

treatment to the extent allowed by law for those submissions, or parts of submissions, for which the parties request confidentiality.

By the Commission.

**Rachel E. Dickon,**

*Assistant Secretary.*

[FR Doc. 2011-14860 Filed 6-14-11; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 110131079-1304-01]

RIN 0648-BA79

#### Fisheries of the Northeastern United States; Atlantic Herring Fishery; Regulatory Amendment

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS proposes revising the reporting requirements for vessels issued Atlantic herring (herring) permits, because more timely catch information is necessary to monitor herring catch against the stock-wide herring annual catch limit (ACL) and herring management area sub-ACLs, to help prevent sub-ACLs overages, and to reduce the chance of premature fishery closures. This proposal would require limited access herring vessels to report catch daily via vessel monitoring systems (VMS), open access herring vessels to report catch weekly via the interactive voice response (IVR) system, and all herring-permitted vessels to submit vessel trip reports (VTRs) weekly.

**DATES:** Public comments must be received no later than 5 p.m., eastern time, on June 30, 2011.

**ADDRESSES:** An environmental assessment (EA) was prepared for this regulatory amendment; it describes the proposed action and other considered alternatives, and provides a thorough analysis of the impacts of the proposed measures and alternatives. Copies of the regulatory amendment, including the EA, the Regulatory Impact Review (RIR), and the Initial Regulatory Flexibility Analysis (IRFA), are available from: NMFS, Northeast Regional Office, 55 Great Republic Drive, Gloucester, MA 01930. The EA/RIR/IRFA is also

accessible via the Internet at <http://www.nero.nmfs.gov>.

You may submit comments, identified by 0648-BA79 by any one of the following methods:

- **Electronic Submissions:** Submit all electronic public comments via the Federal e-Rulemaking portal <http://www.regulations.gov>;
- **Fax:** (978) 281-9135, Attn: Carrie Nordeen;
- **Mail to NMFS, Northeast Regional Office, 55 Great Republic Drive, Gloucester, MA 01930.** Mark the outside of the envelope "Comments on Herring Catch Reporting Rulemaking."

**Instructions:** All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (e.g., name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF formats only.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this rule should be submitted to NMFS, at the address above, and to the Office of Management and Budget (OMB) by e-mail at [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov), or fax to (202) 395-7285.

**FOR FURTHER INFORMATION CONTACT:** Carrie Nordeen, Fishery Policy Analyst, 978-281-9272, fax 978-281-9135.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Atlantic herring harvest in the United States is managed by a fishery management plan (FMP) developed by the New England Fishery Management Council (Council), and implemented by NMFS, in 2000. The FMP was most recently amended on March 2, 2011 (76 FR 11373), in Amendment 4 to the Herring FMP (Amendment 4), which established ACLs and accountability measures (AMs). Herring is not subject to overfishing; therefore, under the Magnuson-Stevens Fishery Conservation and Management Act (MSA), NMFS must have ACLs and AMs in the Herring FMP by 2011 (See 16 U.S.C. 1353(15)). Initially, in Amendment 4 the Council considered measures related to catch monitoring

and reporting, interactions with river herring, access by midwater trawl vessels to groundfish closed areas, and interactions with the Atlantic mackerel fishery. In June 2009, the Council determined there was not sufficient time to develop and implement all the measures contemplated in Amendment 4 by 2011, so it decided to split Amendment 4 into two separate actions. The Council determined that Amendment 4 would continue to address ACL and AM requirements and specification issues, but that all other issues (e.g., catch monitoring and reporting, interactions with river herring and Atlantic mackerel, access to groundfish closed areas) would be considered in Amendment 5 to the Herring FMP (Amendment 5).

The harvest of herring is managed by a stock-wide ACL that is divided between three management areas, one of which has two sub-areas. Area 1 is located in the Gulf of Maine (GOM) and is divided into an inshore section (Area 1A) and an offshore section (Area 1B). Area 2 is located in the coastal waters between Massachusetts and North Carolina, and Area 3 is on Georges Bank (GB). The herring stock complex is considered to be a single stock, but it is comprised of inshore (GOM) and offshore (GB) stock components. The GOM and GB stock components segregate during spawning and mix during feeding and migration. Each management area has its own sub-ACL to allow greater control of the fishing mortality on each stock component.

