permit. This rule simplifies references to herring vessel permits by only using the category name in regulation. This clarification is intended to aid in the understandability of herring regulations as most stakeholders refer to herring vessel permits by category name.

Second, this rule clarifies the transiting and pre-landing prohibitions for the herring fishery in § 648.14. This rule clarifies that vessels are prohibited from transiting Area 1A during June through September with midwater trawl gear onboard, unless gear is properly stowed and not available for immediate use, consistent with § 648.2. This rule also clarifies that herring vessels are required to notify NMFS of offloading through the vessel monitoring system of the time and place of offloading at least 6 hours prior to landing or, if fishing ends less than 6 hours before landing, as soon as the vessel stops catching fish. These requirements currently exist elsewhere in the regulations, and this rule updates regulations in § 648.14, accordingly.

Third, this rule updates the definition of OY consistent with new National Standard guidance for OY in § 648.200. This rule also updates terminology to reflect that the Atlantic States Marine Fisheries Commission's (Commission's) Herring Section is now a Herring Board and that the Commission's Atlantic Herring Technical Committee conducts the work that was previously described as being conducted by the Plan Review Team.

Comments and Responses

NMFS published a proposed rule on January 28, 2020 (85 FR 4932), seeking comment on the proposed specifications and measures. NMFS received eight comment letters on the proposed rule, including comments from the Conservation Law Foundation (CLF), Seatuck Environmental Association, and six members of the public. A summary of comments and NMFS responses is presented below:

Comment 1: CLF, Seatuck Environmental Association, and six members of the public supported the proposed specifications. CLF also supported changes to the overfished/overfishing definitions, and suspension of carryover.

Response: NMFS agrees with the Council's rationale for its specifications recommendation, as described earlier in this rule. These measures are approved without modification.

Comment 2: While the Seatuck Environmental Association supported the river herring and shad catch caps, CLF did not, stating that the proposed caps are inconsistent with National Standard 9 and inconsistent with the purpose and need of Framework Adjustment 3 to the Herring FMP.

Response: NMFS has determined that the river herring and shad catch caps are likely sufficiently conservative, meet the original catch cap goals to provide an incentive for the herring fleet to continue to reduce river herring and shad catch, and are consistent with National Standard 9. Catch caps were implemented through Framework 3, with a goal of minimizing river herring and shad bycatch and bycatch mortality to the extent practicable, while allowing the herring fishery an opportunity to fully harvest the herring ACL.

Framework 3 established a process for setting and modifying catch caps for river herring (alewife and blueback) and shad (American and hickory) catch caps in the Atlantic herring fishery (herring fishery), and sets specific river herring and shad catch caps for the 2014 and 2015 fishing years. Framework 3 outlined a process for setting and modifying the river herring and shad catch caps that includes: Identification of gears, areas, and trips that would be subject to the catch caps; changes to reporting requirements for vessels issued limited access and Herring Management Areas ⅔ open access herring permits; criteria that would trigger the closure of an area to directed herring fishing for a particular gear type; and a list of management measures related to setting catch caps that can be modified through the herring specifications process and/or framework adjustment process. Catch caps for 2014 and 2015 were set based upon the most recent river herring stock assessment conducted by the Atlantic States Marine Fisheries Commission, which indicated that river herring populations have declined from historic levels and many factors would need to be addressed to allow their recovery, including: Fishing in both state and Federal waters; improvement of river passageways and water quality; reduced predation; and understanding the effects of climate change.

These catch caps were intended to be adjusted when new information became available. The approved catch caps were originally implemented in a 2016–1018 specifications action and were calculated using updated data and a revised methodology. The 2016–2018 caps were set based on recent Commission river herring and shad assessments, which indicated that data are not robust enough to determine a biologically-based river herring/shad catch cap and/or the potential effects of such a catch cap on river herring/shad populations on a coast-wide scale. Through this specifications action, proactive catch caps were set to manage and minimize catch to the extent practicable.

No new information is available that inform altering the previously approved river herring and shad catch caps. The approved catch caps likely promote the concept of reducing bycatch to the extent practicable by providing an incentive to avoid incidental catch of river herring and shad while still allowing an opportunity to achieve OY. When a cap trigger is reached, it implements a minimal Atlantic herring possession limit (area closure) that is expected to end directed fishing effort for herring in the corresponding closure area for the rest of that fishing year.

In approving status quo river herring and shad catch caps, the Council acknowledged that it is possible that the fishery will catch the same amount of haddock, river herring, and shad, even with a lower herring quota. However, the approved catch caps likely reduce bycatch and bycatch mortality to the extent practicable by providing an incentive to avoid the incidental catch of river herring and shad by allowing an opportunity to achieve OY. This action also maintains the trigger that implements a low Atlantic herring possession limit (area closure) that is likely to further limit bycatch and bycatch mortality once the cap is reached. The approved caps remain proactive and should continue to provide an incentive for the Atlantic herring industry to avoid river herring and shad catch and bycatch, while still allowing an opportunity to use the full Atlantic herring ACL. Therefore, this action is both consistent with the purpose and need of Framework 3 and National Standard 9.

Changes From the Proposed Rule

This rule includes slight adjustments to the regulatory corrections in 50 CFR 648.7(b)(2)(i), 648.7(m), 648.11(r)(1)(iv)(A), and 648.80(e)(5)

implemented under section 305(d) of the Magnuson-Stevens Act to account for new regulations implemented in the New England Industry-Funded Monitoring Omnibus Amendment (85 FR 7414, February 7, 2020).

Classification

The NMFS Assistant Administrator has determined that this final rule is consistent with the Herring FMP, National Standards and other provisions of the Magnuson-Stevens Act, and other applicable law.

The Assistant Administrator for Fisheries finds good cause under the authority of 5 U.S.C. 553(d)(3) to waive the 30-day delay in this action's effective date. This action sets 2020 herring catch limits, puts in place other herring specifications, and sets river herring/shad catch caps for the herring fishery. This rule must be in effect as soon as practicable to prevent overharvesting the ACL and management area sub-ACLs and to ensure the FMP's goals and objectives are achieved. Because this rule lowers herring catch limits directly related to preventing overharvesting the ACL, a 30-day delay would be contrary to the public interest.

Delaying the effective date of the specifications for 30 days will affect NMFS' ability to prevent the herring fishery from exceeding its 2020 area sub-ACLs and ACL. Federal regulations at 50 CFR 648.201(a)(1)(i) require NMFS to implement a 2,000-lb possession limit for each management area through the end of the current fishing year once it is projected that 92 percent of the area sub-ACL will be harvested. NMFS must, under § 648.201(a)(1)(ii), implement the 2,000-lb possession limit for the whole fishery (all areas) when 95-percent of the total herring ACL is harvested. As required by § 648.201(a)(4), NMFS must also implement the 2,000-lb possession limit for river herring/shad accountability measure areas when 95-percent of the river herring/shad catch cap for a specific area is reached.

This action reduces the 2020 herring ACL (11,571 mt) by nearly 25 percent compared to the ACL that was in place in fishing year 2019 (15,065 mt). This action similarly reduces sub-ACLs for each Herring Management Area. Because this action reduces the 2020 herring ACL, NMFS is concerned about preventing catch from exceeding harvest limits in Herring Management Areas 2 (3,217 mt reduced from 4,188 mt) and 3 (4,513 mt reduced from 5,876 mt) which opened on January 1, 2020. Delaying implementation could encourage a derby-style rush to fish before the lower limits are in effect. This not only could result in exceeding the catch limits, but also could pose safety concerns as vessels might perceive a greater incentive to fish during the delay that could be contrary to safe practices. If catch exceeds a sub-ACL, the excess catch must be deducted from a future sub-ACL and would reduce future fishing opportunities.

