(vi) A list of third party railroads that could physically interchange with the line sought to be acquired or leased;

(vii) The percentage of the purchasing/leasing railroad's revenue projected to be derived from operations on the line with the interchange commitment (submitted under seal);

(viii) An estimate of the difference between the sale or lease price with and without the interchange commitment (submitted under seal);

(ix) An estimate of the discounted annual value of the interchange commitment to the Class I (or other incumbent carrier) leasing or selling the line (submitted under seal); and

(x) A change in the case caption so that the existence of an interchange commitment is apparent from the case title.

* * * * *

PART 1180—RAILROAD ACQUISITION, CONTROL, MERGER, CONSOLIDATION PROJECT, TRACKAGE RIGHTS, AND LEASE PROCEDURES

6. The authority citation for part 1180 continues to read as follows:

Authority: 5 U.S.C. 553 and 559; 11 U.S.C. 1172; 49 U.S.C. 721, 10502, 11323–11325.

7. Amend § 1180.4 by revising paragraph (g)(4)(i) introductory text and by adding paragraphs (g)(4)(i)(C) through (J) to read as follows:

§ 1180.4 Procedures.

* * * * *

(g) * * *

(4) *Interchange commitments.* (i) The filing party must certify whether or not a proposed acquisition or operation of a rail line involves a provision or agreement that may limit future interchange with a third-party connecting carrier, whether by outright prohibition, per-car penalty, adjustment in the purchase price or rental, positive economic inducement, or other means (''interchange commitment''). If such a provision exists, the following additional information must be provided:

(C) A list of shippers that currently use or have used the line in question within the last two years;

(D) The number of carloads those shippers specified in paragraph (g)(4)(i)(C) of this section originated or terminated (submitted under seal);

(E) A certification that the railroad has provided notice of the proposed transaction and interchange commitment to the shippers identified in paragraph (g)(4)(i)(C) of this section;

(F) A list of third party railroads that could physically interchange with the line sought to be acquired or leased;

(G) The percentage of the purchasing/leasing railroad's revenue projected to be derived from operations on the line with the interchange commitment (submitted under seal);

(H) An estimate of the difference between the sale or lease price with and without the interchange commitment (submitted under seal);

(I) An estimate of the discounted annual value of the interchange commitment to the Class I (or other incumbent carrier) leasing or selling the line (submitted under seal); and

(J) A change in the case caption so that the existence of an interchange commitment is apparent from the case title.

* * * * *

Note: The following appendix will not appear in the Code of Federal Regulations.

Appendix

The additional information below is included to assist those who may wish to submit comments pertinent to review under the Paperwork Reduction Act:

Description of Collection

Title: Disclosure of Rail Interchange Commitments.

OMB Control Number: 2140–0016.

STB Form Number: None.

Type of Review: Revision of an approved collection.

Respondents: Noncarriers and carriers seeking an exemption to acquire (through purchase or lease) and/or operate a rail line, if the proposed transaction includes an interchange commitment.

Number of Respondents: Four.

Estimated Time per Response: No more than eight hours.

Frequency: On occasion.

Total Burden Hours (annually including all respondents): 32 hours.

Total ''Non-hour Burden'' Cost: None identified. Respondents may file the requested information electronically.

Needs and Uses: Under 49 U.S.C. 10502, noncarriers and carriers may seek an exemption from the prior approval requirements of sections 10901, 10902, and 11323 to acquire (through purchase or lease) and operate a rail line. The collection of agreements with interchange commitments has facilitated the case-specific review of interchange commitments and the Board's monitoring of their usage generally. The modifications proposed here will further ensure that the Board has sufficient information about these transactions to determine whether they are appropriate for the exemption process and will also help parties objecting to a petition for exemption or filing a petition to revoke an exemption by providing access to this relevant information up front, thus minimizing the length of time spent on the process of filing and deciding a petition to revoke.

Retention Period: Information in this report will be maintained in the Board's confidential file for 10 years, after which it is transferred to the National Archives.

