

# Rules and Regulations

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 15 CFR Part 902

#### 50 CFR Part 648

[Docket No. 050517132-5132-01; I.D. 051105D]

RIN 0648-AT36

### Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast (NE) Multispecies Fishery; Haddock Incidental Catch Allowance for the 2005 Atlantic Herring Fishery

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

**ACTION:** Temporary rule; emergency action; request for comments.

**SUMMARY:** NMFS is promulgating emergency regulations to establish an incidental haddock catch allowance for the 2005 Atlantic herring fishery. Emergency action was requested by the New England Fishery Management Council (Council) at its meeting on March 30, 2005, to address haddock bycatch in the herring fishery. In developing these measures, NMFS considered recommendations made by the Council's Ad-hoc Bycatch Committee and the Council. The intent of these provisions is to allow the herring fleet to continue its normal fishing operations for the 2005 fishing year, despite the presence of two large year classes of haddock, without providing an incentive for the industry to target haddock, and without causing harm to the GB haddock resource. The proposed measures would reflect the intention of maintaining a haddock

possession tolerance as close to zero as practicable, while allowing the herring industry to operate.

**DATES:** Effective from June 13, 2005, through December 10, 2005. Comments must be received by July 13, 2005.

**ADDRESSES:** Comments may be submitted by any of the following methods:

- E-mail:

*HerringEmergencyRule@NOAA.gov.*

Include in the subject line the following: "Comments on the Emergency Rule for Incidental Haddock Catch Allowance in the 2005 Herring Fishery."

- Federal e-Rulemaking Portal: *http://www.regulations.gov.*

- Mail: Paper, disk, or CD-ROM comments should be sent to Patricia A. Kurkul, Regional Administrator, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope "Comments on the Emergency Rule for Incidental Haddock Catch Allowance in the 2005 Herring Fishery."

- Fax: (978) 281-9135.

Copies of the emergency rule and its Regulatory Impact Review (RIR) are available from Patricia A. Kurkul, Regional Administrator, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this rule should be submitted to the Regional Administrator at One Blackburn Drive, Gloucester, MA 01930, and by e-mail to *David\_Rostker@omb.eop.gov*, or fax to (202) 395-7285. Comments may also be submitted electronically through the Federal e-Rulemaking portal address provided above.

**FOR FURTHER INFORMATION CONTACT:** Brian Hooker, Fishery Policy Analyst, phone: (978) 281-9220, fax: (978) 281-9135.

#### SUPPLEMENTARY INFORMATION:

##### Background

Regulations established under the Fishery Management Plan for the NE Multispecies Fishery (NE Multispecies FMP) prohibit vessels fishing for Atlantic herring (herring) from possessing or landing any groundfish species, including haddock. In July 2004, NMFS's Office of Law Enforcement (OLE) observed prohibited juvenile haddock in catches being

landed by midwater trawl vessels fishing for herring on Georges Bank (GB). Representatives of the herring industry requested a series of meetings with staff from NMFS to report that they were encountering haddock unusually high in the water column, and were unable to avoid catching it, even with midwater trawl gear. Many midwater trawl vessels ceased fishing for herring on GB due to concern about haddock bycatch.

The Council established an Ad-hoc Bycatch Committee late in 2004 to develop specific recommendations to mitigate the potential for bycatch of haddock in several of the region's fisheries, including the herring fishery. Due to the presence of the extremely large 2003 year class of haddock and reports of another large year class in 2004, herring industry members expressed concern that they would continue to catch haddock during 2005. The Bycatch Committee met several times to consider the issue, and recommended to the Council on March 30, 2005, that herring vessels should be allowed to catch haddock until the catch reaches a specified haddock incidental total allowable catch (TAC) level. The Committee further recommended that, if the incidental TAC were fully harvested, the directed herring fishery should be closed. However, the Bycatch Committee did not recommend measures that would allow the incidental haddock catch to be effectively monitored. Because there is not time for the Council to develop and complete a Council action to implement the Committee's recommendation, the Council requested emergency action to authorize herring vessels to possess up to 1,000 lb (454 kg) of haddock incidentally caught when fishing for herring. The Council's emergency request recommended that this measure apply only to vessels issued permits that authorize the catch of more than 500 mt of herring in 2005 (Category 1 herring vessels). Without this emergency action, the Council fears that, when herring move onto GB in June 2005, vessel operators will decline to fish there for herring due to their concerns about violating the existing prohibition on possession of groundfish. Category 1 vessels accounted for 99.3 percent of the herring landings in 2004. Due to concerns regarding the immediacy of this problem, the Council requested that