In order to monitor catch against management area quota allocations (i.e., sub-ACLs), reporting requirements for the herring fishery were implemented as part of the original Herring FMP in 2000, and are specified at § 648.7. Vessels report their herring catch via the IVR system. This information is supplemented by dealer-reported landings, and is monitored against management area sub-ACLs. IVR reports include the following information: Vessel identification; week in which herring was caught; pounds retained; pounds discarded; management areas fished; and pounds of herring caught in each management area. Owners/operators of vessels issued a limited access permit (Categories A-C) report catch weekly via IVR, and owners/operators of vessels issued an open access permit (Category D) report catch via IVR only if they harvest more than 2,000 lb (907.2 kg) of herring on a given trip. All herring-permitted vessels also complete vessel trip reports (VTRs). VTRs include such information as: Vessel identification; date fished; location fished; gear used, number of

crew; total number of hauls; average tow duration; weight of species caught; and dealer information. VTRs are submitted on a monthly basis and are used to verify and/or supplement IVR and dealer data.

To help ensure that herring catch does not exceed management area sub-ACLs, NMFS implements a 2,000-lb (907.2-kg) per trip possession limit in a management area when 95 percent of that management area's sub-ACL is projected to be caught. This measure essentially closes the directed herring fishery in that management area. As catch approaches the sub-ACL's 95 percent closure threshold, NMFS coordinates the timing of implementing possession limit restrictions with the Atlantic States Marine Fisheries Commission and the states of Maine, New Hampshire, and Massachusetts to ensure consistency with state requirements. NMFS then publishes a notice in the **Federal Register** implementing the 2,000-lb (907.2-kg) possession limit.

When approving and implementing Amendment 4, NMFS determined that weekly submission of IVR data and monthly submission of VTR data was sufficient to monitor herring catch against herring sub-ACLs. Between 2001 and 2009, herring catch exceeded individual management area closure thresholds (*i.e.*, 95 percent of sub-ACL) on 8 of the 36 thresholds set over that period (or less than 25 percent of the time). In other words, the four herring management areas were monitored over 9 years, for a total of 36 management area thresholds, and those thresholds were exceeded 8 times. Because catch exceeded the management area closure threshold less than 25 percent of the time, NMFS concluded that existing catch reporting was sufficient to monitor herring catch against sub-ACLs.

Although herring is not overfished and is not experiencing overfishing, the annual acceptable biological catch for herring established for fishing years 2010–2012 was reduced from previous years (55 percent reduction from 2009) due to concerns about a retrospective pattern in the 2009 herring stock assessment that over-estimates biomass (75 FR 48874, August 12, 2010). While the herring optimum yield for 2010–2012 was not reduced below the 2008 catch level, the management area sub-ACLs were reduced from 2009 levels by 20 to 60 percent.

Fishing year 2010 was the first year that NMFS monitored herring catch against the recently reduced management area sub-ACLs. A few weeks prior to approving Amendment 4, NMFS experienced difficulty projecting

herring catch to determine whether to close the directed herring fishery in Area 1B because of a pulse of fishing effort in that area. Specifically, in September 2010, catch in Area 1B exceeded its sub-ACL due to a pulse in fishing effort on a relatively small amount of unharvested herring. The 2010 sub-ACL for Area 1B was 4,362 mt. On August 28, herring catch equaled 49 percent of the Area 1B sub-ACL. The next week (September 4) catch equaled 82 percent of the Area 1B sub-ACL, and by the following week (September 11) catch equaled 114 percent of the Area 1B sub-ACL. On September 14, the directed fishery for herring was closed (*i.e.*, 2,000-lb (907.2-kg) possession limit implemented) in Area 1B, but catch equaled 139 percent of the sub-ACL by September 18. More timely reporting of fishing levels may have allowed NMFS to close the fishery sooner, prior to it exceeding the sub-ACL.