The 2019–2021 herring specifications are based on the best available science. This action is reducing the herring ACL and sub-ACLs. Delaying implementation of the 2020–2021 herring specifications for 30 days would be contrary to the public interest because the herring fishery may exceed the new, lower sub-ACLs and/or the ACL. Exceeding these harvest limits would negatively impact the herring industry when future harvest is limited to account for excess catch.

The specifications are part of regular rulemaking prescribed by the FMP's regulations. As such, herring fishery participants expect the implementation of the specifications at the earliest date practicable. Catch limits are an integral part of the fishery and are not new requirements. The herring fishery participants are well aware of and accustomed to operating under the catch limits and catch caps. A 30-day delay to adjust these measures therefore is unnecessary because it provides no benefit to the herring fishery. Conversely, a 30-day delay could result in undue loss of economic opportunity from unnecessary catch restrictions or future economic restrictions due to otherwise avoidable overages in this fishing year. For these reasons, NMFS has determined that a 30-day delay in the effectiveness of this rule is contrary to the public interest.

This final rule has been determined to be not significant for purposes of Executive Order (E.O.) 12866.

This final rule is not an Executive Order 13771 regulatory action because this rule is not significant under Executive Order 12866.

NMFS prepared a Final Regulatory Flexibility Analysis (FRFA) for this final rule, as required by section 603 of the Regulatory Flexibility Act (RFA), 5 U.S.C. 603. The FRFA incorporates the IRFA, a summary of the significant issues raised by the public comments in response to the IRFA, NMFS responses to those comments, and a summary of the analyses completed in the Framework 6 EA. A summary of the IRFA was published in the proposed rule for this action and is not repeated here. A description of why this action was considered, the objectives of, and the legal basis for this action is contained in the preamble to the proposed rule (85 FR 4932), and is not repeated here. All of the documents that constitute the FRFA are available from NMFS and a copy of the IRFA, the RIR, and the EA are available upon request (see **ADDRESSES**) or via the internet at *www.greateratlantic.fisheries.noaa.gov.*

A Summary of the Significant Issues Raised by the Public in Response to the IRFA, a Summary of the Agency's Assessment of Such Issues, and a Statement of Any Changes Made in the Final Rule as a Result of Such Comments

NMFS received eight comment letters on the proposed rule. Those comments, and NMFS' responses, are contained in the Comments and Responses section of this final rule and are not repeated here. None of the comments addressed the IRFA and NMFS did not make any changes in the final rule based on public comment.

Description and Estimate of Number of Small Entities to Which This Final Rule Would Apply

For RFA purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of $11 million for all its affiliated operations worldwide.

For the purposes of this analysis, ownership entities are defined by those entities with common ownership personnel as listed on permit application documentation. Permits with identical ownership personnel are categorized as a single entity. For example, if five permits have the same seven personnel listed as co-owners on their application paperwork, those seven personnel form one ownership entity, covering those five permits. If one or several of the seven owners also own additional vessels, with sub-sets of the original seven personnel or with new co-owners, those ownership arrangements are deemed to be separate ownership entities for the purpose of this analysis.

This rule would affect all permitted herring vessels; therefore, a directly regulated entity is a firm that owns at least one herring permit. There are many businesses that hold an open-access (Category D) permit. These businesses catch a small fraction of herring; furthermore, they are minimally

affected by the regulations. Firms are defined as active in the herring fishery if they landed any herring in 2018. This section describes the directly regulated small entities in four classes: All permitted firms; all active firms; limited access permitted firms; and active limited access permitted firms.

In 2018, there were 1,205 firms (1,193 small) that held at least one herring permit. There were 62 (60 small) active firms that held at least one herring permit. There were 68 (62 small) firms that held at least one limited access permit, 31 (29 small) of which were active. Small entity limited access permit holders as a whole derived approximately 38 percent of total entity revenue from the herring fishery. All small entity herring permit holders as a whole derived approximately 29 percent of total entity revenue from the herring fishery. Approved measures decrease the ACL in 2020 and 2021 from the baseline, as presented in Table 4.

TABLE 4—HERRING ACL FOR THE BASELINE (2019) COMPARED TO APPROVED 2020 AND 2021 SPECIFICATIONS

Year	Baseline (mt)	2020 and 2021 specifications (mt)
ACL	15,066	11,571
Area 1A Sub-ACL (28.9%)	4,354	3,344
Area 1B Sub-ACL (4.3%)	647	498
Area 2 Sub-ACL (27.8%)	4,188	3,217
Area 3 Sub-ACL (39%)	5,876	4,513

To examine effects of the approved measures, this analysis assumes catch is equal to the ACL. Recent catch from the four herring management areas has frequently been below the ACL and sub-ACLs. However, recent ACLs have been much higher than the Council's preferred 2020 ACL and portions of the fishery have been restricted due to catch of non-target species (*i.e.,* river herring and shad). With decreasing ACLs but status quo non-target species catch caps, excessive catch of non-target species becomes less likely. The sub-ACL percentages remain constant between the baseline period (2019) through 2020 and 2021; therefore, there is an approximate 23-percent decrease in available catch in each management area from 2019 to 2021. Using this information we can evaluate the effects of the action on small entity revenues. The average percentage of total small entity revenue derived from each management area is listed in Table 5.

TABLE 5—AVERAGE PERCENTAGE OF SMALL ENTITY REVENUE FROM EACH HERRING MANAGEMENT AREA

Management area	Overall average percent entity revenue
1A	44
1B	40
2	10
3	43

Seventeen small entities, mainly purse seine vessels, fished for herring in Area 1A in 2018. Ten of these small entities derived 30 percent or less of total entity revenue from Area 1A. Seven small entities derived more than 80 percent of total entity revenue from Area 1A. Area 1A generates revenue for more small entities than any other area; all other areas only have 3 entities deriving more than 80 percent of revenue from herring. Nine small entities fished for herring in Area 1B in 2018, with 5 entities deriving 30 percent or less from the area and 4 entities deriving between 70 and 100 percent from 1B. Thirty-nine small entities fished for herring in Area 2 in 2018. Twenty-seven of them derived between 0 and 1 percent of total entity revenue from Area 2, and another 6 entities derived less than 30 percent of entity revenue from Area 2. Four entities derived between 70 and 100 percent of total entity revenue from herring in Area 2. Finally, 8 small entities fished for herring in Area 3 in 2018. Four of those entities derived less than 30 percent of total entity revenue from Areas 3 and 4 entities derived between 70 and 100 percent of total entity revenue from Area 3.

While the overall fishery ACL will decline by 23 percent, NMFS does not expect that each of these small entities will have a 23-percent reduction in herring revenue. Rather, because of the low catch limits, some companies may decide not to fish for herring in 2020 and 2021 and would lose 100 percent of revenue from herring. If this happens, the remaining small entities who fish for herring in 2020 and 2021 may realize less than 23-percent reduction in revenue from herring, as there may be fewer vessels herring fishing. Because entities that catch herring are also active in other fisheries, the reduction in total revenue for small entities would likely be less than the reduction in herring revenue. Without being able to predict these specific shifts, Table 6 estimates the percent change for small entities in total revenue resulting from a 23-percent reduction in the herring ACL.

TABLE 6—ESTIMATES OF PERCENT REDUCTION IN TOTAL SMALL ENTITY REVENUE FROM THIS ACTION

Percent change in total small entity revenue	Count of small entities
0 to 1 percent	17
1 to 7 percent	4
18 to 23 percent	8

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

This final rule does not introduce any new reporting, recordkeeping, or other compliance requirements.