NMFS enact measures through an emergency rule, to be effective through December 31, 2005. The Council's formal request for emergency action was made at the March 30, 2005, Council meeting and was followed by a written request received by NMFS on April 6, 2005. This interim measure is intended to provide an incidental catch allowance that will allow the herring fishery to operate on GB this year while the Council develops a long-term solution.

The following provisions will be implemented through this emergency rule: (1) Suspension of the prohibition on the possession of haddock by Category 1 herring vessels using purse seines or midwater trawls (including pair trawls), (2) establishment of a 1,000-lb (454-kg) haddock incidental possession allowance for Category 1 herring vessels, (3) suspension of the haddock minimum fish size for Category 1 herring vessels, (4) prohibition on the purchase and sale of haddock landed by Category 1 herring vessels for human consumption, (5) establishment of a provision to require herring processors to cull landings made by Category 1 herring vessels and to retain haddock for inspection by enforcement officials, (6) establishment of a requirement for all Category 1 herring vessels to provide advance notification of landing via the Vessel Monitoring System (VMS), whether or not such a vessel is carrying an at-sea observer, and (7) establishment of a cap of 270,000 lb (122,470 kg) on the total amount of observed and reported haddock that could be landed under the haddock incidental possession allowance.

NMFS reviewed the Council's recommendation and concluded that emergency action is warranted because the current absolute prohibition on the possession of haddock by vessels targeting herring appears to be unrealistic, given the current abundance of haddock on GB. Unless action is taken on an emergency basis to give some relief from the existing provisions, it appears likely that participants in the herring fishery may decline to fish on GB due to concern about enforcement actions that could result from possession of even small amounts of haddock catch under existing regulations. Such an interruption in the herring fishery would have negative impacts on the fishery participants, and would likely interrupt the supply of herring used as bait for the American lobster fishery in the Gulf of Maine.

NMFS has determined that this action meets the criteria for emergency action for the purposes of section 305(c) of the Magnuson-Stevens Fishery

Conservation and Management Act (Magnuson-Stevens Act) and is consistent with NMFS policy guidelines for the use of emergency rules as published on August 21, 1997 (62 FR 44421). This emergency rule results from a recent, unforeseen event. The bycatch of small haddock from the very large 2003 year class was first reported in the summer of 2004. The Council quickly established the Bycatch Committee to look into the matter and to make recommendations to the Council. This timeframe did not allow sufficient time to address this unforeseen event through the normal rulemaking process. The situation presents a serious management problem in the herring fishery in that participants are currently prohibited from possessing any haddock. This absolute prohibition is not appropriate for the current conditions in the fishery, given the very large haddock year class on GB, the size of which has not been seen since 1962. This situation can be addressed through emergency regulations for which the immediate benefits of allowing the herring fishery to occur unfettered and the immediate concerns of catching small amounts of haddock outweigh the value of advance notice and public comment. Moreover, this issue has been discussed at several Committee meetings, two Council meetings, and a groundfish advisory panel meeting. NMFS is confident that any adverse impacts of this emergency rule are being minimized to the maximum extent practicable. The public will have an opportunity to comment on a long-term solution to this situation through the notice-and-comment rulemaking process for Amendment 1 to the Atlantic Herring FMP. This emergency rule is further justified because it will prevent significant direct economic loss resulting from herring harvest that would otherwise likely be foregone. An evaluation conducted by the Northeast Fisheries Science Center (NEFSC) estimated that foregone revenue from Category 1 herring vessels not fishing in Herring Fishery Management Area 3 (Area 3) would be \$3,131,882. This assumes that the herring fleet would not fish in Area 3 for fear of being in violation of the prohibition on the possession of haddock on every trip. The estimate of foregone future haddock revenue as a result of this emergency action is \$625,000. Thus, the negative economic consequences would be much greater (5 to 1) if no action were taken to address the haddock bycatch issue for the 2005 fishing year.