NMFS had similar difficulties projecting a closure date in Area 1A a few weeks after approving Amendment 4, because catch rates were highly variable. If data projections suggest that the catch rate in a management area is higher than the amount of fish actually being caught, NMFS may prematurely close the directed herring fishery in that management area, with a risk that some herring may go unharvested. In October and early November 2010, for example, catch in Area 1A was highly variable, ranging from 142 mt to 4,943 mt per week. Catch projections in early November indicated that 95 percent of the sub-ACL had been harvested; therefore, a 2,000-lb (907.2-kg) possession limit was implemented in Area 1A on November 8. However, following a review of updated catch information, NMFS determined that the catch was not approaching 95 percent of the sub-ACL, and removed the 2,000-lb (907.2-kg) possession limit for the period between November 15 and November 17, and again for the period between November 29 and December 3, to allow catch to approach the 95 percent of the Area 1A sub-ACL. While the fishery was eventually able to harvest the entire Area 1A sub-ACL, the premature implementation of the reduced possession limit unnecessarily interrupted fishing and processing operations and likely resulted in increased operational costs to the industry. If herring had moved out of the Area 1A for the year and were no longer available to the fishery by the time the premature possession limit was lifted, a percentage of the Area 1A sub-ACL may have gone unharvested. Ultimately, catch from Area 1B and

Area 1A exceeded their respective allocations, and those overages will be deducted from the corresponding sub-ACL in fishing year 2012.

These experiences suggest that NMFS needs more timely catch reporting to better monitor catch against sub-ACLs, help prevent sub-ACL overages, and to reduce the chance of premature fishery closures. As described previously, the Council is in the process of developing Amendment 5, which considers revisions to catch reporting requirements for the herring fishery, but that amendment, if approved, is not anticipated to be implemented before 2013.

MSA section 402(a)(2), in conjunction with regulations at § 648.7, provide NMFS with the authority to revise fishery reporting requirements as necessary to monitor a FMP. NMFS recognizes the importance of timely catch information to monitor herring catch against the stock-wide herring ACL and management areas sub-ACLs, as well as to help catch achieve, but not exceed, sub-ACLs. Therefore, NMFS proposes that limited access herring vessels report herring catch daily via VMS, open access herring vessels report catch weekly via IVR, and all herring-permitted vessels submit VTRs weekly.

#### **Proposed Measures**

##### *Reporting Requirements for Limited Access Herring Vessels*

Amendment 1 to the Herring FMP (Amendment 1) established a limited access program for the herring fishery in June 2007 (72 FR 11252, March 31, 2007) to better match the capacity of the fleet to the size of the herring resource. Amendment 1 created three limited access permit categories. The All Areas Limited Access Permit (Category A) is issued to fishery participants with the greatest amount of historical fishery participation (*i.e.*, caught at least 500 mt of herring in a year) and enables the permit holder to fish in all four of the herring management areas. The Areas 2/3 Limited Access Permit (Category B) is issued to fishery participants that had caught at least 250 mt of herring in a year and enables the permit holder to fish in herring management areas 2 and 3. The Incidental Catch Limited Access Permit (Category C) is issued to fishery participants that had caught at least 15 mt of herring in a single year. The Category C herring permit enables the permit holder to fish in all of the herring management areas and retain up to 25 mt of herring per calendar day.

Current regulations require limited access vessels to report herring catch weekly via IVR, submit monthly VTRs,

and obtain and operate a VMS. Vessels declare their intent to participate in the herring fishery by entering a herring code into the VMS prior to leaving port on a fishing trip. This requirement facilitates compliance with herring management area requirements. Category A and B vessels fishing with midwater trawl or purse seine gear are required to provide a pre-landing notification to NMFS 6 hr prior to arriving in port at the conclusion of a fishing trip. This requirement allows NMFS personnel to meet vessels at the dock if issues such as bycatch, especially of haddock, or compliance with fishing restrictions warrant investigation.

In 2010, 101 vessels were issued limited access herring permits; 42 were issued Category A permits, 4 were issued Category B permits, and 55 were issued Category C permits. Limited access vessels harvest more than 99 percent of the total annual herring catch, and the limited access fleet is capable of catching up to 5,000 mt of herring in a week.

To ensure timely catch data are available to better inform management decisions, NMFS proposes that owners/operators of vessels issued limited access herring permits (Categories A–C) be required to report herring catch, retained and discarded, daily via VMS. Daily catch reports would include the following information: Vessel name; VTR serial number; date; and the amount of herring retained and discarded from each management area. During a declared herring trip, catch reports would be required to be submitted via VMS by 9 a.m., eastern time, for herring caught the previous calendar day (0000–2400 hr). If no fish were caught on a particular day during the trip, a negative report (0 lb) would be submitted. This requirement is consistent with daily VMS reporting requirements for owners/operators of vessels issued Northeast multispecies permits engaged in fishing in U.S./Canada management areas and special access programs.