Description of the Steps the Agency Has Taken To Minimize the Significant Economic Impact on Small Entities Consistent With the Stated Objectives of Applicable Statutes

Specification of commercial harvest and river herring/shad catch caps are constrained by the conservation objectives set forth in the FMP and implemented at 50 CFR part 648, subpart K under the authority of the Magnuson-Stevens Act. Furthermore, specifications must be based on the best available scientific information, consistent with National Standard 2 of the Magnuson-Stevens Act. With the specification options considered, the measures in this final rule are the only measures that both satisfy these overarching regulatory and statutory requirements while minimizing, to the extent possible, impacts on small entities. This rule implements the herring specifications outlined in Table 1 and the river herring/shad catch caps

outlined in Table 2. Other options considered by the Council, including those that could have less of an impact on small entities, failed to meet one or more of these stated objectives and, therefore, cannot be implemented.

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as ''small entity compliance guides.'' The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a bulletin to permit holders that also serves as small entity compliance guide was prepared. This final rule and the guide (*i.e.,* bulletin) will be sent via email to the Greater Atlantic Regional Fisheries Office herring email list and are available on the website at: *https://www.fisheries.noaa.gov/species/atlantic-herring.* Hard copies of the guide and this final rule will be available upon request (see **ADDRESSES**).

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: April 29, 2020.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is 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 § 648.4, revise paragraphs (a)(10)(ii), (a)(10)(iv)(A) through (C), and (a)(10)(v), and remove paragraph (a)(10)(vi).

The revisions read as follows:

§ 648.4 Vessel permits.

(a) * * *

(10) * * *

(ii) *Atlantic herring carrier.* An Atlantic herring carrier must have been issued and have on board a herring permit and a letter of authorization to receive and transport Atlantic herring caught by another permitted fishing vessel or it must have been issued and have on board a herring permit and have declared an Atlantic herring carrier trip via VMS consistent with the requirements at § 648.10(m)(1). Once a vessel declares an Atlantic herring carrier trip via VMS, it is bound to the VMS operating requirements, specified at § 648.10, for the remainder of the fishing year. On Atlantic herring carrier trips under either the letter of authorization or an Atlantic herring carrier VMS trip declaration, an Atlantic herring carrier is exempt from the VMS, IVR, and VTR vessel reporting requirements, as specified in § 648.7 and subpart K of this part, except as otherwise required by this part. If not declaring an Atlantic herring carrier trip via VMS, an Atlantic herring carrier vessel must request and obtain a letter of authorization from the Regional Administrator, and there is a minimum enrollment period of 7 calendar days for a letter of authorization. Atlantic herring carrier vessels operating under a letter of authorization or an Atlantic herring carrier VMS trip declaration may not conduct fishing activities, except for purposes of transport, or possess any fishing gear on board the vessel capable of catching or processing herring, and they must be used exclusively as an Atlantic herring carrier vessel, and they must carry observers if required by NMFS. While operating under a valid letter of authorization or Atlantic herring carrier VMS trip declaration, such vessels are exempt from any herring possession limits associated with the herring vessel permit categories. Atlantic herring carrier vessels operating under a letter of authorization or an Atlantic herring carrier VMS trip declaration may not possess, transfer, or land any species other than Atlantic herring, except that they may possess Northeast multispecies transferred by vessels issued either a Category A or B Herring Permit, consistent with the applicable possession limits for such vessels specified at § 648.86(a)(3) and (k).

* * * * *

(iv) * * *

(A) A vessel of the United States that fishes for, possesses, or lands more than 6,600 lb (3 mt) of herring, except vessels that fish exclusively in state waters for herring, must have been issued and carry on board either one of the limited access herring permits described in paragraphs (a)(10)(iv)(A)(*1*) through (*3*) of this section or an open access Category E Herring Permit (as described in § 648.4(a)(10)(v)(B)), including both vessels engaged in pair trawl operations.

(*1*) *Category A Herring Permit (All Areas Limited Access Herring Permit).* A vessel may fish for, possess, and land unlimited amounts of herring from all herring areas, provided the vessel qualifies for and has been issued this permit, subject to all other regulations of this part.

(*2*) *Category B Herring Permit (Areas 2 and 3 Limited Access Herring Permit).* A vessel may fish for, possess, and land unlimited amounts of herring from herring Areas 2 and 3, provided the vessel qualifies for and has been issued this permit, subject to all other regulations of this part.

(*3*) *Category C Herring Permit (Limited Access Incidental Catch Herring Permit).* (*i*) A vessel that does not qualify for either of the permits specified in paragraphs (a)(10)(iv)(A)(*1*) and (*2*) of this section may fish for, possess, and land up to 55,000 lb (25 mt) of herring from any herring area, provided the vessel qualifies for and has been issued this permit, subject to all other regulations of this part.

(*ii*) A vessel that does not qualify for a Category A Herring Permit specified in paragraph (a)(10)(iv)(A)(*1*) of this section, but qualifies for the Category B Herring Permit specified in paragraph (a)(10)(iv)(A)(*2*) of this section, may fish for, possess, and land up to 55,000 lb (25 mt) of herring from Area 1, provided the vessel qualifies for and has been issued this permit, subject to all other regulations of this part.

(B) *Eligibility for Category A and B Herring Permits, and Confirmation of Permit History (CPH).* A vessel is eligible for and may be issued either a Category A or B Herring Permit if it meets the permit history criteria in paragraph (a)(10)(iv)(B)(*1*) of this section and the relevant landing requirements in paragraphs (a)(10)(iv)(B)(*2*) and (*3*) of this section.

(*1*) *Permit history criteria for Category A and B Herring Permits.* (*i*) The vessel must have been issued a Federal herring permit (Category 1 or 2) that was valid as of November 10, 2005; or

(*ii*) The vessel is replacing a vessel that was issued a Federal herring permit (Category 1 or 2) between November 10, 2003, and November 9, 2005. To qualify as a replacement vessel, the replacement vessel and the vessel being replaced must both be owned by the same vessel owner; or, if the vessel being replaced was sunk or destroyed, the vessel owner must have owned the vessel being replaced at the time it sunk or was destroyed; or, if the vessel being replaced was sold to another person, the vessel owner must provide a copy of a written agreement between the buyer of the vessel being replaced and the owner/seller of the vessel, documenting that the vessel owner/seller retained the herring permit and all herring landings history.

(*2*) *Landings criteria for the Category A Herring Permit*—(*i*) The vessel must have landed at least 500 mt of herring in any one calendar year between January 1, 1993, and December 31, 2003, as verified by dealer reports submitted to NMFS or documented through valid dealer receipts, if dealer reports were not required by NMFS. In those cases where a vessel has sold herring but there are no required dealer receipts, *e.g.,* transfers of bait at sea and border transfers, the vessel owner can submit other documentation that documents such transactions and proves that the herring thus transferred should be added to their landings history. The owners of vessels that fished in pair trawl operations may provide landings information as specified in paragraph (a)(10)(iv)(B)(*2*)(*iii*) of this section. Landings made by a vessel that is being replaced may be used to qualify a replacement vessel consistent with the requirements specified in paragraph (a)(10)(iv)(B)(*1*)(*ii*) of this section and the permit splitting prohibitions in paragraph (a)(10)(iv)(N) of this section.

(*ii*) *Extension of eligibility period for landings criteria for vessels under construction, reconstruction, or purchase contract.* An applicant who submits written evidence that a vessel was under construction, reconstruction, or was under written contract for purchase as of December 31, 2003, may extend the period for determining landings specified in paragraph (a)(10)(iv)(B)(*2*)(*i*) of this section through December 31, 2004.

