

1. Initial comments are due by August 1, 2016.
2. Replies are due by August 29, 2016.
3. This decision is effective on its date of service.

Decided: June 14, 2016.

By the Board, Chairman Elliott, Vice Chairman Miller, and Commissioner Begeman.

**Raina S. Contee,**  
*Clearance Clerk.*

[FR Doc. 2016-14625 Filed 6-20-16; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No.: 151215999-6488-01]

RIN 0648-BF64

#### Fisheries of the Northeastern United States; Atlantic Herring Fishery; Specification of Management Measures for Atlantic Herring for the 2016-2018 Fishing Years

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

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

**SUMMARY:** NMFS proposes regulations to implement the 2016-2018 fishery specifications and management measures for the Atlantic herring fishery. The specifications would set harvest specifications and river herring/shad catch caps for the herring fishery for the 2016-2018 fishing years as recommended to NMFS by the New England Fishery Management Council. The river herring/shad catch caps are area and gear-specific catch caps for river herring and shad for trips landing more than 6,600 lb (3 mt) of herring. The specifications and management measures are set in order to meet conservation objectives while providing sustainable levels of access to the fishery.

**DATES:** Public comments must be received by July 21, 2016.

**ADDRESSES:** Copies of supporting documents used by the New England Fishery Management Council (Council), including the Environmental Assessment (EA) and Regulatory Impact Review (RIR)/Initial Regulatory

Flexibility Analysis (IRFA), are available from: Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950, telephone (978) 465-0492. The EA/RIR/IRFA is also accessible via the Internet at <http://www.greateratlantic.fisheries.noaa.gov/>.

You may submit comments, identified by NOAA-NMFS-2016-0050, by any one of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to [www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2016-0050](http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2016-0050), click the "Comment Now!" icon, complete the required fields, and enter or attach your comments;
- **Mail:** Submit written comments to NMFS, Greater Atlantic Regional Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope "Comments on 2016-2018 Herring Specifications;"
- **Fax:** (978) 281-9135, Attn: Shannah Jaburek.

**Instructions:** Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

**FOR FURTHER INFORMATION CONTACT:** Shannah Jaburek, Fishery Management Specialist, (978) 282-8456, fax (978) 281-9135.

#### SUPPLEMENTARY INFORMATION:

##### Background

Regulations implementing the Atlantic Herring Fishery Management Plan (FMP) for herring appear at 50 CFR part 648, subpart K. The regulations at § 648.200 require the Council to recommend herring specifications for NMFS' review and proposal in the **Federal Register**, including: The 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 allowed by § 648.201(d) and modifications to sub-ACLs as allowed by § 648.201(f); and the amount to be set aside for the research set aside (RSA) (3 percent of the sub-ACL from any management area) for up to 3 years. These regulations also provide the Council with the discretion to recommend river herring and shad catch caps as part of the specifications.

Under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens 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 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 Atlantic herring regulations guiding the specifications process, NMFS must review the Council's recommended specifications and publish notice of the proposed specifications, clearly noting any differences from the Council's recommendations. NMFS is proposing and seeking comment on the Council's recommended herring specifications and river herring and shad catch caps and whether they are consistent with the Herring FMP, the Magnuson-Stevens Act and its National Standards, and other applicable law.

The proposed 2016-2018 herring specifications are based on the provisions currently in the Herring FMP, and provide the necessary elements to comply with the ACL and accountability measure (AM) requirements of the Magnuson-Stevens Fishery Conservation and Management Act (MSA). At its September 29, 2015, meeting, the Council recommended the 2016-2018 specifications for the herring fishery, including river herring/shad catch caps. NMFS proposes to implement the herring specifications as recommended by the Council and detailed in Table 1 below. For 2016-2018 fishing years, the Council may annually review these specifications and recommend adjustments if necessary.