NMFS uses VTRs submitted by limited access herring vessels to verify vessel catch reports and resolve discrepancies between IVR and dealer data. VTRs are valuable tools for correcting reporting errors and improving the quality of data used to monitor management area sub-ACLs. While the monthly submission of VTRs is useful, receiving VTRs on a weekly basis would speed NMFS's ability to resolve issues with the herring data and, ultimately, help improve the monitoring of catch in the herring fishery. Therefore, NMFS proposes that owners/

operators of vessels issued limited access herring permits be required to submit VTRs on a weekly basis. VTRs would be due by midnight each Tuesday, eastern time, for the previous week (Sunday-Saturday). This requirement would increase the frequency of information reporting from status quo, but the required content of the VTR would be unchanged. The submission of weekly VTRs is currently required for owners/operators of vessels issued Northeast multispecies permits.

#### *Reporting Requirements for Open Access Herring Vessels*

In addition to limited access permit categories, Amendment 1 created an open access herring permit. The open access herring permit is available to all fishery participants wanting to harvest small amounts of herring or retain herring encountered incidentally while prosecuting other fisheries. Vessels issued open access herring permits can retain up to 3 mt of herring per trip, and are limited to landing herring once per calendar day. In 2010, 2,258 vessels were issued herring open access permits. Despite the relatively large number of vessels issued an open access herring permit, Category D vessels harvest less than 1 percent of the total annual herring catch.

Current regulations require Category D vessels to report herring catch via IVR only if harvest exceeds 2,000 lb (907.2 kg) of herring in a single trip. If catch is less than 2,000 lb (907.2 kg), Category D vessels report catch monthly on VTRs. In the past, there have been misunderstandings about the 2,000-lb (907.2-kg) threshold triggering the requirement for Category D vessels to report catch via IVR. Some fishery participants understood the requirement to be a weekly limit, while others thought it a daily limit. The IVR system allows catch to be reported by herring management area. The location of fishing (*i.e.*, latitude, longitude) is reported on the VTR, which allows NMFS to attribute catch to the appropriate herring management area, because VTRs do not allow catch to be reported by herring management area.

If a pulse of fishing effort occurs or catch rates are highly variable, using VTR information that is updated monthly may not be timely enough to verify dealer data and resolve any discrepancies between IVR and dealer data. VTRs are valuable tools for correcting reporting errors and improving the quality of data used to monitor management area sub-ACLs. Receiving VTRs more frequently than monthly would speed NMFS's ability to resolve issues with the herring data and,

ultimately, help improve the monitoring of catch in the herring fishery.

In an effort to simplify reporting requirements, improve the timeliness of herring catch data, and more efficiently apportion catch to management areas, NMFS proposes that owners/operators of vessels issued open access herring permits be required to report catch weekly via the IVR system. An IVR report would be required by midnight each Tuesday (eastern time), for herring caught the previous week (Sunday-Saturday). If no herring was caught during a week, no IVR report would be required.

Consistent with proposed VTR requirements for limited access vessels, NMFS proposes that owners/operators of vessels issued open access herring permits be required to submit VTRs on a weekly basis. VTRs would be due by midnight each Tuesday (eastern time) for the previous week (Sunday-Saturday). As described previously, VTRs are valuable tools for correcting reporting errors and improving the quality of data used to monitor management area sub-ACLs. This requirement would increase the frequency of information reporting from status quo, but the required content of the VTR would be unchanged. The submission of weekly VTRs is currently required for owners/operators of vessels issued Northeast multispecies permits.

#### **Classification**

Pursuant to section 304 (b)(1)(A) of the MSA, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the Atlantic Herring FMP, other provisions of the MSA, and other applicable law, subject to further consideration after public comment.

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

An IRFA was prepared, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA, which includes this section of the preamble to this rule and analyses contained in the regulatory amendment and its accompanying EA/RIR/IRFA, describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble, and are not repeated here.

*Description and Estimate of Number of Small Entities to Which the Rule Would Apply*

All participants in the herring fishery are small entities as defined by the Small Business Administration's size standards, as none grossed more than \$4 million annually; therefore, there are no disproportionate economic impacts on small entities. In 2010, 42 vessels were issued Category A herring permits, 4 vessels were issued Category B herring permits, 55 vessels were issued Category C herring permits, and 2,258 vessels were issued Category D herring permits. A complete description of the number of small entities to which this rule applies is provided in Section 3.1.5 of this action's EA/RFA/IRFA (see **ADDRESSES**).

*Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements*

The proposed action contains a collection-of-information requirement subject to review and approval by OMB under the Paperwork Reduction Act (PRA). This requirement will be submitted to OMB for approval under Control Numbers 0648-0202 and 0648-0212. The proposed action does not duplicate, overlap, or conflict with any other Federal rules.

*Economic Impacts of the Proposed Action Compared to Significant Non-Selected Alternatives*

The proposed action would directly affect all participants in the herring fishery because it increases the reporting burden for owners/operators of vessels issued herring permits. A complete description of the economic impacts associated with the proposed action and the non-selected alternatives is provided in Section 4.3 of action's EA/RFA/IRFA (see **ADDRESSES**).

In developing this rule, NMFS considered three alternatives: The no action alternative (status quo); the proposed action, which would require daily VMS reporting by limited access-permitted herring vessels, weekly IVR reporting by open access-permitted herring vessels, and weekly VTR reports from all herring-permitted vessels; and a non-selected action alternative, which would require both limited access and open access-permitted vessels to provide NMFS with trip-by-trip IVR reports and weekly VTR reports.

The proposed action would increase reporting costs for herring fishery participants. VMS reporting and the submission of VTRs have a direct cost associated with the submission of the report. The cost of transmitting a catch report via VMS is \$0.60 per

transmission. In 2010, the average number of fishing days for a limited access herring vessel was 93. Therefore, the annual cost of daily VMS reporting is estimated to be \$55.80 per vessel. The estimated annual VMS reporting burden (*i.e.*, time) would be the submission of 93 reports per limited access vessel. Because the IVR system phone number is toll-free, there is no direct cost associated with reporting via IVR system. The estimated annual IVR reporting burden would be the submission of 52 reports per open access vessel. Additionally, the proposed action would require weekly VTR submissions, which would cost each vessel \$17.60. This cost was calculated by multiplying 40 (52 weeks in a year minus 12 (number of monthly reports)) by \$0.44 (cost of a postage stamp) to equal \$17.60.) The annual VTR reporting burden would be the submission of 52 reports per vessel.

Adding these costs together, the proposed action is estimated to have an annual increased reporting cost of approximately \$73.40 per limited access herring vessel (submission of 145 VMS reports and VTRs), and approximately \$17.60 per open access herring vessel (submission of 104 IVR reports and VTRs). The ex-vessel value of the herring fishery varies by permit category. For limited access vessels, the proposed action would increase reporting costs by less than 1.8 percent of the average ex-vessel value of the fishery (2008-2010). For vessels with open access herring permits, the proposed action would increase reporting costs by 7.2 percent of the average ex-vessel herring value. While the increased reporting costs associated with the proposed action may seem high for open access vessels, open access vessels typically operate in several fisheries and revenue from herring catch is likely only a small portion of their total ex-vessel value. Additionally, the majority of vessels issued open access herring permits (92 percent) are already paying these increased reporting costs, because they also possess a Northeast multispecies permit that requires weekly submission of VTRs.

Under the proposed action, catch data would be updated more frequently and would likely better inform catch projections. If catch projections contain less uncertainty, ACL/sub-ACL overages, and the subsequent overage deduction, may become less likely. Additionally, the fleet may be allowed to harvest up to the 95 percent sub-ACL closure threshold without the management area being prematurely closed and herring potentially left

unharvested. For limited access vessels, reporting via VMS is more flexible (reports can be made from sea or from land) than reporting via IVR (reports usually made only from land). For open access vessels, reporting weekly rather than trip-by-trip still provides timely catch data, but likely results in a lower reporting burden. For these reasons, there may be indirect positive impacts for fishery participants with the proposed action.