NMFS concludes that there is little risk to GB haddock associated with this action. The measures being implemented will allow the herring fleet to continue its normal fishing operations, despite the presence of two large year classes of haddock. The measures provide no incentive for the industry to target haddock and any haddock landed cannot be sold for human consumption. Further, haddock culled by processors cannot be sold for any purpose. The measures maintain a haddock possession tolerance as close to zero as practicable, without causing harm to the haddock resource or slowing the haddock rebuilding schedule. While the haddock from these two large years classes have not been recruited to the fishery (i.e., they are too small to be included in the calculation of the target TAC for haddock established under the NE Multispecies FMP), NMFS notes that, on May 6, 2005 (70 FR 23939), the agency published the suspension of the haddock daily and maximum trip limits for vessels fishing under a limited access NE multispecies days-at-sea permit. This suspension of the haddock restrictions was deemed necessary to provide the opportunity to harvest at least 75 percent of the TAC for haddock for the fishing year, which extends through April 30, 2006. Even so, given current projections of landings, the NE multispecies fishery may not fully harvest the GB haddock TAC for the current fishing year, supporting NMFS's conclusion that these measures pose very little risk to the haddock resource.

This emergency action includes a cap on the total amount of observed and reported haddock that could be landed as a result of this action. The bycatch cap will place a backstop on the total amount of haddock permitted to be landed in order to mitigate any unexpected haddock harvest levels. Thus, the herring fishery will not be allowed an unlimited harvest of haddock. This bycatch cap differs from the TAC recommended by the Council's Bycatch Committee because it is based on actual landings reported or observed, rather than on an extrapolation of landings from incomplete data. NMFS will use landings reported by vessels and dealers/processors, as well as any other landings reported through observer reports or enforcement actions to determine if observed and reported landings reach the bycatch cap level. If the bycatch cap is reached, the directed herring fishery in the GB haddock stock area will be closed, and the emergency measures that authorize Category 1 vessels to possess haddock will be

terminated. If the fishery is closed due to attainment of the bycatch cap, the measures established by this action to require herring processors and dealers to retain haddock landed by Category 1 herring vessels would remain in effect, as would the requirement for Category 1 herring vessels to provide advance notification of landing, to ensure that the closure is enforceable.

#### Management Measures

##### *Suspension of Prohibition on Possession of Haddock*

Current regulations prohibit vessels fishing in the Gulf of Maine (GOM) and GB Exemption Areas using midwater trawl and purse seine gear from possessing or landing NE multispecies, including haddock. This action suspends that provision for Category 1 herring vessels for haddock only. Vessels using these gears will continue to be prohibited from possessing any of the other multispecies.

##### *Haddock Incidental Catch Allowance*

This action establishes an incidental catch allowance for Category 1 herring vessels of 1,000 lb (454 kg) of haddock. In order to facilitate the enforcement of this provision, a dockside sampling protocol is being developed, with the advice of the NEFSC, to allow enforcement officers to sample herring catches to determine compliance with the possession limit. Subsampling is necessary because of the large volume of herring that such trips land. At the March 30, 2005, Council meeting, some industry representatives indicated that the 1,000-lb (454-kg) allowance would be sufficient to allow the herring fishery to be prosecuted. This is further supported by the enforcement actions resulting from haddock possession by herring vessels in the summer of 2004. Of 14 such enforcement actions, only 4 revealed haddock bycatch greater than the 1,000-lb (454-kg) possession limit implemented by this emergency action. This action is intended to maintain a haddock possession tolerance as close to zero as practicable, while still allowing the herring fishery to operate on GB in 2005.

