



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 240716-0197; RTID 0648-XD769]

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; 2024-2026 Small-Mesh Multispecies Specifications

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes small-mesh multispecies specifications for the 2024 fishing year, and projected specifications for fishing years 2025 and 2026, as recommended by the New England Fishery Management Council. This action also further reduces the recommended acceptable biological catch for southern red in order to comply with the requirements outlined in Framework Adjustment 62 to the Northeast Multispecies Fishery Management Plan. This action is necessary to establish allowable harvest levels and other management measures consistent with the most recent scientific information. This rule also informs the public of the proposed fishery specifications and provides an opportunity for comment.

DATES: Comments must be received by [*insert date 15 days after date of publication in the FEDERAL REGISTER*].

ADDRESSES: The New England Fishery Management Council (Council) has prepared a draft environmental assessment (EA) for this action that describes the proposed measures and other considered alternatives and analyzes the impacts of the proposed measures and alternatives. The Council submitted a draft of the specifications to NMFS that includes the draft EA, a description of the Council's preferred alternatives, the Council's rationale

for selecting each alternative, and a Regulatory Flexibility Act (RFA) analysis. Copies of the draft of the specifications, the draft EA, RFA analysis, and information on the economic impacts of this proposed rulemaking are available upon request from: Dr. Cate O’Keefe, Executive Director; New England Fishery Management Council; 50 Water Street; Newburyport, MA 01950; and accessible via the internet in documents available at: <https://www.nefmc.org/library/2024-2026-small-mesh-multispecies-whiting-specifications>.

A plain language summary of this proposed rule is available at <https://www.regulations.gov/docket/NOAA-NMFS-2024-0077>. You may submit comments on this document, identified by NOAA-NMFS-2024-0077, by either of the following methods:

Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and enter NOAA-NMFS-2024-0077 in the Search box (note: copying and pasting the FDMS Docket Number directly from this document may not yield search results). Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

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 <https://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 Policy Analyst, (978) 282-8456.

SUPPLEMENTARY INFORMATION:

Background

The small-mesh multispecies fishery comprises three species of hakes that are managed as five stocks: Northern and southern silver hake; northern and southern red hake; and offshore hake. Southern silver hake and offshore hake are often grouped together for management purposes and collectively referred to as “southern whiting.” The New England Fishery Management Council manages the small-mesh multispecies fishery within the Northeast Multispecies Fishery Management Plan (FMP). This action proposes catch limit specifications for the 2024 small-mesh multispecies fishery, and projects specifications for fishing years 2025 and 2026, based on the Council’s recommendations.

This rule proposes to implement the Council’s recommended catch limits for northern silver hake, southern whiting, and northern red hake. Pursuant to section 305(d), this rule proposes to reduce the recommended acceptable biological catch (ABC) for southern red hake by 25 percent in order to comply with the requirements established in Framework Adjustment 62 to the Northeast Multispecies FMP (87 FR 3694, January 25, 2022). Framework 62 established a rebuilding plan for southern red hake that requires the ABC be set to 75 percent of the fishing mortality rate at maximum sustainable yield (F_{MSY}). However, the overfishing limit (OFL) for red hake has been unknown since the spring of 2020, when a peer review of the management track assessment rejected a new empirical approach that would have updated the reference points for the stock. The peer review further stated that the current index-based method was inappropriate moving forward. Based on this, the Council set the 2021-2023 specifications to reduce the ABC to equal 75 percent of F_{MSY} . At its October 27, 2023, meeting, the Council’s Scientific and Statistical Committee (SSC) met to discuss the specifications for small-mesh multispecies stocks. When setting the ABC for southern red hake, the SSC did not reduce the recommended ABC as required by Framework 62. The SSC’s rationale for that

decision was that, although exploitation is low, the low stock biomass may be a result of reduced stock productivity producing weak year classes and that the recommended ABC is not likely to result in overfishing and will support rebuilding goals for the stock. Based on the SSC’s rationale, the Council submitted recommended specifications without the required reduction. This rule proposes to reduce the recommended ABCs in order to comply with the rebuilding plan for southern red hake. The fishery has not landed more than 76 percent of the proposed total allowable landings; therefore, we do not anticipate that this additional reduction to the annual catch limit (ACL) would impact the fishery as a whole.