(*iii*) Landings criteria for vessels using landings from pair trawl operations. To qualify for a limited access permit using landings from pair trawl operations, the owners of the vessels engaged in that operation must agree on how to divide such landings between the two vessels and apply for the permit jointly, as verified by dealer reports submitted to NMFS or valid dealer receipts, if dealer reports were not required by NMFS.

(*3*) *Landings criteria for the Category B Herring Permit.* (*i*) The vessel must have landed at least 250 mt of herring in any one calendar year between January 1, 1993, and December 31, 2003, as verified by dealer reports submitted to NMFS or documented through valid dealer receipts, if dealer reports were not required by NMFS. In those cases where a vessel has sold herring but there are no required dealer receipts, *e.g.,* transfers of bait at sea and border transfers, the vessel owner can submit other documentation that documents such transactions and proves that the herring thus transferred should be added to their landings history. The owners of vessels that fished in pair trawl operations may provide landings information as specified in paragraph (a)(10)(iv)(B)(*2*)(*iii*) of this section. Landings made by a vessel that is being replaced may be used to qualify a replacement vessel consistent with the requirements specified in paragraph (a)(10)(iv)(B)(*1*)(*ii*) of this section and the permit splitting prohibitions in paragraph (a)(10)(iv)(N) of this section.

(*ii*) *Extension of eligibility period for landings criteria for vessels under construction, reconstruction or purchase contract.* An applicant who submits written evidence that a vessel was under construction, reconstruction, or was under written contract for purchase as of December 31, 2003, may extend the period for determining landings specified in paragraph (a)(10)(iv)(B)(*3*)(*i*) of this section through December 31, 2004.

(*iii*) *Landings criteria for vessels using landings from pair trawl operations.* See paragraph (a)(10)(iv)(B)(*2*)(*iii*) of this section.

(*4*) *CPH.* A person who does not currently own a fishing vessel, but owned a vessel that satisfies the permit eligibility requirements in paragraph (a)(10)(iv)(B) of this section that has sunk, been destroyed, or transferred to another person, but that has not been replaced, may apply for and receive a CPH that allows for a replacement vessel to obtain the relevant limited access herring permit if the fishing and permit history of such vessel has been retained lawfully by the applicant as specified in paragraph (a)(10)(iv)(B)(*1*)(*ii*) of this section and consistent with (a)(10)(iv)(N) of this section.

(C) *Eligibility for Category C Herring Permit, and CPH.* A vessel is eligible for and may be issued a Category C Herring Permit if it meets the permit history criteria specified in paragraph (a)(10)(iv)(C)(*1*) of this section and the landings criteria in paragraph (a)(10)(iv)(C)(*2*) of this section.

(*1*) *Permit history criteria.* (*i*) The vessel must have been issued a Federal permit for Northeast multispecies, Atlantic mackerel, Atlantic herring, longfin or *Illex* squid, or butterfish that was valid as of November 10, 2005; or

(*ii*) The vessel is replacing a vessel that was issued a Federal permit for Northeast multispecies, Atlantic mackerel, Atlantic herring, longfin or *Illex* squid, or butterfish that was issued between November 10, 2003, and November 9, 2005. To qualify as a replacement vessel, the replacement vessel and the vessel being replaced must both be owned by the same vessel owner; or, if the vessel being replaced was sunk or destroyed, the vessel owner must have owned the vessel being replaced at the time it sunk or was destroyed; or, if the vessel being replaced was sold to another person, the vessel owner must provide a copy of a written agreement between the buyer of the vessel being replaced and the owner/seller of the vessel, documenting that the vessel owner/seller retained the herring permit and all herring landings history.

(*2*) *Landings criteria for Category C Herring Permit.* (*i*) The vessel must have landed at least 15 mt of herring in any calendar year between January 1, 1988, and December 31, 2003, as verified by dealer reports submitted to NMFS or documented through valid dealer receipts, if dealer reports were not required by NMFS. In those cases where a vessel has sold herring but there are no required dealer receipts, *e.g.,* transfers of bait at sea and border transfers, the vessel owner can submit other documentation that documents such transactions and proves that the herring thus transferred should be added to the vessel's landings history. The owners of vessels that fished in pair trawl operations may provide landings information as specified in paragraph (a)(10)(iv)(B)(*2*)(*iii*) of this section. Landings made by a vessel that is being replaced may be used to qualify a replacement vessel consistent with the requirements specified in paragraph (a)(10)(iv)(B)(*1*)(*ii*) of this section and the permit splitting prohibitions in paragraph (a)(10)(iv)(N) of this section.

(*ii*) *Extension of eligibility period for landings criteria for vessels under construction, reconstruction or purchase contract.* An applicant who submits written evidence that a vessel was under construction, reconstruction, or was under written contract for purchase as of December 31, 2003, may extend the period for determining landings specified in paragraph (a)(10)(iv)(C)(*2*)(*i*) of this section through December 31, 2004.

(*3*) *CPH.* A person who does not currently own a fishing vessel, but owned a vessel that satisfies the permit eligibility requirements in paragraph (a)(10)(iv)(C) of this section that has sunk, been destroyed, or transferred to another person, but that has not been replaced, may apply for and receive a CPH that allows for a replacement vessel to obtain the relevant limited access herring permit if the fishing and permit history of such vessel has been retained lawfully by the applicant as specified in paragraph (a)(10)(iv)(B)(*1*)(*ii*) of this section and

consistent with (a)(10)(iv)(N) of this section.

* * * * *

(v) *Open access herring permits.* A vessel that has not been issued a limited access herring permit may obtain:

(A) A Category D Herring Permit (*All Areas Open Access Herring Permit*) to possess up to 6,600 lb (3 mt) of herring per trip from all herring management areas, limited to one landing per calendar day; and/or

(B) A Category E Herring Permit (*Areas 2/3 Open Access Herring Permit*) to possess up to 20,000 lb (9 mt) of herring per trip from Herring Management Areas 2 and 3, limited to one landing per calendar day, provided the vessel has also been issued a Limited Access Atlantic Mackerel permit, as defined at § 648.4(a)(5)(iii).

* * * * *

■ 3. In § 648.7, revise paragraphs (b)(2)(i), (b)(3)(i) introductory text, and (b)(3)(i)(A) to read as follows:

§ 648.7 Recordkeeping and reporting requirements.

* * * * *

(b) * * *

(2) * * *

(i) *Atlantic herring vessel owners or operators issued a Category D Herring Permit.* The owner or operator of a vessel issued a Category D Herring Permit to fish for herring must report catch (retained and discarded) of herring via an IVR system for each week herring was caught, unless exempted by the Regional Administrator. IVR reports are not required for weeks when no herring was caught. The report shall include at least the following information, and any other information required by the Regional Administrator: Vessel identification; week in which herring are caught; management areas fished; and pounds retained and pounds discarded of herring caught in each management area. The IVR reporting week begins on Sunday at 0001 hour (hr) (12:01 a.m.) local time and ends Saturday at 2400 hr (12 midnight). Weekly Atlantic herring catch reports must be submitted via the IVR system by midnight each Tuesday, eastern time, for the previous week. Reports are required even if herring caught during the week has not yet been landed. This report does not exempt the owner or operator from other applicable reporting requirements of this section.

* * * * *

(3) * * *

(i) *Atlantic herring owners or operators issued a limited access permit or Category E Herring Permit.* The owner or operator of a vessel issued a limited access permit (*i.e.,* Category A, B, or C) or Category E Herring Permit to fish for herring must report catch (retained and discarded) of herring daily via VMS, unless exempted by the Regional Administrator. The report shall include at least the following information, and any other information required by the Regional Administrator: Fishing Vessel Trip Report serial number; month and day herring was caught; pounds retained for each herring management area; and pounds discarded for each herring management area. Additionally, the owner or operator of a vessel issued a limited access permit or Category E Herring Permit to fish for herring using midwater trawl or bottom trawl gear must report daily via VMS the estimated total amount of all species retained (in pounds, landed weight) by statistical area for use in tracking catch against catch caps (haddock, river herring and shad) in the herring fishery. Daily Atlantic herring VMS catch reports must be submitted in 24-hr intervals for each day and must be submitted by 0900 hr (9:00 a.m.) of the following day. Reports are required even if herring caught that day has not yet been landed. This report does not exempt the owner or operator from other applicable reporting requirements of this section.