##### *Suspension of Haddock Minimum Size*

This action suspends the minimum haddock size requirement for Category 1 herring vessels. Many of the haddock in the 2003 and 2004 year classes are expected to be smaller than the current minimum size of 19 inches (48.3 cm). The suspension of the minimum size limit is necessary because, in a high-volume fishery such as the herring fishery, it is difficult, if not impossible,

to cull fish of the same size and similar shape. Herring are often pumped directly from the nets into the holds, with no intermediary step to sort the catch. Thus it is impracticable to sort out haddock that are smaller than the current minimum fish size.

##### *Prohibition on the Sale of Haddock for Human Consumption*

To eliminate any incentive for herring vessels to target haddock, this action prohibits the sale of haddock caught by Category 1 herring vessels for human consumption. It is not feasible to establish a similar prohibition on the sale of haddock for use as bait because herring catches landed for use as bait cannot always be sorted; they are often offloaded by pumping the fish from the vessel hold into tanker trucks. As a result, some haddock could remain mixed in with the herring catch. NMFS determined that it would be inequitable to make downstream purchasers of such bait legally liable for the presence of haddock. Such offloads will be sampled to determine compliance with the haddock possession limit.

##### *Requirement for Herring Dealers/Processors to Retain Haddock Landed by Category 1 Herring Vessels*

This action requires herring dealers and processors, such as canneries, freezer plants, and at-sea processors, that handle and/or sort fish individually, to separate out and retain all haddock from the catch offloaded from a Category 1 herring vessel in order to facilitate monitoring and enforcement of haddock bycatch limits. The haddock must be set aside and retained for 12 hours to facilitate inspection by enforcement officials, and the vessel that landed the haddock must be clearly identified. Sale of these culled haddock, for any purpose, is prohibited. All herring dealers and processors must continue to comply with the current reporting requirements that require federally permitted dealers and processors to report all fish purchased or received with a vessel trip identifier via the weekly electronic dealer reporting system as specified under § 648.7(a).

##### *VMS Notification Prior to Landing*

This action expands upon a provision enacted in the final rule (70 FR 31323, June 1, 2005) for Framework Adjustment 40B to the NE Multispecies FMP (Framework 40B). Framework 40B requires all Category 1 herring vessels, except those that are carrying a NMFS approved observer, to notify OLE via VMS of the port in which they will land their catch. Through this action

notification must be given by all Category 1 herring vessels at least 12 hours prior to crossing the VMS demarcation line on the return trip to port, or, for vessels that have not fished seaward of the VMS demarcation line, at least 12 hours prior to landing. If a fishing trip is less than 12 hours in length, Category 1 herring vessels must notify NMFS Office of Law Enforcement through VMS of the time and place of offloading at least 6 hours prior to crossing the VMS demarcation line on its return trip to port, or, for vessels that have not fished seaward of the VMS demarcation line, at least 6 hours prior to landing. The Regional Administrator may adjust the prior notification minimum time through publication of a notice in the **Federal Register** consistent with the Administrative Procedure Act. This emergency action expands the notification requirement to all Category 1 herring vessels and adjusts the minimum notification time to accommodate trips lasting less than 12 hours. This provision will facilitate the enforcement and monitoring of the 1,000-lb (454-kg) haddock possession limit and the 270,000-lb (122,470-kg) bycatch cap by giving enforcement agents sufficient notice of landing to enable them to meet a fishing vessel at the dock to sample the catch.

##### *Haddock Bycatch Cap*

This action establishes a bycatch cap for Category 1 herring vessels of 270,000 lb (122,470 kg) of haddock. This amount equals 1 percent of the proposed 2005 target TAC for GB haddock (70 FR 19724, April 14, 2005). The bycatch cap will place a backstop on the total amount of haddock permitted to be landed in order to mitigate any unexpected haddock harvest levels and prevent the herring fishery from catching an unlimited amount of haddock. NMFS will use all available data to tabulate haddock landings made by Category 1 herring vessels, including at-sea observer reports, Federal dealer/processor reports, and haddock landings reported by law enforcement agents. If the available data indicate the bycatch cap has been harvested, the GB haddock stock area will be closed to herring fishing by Category 1 herring vessels, and the emergency measures that authorize Category 1 vessels to possess haddock will be terminated. The measures established by this action to require herring processors and dealers to retain haddock landed by Category 1 herring vessels would remain in effect, as would the requirement for Category 1 herring vessels to provide advance notification of landing, to ensure that the closure is enforceable.