TABLE 1—PROPOSED ATLANTIC HERRING SPECIFICATIONS

Status Quo and Proposed Atlantic Herring Specifications (mt)		
	2013–2015	2016–2018
Overfishing Limit .....	169,000–2013 .....	138,000–2016
	136,000–2014 .....	117,000–2017
	114,000–2015 .....	111,000–2018.
Acceptable Biological Catch .....	114,000 .....	111,000.
Management Uncertainty .....	6,200 .....	6,200.
Optimum Yield/ACL .....	107,800 .....	104,800.*
Domestic Annual Harvest .....	107,800 .....	104,800.
Border Transfer .....	4,000 .....	4,000.
Domestic Annual Processing .....	103,800 .....	100,800.
U.S. At-Sea Processing .....	0 .....	0.
Area 1A Sub-ACL (28.9%) .....	31,200 .....	30,300.*
Area 1B Sub-ACL (4.3%) .....	4,600 .....	4,500.
Area 2 Sub-ACL (27.8%) .....	30,000 .....	29,100.
Area 3 Sub-ACL (39%) .....	42,000 .....	40,900.
Fixed Gear Set-Aside .....	295 .....	295.
Research Set-Aside .....	3 percent of each sub-ACL .....	3 percent of each sub-ACL.

\* If New Brunswick weir fishery catch through October 1 is less than 4,000 mt, then 1,000 mt will be subtracted from the management uncertainty buffer and added to the ACL and Area 1A Sub-ACL.

An operational update to the herring stock assessment, completed in May 2015, indicated that herring was not overfished and overfishing was not occurring. However, the assessment contained a retrospective pattern suggesting that spawning stock biomass (SSB) is likely overestimated and fishing mortality (F) is likely underestimated. Following an adjustment for the retrospective pattern, the assessment estimated the herring stock at approximately double its target biomass ( $SSB_{MSY}$ ) and F is approximately half the fishing mortality threshold ( $F_{MSY}$ ).

At its June 2015 meeting, the Council recommended a herring ABC of 111,000 mt (a 3-mt decrease from status quo) for 2016–2018 based on the current control rule (constant catch with 50-percent probability that  $F > F_{MSY}$  in last year). The resulting overfishing limit was calculated to be 138,000 mt in 2016, 117,000 mt in 2017, and 111,000 mt in 2018. This ABC recommendation is consistent with the Scientific and Statistical Committee's (SSC) advice. After considering herring's role as forage, the Council found that, while the ABC control rule does not explicitly adjust for herring's role in the ecosystem, herring's high biomass (approximately 74 percent of unfished biomass) and low fishing mortality (ratio of catch to consumption by predators is 1:4) likely achieves ecosystem goals.

Several other factors contributed to the SSC's and Council's recommendation to continue using the current constant catch ABC control rule for 2016–2018. First, the Council recently initiated Amendment 8 to the Herring FMP to consider herring ABC

control rules that may explicitly adjust for herring's role as forage in the ecosystem. Second, key attributes of the stock (SSB, recruitment, F, and survey indices) have not significantly changed since the constant catch control rule for herring was used in the 2013–2015 herring specifications. Third, the realized catch in the fishery is generally well below ABC, reducing the likelihood of overfishing. Fourth, the probability of the stock becoming overfished in 2016–2018 is close to zero. Lastly, the constant catch control rule provides the herring industry with economic stability, which was one of the considerations in the Council's harvest risk policy.

The herring ABC is reduced from the OFL to account for scientific uncertainty. The Council's recommendation to continue using the current constant catch control rule means that the ABC would equal the OFL in 2018. This is consistent with the status quo specifications when ABC was set equal to OFL in 2015, which were successful in preventing overfishing. Some stakeholders (environmental advocacy groups, groundfish industry, and recreational fishing community) are concerned with the potential implications of the assessment's retrospective pattern on herring biomass, including its availability as forage, and the lack of a scientific uncertainty buffer in 2018. Subject to review and consideration of public comment, NMFS preliminarily supports the Council's ABC recommendation. The recent herring operational assessment indicates that the herring biomass is robust, despite an adjustment in the assessment for the retrospective

pattern. The realized catch in the fishery is expected to be much less than the ABC, reducing the likelihood of overfishing. Additionally, NMFS anticipates that Amendment 8 will be adopted prior to the development of the 2019–2021 herring fishery specifications, and will consider herring's role in the ecosystem.