(A) The owner or operator of any vessel issued a limited access herring permit (*i.e.,* Category A, B, or C) or a Category E Herring Permit must submit a catch report via VMS each day, regardless of how much herring is caught (including days when no herring is caught), unless exempted from this requirement by the Regional Administrator.

* * * * *

■ 4. In § 648.10, revise paragraphs (b)(8) and (m) to read as follows:

§ 648.10 VMS and DAS requirements for vessel owners/operators.

* * * * *

(b) * * *

(8) A vessel issued a limited access herring permit (*i.e.,* Category A, B, or C), or a vessel issued a Category E Herring Permit, or a vessel declaring an Atlantic herring carrier trip via VMS.

* * * * *

(m) *Atlantic herring VMS notification requirements.* (1) A vessel issued a limited access herring permit (*i.e.,* Category A, B, or C) or a Category E Herring Permit intending to declare into the herring fishery or a vessel issued a herring permit and intending to declare an Atlantic herring carrier trip via VMS must notify NMFS by declaring a herring trip with the appropriate gear code prior to leaving port at the start of each trip in order to harvest, possess, or land herring on that trip.

(2) A vessel issued a limited access herring permit (*i.e.,* Category A, B, or C) or a Category E Herring Permit or a vessel that declared an Atlantic herring carrier trip via VMS must notify NMFS Office of Law Enforcement through VMS of the time and place of offloading at least 6 hours prior to landing or, if fishing ends less than 6 hours before landing, as soon as the vessel stops catching fish. The Regional Administrator may adjust the prior notification minimum time through publication of a document in the **Federal Register** consistent with the Administrative Procedure Act.

* * * * *

■ 5. In § 648.11, revise paragraphs (a), (m)(1)(i) introductory text, (m)(1)(ii) introductory text, (m)(1)(iv), (m)(2)(i), (m)(2)(iii) introductory text, and (m)(7)(iv) through (vi) to read as follows:

§ 648.11 Monitoring coverage.

(a) *Coverage.* The Regional Administrator may request any vessel holding a permit for Atlantic sea scallops, NE multispecies, monkfish, skates, Atlantic mackerel, squid, butterfish, scup, black sea bass, bluefish, spiny dogfish, Atlantic herring, tilefish, Atlantic surfclam, ocean quahog, or Atlantic deep-sea red crab; or a moratorium permit for summer flounder; to carry a NMFS-certified fisheries observer. A vessel holding a permit for Atlantic sea scallops is subject to the additional requirements specified in paragraph (k) of this section. A vessel holding a Category A or B Herring Permit is subject to the additional requirements specified in paragraph (m) of this section. Also, any vessel or vessel owner/operator that fishes for, catches or lands hagfish, or intends to fish for, catch, or land hagfish in or from the exclusive economic zone must carry a NMFS-certified fisheries observer when requested by the Regional Administrator in accordance with the requirements of this section.

* * * * *

(m) * * *

(1) * * *

(i) In addition to the requirement for any vessel holding an Atlantic herring permit to carry a NMFS-certified observer described in paragraph (a) of this section, vessels issued a Category A or B Herring Permit are subject to industry-funded monitoring (IFM) requirements on declared Atlantic herring trips, unless the vessel is carrying a NMFS-certified observer to fulfill Standard Bycatch Reporting

Methodology requirements. An owner of a midwater trawl vessel, required to carry a NMFS-certified observer when fishing in Northeast Multispecies Closed Areas at § 648.202(b), may purchase an IFM high volume fisheries (HVF) observer to access Closed Areas on a trip-by-trip basis. General requirements for IFM programs in New England Council FMPs are specified in paragraph (g) of this section. Possible IFM monitoring for the Atlantic herring fishery includes NMFS-certified observers, at-sea monitors, and electronic monitoring and portside samplers, as defined in § 648.2.

* * * * *

(ii) Vessels issued a Category A or B Herring Permit are subject to IFM at-sea monitoring coverage. If the New England Council determines that electronic monitoring, used in conjunction with portside sampling, is an adequate substitute for at-sea monitoring on vessels fishing with midwater trawl gear, and it is approved by the Regional Administrator as specified in paragraph (m)(1)(iii) of this section, then owners of vessels issued a Category A or B Herring Permit may choose either IFM at-sea monitoring coverage or IFM electronic monitoring and IFM portside sampling coverage, pursuant with requirements in paragraphs (h) and (i) of this section. Once owners of vessels issued a Category A or B Herring Permit may choose an IFM monitoring type, vessel owners must select one IFM monitoring type per fishing year and notify NMFS of their selected IFM monitoring type via selection form six months in advance of the beginning of the SBRM year (October 31). NMFS will provide vessels owners with selection forms no later than September 1 in advance of the beginning of the SBRM year.

* * * * *

(iv) Owners, operators, or managers of vessels issued a Category A or B Herring Permit are responsible for their vessel's compliance with IFM requirements. When NMFS notifies a vessel owner, operator, or manager of the requirement to have monitoring coverage on a specific declared Atlantic herring trip, that vessel may not fish for, take, retain, possess, or land any Atlantic herring without the required monitoring coverage. Vessels may only embark on a declared Atlantic herring trip without the required monitoring coverage if the vessel owner, operator, and/or manager has been notified that the vessel has received a waiver for the required monitoring coverage for that trip, pursuant to paragraphs (m)(2)(iii)(B) and (C) and (m)(3) of this section.

* * * * *

(2) * * *

(i) At least 48 hr prior to the beginning of any trip on which a vessel may harvest, possess, or land Atlantic herring, the owner, operator, or manager of a vessel issued a limited access herring permit (*i.e., Category A, B, or C*) or a vessel issued an open access herring permit (Category D or E) fishing with midwater trawl gear in Management Areas 1A, 1B, and/or 3, as defined in § 648.200(f)(1) and (3), or a vessel acting as a herring carrier must notify NMFS/FSB of the trip.

* * * * *

(iii) For vessels issued a Category A or B Herring Permit, the trip notification must also include the following requests, if appropriate:

* * * * *

(7) * * *

(iv) If a vessel issued a Category A or B Herring permit slips catch for any of the reasons described in paragraph (m)(7)(i) of this section when an observer or monitor is aboard, the vessel operator must move at least 15 nm (27.78 km) from the location of the slippage event before deploying any gear again, and must stay at least 15 nm (27.78 km) away from the slippage event location for the remainder of the fishing trip.

(v) If a vessel issued a Category A or B Herring permit slips catch for any reason on a trip selected by NMFS for portside sampling, pursuant to paragraph (m)(3) of this section, the vessel operator must move at least 15 nm (27.78 km) from the location of the slippage event before deploying any gear again, and must stay at least 15 nm (27.78 km) away from the slippage event location for the remainder of the fishing trip.

(vi) If catch is slipped by a vessel issued a Category A or B Herring permit for any reason not described in paragraph (m)(7)(i) of this section when an observer or monitor is aboard, the vessel operator must immediately terminate the trip and return to port. No fishing activity may occur during the return to port.

* * * * *

■ 6. In § 648.14, revise paragraphs (k)(1)(i)(D); (r)(1)(vi)(A), (r)(1)(vii)(D) and (E), (r)(1)(viii)(B) and (C), remove paragraph (r)(1)(viii)(D), and revise paragraphs (r)(2)(i) through (iv) and (r)(2)(ix) through (xiv).