Under NOAA Administrative Order 205-11, 07/01, dated December 17, 1990, the under Secretary for Oceans and Atmosphere has delegated authority to sign material for publication in the **Federal Register** to the Assistant Administrator for Fisheries, NOAA.

#### Classification

This emergency rule has been determined to be not significant for purposes of Executive Order 12866.

This emergency rule is exempt from the procedures of the Regulatory Flexibility Act because the rule is issued without opportunity for prior notice and opportunity for public comment.

The Assistant Administrator Fisheries, NOAA (AA) finds good cause under U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment on this action. These measures are intended to allow the herring fishery to conduct normal operations on GB when herring return to the area in June 2005. Absent this action, participants in the herring fishery are likely to avoid fishing in the area, with resultant negative impacts to participants in the herring fishery and to entities that purchase herring, such as harvesters of American lobster who use herring as bait. An evaluation conducted by the Northeast Fisheries Science Center (NEFSC) estimated that foregone revenue from Category 1 herring vessels not fishing in Area 3 would be \$3,131,882. This assumes that the herring fleet would not fish in Area 3 for fear of being in violation of the prohibition on the possession of haddock on every trip. The estimate of foregone future haddock revenue as a result of this emergency action is \$625,000. Thus, the negative economic consequences would be much greater (5 to 1) if no action were taken to address the haddock bycatch issue for the 2005 fishing year. The implementation of these measures would be ineffective if they are not in place when the fish return to the area in June 2005.

Because of the late date that this need for emergency action was fully understood and developed, there is insufficient time to allow for prior public comment before the GB herring fishing season begins. This emergency rule results from a recent, unforeseen event. The bycatch of small haddock from the very large 2003 year class was first reported in the summer of 2004. The Council quickly established the Bycatch Committee in late 2004 to look into the matter and to make recommendations to the Council. The Bycatch Committee met several times to consider the issue, and recommended to the Council on March 30, 2005, that

herring vessels should be allowed to catch haddock until the catch reaches a specified haddock incidental total allowable catch (TAC) level. The Council's formal request for emergency action was made at the March 30, 2005, Council meeting and was followed by a written request received by NMFS on April 6, 2005. This timeframe did not allow sufficient time to address this unforeseen event through the normal rulemaking process. Therefore, the AA finds that it would be impracticable and contrary to the public interest to delay the implementation of these measures by providing additional opportunities for public comment.

The AA also finds that this action relieves an existing restriction on participants in the herring fishery by increasing the haddock possession limit for Category 1 herring vessels from 0 lb/kg to 1,000 lb (454 kg), and suspending the minimum size requirement for haddock possessed by Category 1 herring vessels consistent with that possession limit. Because this rule relieves a restriction imposed on herring vessels, it is not subject to the 30-day delayed effectiveness provision of the APA pursuant to 5 U.S.C. 553(d)(1). The AA also finds good cause to waive the 30-day delay in effectiveness for the requirement to provide notification of landing via the VMS unit for Category 1 herring vessels carrying an Observer; the prohibition on the sale of haddock for human consumption; the requirement for herring dealers/processors to retain haddock landed by category 1 herring vessels; and the haddock bycatch cap. Because the need for this emergency action was not fully understood and addressed until a few months prior to this action, there is insufficient time to allow for prior public comment before the GB herring fishing season begins. The Council became aware of the haddock bycatch issue in the summer of 2004. At that time, a Bycatch Committee was formed to look into the matter and to make recommendations to the Council. The Bycatch Committee met several times to consider the issue, and recommended to the Council on March 30, 2005, that herring vessels should be allowed to catch haddock until the catch reaches a specified haddock incidental total allowable catch (TAC) level. The Council's formal request for emergency action was made at the March 30, 2005, Council meeting and was followed by a written request received by NMFS on April 6, 2005. Due to the short timeframe between the time when the haddock bycatch issue was first brought to the Council's attention and the start

of the 2005 fishing season there was not sufficient time to address this unforeseen event through the normal rulemaking process. Delaying the effectiveness of the requirement for prior notification of landing via the VMS unit for Category 1 herring vessels carrying an observer would not give enforcement officers an adequate opportunity to meet the vessel at the dock to inspect the herring catch for the presence of haddock. If the implementation of the bycatch cap is delayed the result could be that the herring fishery could continue in the Georges Bank stock area longer than intended, undermining one of the intents of this rule, which is to keep the bycatch of haddock as minimal as practicable.