Proposed Specifications

This action proposes the Council’s recommended 2024 and projected 2025-2026 small-mesh multispecies catch specifications, with southern red hake adjusted as required by the rebuilding plan. The proposed catch limits would increase annual quotas for northern silver hake and decrease the quota for southern whiting and both red hake stocks (table 1). Specifications for fishing years 2025 and 2026 are projected to be the same as the proposed 2024 limits. These specifications are based on the most recent assessment update using the best scientific information available.

Table 1. Small-Mesh Multispecies Specifications for Fishing Years 2024-2026 (metric tons), with the Percent Change in the Total Allowable Landings (TAL) from Fishing Year 2020

	OFL	ABC	Annual Catch Limit (ACL)	TAL	ACL Percent Change from 2023
Northern Red Hake	Unknown	3,129	2973	213	-9%
Northern Silver Hake	79,473	40,868	38,825	31,347	+100%
Southern Red Hake	Unknown	1,370**	1,301	234	-9%
Southern Whiting*	35,419	20,149	19,142	13,881	-51%

*Southern whiting includes both southern silver hake and offshore hake.

** The Council recommended ABC was 1,826 mt, a 21 percent increase from 2023.

The Council did not recommend changes to any other regulations for the small-

mesh multispecies fishery. Therefore, all other fishery management measures would remain unchanged under the proposed action. The Council will review the projected 2025 and 2026 specifications to determine if any changes need to be made prior to their final implementation. Changes may occur if quota overages trigger accountability measures, or if new stock information results in changes to the ABC recommendations. We will publish a notice prior to the 2025 fishing year to confirm the specifications or announce any necessary changes.

Classification

NMFS is issuing this rule pursuant to section 305(d) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA). The reason for using this regulatory authority is that in a previous action taken pursuant to section 304(b), the Council designed the FMP to authorize NMFS to set specifications pursuant to section 305(d). See 50 CFR part 648.90(b). Further pursuant to MSA section 305(d), this action is necessary to carry out the Northeast Multispecies FMP because the Council-recommended specifications for southern red hake are not compliant with the rebuilding plan implemented by Framework 62 to the FMP. The NMFS Assistant Administrator has determined that this proposed rule is consistent with the Northeast Multispecies FMP and other applicable law, subject to further consideration after public comment.

This action is exempt from review under E.O. 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The factual basis for this determination is as follows.

The proposed action would impact all permitted vessels or affiliated groups that participate in small-mesh multispecies fisheries. The Council considered any business with at least one open access Northeast multispecies K permit or other Northeast

multispecies permit that allows possession of hakes in this evaluation, as well as any active entities that landed any small-mesh multispecies for commercial sale in 2022. To estimate the number of commercial business entities that may experience impacts from the proposed action on fishery specification (2024-2026), active small-mesh multispecies entities landing small-mesh multispecies are defined as those entities containing permits that are directly regulated and that landed small-mesh multispecies as recent as in 2022 for commercial sale. In 2022, there were 247 business entities landing small-mesh multispecies (southern whiting, silver, and/or red hake), of which 245 (99 percent) were small business entities, that could potentially be affected by the proposed specification measures for 2024-2026. There were two large entities landing small-mesh multispecies, but they only landed small-mesh multispecies worth about \$69,000 in aggregate (or 0.2-percent of their total income from fishing). On average, small entities derived approximately 5.37 percent of total entity fishing income from small-mesh multispecies. From 2018-2022, the number of business entities engaged in small-mesh species landings has declined but the average revenue per entity has increased.

The purpose of this action was previously outlined in the preamble to this proposed rule and is not repeated here. As proposed, this action would decrease the available catch limits for southern whiting (51 percent from 2023) and both red hake stocks (9 percent from 2023) and increase available catch limits for northern silver hake (100-percent increase from 2023). Although three of the proposed quotas would decrease from previous years, they remain higher than landings for any of the stocks for at least the last 3 years; therefore, the reduction is not expected to be restrictive to the fishery or result in reductions in revenue.

The Council's analyses indicate that the overall economic impact of proposed action is expected to be slightly positive, and that the proposed specifications are not expected to substantially change fishing effort, risk of overfishing, prices/revenues, or

fishery behavior. Therefore, the Council concluded, and NMFS agrees, that this action would not have a significant economic impact on a substantial number of small businesses. As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

This action would not establish any new reporting or record-keeping requirements.

This proposed rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

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

Dated: July 16, 2024.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

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