[FR Doc. 2012–26882 Filed 11–1–12; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 120822383–2383–01]

RIN 0648–BC48

Fisheries of the Northeastern United States; Northeast Multispecies Fishery Management Plan; Amendment 19

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 Amendment 19 to the Northeast Multispecies Fishery Management Plan, if approved. The New England Fishery Management Council developed Amendment 19 to modify management measures that currently govern the small-mesh multispecies fishery, including the accountability measures, the year-round possession limits and total allowable landings process.

DATES: Written comments must be received no later than 5 p.m. eastern standard time, on December 3, 2012.

ADDRESSES: An environmental assessment (EA) was prepared for Amendment 19 that describes the proposed action and other considered alternatives, and provides an analysis of the impacts of the proposed measures and alternatives. Copies of the Amendment, including the EA and the Initial Regulatory Flexibility Analysis (IRFA), are available on request from Paul J. Howard, Executive Director, New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950. These documents are also available online at *http://www.nefmc.org.*

You may submit comments, identified by NOAA–NMFS–2012–0170, by any one of the following methods:

• *Electronic Submissions:* Submit all electronic public comments via the Federal e-Rulemaking Portal *www.regulations.gov.* To submit comments via the e-Rulemaking Portal, first click the ''submit a comment'' icon,

then enter ''NOAA–NMFS–2012–0170'' in the keyword search. Locate the document you wish to comment on from the resulting list and click on the ''Submit a Comment'' icon on the right of that line.

• *Fax:* (978) 281–9135, Attn: Moira Kelly.

• *Mail:* John Bullard, Regional Administrator, NMFS, Northeast Regional Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope, ''Comments on Whiting Amendment 19.''

Instructions: Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. 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. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov*. All personal identifying information (e.g., name, address, etc.) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word or Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Moira Kelly, Fishery Policy Analyst, (978) 281–9218.

SUPPLEMENTARY INFORMATION:

Background

Amendment 19 to the Northeast (NE) Multispecies Fishery Management Plan (FMP) affects the part of the New England groundfish fishery known as the small-mesh fishery. The small-mesh fishery is composed of a complex of five stocks of three species of hakes (northern silver hake, southern silver hake, northern red hake, southern red hake, and offshore hake), and is managed through a series of exemptions from the other provisions of the NE Multispecies FMP. It is managed separately from the other stocks of groundfish such as cod, haddock, and flounder, primarily because it is prosecuted with much smaller mesh and does not generally result in the catch of these other stocks.

The New England Fishery Management Council (Council) initiated Amendment 19 to bring the small-mesh multispecies portion of the NE Multispecies FMP into compliance with the annual catch limit (ACL) and accountability measure (AM) requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). However, development of Amendment 19 was delayed, and it became apparent that the amendment would not be submitted until well after the 2011 statutory deadline for implementing mechanisms for establishing ACLs and AMs. To ensure that ACLs and AMs for the small-mesh fishery were implemented closer to the statutory deadline, NOAA initiated, developed, and implemented, with the concurrence of the Council, a Secretarial Amendment on March 30, 2012 (77 FR 19138). The Secretarial Amendment was based on the preliminary work the Council completed up to that point, including the overfishing limits (OFL), acceptable biological catches (ABC), and ACLs.

The Council, through Amendment 19, is adopting those limits (Table 1) and the process that describes how those values are calculated as implemented in the Secretarial Amendment. As described in the Secretarial Amendment, the ABCs are based on the OFLs and, to account for scientific uncertainty, are set equal to the 40th percentile of the OFL distribution for both red hake stocks, and the 25th percentile for both silver hake stocks. In order to account for offshore hake, which are caught incidentally in the southern silver hake fishery and are marketed together as ''whiting,'' the southern silver hake ABC is increased by 4 percent. The ACLs are then set equal to 95 percent of the respective ABC, to account for management uncertainty.