Under the Herring FMP, the herring ACL is reduced from ABC to account for management uncertainty, and the primary source of management uncertainty is catch in the New Brunswick (NB) weir fishery. Catch in the weir fishery is variable, but has declined in recent years. After considering a range of management uncertainty buffers, the Council recommended a buffer of 6,200 mt, which is equivalent to the value of the buffer in 2015. The recommended buffer is greater than the most recent 3-year and 5-year average catch in the NB weir fishery. This would be a more conservative buffer than the buffer used in the most recent specifications that was based on the most recent 3-year average from the NB weir fishery. The resulting stockwide ACL would be 104,800 mt. Given the variability of the NB weir catch and the likelihood that weir catch may be less than 6,200 mt, the Council also recommended a payback provision related to the management uncertainty buffer. Specifically, the Council recommended subtracting 1,000 mt from the buffer and adding it to the ACL if the weir fishery harvests less than 4,000 mt by October 1. The Council recommended October 1 because the fishery primarily occurs during the late summer and fall months (June–October), and catch from the

fishery occurring after October averaged less than four percent of total reported landings. If NB catch is less than 4,000 mt by October 1, the buffer would be reduced to 5,200 mt, the ACL would be increased to 105,800 mt, and the Herring Management Area 1A sub-ACL would be increased to 31,300 mt. The NB weir fishery payback provision was last in effect during fishing years 2010–2012. Council recommendations for all other herring specifications, including the sub-ACL's percentages allocated to the herring management areas, were status quo.

BT is a processing allocation available to Canadian dealers. The MSA provides for the issuance of permits to Canadian vessels transporting U.S. harvested herring to Canada for sardine processing. The Council recommended a 4,000 mt specification for BT. The amount specified for BT has equaled 4,000 mt since 2000. As there continues to be Canadian interest in transporting herring for sardine processing, the Council recommended and NMFS is proposing that the specification for BT would remain unchanged at 4,000 mt.

The Herring FMP specifies that DAH will be set less than or equal to OY and be comprised of DAP and BT. Consistent with the proposed specifications for OY and ACL, the Council recommended that DAH be 104,800 mt for 2016–2018. DAH should reflect the actual and potential harvesting capacity of the U.S. herring fleet. Since 2001, total landings in the U.S. fishery have decreased, but herring catch has remained somewhat consistent from 2003–2014, averaging 91,925 mt. When previously considering the DAH specification, the Council evaluated the harvesting capacity of the directed herring fleet and determined that the herring fleet is capable of fully utilizing the available yield from the fishery. This determination is still true. Therefore, NMFS is proposing that DAH for the 2016–2018 fishing years be set at 104,800 mt, equal to the OY and ACL.

DAP is the amount of U.S. harvest that is processed domestically, as well as herring that is sold fresh (*i.e.*, bait). DAP is calculated by subtracting BT from DAH. Using this formula, the Council recommended and NMFS is proposing that DAP be set at 100,800 mt for 2016–2018.

A portion of DAP may be specified for the at-sea processing of herring in Federal waters. When determining the USAP specification, the Council considers availability of shore-side processing, status of the resource, and opportunities for vessels to participate in the herring fishery. During the 2007–2009 fishing years, the Council

maintained a USAP specification of 20,000 mt (Herring Management Areas 2/3 only) based on information received about a new at-sea processing vessel that intended to utilize a substantial amount of the USAP specification. At that time, landings from Areas 2 and 3—where USAP was authorized—were considerably lower than allocated sub-ACLs for each of the past several years. Moreover, the specification of 20,000 mt for USAP did not restrict either the operation or the expansion of the shoreside processing facilities during the 2007–2009 fishing years. However, this operation never materialized, and none of the USAP specification was used during the 2007–2009 fishing years. Consequently, the Council recommended and NMFS set USAP at zero for the 2010–2015 fishing years. The Council did not receive any information that would suggest changing this specification for fishing years 2016–2018, thus the Council recommended and NMFS is proposing that the specification of USAP would remain unchanged at zero.

The herring ABC specification recommended by the SSC for 2016–2018 is not substantially different from the 2013–2015 ABC specification; therefore, the Council, based on a recommendation from the Herring Committee, has determined that there is no need to consider modifying the distribution of the total ACL between the herring management areas. Additionally, information for the recent herring operational assessment report does not suggest there is a biological need to consider modifying the distribution of stockwide ACL. This approach would maintain status quo for the herring sub-ACLs for the 2016–2018 specifications.