As compared to the proposed action, the reporting burden under the no action alternative would be less. The no action alternative would require weekly reporting via IVR for limited access vessels, weekly reporting via IVR for open access vessels when catch was greater than 2,000 lb (907.2 kg) per trip, and monthly submission of VTRs for all vessels issued herring permits. The no action alternative is estimated to have an annual reporting cost of approximately \$5.28 per limited access herring vessel (submission of 64 reports), and approximately \$5.28 per open access herring vessel (submission of 19 reports). Under the no action alternative, there is the possibility that catch data may not be timely enough to inform catch projections increasing the likelihood of either an ACL/sub-ACL overage or a premature implementation of a reduced possession limit. Because of issues with phone reception, reporting via IVR is often not possible while at sea. Therefore, reporting for limited access vessels would be less flexible under the no action alternative than under the proposed action. For these reasons, there may be indirect negative economic impacts to fishery participants resulting from the no action alternative, including overage deductions, increased operational costs if fishing activities are interrupted by a premature closure, and the potential risk that a premature closure may result in a percentage of a management area sub-ACL left unharvested.

The reporting burden under the non-selected action alternative would be less costly than reporting under the proposed action (because IVR is less costly than VMS), but the number of reports submitted may be higher than under the proposed action (because trip-by-trip reporting would likely result in the submission of more reports than weekly reporting). The non-selected action alternative would require trip-by-trip reporting via IVR and weekly submission of VTRs for all vessels issued herring permits. The non-selected action alternative is estimated to have an annual reporting cost of approximately \$17.60 per herring vessel. Because trips can vary in length

from 1 day to several days, the frequency of trip-by-trip reporting would be variable. Under the non-selected action alternative, IVR reporting and weekly VTR submission would result in a minimum annual submission of 104 reports per vessel. The ex-vessel value of the herring fishery varies by permit category. For limited access vessels, the non-selected action alternative would have increased reporting costs that are less than 0.0007 percent of the average ex-vessel value of the fishery (2008–2010). The non-selected action alternative would have increased reporting costs of 7.2 percent of the average ex-vessel value of the herring fishery for open access vessels. While the increased reporting costs associated with the non-selected action alternative may seem high for open access vessels, open access vessels typically operate in several fisheries and revenue from herring catch is likely only a small portion of their total ex-vessel value. Additionally, the majority of vessels issued open access herring permits (92 percent) are already paying these increased reporting costs, because they also possess a Northeast multispecies permit that requires weekly submission of VTRs.

Similar to the proposed action, catch data under the non-selected action alternative would be updated frequently and would likely be sufficient to inform catch projections. If catch projections contained less uncertainty, ACL/sub-ACL overages, and the subsequent overage deduction, may be less likely. Additionally, the fleet may be allowed to harvest up to the 95-percent sub-ACL closure threshold without the management area being prematurely closed and herring potentially left unharvested. For limited access vessels, reporting via IVR is less flexible than reporting via VMS, so reporting for limited access vessels would be less flexible under the non-selected action alternative than under the proposed action. For these reasons, there may be both indirect positive and indirect negative impacts for fishery participants under the non-selected action alternative.

This proposed rule contains a collection-of-information requirement subject to review and approval by OMB under the PRA. As noted above, these collection requests will be submitted to OMB for approval under Control Numbers 0648–0202 and 0648–0212. Public reporting burden for catch reporting is estimated to average 5 min per individual per VMS response, 7 min per individual per IVR response, and 5 min per individual per VTR response, including the time for reviewing

instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection information.

Public comment is sought regarding: Whether this proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these, or any other aspects of the collection of information, to NMFS, Northeast Regional Office (see **ADDRESSES**) and to the OMB by e-mail at *OIRA\_Submission@omb.eop.gov*, or fax to (202) 395–7285.

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

#### List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: June 10, 2011.

**John Oliver,**

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

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

#### **PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES**

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

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

2. In § 648.7, paragraphs (b)(2)(i) and (f)(2)(i) are revised, and paragraph (b)(3) is added to read as follows:

#### **§ 648.7 Recordkeeping and reporting requirements.**

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(i) *Atlantic herring owners or operators issued an open access permit.* The owner or operator of a vessel issued an open access permit to fish for herring must report catch (retained and discarded) of herring to 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 hrs (12:01 a.m.) local time and ends Saturday at 2400 hrs (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.

(A) Atlantic herring IVR reports are not required from Atlantic herring carrier vessels.

(B) *Reporting requirements for vessels transferring herring at sea.* A vessel that transfers herring at sea must comply with these requirements in addition to those specified at § 648.13(f).

(1) A vessel that transfers herring at sea to a vessel that receives it for personal use as bait must report all transfers on the Fishing Vessel Trip Report.