TABLE 1—OFL, ABC, AND ACL FOR 2012–2014

	Northern red hake	Northern silver hake	Southern red hake	Southern whiting
Overfishing Limit (OFL)	314 mt	24,840 mt	3,448 mt	62,301 mt
Acceptable Biological Catch (ABC)	280 mt	13,177 mt	3,259 mt	33,940 mt
Annual Catch Limit (ACL)	266 mt	12,518 mt	3,096 mt	32,295 mt

However, in Amendment 19, the Council recommended changes to some measures implemented in the Secretarial Amendment, as well as changes to management measures that the Secretarial Amendment did not address. This rule proposes these changes, which are discussed in detail below.

Proposed Measures

1. Revised Overfishing Definitions

The overfishing definitions were derived from the most recent stock assessment for the small-mesh multispecies that was conducted in November 2010 (SAW 51). The Council prefers using the new overfishing definitions because they are based on the best available science. There is no overfishing definition for offshore hake because there is insufficient information for a stock assessment. The proposed new overfishing definitions for red hake and silver hake would be as follows:

Red Hake

Red hake is overfished when the 3-yr moving arithmetic average of the spring survey weight per tow (i.e., the biomass threshold) is less than one-half of the B_{MSY} proxy, where the B_{MSY} proxy is defined as the average observed from 1980–2010. The current estimates of the biomass thresholds for the northern and southern stocks are 1.27 kg/tow and 0.51 kg/tow, respectively.

Overfishing occurs when the ratio between catch and spring survey biomass exceeds 0.163 kt/kg and 3.038 kt/kg, respectively, derived from An Index Method (AIM) analyses from 1980–2009.

Silver Hake

Silver hake is overfished when the 3-yr moving average of the fall survey weight per tow (i.e., the biomass threshold) is less than one-half the B_{MSY} proxy, where the B_{MSY} proxy is defined as the average observed from 1973–1982. The most recent estimates of the biomass thresholds are 3.21 kg/tow for the northern stock and 0.83 kg/tow for the southern stock.

Overfishing occurs when the ratio between the catch and the arithmetic mean fall survey biomass index from the most recent three years exceeds the overfishing threshold. The most recent

estimates of the overfishing threshold are 2.78 kt/kg for the northern stock, and 34.19 kt/kg for the southern stock of silver hake.

2. *Adjustments to the Specifications Process, Changes to the List of Measures Adjustable by Framework and Monitoring Procedures and Requirements*

This rule proposes to modify the specifications process and the list of measures that may be changed in a Framework Adjustment implemented by the Secretarial Amendment, and also proposes to modify the process by which the fishery is monitored. The proposed specifications process would specify the date by which the Council would need to make a recommendation on the catch limits, possession limits, and other measures deemed to be part of the specifications package. In addition, the list of items that could be considered for adjustment in a framework would be modified slightly.

This rule also proposes a measure that would require NMFS to prepare, and the appropriate Council technical group (such as a plan development team (PDT)) to review, a report on the small-mesh multispecies fishery, including trends in the fishery and changes in stock size. The PDT would be responsible for making recommendations to the Council, should any management changes be deemed necessary.

Finally, this rule proposes to require vessels fishing for small-mesh multispecies to send their vessel trip reports (VTRs) to NMFS on a weekly basis. Amendment 16 to the NE Multispecies FMP implemented the requirement that vessels fishing with a NE multispecies permit have a weekly VTR requirement; however, that amendment had no other small-mesh multispecies measures associated with it. As a result, the Council and the Whiting Oversight Committee wanted to ensure that the weekly submission of VTRs is a requirement for small-mesh multispecies vessels through this action, in order to facilitate more effective monitoring of the stock-area based TALs.

3. Stock Area Total Allowable Landings

The Secretarial Amendment implemented annual, stock-wide TALs for northern and southern red hake, as well as for northern silver hake and southern ''whiting'' (i.e., silver and offshore hake, combined). The TALs are calculated by deducting the most recent 3-year moving average of discards from the ACL. From that resulting value, 3 percent is deducted to account for state-waters landings.