During 2013–2015, the herring research set-aside (RSA) for each management area was three percent of the area's sub-ACL. The research set-aside was established in Amendment 1 (0–3 percent for any management area). The herring RSA set-aside is removed from each sub-ACL prior to allocating the remaining sub-ACL to the fishery. If a proposal is approved, but a final award is not made by NMFS, or if NMFS determines that the allocated RSA cannot be utilized by a project, NMFS shall reallocate the unallocated or unused amount of the RSA to the respective sub-ACL, in accordance with the Administrative Procedure Act (APA) requirements, provided that the additional catch can be available for harvest before the end of the fishing year for which that RSA is specified. Any unallocated or unused RSA would be re-allocated to the sub-ACL and made

available to the fleet before the end of the fishing year in accordance with the APA, provided that the RSA can be available for harvest before the end of the fishing year for which the RSA is specified. The Council did not receive any information that would suggest changing this specification for fishing years 2016–2018, thus the Council recommended and NMFS is proposing that the specification of RSA would remain unchanged at 3 percent of each sub-ACL. On February 29, 2016, NMFS fully awarded the herring RSA allocations for fishing years 2016–2018.

Herring regulations at § 648.201(e) specify that up to 500 mt of the Area 1A sub-ACL shall be allocated for the fixed gear fisheries in Area 1A (weirs and stop seines) that occur west 67°16.8' W. Long. This set-aside shall be available for harvest by the fixed gear fisheries within the specified area until November 1 of each year; any unused portion of the allocation will be restored to the Area 1A sub-ACL after November 1. During 2013–2015, the fixed gear fisheries set-aside was specified at 295 mt. Because the proposed Area 1A sub-ACL for 2016–2018 is not substantially different from the Area 1A sub-ACL in 2015, the Council recommended that the fixed gear fisheries set-aside remain the same. Therefore, the Council recommended, and NMFS is proposing, that the fixed gear fisheries set-aside remain unchanged at 295 mt for 2016–2018.

Framework 3 to the Herring FMP established gear and area-specific river herring/shad catch caps for the herring fishery in 2014. These included catch caps for midwater trawl vessels fishing in the Gulf of Maine, off Cape Cod, and in Southern New England, as well as for small-mesh bottom trawl vessels fishing in Southern New England. Herring regulations at § 648.201(a)(4)(ii) state that once 95 percent of a catch cap is reached, the herring possession limit for vessels using that gear type and fishing in that area is reduced to 2,000 lb (907 kg) for the remainder of the fishing year. To date, the value of the caps has been specified using the median catch of river herring and shad catch over the previous 5 years (2008–2012). The intent of the caps is 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.

The Council's recommendations for 2016–2018 river herring/shad catch caps, as specified below in Table 2, are based on updated data and a revised methodology. The Council's intent in specifying the value of the catch caps using the weighted mean catch of river

herring and shad (versus median catch) and using a longer time series (the most recent 7 years versus 5 years) is to best account for the inter-annual variability in the level of sampling by both observers and portside samplers as well as river herring and shad catch. Additionally, the revised methodology includes previously omitted catch data, including some shad landings and trips from catch cap areas where trips did not meet the 6,600-lb (3-mt) herring landing threshold, and updated extrapolation methodologies. The Council's recommended catch caps appear to better reflect the herring fishery's recent catch of river herring and shad.

Additionally, they balance the opportunity to achieve OY with providing an incentive to avoid river herring and shad catch. For these reasons, the Council recommended and NMFS is proposing the river herring/shad catch caps as shown in Table 2 for fishing years 2016–2018. Although increasing catch caps has the potential to increase river herring and shad catch, the fishery still has strong incentive to avoid reaching the caps. Specifically, the economic loss from limiting herring harvest in an area before the sub-ACLs for an area have been fully reached. Environmental advocates and participants in the tuna and recreational

fisheries strongly advised the Council against increasing river herring/shad catch caps for the herring fishery. Instead they recommended that status quo cap amounts should continue through 2018. Subject to review and consideration of public comment on the suitability of these methods for setting caps that provide a strong incentive to avoid river herring and shad catch while allowing the fleet to achieve OY, NMFS preliminarily supports the Council's river herring/shad catch cap recommendations based on the use of the weighted mean and additional data.