The revisions read as follows:

§ 648.14 Prohibitions.

* * * * *

(k) * * *

(1) * * *

(i) * * *

(D) Any haddock, and up to 100 lb (45 kg) of other regulated NE multispecies other than haddock, were harvested by a vessel issued a Category A or B Herring Permit on a declared herring trip, regardless of gear or area fished, or a vessel issued a Category C, D, or E Herring Permit that fished with midwater trawl gear, pursuant to the requirements in § 648.80(d) and (e), and such fish are not sold for human consumption.

* * * * *

(r) * * *

(1) * * *

(vi) * * *

(A) For the purposes of observer deployment, fail to notify NMFS/FSB at least 48 hr prior to departing on a declared herring trip with a vessel issued a Category A or B Herring Permit and fishing with midwater trawl or purse seine gear, or on a trip with a vessel issued a Category C, D, or E Herring Permit that is fishing with midwater trawl gear in Management Areas 1A, 1B, and/or 3, as defined in § 648.200(f)(1) and (3), pursuant to the requirements in § 648.80(d) and (e).

* * * * *

(vii) * * *

(D) Transit Area 1A from June 1 through September 30 with more than 2,000 lb (907.2 kg) of herring while having on board midwater trawl gear that is not properly stowed or available for immediate use as defined in § 648.2.

(E) Discard haddock at sea that has been brought on deck, or pumped into the hold, of a vessel issued a Category A or B Herring Permit fishing on a declared herring trip, regardless of gear or area fished, or on a trip with a vessel issued a Category C, D, or E Herring Permit fishing with midwater trawl gear, pursuant to the requirements in § 648.80(d) and (e).

* * * * *

(viii) * * *

(B) Fail to notify NMFS Office of Law Enforcement through VMS of the time and place of offloading at least 6 hours prior to landing or, if fishing ends less than 6 hours before landing, as soon as the vessel stops catching fish, if a vessel has been issued a limited access herring permit (*i.e., Category A, B, or C*) or a Category E Herring Permit or has declared an Atlantic herring carrier trip via VMS.

(C) Fail to declare via VMS into the herring fishery by entering the appropriate herring fishery code and appropriate gear code prior to leaving port at the start of each trip to harvest,

possess, or land herring, if a vessel has been issued a limited access herring permit (*i.e., Category A, B, or C*) or issued a Category E Herring Permit or is intending to act as an Atlantic herring carrier.

* * * * *

(2) * * *

(i) Sell, purchase, receive, trade, barter, or transfer haddock or other regulated NE multispecies (cod, witch flounder, plaice, yellowtail flounder, pollock, winter flounder, windowpane flounder, redfish, white hake, and Atlantic wolffish); or attempt to sell, purchase, receive, trade, barter, or transfer haddock or other regulated NE multispecies for human consumption; if the regulated NE multispecies are landed by a vessel issued a Category A or B Herring Permit fishing on a declared herring trip, regardless of gear or area fished, or by a vessel issued a Category C, D, or E Herring Permit fishing with midwater trawl gear pursuant to § 648.80(d).

(ii) Fail to comply with requirements for herring processors/dealers that handle individual fish to separate out, and retain, for at least 12 hours, all haddock offloaded from a vessel issued a Category A or B Herring Permit that fished on a declared herring trip regardless of gear or area fished, or by a vessel issued a Category C, D, or E Herring Permit that fished with midwater trawl gear pursuant to § 648.80(d).

(iii) Sell, purchase, receive, trade, barter, or transfer; or attempt to sell, purchase, receive, trade, barter, or transfer; to another person, any haddock or other regulated NE. multispecies (cod, witch flounder, plaice, yellowtail flounder, pollock, winter flounder, windowpane flounder, redfish, white hake, and Atlantic wolffish) separated out from a herring catch offloaded from a vessel issued a Category A or B Herring Permit that fished on a declared herring trip regardless of gear or area fished, or by a vessel issued a Category C, D, or E Herring Permit that fished with midwater trawl gear pursuant to § 648.80(d).

(iv) While operating as an at-sea herring processor, fail to comply with requirements to separate out and retain all haddock offloaded from a vessel issued a Category A or B Herring Permit that fished on a declared herring trip regardless of gear or area fished, or by a vessel issued a Category C, D, or E Herring Permit that fished with midwater trawl gear pursuant to § 648.80(d).

* * * * *

(ix) For vessels with Category A or B Herring Permits, fail to move 15 nm (27.78 km), as required by §§ 648.11(m)(7)(iv) and (v) and 648.202(b)(4)(iv).

(x) For vessels with Category A or B Herring Permits, fail to immediately return to port, as required by §§ 648.11(m)(7)(vi) and 648.202(b)(4)(iv).

(xi) Fail to complete, sign, and submit a Released Catch Affidavit as required by §§ 648.11(m)(7)(iii) and 648.202(b)(4)(ii).

(xii) Fail to report or fail to accurately report a slippage event on the Atlantic herring daily VMS catch report, as required by §§ 648.11(m)(7)(iii) and 648.202(b)(4)(iii).

(xiii) For vessels with Category A or B Herring Permits, fail to comply with industry-funded monitoring requirements at § 648.11(m).

(xiv) For a vessel with a Category A or B Herring Permit, fail to comply with its NMFS-approved vessel monitoring plan requirements, as described at § 648.11(m).

* * * * *

■ 7. In § 648.15, revise paragraphs (d) and (e) to read as follows:

§ 648.15 Facilitation of enforcement.

* * * * *

(d) *Retention of haddock by herring dealers and processors.* (1) Federally permitted herring dealers and processors, including at-sea processors, that cull or separate out from the herring catch all fish other than herring in the course of normal operations, must separate out and retain all haddock offloaded from a vessel issued a Category A or B Herring Permit that fished on a declared herring trip regardless of gear or area fished, or by a vessel issued a Category C, D, or E Herring Permit that fished with midwater trawl gear pursuant to § 648.80(d). Such haddock may not be sold, purchased, received, traded, bartered, or transferred, and must be retained, after they have been separated, for at least 12 hours for dealers and processors on land, and for 12 hours after landing by at-sea processors. The dealer or processor, including at-sea processors, must clearly indicate the vessel that landed the retained haddock or transferred the retained haddock to an at-sea processor. Authorized officers must be given access to inspect the haddock.

(2) All haddock separated out and retained is subject to reporting requirements specified at § 648.7.

(e) *Retention of haddock by herring vessels using midwater trawl gear.* A vessel issued a Category A or B Herring Permit fishing on a declared herring trip regardless of gear or area fished, or a vessel issued a Category C, D, or E Herring Permit and fishing with midwater trawl gear pursuant to § 648.80(d), may not discard any haddock that has been brought on the deck or pumped into the hold.

■ 8. In § 648.80, revise paragraphs (d)(4) through (6) and (e)(4) through (6) to read as follows:

§ 648.80 NE Multispecies regulated mesh areas and restrictions on gear and methods of fishing.

