

Small-Mesh Multispecies Secretarial Amendment

Consultation with the
New England Fishery Management Council

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Magnuson-Stevens Act Requirements

- The section 303 note in the reauthorized Magnuson-Stevens Fishery Conservation and Management Act requires that the mechanism for specifying annual catch limits and accountability measures be established in fishing year **2011** for all fisheries not subject to overfishing.
- Although Amendment 19 was under development by the Council, it was delayed by a number of issues, including being postponed in order to incorporate the results of SAW 51.

Secretarial Amendment Authority

- When it became apparent that Amendment 19 was not going to be implemented by the 2011 deadline, NMFS decided to prepare a Secretarial Amendment to establish ACLs and AMs for the small-mesh multispecies fishery
- Magnuson-Stevens Act **section 304(c)(1)** allows the Secretary to initiate an amendment for a fishery that is under the jurisdiction of a Council in situations like this.

Secretarial Amendment Requirements

Section 304(c)

- Public hearings are required during the “preparation” of the Secretarial Amendment
 - Four public hearings were held in October 2011, in East Setauket, NY, Toms River, NJ, Gloucester, MA, and Narragansett, RI
 - A public comment period was also open from 9/19/11 through 10/19/11
- The amendment must be submitted to the appropriate Council for consideration and comment, and that the Council’s comments are received prior to the end of the comment period
 - A 60-day comment period on the amendment; and
 - A 60-day comment period on any proposed regulations.

Secretarial Amendment Proposed Rule and NOA

- The combined proposed rule and notice of availability was published on **December 23, 2011**.
 - 76 FR 80318
 - The draft amendment (including the EA and IRFA) is available at <http://www.nero.noaa.gov/nero/fishermen>
- The 60-day comment period ends on **February 21, 2012**.
- Comments may be submitted in writing to the Regional Office or electronically through www.regulations.gov

(keyword search = NOAA-NMFS-2011-0206)

Secretarial Amendment Proposed Measures (Summary)

- Same basic ACL framework as proposed for Amendment 19, including a similar specifications process
- Pound-for-pound payback post-season AM
- 90% Trigger in-season AM
 - Silver hake incidental limit = 1,000 lb
 - Red hake incidental limit = 400 lb

**Overfishing
Limit**

Scientific Uncertainty

ABC Red Hake = 40th percentile of OFL
ABC Silver Hake = 25th percentile of OFL

**Acceptable Biological
Catch**

Management Uncertainty

ACL = 95% ABC

**Annual Catch
Limit**

Complete Catch Accounting

TAL = ACL - Discards - State Landings
Discards = 2008-2010 average
State Landings = 3% of total landings

**Total Allowable
Landings**

OFLs, ABCs, ACLs, TALs

	Northern Red Hake	Northern Silver Hake	Southern Red Hake	Southern Whiting*
OFL	314 mt	24,840 mt	3,448 mt	62,301 mt
ABC	280 mt	13,177 mt	3,259 mt	33,940 mt*
ACL	266 mt	12,518 mt	3,096 mt	32,243 mt
TAL	108 mt	9,106 mt	1,081 mt	27,209 [†] mt

* Southern Whiting ABC = Silver Hake 25th percentile of OFL (32,635 mt) + 4% (1,305 mt)

† Proposed rule incorrectly says “27,084 mt”

Calculation of TAL, as proposed

	Northern Red Hake	Northern Silver Hake	Southern Red Hake	Southern Whiting
ACL	266 mt	12,518 mt	3,096 mt	32,243 mt
Discard %	58%	25%	64%	13%
Discards (mt)	154 mt	3,129 mt	1,981 mt	4,191 mt
State Landings <small>3% of ACL - Discards</small>	3.36 mt	281 mt	33 mt	841 mt
Federal TAL	108.64 mt	9,108 mt	1,082 mt	27,209 mt†

† Proposed rule incorrectly says “27,084 mt”

Updated Calculation of TAL

- Between the publication of the proposed rule and January's Whiting Oversight Committee meeting, the Whiting PDT noticed an error in the discard estimates provided to the Committee and the Council.
- The PDT had mistakenly used the 2007-2009 discard estimates, instead of the 2008-2010 estimate as recommended by the Committee. The difference is minor for silver hake, but more significant for red hake.
 - Other updates, such as data corrections, have also recently been incorporated, but those resulted in minor changes to the estimate.
- At the January Committee meeting, the Committee concurred with the PDT's corrections.
- We may adjust the calculations in the Secretarial Amendment, in order to stay consistent.

Calculation of TAL, updated

	Northern Red Hake	Northern Silver Hake	Southern Red Hake	Southern Whiting
ACL	266 mt	12,518 mt	3,096 mt	32,295 mt
Discard % (2008-2010)	65%	26%	56%	13%
Discards (mt)	173 mt	3,267 mt	1,718 mt	4,198 mt
State Landings <small>3% of ACL - Discards</small>	2.8 mt	278 mt	42 mt	842 mt
Federal TAL	90.3 mt	8,973 mt	1,336 mt	27,255 mt

Proposed Accountability Measures

- In-Season AM
 - If the Regional Administrator projects that **90%** of a TAL has been harvested, the possession limit for that **stock** may be reduced to the incidental limit
 - Incidental limit for silver/offshore hake = **1,000 lb**
 - Incidental limit for red hake = **400 lb**

Proposed Accountability Measures

- Post-Season AM
 - If an ACL is exceeded, a pound-for-pound payback of the overage will be deducted from a subsequent year's ACL.
 - As proposed, an overage in fishing year 2012 would be deducted from the fishing year 2014 ACL.

Implications for Amendment 19

- Proposing the Secretarial Amendment has made the finalizing of the Amendment 19 document more complicated
 - The “Status Quo” will likely have changed between now and the time Amendment 19 is submitted
 - Amendment 19 is written with the Secretarial Amendment measures as the status quo/no action alternative

Proposed Rule Comment Period

- Proposed Rule/NOA: 76 FR 80318
- 60-day comment period ends **February 21, 2012.**
- Comments may be submitted in writing to the Regional Office:
 - Daniel Morris
Acting Northeast Regional Administrator
55 Great Republic Drive
Gloucester, MA 01930
fax (978) 281-9135
- Electronically through www.regulations.gov
(keyword search = NOAA-NMFS-2011-0206)