TABLE 2—PROPOSED RIVER HERRING/SHAD CATCH CAPS

Status quo and proposed River Herring/Shad catch caps (mt)		
Catch cap area	2013–2015	2016–2018
Gulf Of Maine (GOM) .....	Midwater Trawl–85.5 .....	Midwater Trawl–76.7.
Cape Cod (CC) .....	Midwater Trawl–13.3 .....	Midwater Trawl–32.4.
Southern New England/Mid-Atlantic (SNE/MA) .....	Midwater Trawl–123.7 .....	Midwater Trawl–129.6.
	Bottom Trawl–88.9 .....	Bottom Trawl–122.3.
Georges Bank (GB) .....	0 .....	0.
Total .....	Midwater Trawl–222.5 .....	Midwater Trawl–238.7.
	Bottom Trawl–88.9 .....	Bottom Trawl–122.3.

### Classification

Pursuant to section 304(b)(1)(A) of the MSA, the NMFS Assistant Administrator has preliminarily determined that this proposed rule is consistent with the 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 Order 12866.

An initial regulatory flexibility analysis (IRFA) was prepared, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A summary of the analysis follows.

#### *Description of the Reasons Why Action by the Agency Is Being Considered and Statement of the Objectives of, and Legal Basis for, the Proposed Rule*

This action proposes management measures and 2016–2018 specifications for the herring fishery. A complete description of the reasons why this action is being considered, and the objectives of and legal basis for this action, are contained in the preamble to this proposed rule and are not repeated here.

#### *Description and Estimate of Number of Small Entities to Which This Proposed Rule Would Apply*

The proposed specifications would affect all permitted herring vessels; therefore, the regulated entity is the business that owns at least one herring permit. Based on 2014 permit data, the number of potential fishing vessels in each permit category in the herring fishery are as follows: 39 for Category A (limited access, all herring management areas); 4 for Category B (limited access, Herring Management Areas 2/3); 46 for Category C (limited access, all herring management areas); 1,841 for Category D (open access, all herring management areas); and 4 for Category E (open access, Herring Management Areas 2/3). The RFA recognizes three kinds of small entities: Small businesses; small organizations; and small governmental jurisdictions. A small entity is classified as a finfish firm if more than half of the firm's gross receipts are derived from finfish with receipts of up to \$20.5 million of gross revenues annually. Individually-permitted vessels may hold permits for several fisheries, harvesting species of fish that are regulated by several different fishery management plans, even beyond those affected by the proposed action. Furthermore, multiple permitted vessels and/or permits may be owned by entities with various personal

and business affiliations. For the purposes of this analysis, “ownership entities” are defined as those entities with common ownership as listed on the permit application. Only permits with identical ownership are categorized as an “ownership entity.” For example, if five permits have the same seven persons listed as co-owners on their permit applications, those seven persons would form one “ownership entity,” that holds those five permits. If two of those seven owners also co-own additional vessels, that ownership arrangement would be considered a separate “ownership entity” for the purpose of this analysis.

From 2014 permit data, there were 1,206 firms that held at least one herring permit; of those, 1,188 were classified as small businesses. There were 103 firms, 96 classified as small business, that held at least one limited access permit. There were 38 firms, including 34 small businesses, that held a limited access permit and were active in the herring fishery (Table 3). Active large entities all held at least one limited access herring permit. Table 4 describes gross receipts from both all fishing and only the herring fishery for firms that were active in the herring fishery. The small firms with limited access permits had 60 percent higher gross receipts and 85 percent higher revenue from herring

than the small firms without a limited access herring permit.

TABLE 3—SMALL AND LARGE FIRMS IN THE ATLANTIC HERRING FISHERY

	All permits		Limited access only	
	All	Active	All	Active
Small .....	1,188	63	96	34
Large .....	18	4	7	4
Total .....	1,206	67	103	38

TABLE 4—AVERAGE REVENUES FOR ACTIVE SMALL AND LARGE ENTITIES IN THE ATLANTIC HERRING FISHERY

	All permits		Limited access only	
	All revenue	Herring revenue	All revenue	Herring revenue
Small .....	\$986,399	\$339,155	\$1,588,059	\$624,820
Large .....	15,913,950	1,426,152	15,913,948	1,426,152

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

This action contains no new collection-of-information, reporting, or recordkeeping requirements.

#### *Federal Rules Which May Duplicate, Overlap, or Conflict With the Proposed Rule*

This action does not duplicate, overlap, or conflict with any other Federal rules.