TABLE 2—2012–2014 TOTAL ALLOWABLE LANDINGS

	Northern red hake	Northern silver hake	Southern red hake	Southern whiting
ACL	266 mt	12,518 mt	3,096 mt	32,295 mt
Discard Estimate (2008–2010)	65% (173 mt)	26% (3,255 mt)	56% (1,718 mt)	13% (4,198 mt)
State-Waters Landings (3%)	2.8 mt	278 mt	42 mt	842 mt
Federal TAL (mt)	90.3 mt	8,985 mt	1,336 mt	27,255 mt
Federal TAL (lb)	199,077.4 lb	19,809,243 lb	2,945,376 lb	60,086,990 lb

This rule proposes to maintain the annual, stock-wide TAL for the northern area, instead of the other considered alternative of sub-dividing the TALs by exemption area. The annual, stock-wide TAL was the Council's preferred alternative because it would be less costly to monitor and the small-mesh exemption area targets may not provide the intended benefits of ensuring full trip limits for the different fleets that fish seasonally in the exemption areas.

In the southern stock area, the TALs would be monitoring annually initially, until two-thirds of a TAL is harvested in a given year. The Council prefers this alternative to implementing quarterly TALs at this time because the quarterly allocations are unnecessary unless and until landings begin to approach the TALs. In addition, the quarterly TALs, as opposed to the annual quota, would, if implemented, prevent long directed fishery closures, possibly affecting the ability to target whiting in the winter and spring.

If landings in a given year exceed two-thirds of the TAL, NMFS would consult with the Council during the following year, and if the Council agrees, NMFS would implement a rule to switch the TAL to a quarterly system for the next year. For example, if two-thirds of the red hake TAL were landed in 2013, and the Council agreed, the quarterly TALs would be implemented for the start of the 2015 fishing year and would be maintained until the Council chooses, through specifications or a Framework Adjustment, to revert back to an annual TAL. The incidental possession limit trigger (as described in the in-season AM section, below) would be applied for each quarter. The quarterly allocations would be based on the average proportion of dealer-reported landings from 2008–2010, as follows:

TABLE 3—QUARTERLY ALLOCATIONS FOR THE SOUTHERN STOCK AREA

	May–Jul	Aug–Oct	Nov–Jan	Feb–Apr
Southern Red Hake	33.3%	25.3%	17.7%	23.7%
Southern Whiting	27%	21.4%	22.8%	28.8%

Included in this proposed measure is a ''roll-up'' procedure that would be used for in-season monitoring of the quarterly TALs. In each quarter, the cumulative landings to date that fishing year would be monitored against a quarterly TAL represented by the sum of that quarter's allocation, plus the allocations from prior quarters (e.g., during quarter 2, the cumulative landings of southern red hake to date would be monitored against a quota equal to 58.6 percent of the annual TAL, which is the sum of the quarter 1 allocation of 33.3 percent plus the quarter 2 allocation of 25.3 percent). The possession limit trigger for each stock would apply in each quarter when cumulative landings reach 90 percent of the rolled-up quarterly allocation, and the incidental possession limit would remain in effect until the end of that quarter. At the start of the next quarter, the possession limit would reset to the

appropriate default possession limit. This procedure allows for unused quota from a quarter to be available immediately to the fleet, without unnecessary delays from rulemaking to formally transfer quota between quarters.

4. Accountability Measures

The Secretarial Amendment implemented two types of AMs for the small-mesh multispecies fishery. The in-season AM would reduce the possession limit to an incidental amount for a stock if 90 percent of that stock's TAL were projected to be harvested. For both red hake stocks, the possession limit would be reduced to 400 lb (181.4 kg), and for northern silver hake and southern whiting, the possession limit would be reduced to 1,000 lb (453.6 kg). In the event that an ACL is exceeded in a given year, the post-season AM implemented in the Secretarial Amendment would reduce a subsequent year's ACL by the exact amount, by weight, by which the ACL were exceeded. For example, if an ACL in fishing year 2013 were exceeded by 15,000 lb (6,803. 9 kg), the ACL for that stock in fishing year 2015 would be reduced by 15,000 lb (6,803.9 kg).