#### Description of Projected Reporting, Recordkeeping, and Other Compliance Requirement

This emergency rule establishes a new collection-of-information requirement subject to the Paperwork Reduction Act (PRA). Category 1 herring vessels will be required to notify OLE via VMS of the port in which they will land their catch. Notice is required prior to landing. The public's reporting burden for the collection-of-information requirements includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection-of-information requirements. This requirements has been approved by OMB as follows: Haddock Bycatch Notification of Landing, Office of Management and Budget (OMB) control number 0648-0525, (5 min/response).

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

##### 15 CFR Part 902

Reporting and recordkeeping requirements.

##### 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: June 7, 2005.

**Rebecca Lent,**

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

■ For the reasons stated in the preamble, 15 CFR, Chapter IX, Part 902 is amended as follows:

**15 CFR Chapter IX**

**PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT: OMB CONTROL NUMBERS**

■ 1. The authority citation for part 902 continues to read as follows:

**Authority:** 44 U.S.C. 3501 *et seq.*

■ 2. In § 902.1, the table in paragraph (b) under “50 CFR” is amended by adding in numerical order an entry for § 648.81(d) to read as follows:

**§ 902.1 OMB control numbers assigned pursuant to the paperwork Reduction Act**

\* \* \* \* \*

CFR part or section where the information collection requirement is located	Current OMB control number the information (All numbers begin with 0648—)
* * * * *	*
50 CFR	*
648.81(d)	-0525
* * * * *	*

**50 CFR Chapter VI**

**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 § 648.2, a definition for “Category 1 herring vessel” is added, to read as follows:

**§ 648.2 Definitions.**

\* \* \* \* \*

*Category 1 herring vessel* means a vessel issued a permit to fish for Atlantic herring that is required to have an operable VMS unit installed on board pursuant to § 648.205(b).

\* \* \* \* \*

■ 3. In § 648.14, paragraph (bb)(20) is suspended and paragraphs (a)(166),

(a)(167), (a)(168), (bb)(21), and (bb)(22) are added to read as follows:

**§ 648.14 Prohibitions.**

(a) \* \* \*

(166) Sell, purchase, receive, trade, barter, or transfer haddock, or attempt to sell, purchase, receive, trade, barter, or transfer haddock for, or intended for, human consumption landed by a Category 1 herring vessel as defined in § 648.2.

(167) Fail to comply with requirements for herring processors/dealers that handle individual fish to separate out and retain all haddock offloaded from a Category 1 herring vessel, and to retain such catch for at least 12 hours with the vessel that landed the haddock clearly identified by name.

(168) Sell, purchase, receive, trade, barter, or transfer, or attempt to sell, purchase, receive, trade, barter, or transfer to another person any haddock separated out from a herring catch offloaded from a Category 1 herring vessel.

\* \* \* \* \*

(bb) \* \* \*

(21) If the vessel is a Category 1 herring vessel and is fishing for herring in the GOM and GB Exemption Area as specified in § 648.80(a)(17), fail to notify the NMFS Office of Law Enforcement of the time and date of landing via VMS 12 hours prior to crossing the VMS demarcation line on its return trip to port, or, for vessels that have not fished seaward of the VMS demarcation line, at least 12 hours prior to landing. Or, if a fishing trip is less than 12 hours in length, fail to notify NMFS Office of Law Enforcement through VMS of the time and place of offloading at least 6 hours prior to crossing the VMS demarcation line on its return trip to port, or, for vessels that have not fished seaward of the VMS demarcation line, at least 6 hours prior to landing.