#### *Description of Significant Alternatives to the Proposed Action Which Accomplish the Stated Objectives of Applicable Statutes and Which Minimize Any Significant Economic Impact on Small Entities*

The primary differences among Alternative 1 (No Action), Alternative 2 (non-preferred alternative), and Alternative 3 (preferred alternative) for the 2016–2018 herring specifications are the specifications for ABC and ACL. Alternative 1 considers an ABC (114,000 mt) that is 3,000 mt (2.6 percent) higher than the ABC considered under

Alternatives 2 and 3 (111,000 mt). Additionally, Alternatives 1 and 2 consider a higher ACL than Alternative 3. The ACL considered under Alternative 3 (104,800 mt) is 3,000 mt (2.78 percent) and 3,200 mt (2.96 percent) less, respectively, than the ACLs considered under Alternative 1 (107,800 mt) and Alternative 2 (108,000 mt). The EA for 2016–2018 herring specifications concluded that all the alternatives would have a low positive economic impact because there would be mortality controls in the fishery and the overall status of herring is not expected to be jeopardized. The EA also concluded that the differences among alternatives were negligible because all alternatives the Council considered for OFL/ABC specifications showed the herring SSB and fishing mortality that would result from fully utilizing the ABC fall within the same range based on the 80-percent confidence intervals. Under Alternatives 1 and 2, small entities are expected to experience slight increases in both gross revenues and herring revenues over the preferred alternative due to higher ACLs

considered under Alternative 1 and Alternative 2. Under Alternatives 1 and 2, fishing vessels may take slightly more fishing trips and incur slightly higher variable operating costs over the preferred alternative. However, Alternative 3 would maintain a constant ABC over the specifications period, which would provide consistency for fishing industry operations, stability for the industry, and a steady supply to the market in addition to the stability provided by a three-year specifications process. Fixed and quasi-fixed costs are expected to remain the same. Because the ACLs are fishery wide and closures would apply to the entire fishery, the effects of these closures should be felt proportionally by the herring industry.

For specifying the 2016–2018 river herring/shad catch caps, the Council chose the preferred alternative (Alternative 3, Option 2) of using the weighted mean and 7-year extended time series shown below in table 5, because it uses the best technical approach to determining river herring/shad catch estimates in support of the goals and objective of Framework 3.

TABLE 5—RIVER HERRING/SHAD CATCH CAP ALTERNATIVES

Catch caps	Alternative 1— no action (2008–2012) (mt)	Alternative 2—5 years of data (2008–2012)*		Alternative 3—7 years of data (2008–2014)*	
		Option 1 median (mt)	Option 2 avg mean (mt)	Option 1 median (mt)	Option 2** avg mean (mt)
Midwater Trawl Gulf of Maine .....	85.5	98.1	98.3	11.3	76.7
Midwater Trawl Cape Cod .....	13.3	8.9	27.6	29.5	32.4
Midwater Trawl Southern New England .....	123.7	83.9	115.4	83.9	129.6
Bottom Trawl Southern New England .....	88.9	19.6	28.2	24.0	122.3
Total .....	311.4	210.5	269.5	148.7	361.0

\* Data errors and extrapolation methodologies were corrected and revised.

\*\* Preferred Alternative.

The primary goal is to provide strong incentive for the industry to continue to avoid river herring/shad and reduce river herring/shad catch to the extent possible. Based on the performance of the fishery in the first year under the river herring/shad catch caps, most of the observed river herring/shad catch has been in the Southern New England by vessels using bottom trawl gear. Alternative 3, Option 2 (preferred) would be the least constraining on the directed herring fishery compared to Alternatives 1 and 2, particularly in the Southern New England bottom trawl catch cap area.

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

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: June 15, 2016.

**Samuel D. Rauch III,**

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

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 648 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 § 648.201, paragraph (h) is added to read as follows:

#### **§ 648.201 AMs and harvest controls.**

\* \* \* \* \*

(h) If NMFS determines that the New Brunswick weir fishery landed less than 4,000 mt through October 1, NMFS will allocate an additional 1,000 mt to the stockwide ACL and Area 1A sub-ACL. NMFS will notify the Council of this adjustment and publish the adjustment in the **Federal Register**.

[FR Doc. 2016–14568 Filed 6–20–16; 8:45 am]

**BILLING CODE 3510–22–P**