In-Season AMs

This rule proposes to maintain the overall structure of the in-season AM (i.e., the 90-percent trigger, with a reduced possession limit), but proposes to change the incidental possession limit for northern silver hake and southern whiting. This rule proposes to maintain the 400-lb (181.4-kg) incidental possession limit for red hake and to raise the incidental possession limit for silver and offshore hake, combined, from 1,000 lb (453.6 kg) to 2,000 lb (907.2 kg). This limit is proposed because analysis by the Whiting PDT indicates that it is likely to be effective in keeping landings below the TAL, without increasing discards. There is no meaningful contrast in the effectiveness of lower incidental possession limits, but the lower incidental possession limits are estimated to cause an unacceptable increase in discards.

Post-Season AM

This rule proposes to replace the post-season AM implemented by the Secretarial Amendment, described above, with a post-season AM that would decrease the TAL trigger by the same percentage by which the ACL were exceeded. That is, if an ACL were exceeded by 5 percent in fishing year 2013, the incidental possession limit trigger of 90 percent would be reduced by 5 percent to 85 percent, starting in fishing year 2015. This reduction in the TAL trigger would remain in effect until the Council chooses to modify it through the specifications process or in a framework adjustment. This AM is intended to permanently account for the management uncertainty that caused the overage. The Council chose this AM because it more directly reduces the trips targeting small-mesh multispecies, and, as a result, the overall landings by the directed fishery.

5. Trip Limits

Currently, there is no year-round possession limit for red hake in both the northern or southern stock area, and the possession limit for silver and offshore hake, combined, is based on mesh size throughout the region. This rule proposes changes to both of these management measures.

Red Hake

This rule is proposing to implement a 5,000-lb (2,268-kg) trip limit for red hake in both the northern and southern stock areas for all gear types. The Council had considered mesh-size based trip limits, similar to silver hake, but prefers the same trip limit for all gear types because it is more enforceable and compliance would likely be higher. The intention of this trip limit is to prevent significant increases in catch beyond what is currently landed. Analysis shows that no trips from 2008–2010 landed more than 5,000 lb (2,268 kg), so the measure is unlikely to restrict existing fishing effort, but is intended to act as a deterrent to increasing fishing effort to target red hake.

Southern Whiting

This rule proposes to increase the southern whiting (southern silver hake and offshore hake, combined) trip limit from 30,000 lb (13,607.8 kg) to 40,000 lb (18,143.7 kg) for vessels fishing in the Southern New England and Mid-Atlantic Exemption Areas using mesh that is 3 inches (7.6 cm) or greater. The Council had considered implementing this trip limit increase in only a portion of the southern exemption areas; however, as a result of public comment and enforceability concerns, the Council prefers that the increase be applicable throughout the southern area. The Council selected a 40,000-lb (18,143.7-kg) possession limit to retain the delicate balance between allowing a moderate increase in landings while trying not to attract excessive fishing effort to an open access fishery, which could cause landings to rapidly increase and potentially cause the incidental possession limit to be triggered earlier in the fishing year. The Council also constrained this possession limit increase to vessels using trawls having 3-inch (7.6 cm) or larger mesh to maintain optimum size selectivity by the fishery and discourage increases in fishing for smaller whiting.

As required under section 303(c) of the Magnuson-Stevens Act, the Council reviewed the draft regulations and deemed them necessary and appropriate for implementation of Amendment 19. Technical changes to the regulations deemed necessary by the Secretary for clarity may be made, as provided under section 304(b) of the Magnuson-Stevens Act.