(2) A vessel that transfers herring at sea to an authorized carrier vessel must report all transfers weekly via the IVR system and must report all transfers on the Fishing Vessel Trip Report. Each time the vessel offloads to the carrier vessel is defined as a trip for the purposes of reporting requirements and possession allowances.

(3) A vessel that transfers herring at sea to an at-sea processor must report all transfers weekly via the IVR system and must report all transfers on the Fishing Vessel Trip Report. Each time the vessel offloads to the at-sea processing vessel is defined as a trip for the purposes of the reporting requirements and possession allowances. For each trip, the vessel must submit a Fishing Vessel Trip Report and the at-sea processing vessel must submit the detailed dealer report specified in paragraph (a)(1) of this section.

(4) A transfer between two vessels issued open access permits requires each vessel to submit a Fishing Vessel Trip Report, filled out as required by the LOA to transfer herring at sea, and a weekly IVR report for the amount of herring each vessel lands.

\* \* \* \* \*

(3) *VMS Catch Reports.* (i) *Atlantic herring owners or operators issued a*

limited access permit. The owner or operator of a vessel issued a limited access permit to fish for herring must report catches (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. Daily Atlantic herring VMS catch reports must be submitted in 24-hr intervals for each day and must be submitted by 0900 hr 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 must submit an Atlantic herring 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.

(B) Atlantic herring VMS reports are not required from Atlantic herring carrier vessels.

(C) Reporting requirements for vessels transferring herring at sea. The owner or operator of a vessel issued a limited access permit to fish for herring that transfers herring at sea must comply with these requirements in addition to those specified at § 648.13(f).

(1) A vessel that transfers herring at sea to a vessel that receives it for personal use as bait must report all transfers on the Fishing Vessel Trip Report.

(2) A vessel that transfers herring at sea to an authorized carrier vessel must report all catch daily via VMS and must report all transfers on the Fishing Vessel Trip Report. Each time the vessel offloads to the carrier vessel is defined as a trip for the purposes of reporting requirements and possession allowances.

(3) A vessel that transfers herring at sea to an at-sea processor must report all catch daily via VMS and must report all transfers on the Fishing Vessel Trip Report. Each time the vessel offloads to the at-sea processing vessel is defined as a trip for the purposes of the reporting requirements and possession allowances. For each trip, the vessel must submit a Fishing Vessel Trip Report and the at-sea processing vessel must submit the detailed dealer report specified in paragraph (a)(1) of this section.

(4) A transfer between two vessels issued limited access permits requires each vessel to submit a Fishing Vessel Trip Report, filled out as required by the LOA to transfer herring at sea, and a daily VMS catch report for the amount of herring each vessel catches.

\* \* \* \* \*

(f) \* \* \*

(2) \* \* \*

(i) For any vessel not issued a NE multispecies or Atlantic herring permit, fishing vessel log reports, required by paragraph (b)(1)(i) of this section, must be postmarked or received by NMFS within 15 days after the end of the

reporting month. If no fishing trip is made during a particular month for such a vessel, a report stating so must be submitted, as instructed by the Regional Administrator. For any vessel issued a NE multispecies or Atlantic herring permit, Fishing Vessel Trip Reports must be postmarked or received by midnight of the first Tuesday following the end of the reporting week. If no fishing trip is made during a reporting week for such a vessel, a report stating so must be submitted and received by NMFS by midnight of the first Tuesday following the end of the reporting week, as instructed by the Regional Administrator. For the purposes of this paragraph (f)(2)(i), the date when fish are offloaded will establish the reporting week or month that the Fishing Vessel Trip Report must be submitted to NMFS, as appropriate. Any fishing activity during a particular reporting week (i.e., starting a trip, landing, or offloading catch) will constitute fishing during that reporting week and will eliminate the need to submit a negative fishing report to NMFS for that reporting week. For example, if a vessel issued a NE multispecies or Atlantic herring permit begins a fishing trip on Wednesday, but returns to port and offloads its catch on the following Thursday (i.e., after a trip lasting 8 days), the VTR for the fishing trip would need to be submitted by midnight Tuesday of the third week, but a negative report (i.e., a "did not fish" report) would not be required for either week.

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[FR Doc. 2011-14874 Filed 6-14-11; 8:45 am]

BILLING CODE 3510-22-P