* * * * *

(d) * * *

(4) The vessel does not fish for, possess or land NE. multispecies, except that a vessel issued a Category A or B Herring Permit and fishing on a declared herring trip, regardless of gear or area fished, or a vessel issued a Category C, D, or E Herring Permit and fishing with midwater trawl gear pursuant to paragraph (d) of this section, may possess and land haddock and other regulated multispecies consistent with the catch caps and possession restrictions in § 648.86(a)(3) and (k). Such haddock or other regulated NE multispecies may not be sold, purchased, received, traded, bartered, or transferred, or attempted to be sold, purchased, received, traded, bartered, or transferred for, or intended for, human consumption. Haddock or other regulated NE multispecies that are separated out from the herring catch pursuant to § 648.15(d) may not be sold, purchased, received, traded, bartered, or transferred, or attempted to be sold, purchased, received, traded, bartered, or transferred for any purpose. A vessel issued a Category A or B Herring Permit fishing on a declared herring trip, regardless of gear or area fished, or a vessel issued a Category C, D, or E Herring Permit and fishing with midwater trawl gear pursuant to this paragraph (d), may not discard haddock that has been brought on the deck or pumped into the hold;

(5) To fish for herring under this exemption, a vessel issued a Category A or B Herring Permit fishing on a declared herring trip, or a vessel issued a Category C, D, or E Herring Permit fishing with midwater trawl gear in Management Areas 1A, 1B, and/or 3, as defined in § 648.200(f)(1) and (3), must provide notice of the following information to NMFS at least 48 hr prior to beginning any trip into these areas for the purposes of observer deployment: Vessel name; contact name for coordination of observer deployment;

telephone number for contact; the date, time, and port of departure; and

(6) A vessel issued a Category A or B Herring Permit fishing on a declared herring trip with midwater trawl gear, or a vessel issued a Category C or E Herring Permit and fishing with midwater trawl gear in Management Areas 1A, 1B, and/or 3, as defined at § 648.200(f)(1) and (3), must notify NMFS Office of Law Enforcement through VMS of the time and place of offloading at least 6 hours prior to landing or, if fishing ends less than 6 hours before landing, as soon as the vessel stops catching fish. The Regional Administrator may adjust the prior notification minimum time through publication of a document in the **Federal Register** consistent with the Administrative Procedure Act.

* * * * *

(e) * * *

(4) The vessel does not fish for, possess, or land NE multispecies, except that vessels that have a Category A or B Herring Permit fishing on a declared herring trip may possess and land haddock or other regulated species consistent with possession restrictions in § 648.86(a)(3) and (k), respectively. Such haddock or other regulated multispecies may not be sold, purchased, received, traded, bartered, or transferred, or attempted to be sold, purchased, received, traded, bartered, or transferred for, or intended for, human consumption. Haddock or other regulated species that are separated out from the herring catch pursuant to § 648.15(d) may not be sold, purchased, received, traded, bartered, or transferred, or attempted to be sold, purchased, received, traded, bartered, or transferred for any purpose. A vessel issued a Category A or B Herring Permit may not discard haddock that has been brought on the deck or pumped into the hold;

(5) To fish for herring under this exemption, vessels that have a Category A or B Herring Permit must provide notice to NMFS of the vessel name; contact name for coordination of observer deployment; telephone number for contact; and the date, time, and port of departure, at least 48 hr prior to beginning any trip into these areas for the purposes of observer deployment; and

(6) All vessels that have a Category A or B Herring Permit must notify NMFS Office of Law Enforcement through VMS of the time and place of offloading at least 6 hours prior to landing or, if fishing ends less than 6 hours before landing, as soon as the vessel stops catching fish. The Regional Administrator may adjust the prior notification minimum time through publication of a document in the **Federal Register** consistent with the Administrative Procedure Act.

* * * * *

■ 9. In § 648.83, revise paragraph (b)(4) to read as follows:

§ 648.83 Multispecies minimum fish sizes.

* * * * *

(b) * * *

(4) Vessels that have a Category A or B Herring Permit may possess and land haddock and other regulated species that are smaller than the minimum size specified under § 648.83, consistent with the bycatch caps specified in § 648.86(a)(3) and (k). Such fish may not be sold for human consumption.

* * * * *

■ 10. In § 648.86, revise paragraphs (a)(3)(i), (a)(3)(ii)(A)(*1*), and (k) to read as follows:

§ 648.86 NE Multispecies possession restrictions.

* * * * *

(a) * * *

(3) * * *

(i) *Incidental catch allowance for some Atlantic herring vessels.* A vessel issued a Category A or B Herring Permit fishing on a declared herring trip, regardless of gear or area fished, or a vessel issued a Category C, D, or E Herring Permit and fishing with midwater trawl gear pursuant to § 648.80(d), may only possess and land haddock, in accordance with requirements specified in § 648.80(d) and (e).

(ii) * * *

(A) * * *

(*1*) *Haddock incidental catch cap.* When the Regional Administrator has determined that the incidental catch allowance for a given haddock stock, as specified in § 648.90(a)(4)(iii)(D), has been caught, no vessel issued an Atlantic herring permit and fishing with midwater trawl gear in the applicable stock area, *i.e.,* the Herring GOM Haddock Accountability Measure (AM) Area or Herring GB Haddock AM Area, as defined in paragraphs (a)(3)(ii)(A)(*2*) and (*3*) of this section, may fish for, possess, or land herring in excess of 2,000 lb (907.2 kg) per trip in or from that area, unless all herring possessed and landed by the vessel were caught outside the applicable AM Area and the vessel's gear is stowed and not available for immediate use as defined in § 648.2 while transiting the AM Area. Upon this determination, the haddock possession limit is reduced to 0 lb (0 kg) for a vessel issued a Federal Atlantic herring permit and fishing with midwater trawl gear or for a vessel issued a Category A or B Herring Permit fishing on a declared herring trip, regardless of area fished or gear used, in the applicable AM area, unless the vessel also possesses a NE multispecies permit and is operating on a declared (consistent with § 648.10(g)) NE multispecies trip. In making this determination, the Regional Administrator shall use haddock catches observed by NMFS-certified observers or monitors by herring vessel trips using midwater trawl gear in Management Areas 1A, 1B, and/or 3, as defined in § 648.200(f)(1) and (3), expanded to an estimate of total haddock catch for all such trips in a given haddock stock area.

* * * * *

(k) *Other regulated NE multispecies possession restrictions for some Atlantic herring vessels.* A vessel issued a Category A or B Herring Permit on a declared herring trip, regardless of area fished or gear used, or a vessel issued a Category C, D, or E Herring Permit and fishing with midwater trawl gear pursuant to § 648.80(d), may possess and land haddock, and up to 100 lb (45 kg), combined, of other regulated NE. multispecies, other than haddock, in accordance with the requirements in § 648.80(d) and (e). Such fish may not be sold for human consumption.

* * * * *

■ 11. In § 648.200, revise paragraphs (a), (b)(1), and (c) to read as follows:

§ 648.200 Specifications.

(a) The Atlantic Herring Plan Development Team (PDT) shall meet at least every 3 years, but no later than July of the year before new specifications are implemented, with the Atlantic States Marine Fisheries Commission's (Commission) Atlantic Herring Technical Committee (TC) to develop and recommend the following specifications for a period of 3 years for consideration by the New England Fishery Management Council's Atlantic Herring Oversight Committee: Overfishing Limit (OFL), Acceptable Biological Catch (ABC), Annual Catch Limit (ACL), Optimum yield (OY), domestic annual harvest (DAH), domestic annual processing (DAP), U.S. at-sea processing (USAP), border transfer (BT), the sub-ACL for each management area, including seasonal periods as specified at § 648.201(d) and modifications to sub-ACLs as specified at § 648.201(f), the amount to be set aside for the RSA (from 0 to 3 percent of the sub-ACL from any management area), and river herring and shad catch caps, as specified in § 648.201(a)(4). Recommended specifications shall be

presented to the New England Fishery Management Council.

(1) The PDT shall meet with the Commission's TC to review the status of the stock and the fishery and prepare a Stock Assessment and Fishery Evaluation (SAFE) report at least every 3 years. The Herring PDT will meet at least once during interim years to review the status of the stock relative to the overfishing definition if information is available to do so. When conducting a 3-year review and preparing a SAFE Report, the PDT/TC will recommend to the Council/Commission any necessary adjustments to the specifications for the upcoming 3 years.