(22) Possess, transfer, receive, sell, purchase, trade, or barter, or attempt to transfer, receive, purchase, trade, or barter, or sell more than 2,000 lb (907.2 kg) of Atlantic herring per trip from the GB haddock stock area defined in § 648.86(b)(6)(v)(B) following the effective date of any closure enacted pursuant to § 648.86(a)(3).

\* \* \* \* \*

■ 4. In § 648.15, paragraph (d) is added 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 receive herring from Category 1 herring vessels, and 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 Category 1 herring vessel. Such haddock may not be sold, purchased, received, traded, bartered, or transferred, and must be retained for at least 12 hours with the vessel that landed the haddock clearly identified, and law enforcement officials must be given access to inspect the haddock.

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

■ 5. In § 648.80, paragraphs (d)(4), (d)(7), (e)(4), and (e)(6) are suspended and paragraphs (d)(8), (d)(9), (e)(7), and (e)(8) are added to read as follows:

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

\* \* \* \* \*

(d) \* \* \*

(8) The vessel does not fish for, possess or land NE multispecies, except that Category 1 herring vessels may possess and land haddock consistent with the incidental catch allowance and bycatch cap specified in § 648.86(a)(3). Such haddock 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 that is 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.

(9) All Category 1 herring vessels must notify NMFS Office of Law Enforcement through VMS of the time and place of offloading at least 12 hours prior to crossing the VMS demarcation line on their return trip to port, or, for vessels that have not fished seaward of the VMS demarcation line, at least 12 hours prior to landing. If a fishing trip is less than 12 hours in length, Category 1 herring vessels must notify NMFS Office of Law Enforcement through VMS of the time and place of offloading at least 6 hours prior to crossing the VMS demarcation line on their return trip to port, or, for vessels that have not fished seaward of the VMS demarcation line, at least 6 hours prior to landing. The Regional Administrator may adjust the prior notification minimum time through publication of a notice in the **Federal Register** consistent with the Administrative Procedure Act.

(e) \* \* \*

(7) The vessel does not fish for, possess or land NE multispecies, except that Category 1 herring vessels may possess and land haddock consistent with the incidental catch allowance and bycatch cap specified in § 648.86(a)(3).

(8) All Category 1 herring vessels must notify NMFS Office of Law Enforcement through VMS of the time and place of offloading at least 12 hours prior to crossing the VMS demarcation line on their return trip to port, or, for vessels that have not fished seaward of the VMS demarcation line, at least 12 hours prior to landing. If a fishing trip is less than 12 hours in length, Category 1 herring vessels must notify NMFS Office of Law Enforcement through VMS of the time and place of offloading at least 6 hours prior to crossing the VMS demarcation line on their return trip to port, or, for vessels that have not fished seaward of the VMS demarcation line, at least 6 hours prior to landing. The Regional Administrator may adjust the prior notification minimum time through publication of a notice in the Federal Register consistent with the Administrative Procedure Act.

\* \* \* \* \*

■ 6. In § 648.83, paragraph (b)(4) is added to read as follows:

**§ 648.83 Multispecies minimum fish sizes.**

\* \* \* \* \*

(b) \* \* \*

(4) Category 1 herring vessels may possess and land haddock that measure less than the minimum fish size, consistent with the haddock incidental catch allowance and bycatch cap specified in § 648.86(a)(3).

\* \* \* \* \*

■ 7. In § 648.86, paragraph (a)(3) is added to read as follows:

**§ 648.86 Multispecies possession restrictions.**

\* \* \* \* \*

(a) \* \* \*

(3)(i) Incidental catch allowance for herring Category 1 vessels. Category 1 herring vessels defined in § 648.2 may possess and land up to 1,000 lb (454 kg) of haddock per trip, subject to the requirements specified in § 648.80(d) and (e).

(ii) *Bycatch cap.* (A) When the Regional Administrator has determined that 270,000 lb (122,470 kg) of observed and reported haddock have been landed, NMFS shall prohibit Category 1 herring vessels from entering or fishing in the GB haddock stock area defined by the coordinates specified in paragraph (b)(6)(v)(B) of this section for GB cod through a notice in the **Federal Register**

consistent with rulemaking requirements of the Administrative Procedure Act. In making this determination, the Regional Administrator shall use only haddock landings observed by NMFS approved observers and law enforcement officials, and reports of haddock bycatch submitted by vessels and dealers pursuant to the reporting requirements of this part.