Other Regulatory Changes

NMFS is proposing to clarify some of the regulations governing the small-mesh multispecies fishery through this rulemaking. The proposed language of the regulations pertaining to the small-mesh multispecies exemption programs would clarify that only a raised footrope trawl is allowed in the Small Mesh Area I and II Exemption Programs, and the Gulf of Maine Grate Raised Footrope Trawl Area Exemption Program, and that no other fishing gears are permitted to be used while a vessel is fishing in these exemption programs. NMFS is also proposing language to clarify the incidental catch limits for other species in the small-mesh multispecies exemption programs by adding the citation for each species, as appropriate. NMFS is also proposing to correct an incorrect citation in the regulations pertaining to small-mesh multispecies transfers-at-sea.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has preliminarily determined that this proposed rule is consistent with the Northeast Multispecies FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

The Office of Management and Budget has determined that this proposed rule is not significant for the purposes of Executive Order 12866.

The Council prepared an IRFA, as required by section 603 of the Regulatory Flexibility Act (RFA), which is included in Amendment 19 and supplemented by information contained in the preamble to this proposed rule. The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this

action are contained at the beginning of this section of the preamble and in the **SUMMARY** of this proposed rule. A summary of the IRFA follows. A copy of this analysis is available from the Council's Executive Director (see **ADDRESSES**).

All of the entities (fishing vessels) affected by this action are considered small entities under the Small Business Administration size standards for small fishing businesses ($4.0 million in annual gross sales). Therefore, there are no disproportionate effects on small versus large entities. Information on costs in the fishery is not readily available and individual vessel profitability cannot be determined directly; therefore, expected changes in gross revenues were used as a proxy for profitability.

This action does not introduce any new reporting, recordkeeping, or other compliance requirements. This proposed rule does not duplicate, overlap, or conflict with other Federal rules.

Description and Estimate of Number of Small Entities To Which the Rule Would Apply

In order to fish for small-mesh multispecies, a vessel owner must be issued either a limited access NE multispecies permit or an open access category K NE multispecies permit; however, there are many vessels issued both of these types of permits that may not actually fish for small-mesh multispecies. Although some firms own more than one vessel, available data make it difficult to reliably identify ownership control over more than one vessel. For this analysis, the number of permitted vessels landing small-mesh multispecies is considered to be a maximum estimate of the number of small business entities that may be impacted. The average number of permitted vessels landing at least 1 lb (0.5 kg) of silver hake or red hake from 2005–2010 was 562 vessels per year.

Economic Impacts of the Proposed Action Compared to Significant Non-Selected Alternatives

In general, the economic impacts of the proposed actions vary from positive to slightly negative, compared to the status quo/no action alternatives and the other alternatives considered. The proposed measures that have positive economic impacts include the specifications process; including the modification of the southern area TAL structure that would implement quarterly TALs if two-thirds of the TAL is landed; both year-round trip limit alternatives are expected to result in positive economic impacts. The proposed AMs are more likely to result in slightly negative impacts, if triggered. Although analysis indicates that the preferred post-season AM of a percent reduction in the incidental possession limit trigger would have a less negative impact than the status quo.

The proposed alternatives that would most likely have an impact in the foreseeable future is the status quo alternative that proposed to maintain 90-percent trigger AM for northern red hake with a 400-lb (181.4-kg) incidental possession limit, as was described in the Secretarial Amendment. Using vessel trip report data from 2006–2010, a 400-lb (181.4-kg) incidental possession limit in the northern stock area, implemented when 90 percent of the northern red hake TAL is projected to be harvested, would have impacted approximately 23 trips per year, and an average of 7 vessels per year. At a loss of approximately $282 per trip, this AM would have cost the fleet $6,486 per year in lost northern red hake revenue. This may not be a true revenue loss, however. Red hake is rarely the primary target species and vessel owners are likely to shift effort onto another routinely landed incidental species, such as skates or dogfish, to finish their trip. The other in-season AM alternatives considered for this amendment included incidental possession limits of 200 lb (90.7 kg) or 300 lb (136.1 kg). Both of these alternatives would have an increased negative impact, affecting more trips than the 400-lb (181.4-kg) possession limit. Furthermore, the long-term impacts would likely be negative for these alternatives as well, due to increased discarding. The impacts from alternatives for the in-season AM for northern silver hake, southern whiting, and southern red hake are difficult to quantify because the TALs are significantly higher than recent catch and they are unlikely to be implemented. For southern red hake, the proposed alternative is the status quo alternative and for southern whiting and northern silver hake, the proposed alternative is an increase in the incidental trip limit from 1,000 lb (453.6 kg) to 2,000 lb (907.2 kg). In general, the lower incidental trip limits (200 and 300 lb (90.7 and 136.1 kg) for red hake; and 500 and 1,000 lb (226.8 and 453.6 kg) for southern whiting and northern silver hake) can be assumed to have a more negative economic impact than the higher incidental trip limits (400 lb (181.4 kg) for southern red hake, and 2,000 lb (907.2 kg) for southern whiting and northern red hake).

