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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 160202068-6532-02]

RIN 0648-XE425

Fisheries of the Northeastern United States; Small-Mesh Multispecies Specifications

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

ACTION: Final rule.

SUMMARY: This final rule modifies the specifications for northern and southern red hake for fishing years 2016 and 2017. This action is necessary to implement the Council's recommended measures in response to updated scientific information. These final specifications are intended to help achieve sustainable yield and prevent overfishing on these two red hake stocks.

DATES: Effective [*insert date of publication in the FEDERAL REGISTER*], until the effective date of the 2018-19 annual specifications and management measures, which will publish in the **Federal Register**.

ADDRESSES: Copies of the specifications document, consisting of an Environmental Assessment (EA) and other supporting documents, are available from Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950. This document is also available from the following internet addresses: www.greateratlantic.fisheries.noaa.gov/ or www.nefmc.org. Copies of the small entity

compliance guide are available from John K. Bullard, Regional Administrator, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930-2298.

FOR FURTHER INFORMATION CONTACT: Peter Burns, Fishery Policy Analyst, (978) 281-9144.

SUPPLEMENTARY INFORMATION:

Background

The New England Fishery Management Council manages the small-mesh multispecies fishery primarily through a series of exemptions from the Northeast Multispecies Fishery Management Plan (FMP). The small-mesh multispecies fishery is composed of five stocks of three species of hakes (northern and southern silver hake, northern and southern red hake, and offshore hake). It is managed separately from the other stocks of groundfish such as cod, haddock, and flounders, primarily because the fishery uses small mesh and modified nets that do not generally result in the catch of these other stocks. Amendment 19 to the Northeast Multispecies FMP (April 4, 2013; 78 FR 20260) established a process for setting the small-mesh multispecies catch specifications, as well as set the specifications for the 2012-2014 fishing years. On May 28, 2015, NMFS published specifications for the 2015-2017 fishing years, based on stock assessment updates using data through the spring 2014 survey (80 FR 30379). The Northeast Fisheries Science Center completed a stock assessment update in 2015, using data through the 2015 spring survey. The 2015 update indicates that the northern red hake stock is increasing in biomass, while the southern stock is decreasing.

The purpose of this action is to modify the northern and southern red hake specifications for the 2016 and 2017 fishing years. The Council recommended these changes in response to its

review of the 2015 assessment update. The 2015 stock assessment update showed an increase in the northern red hake stock and a decrease in the southern red hake stock; however, the reasons for the decline in the southern stock area are unclear. In response to the updated stock assessment, the Council recommends modifications to the annual catch limits and total allowable landings limits.

Final Measures

This rule increases the northern red hake and decreases the southern red hake 2016 and 2017 annual catch limits and total allowable landings limits (Table 1), consistent with the stock assessment update and the Council’s recommendation. The increase to the northern stock specifications will reduce unnecessary discards by delaying a reduction in the possession limits. This action will benefit the fishery without increasing the risk of overfishing. The decrease in the southern stock specifications is necessary to reduce the risk of overfishing, even though recent landings are approximately 20 percent below the revised level of total allowable landings (Table 2).

Table 1. Summary of the Revised 2016 and 2017 Red Hake Specifications, in Metric Tons.

	Northern Red Hake		Southern Red Hake	
	Existing	Revised	Existing	Revised
Overfishing Limit	331	556	3,400	1,816
Acceptable Biological Catch	287	496	3,179	1,717
Annual Catch Limit (ACL)	273	471	3,021	1,631
Total Allowable Landings (TAL)	104.2	120	1,309.4	746

Table 2. Comparison of Revised 2016-2017 Red Hake Specifications and 2014 Catch and Landings, in Metric Tons.

	Northern Red Hake	Southern Red Hake
Revised ACL	471	1,631
2014 Catch	278	1,277
% of Revised ACL	56%	74%
Revised TAL	120	746

2014 Landings	74	603
% of Revised TAL	62%	81%

Comments and Responses

On April 7, 2016, NMFS published proposed specifications for public notice and comment. NMFS did not receive any comments in response to the proposed rule.

Classification

The Administrator, Greater Atlantic Region, NMFS, determined that this final rule is necessary for the conservation and management of the small-mesh multispecies fishery and that it is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is exempt from review under E.O. 12866 because this action contains no implementing regulations.

The Assistant Administrator finds good cause under the authority of 5 U.S.C. 553(d)(3) to waive the 30-day delay of the effective date. Because the fishing year began on May 1, 2016, delaying the effectiveness of this action, particularly the increase in the northern red hake catch limits, would not be in the best interest of the fishery resource or vessels fishing for small-mesh multispecies. The intent of this action is to allow the fishery to benefit from the increase in the northern red hake biomass by increasing the overall catch limits for the fishery. This action will also help to reduce red hake discards by ensuring that the possession limits are not reduced sooner than necessary. The accountability measures for the fishery require that the possession limits be reduced once certain harvest triggers are met. If the 30-day delay in the effective date stands, there is a risk that early-season fishing effort on the northern red hake stock could trigger a reduction in the possession limits before the increase in overall catch limits contained in this

final rule take effect. In 2012 and 2013, northern red hake catch rates exceeded the Annual Catch Limits (ACL) and Acceptable Biological Catch (ABC) and the possession limit was reduced to the incidental level earlier than anticipated. Such a situation could cause economic hardship for fishermen by restricting them to a lower possession limit until the higher catch limits contained in this rule take effect and the higher possession limits are re-instated. Therefore, having the increased catch limits take effect upon publication will optimize the benefits to the industry by extending the season and will benefit the resource by helping to prevent excess discards and overages to the ACL and ABC.

In addition, making the measures in this final rule effective upon publication will assist in reducing the risk of overfishing the southern red hake stock, even though the fishery is not expected to exceed the reduced catch limits.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis is not required and none was prepared.

There are no new reporting or recordkeeping requirements contained in any of the final measures included in this action.

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

Dated: June 22, 2016

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

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