(2) If the Council determines, based on information provided by the PDT/TC or other stock-related information, that the specifications should be adjusted during the 3-year time period, it can do so through the same process outlined in this section during one or both of the interim years.

(b) * * *

(1) OFL must be equal to catch resulting from applying the maximum fishing mortality threshold to a current or projected estimate of stock size. When the stock is not overfished and overfishing is not occurring, this is usually the fishing rate supporting maximum sustainable yield (*e.g.,* F_{MSY}). Catch that exceeds this amount would result in overfishing. The stock is considered overfished if stock biomass is less than ½ the stock biomass associated with the MSY level or its proxy (*e.g.,* SSB_{MSY} or proxy). The stock is considered subject to overfishing if the fishing mortality rate exceeds the fishing mortality rate associated with the MSY level or its proxy (*e.g.,* F_{MSY} or proxy).

* * * * *

(c) The Atlantic Herring Oversight Committee shall review the recommendations of the PDT and shall consult with the Commission's Herring Board. Based on these recommendations and any public comment received, the Herring Oversight Committee shall recommend to the Council appropriate specifications for a 3-year period. The Council shall review these recommendations and, after considering public comment, shall recommend appropriate 3-year specifications to NMFS. NMFS shall review the recommendations, consider any comments received from the Commission, and publish notification in the **Federal Register** proposing 3-year specifications. If the proposed specifications differ from those recommended by the Council, the reasons for any differences shall be clearly stated and the revised specifications must satisfy the criteria set forth in paragraph (b) of this section.

* * * * *

■ 12. In § 648.201, revise paragraphs (a)(2), (g), and (h) to read as follows:

§ 648.201 AMs and harvest controls.

(a) * * *

(2) When the Regional Administrator has determined that the GOM and/or GB incidental catch cap for haddock in § 648.90(a)(4)(iii)(D) has been caught, no vessel issued a Federal Atlantic herring permit and fishing with midwater trawl gear in the applicable Accountability Measure (AM) Area, *i.e.,* the Herring GOM Haddock AM Area or Herring GB Haddock AM Area, as defined in § 648.86(a)(3)(ii)(A)(*2*) and (*3*) of this part, may fish for, possess, or land herring in excess of 2,000 lb (907.2 kg) per trip in or from the applicable AM Area, and from landing herring more than once per calendar day, unless all herring possessed and landed by a vessel were caught outside the applicable AM Area and the vessel's gear is not available for immediate use as defined in § 648.2 while transiting the applicable AM Area. Upon this determination, the haddock possession limit is reduced to 0 lb (0 kg) in the applicable AM area for a vessel issued a Federal Atlantic herring permit and fishing with midwater trawl gear or for a vessel issued a Category A or B Herring Permit fishing on a declared herring trip, regardless of area fished or gear used, in the applicable AM area, unless the vessel also possesses a Northeast multispecies permit and is operating on a declared (consistent with § 648.10(g)) Northeast multispecies trip.

* * * * *

(g) *Carryover.* (1) Subject to the conditions described in this paragraph (g), unharvested catch in a herring management area in a fishing year (up to 10 percent of that area's sub-ACL) shall be carried over and added to the sub-ACL for that herring management area for the fishing year following the year when total catch is determined. For example, NMFS will determine total catch from Year 1 during Year 2, and will add carryover to the applicable sub-ACL(s) in Year 3. All such carryover shall be based on the herring management area's initial sub-ACL allocation for the fishing year, not the sub-ACL as increased by carryover or decreased by an overage deduction, as specified in paragraph (a)(3) of this section. All herring caught from a herring management area shall count against that area's sub-ACL, as increased by carryover. For example, if 500 mt of herring is added as carryover to a 5,000 mt sub-ACL, catch in that management area would be tracked against a total sub-ACL of 5,500 mt. NMFS shall add sub-ACL carryover only if the ACL, specified consistent with § 648.200(b)(3), for the fishing year in which there is unharvested herring, is not exceeded. The ACL, consistent with § 648.200(b)(3), shall not be increased by carryover specified in this paragraph (g).

(2) Carryover of unharvested catch as described in this paragraph (g) shall not be added to any herring management area's sub-ACL in the 2020 and 2021 herring fishing years.

(h) If NMFS determines that the New Brunswick weir fishery landed less than 2,942 mt of herring through October 1, NMFS will subtract 1,000 mt from management uncertainty and reallocate that 1,000 mt to the ACL and Area 1A sub-ACL. NMFS will notify the Council of this adjustment and publish the adjustment in the **Federal Register**.

■ 13. In § 648.202, revise paragraph (b)(4)(iv) to read as follows:

§ 648.202 Season and area restrictions.

* * * * *

(b) * * *

(4) * * *

(iv) Comply with the measures to address slippage specified in § 648.11(m)(4)(iv) and (v) if the vessel was issued a Category A or B Herring Permit.

■ 14. In § 648.204, revise paragraph (a) to read as follows:

§ 648.204 Possession restrictions.

(a) A vessel must be issued and possess a valid limited access herring permit (*i.e.,* Category A, B, or C) or Category E Herring Permit (as defined in § 648.4(a)(10)(iv) and (v)) to fish for, possess, or land more than 6,600 lb (3 mt) of Atlantic herring from any herring management area in the EEZ. A vessel must abide by any harvest restriction specified in § 648.201 that has been implemented.

(1) A vessel issued a Category A Herring Permit may fish for, possess, or land Atlantic herring with no possession restriction from any of the herring management areas defined in § 648.200(f), provided none of the accountability measures or harvest restrictions specified in § 648.201 have been implemented.

(2) A vessel issued only a Category B Herring Permit may fish for, possess, or land Atlantic herring with no possession restriction only from Area 2 or Area 3, as defined in § 648.200(f), provided none of the accountability measures or harvest restrictions

specified in § 648.201 have been implemented. Such a vessel may fish in Area 1 only if issued a Category C or D Herring Permit, and only as authorized by the respective permit.

(3) A vessel issued a Category C Herring Permit may fish for, possess, or land up to, but no more than, 55,000 lb (25 mt) of Atlantic herring in any calendar day, and is limited to one landing of herring per calendar day, from any management area defined in § 648.200(f), provided none of the accountability measures or harvest restrictions specified in § 648.201 have been implemented.

(4) A vessel issued a Category D Herring Permit may fish for, possess, or land up to, but no more than, 6,600 lb (3 mt) of Atlantic herring from any herring management area per trip, and is limited to one landing of herring per calendar day, provided none of the accountability measures or harvest restrictions specified in § 648.201 have been implemented.

(5) A vessel issued a Category E Herring Permit may fish for, possess, or land up to, but no more than, 20,000 lb (9 mt) of Atlantic herring from only Area 2 or Area 3, as defined in § 648.200(f), per trip, and is limited to one landing of herring per calendar day, provided none of the accountability measures or harvest restrictions specified in § 648.201 have been implemented.

(6) A vessel issued a herring permit may possess herring roe provided that the carcasses of the herring from which it came are not discarded at sea.

* * * * *

■ 15. Section 648.205 is revised to read as follows:

§ 648.205 VMS requirements.

The owner or operator any vessel issued a limited access herring permit (*i.e.,* Category A, B, or C) or Category E Herring Permit, with the exception of fixed gear fishermen, must install and operate a VMS unit consistent with the requirements of § 648.9. The VMS unit must be installed on board, and must be operable before the vessel may begin fishing. Atlantic herring carrier vessels are not required to have VMS (See § 648.10(m) for VMS notification requirements.).

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