Another alternative that may have impact in the near-future is the post-season AM for northern red hake. The status quo alternative would implement a pound-for-pound payback system for any overage. The proposed alternative would reduce the incidental possession limit trigger by the same percentage by which the ACL was exceeded. As an example, the 2010 fishing year northern red hake catch exceeds the ACL and can be used to illustrate the potential impacts of the two alternatives. Northern red hake catch was 311 mt in 2010, 17% or 45 mt above the fishing year 2012 ACL of 266 mt. For this example, we assume that the discard rate and state water landings proportion remain constant. Assuming that the discard rate and state waters portion remain constant, the status quo alternative results in a TAL of 144,094 lb (65.4 mt), with a 90 percent incidental trigger limit of 129,685 lb (58.8 mt). The proposed alternative, on the other hand results in a TAL of 199,077 lb (90.3 mt), with a 73 percent incidental trigger limit of 145,326 lb (65.9 mt). This example demonstrates that the reduction in the possession limit trigger would have a less negative impact on the fleet than the status quo alternative of a pound-for-pound payback because it provides for a higher directed fishery target.

TABLE 4—COMPARISON OF POST-SEASON AM ALTERNATIVES

	Pound-for-pound payback (status quo)	Incidental possession limit trigger reduction (proposed)
Original ACL	266 mt	266 mt
Overage	45 mt	17%
Adjusted ACL	221 mt	n/a
Discards (65%)	143.65 mt	173 mt

TABLE 4—COMPARISON OF POST-SEASON AM ALTERNATIVES—Continued

	Pound-for-pound payback (status quo)	Incidental possession limit trigger reduction (proposed)
Landings Limit (State + Federal)	67.35 mt	93 mt
State Landings (3%)	2 mt	2.8 mt
Federal TAL	65.4 mt	90.3 mt
Incidental Trigger Limit	(90%) 58.8 mt	(73%) 65.9 mt

Because the current TAL is significantly higher than recent catch for southern red hake, northern silver hake, and southern whiting, it is difficult to quantify the impact that either the status quo or the possession limit trigger reduction would have. However, it can be assumed that the impacts would be similar to those described above.

It is expected that the year-round possession limit changes would also have an immediate economic impact. The year-round red hake limit of 5,000 lb (2268 kg), versus the status quo alternative of an unlimited possession limit, is intended to act as a restriction on potential increases in red hake landings, and very few recent trips would have been impacted by this trip limit. It is possible that there could be a negative effect on the price of red hake if vessels start landing larger quantities, which is possible under the status quo of no trip limit in this open access fishery. It is expected that this alternative would help maintain a satisfactory price for red hake and have a positive economic impact, as opposed to the other, lower possession limits considered in the Amendment.