(B) Upon the effective date of prohibiting Category 1 herring vessels from entering or fishing in the GB haddock stock area as described in paragraph (a)(3)(ii)(A) of this section, the haddock possession limit is reduced to 0 lb (0 kg) for all Category 1 herring vessels.

\* \* \* \* \*

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**DEPARTMENT OF THE TREASURY**

**Office of Foreign Assets Control**

**31 CFR Parts 501 and 538**

**Reporting, Procedures and Penalties Regulations and Sudanese Sanctions Regulations**

**AGENCY:** Office of Foreign Assets Control, Treasury.

**ACTION:** Final rule.

**SUMMARY:** The Office of Foreign Assets Control (“OFAC”) of the U.S. Department of the Treasury is revising the Reporting, Procedures and Penalties Regulations (the “RPPR”) to make a technical change in order to remove a reference to the Government of Sudan that was used prior to the promulgation of Executive Order 13067 and the Sudanese Sanctions Regulations.

OFAC is also amending the Sudanese Sanctions Regulations, (the “SSR”). The amendments to the SSR include the issuance of two general licenses, effective June 13, 2005. One general license authorizes the operation of accounts in U.S. financial institutions under certain circumstances for individuals ordinarily resident in Sudan. The other general license authorizes U.S. depository institutions, U.S. registered brokers and dealers in securities, and U.S. registered money transmitters to process transfers of funds constituting noncommercial, personal remittances to or from Sudan or for or on behalf of individuals ordinarily resident in Sudan. Other amendments to the SSR include the removal of two regulatory provisions and the revision of a provision regarding reexportation of

U.S.-origin goods, technology or software by non-U.S. persons, and another revision of to reflect changes in OFAC’s procedure for imposing civil penalties.

**DATES:** *Effective Date:* June 13, 2005.

**FOR FURTHER INFORMATION CONTACT:** Chief of Compliance Programs, tel.: 202/622-2490, Chief of Civil Penalties, tel.: 202/622-6140, Chief of Licensing, tel.: 202/622-2480, Chief of Policy Planning and Program Management, tel.: 202/622-4855, or Chief Counsel, tel.: 202/622-2410, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220.

**SUPPLEMENTARY INFORMATION:**

**Electronic and Facsimile Availability**

This file is available for download without charge in ASCII and Adobe Acrobat readable (\*.PDF) formats at GPO Access. GPO Access supports HTTP, FTP, and Telnet at [fedbbs.access.gpo.gov](http://fedbbs.access.gpo.gov). It may also be accessed by modem dialup at 202/512-1387 followed by typing “/GO/FAC.” Paper copies of this document can be obtained by calling the Government Printing Office at 202-512-1530. Additional information concerning the programs of the Office of Foreign Assets Control is available for download from the Office’s Internet Home Page at: <http://www.treas.gov/ofac> or via FTP at [ofacftp.treas.gov](http://ofacftp.treas.gov). Facsimiles of information are available through the Office’s 24-hour fax-on-demand service: call 202/622-0077 using a fax machine, a fax modem, or (within the United States) a touch-tone telephone.

**Background**

On November 3, 1997, President Clinton, invoking the authority, inter alia, of the International Emergency Economic Powers Act (50 U.S.C. 1701-1706), issued Executive Order 13067 (62 FR 59989, November 5, 1997). The order declared a national emergency with respect to the policies and actions of the Government of Sudan, “including continued support for international terrorism; ongoing efforts to destabilize neighboring governments; and the prevalence of human rights violations, including slavery and the denial of religious freedom.” To deal with this national emergency, Executive Order 13067 imposed trade sanctions with respect to Sudan and blocked all property and interests in property of the Government of Sudan in the United States or within the possession or control of U.S. persons. The Sudanese Sanctions Regulations, 31 CFR part 538 (the “SSR”), implement Executive Order 13067.