In addition, the increase in the southern whiting possession limit for vessels using mesh that is 3 inches (7.6 cm) or greater is also expected to have a positive economic impact for vessels fishing in the southern area, but may have a slightly negative economic impact for vessels fishing in the northern area. If the possession limit is increased in the southern area, there may be a reduced demand, and therefore a reduced price, for whiting. This reduced price would be offset by the increased volume for vessels fishing in the southern area, but would not be offset for vessels fishing in the northern area. Analysis indicates that increasing daily landings could cause a decline of 0.6 cents for each 1-percent increase in landings. Therefore, the revenue for a 30,000-lb (13607.8-kg) trip in the northern stock area would decline by approximately $450, while the revenue for a southern area trip landing 40,000 lb (18143.7 kg) of whiting would increase by $5,318. The other alternatives considered for this measure would limit the increase to a portion of the southern area, which would have less economic benefit than the proposed alternative. The status quo alternative would not increase the trip limit and would be less economically beneficial than the proposed alternative.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: October 25, 2012.

Paul N. Doremus,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

For the reasons stated in the preamble, 50 CFR part 648 is proposed to be amended 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 § 648.7, paragraph (f)(2)(i) is revised to read as follows:

§ 648.7 Recordkeeping and reporting requirements.

* * * * *

(f) * * *

(2) *Fishing vessel log reports.* (i) For any vessel not issued a NE multispecies permit, Atlantic herring permit, or Tier 3 Limited Access mackerel permit, fishing vessel log reports, required by paragraph (b)(1)(i) of this section, must be postmarked or received by NMFS within 15 days after the end of the reporting month. If no fishing trip is made during a particular month for such a vessel, a report stating so must be submitted, as instructed by the Regional Administrator. For any vessel issued a NE multispecies permit, including vessels fishing for small-mesh multispecies or whiting, Atlantic herring permit, or a Tier 3 Limited Access mackerel permit, fishing vessel log reports must be postmarked or received by midnight of the first Tuesday following the end of the reporting week. If no fishing trip is made during a reporting week for such a vessel, a report stating so must be submitted and received by NMFS by midnight of the first Tuesday following the end of the reporting week, as instructed by the Regional Administrator. For the purposes of this paragraph (f)(2)(i), the date when fish are offloaded will establish the reporting week or month that the VTR must be submitted to NMFS, as appropriate. Any fishing activity during a particular reporting week (i.e., starting a trip, landing, or offloading catch) will constitute fishing during that reporting week and will eliminate the need to submit a negative fishing report to NMFS for that reporting week. For example, if a vessel issued a NE multispecies permit, Atlantic herring permit, or Tier 3 Limited Access Mackerel Vessel begins a fishing trip on Wednesday, but returns to port and offloads its catch on the following Thursday (i.e., after a trip lasting 8 days), the VTR for the fishing trip would need to be submitted by midnight Tuesday of the third week, but a negative report (i.e., a ''did not fish'' report) would not be required for either earlier week.

* * * * *

3. In § 648.13, paragraph (e) is revised to read as follows:

§ 648.13 Transfers at sea.

* * * * *

(e) Vessels issued a letter of authorization from the Regional Administrator to transfer small-mesh multispecies at sea for use as bait will automatically have 500 lb (226.8 kg) deducted from the vessel's combined silver hake and offshore hake possession limit, as specified under § 648.86(d), for every trip during the participation period specified on the letter of authorization, regardless of whether a transfer of small-mesh multispecies at sea occurred or whether the actual amount that was transferred was less than 500 lb (226.8 kg). This deduction shall be noted on the transferring vessel's letter of authorization from the Regional Administrator.

* * * * *

4. In § 648.80, paragraphs (a)(6)(i)(B), (a)(6)(i)(F), (a)(9)(i)(A), (a)(9)(ii), (a)(15)(i)(B), (a)(16)(i)(A), and (a)(16)(ii)(A) are revised to read as follows:

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

* * * * *

(a) * * *

(6) * * *

(i) * * *

(B) An owner or operator of a vessel fishing in this area may not fish for, possess on board, or land any species of fish other than whiting and offshore hake combined—in excess of 30,000 lb (13,608 kg), except for the following, with the restrictions noted, as allowable incidental species: Atlantic herring, up to the amount specified in § 648.204; longhorn sculpin; squid, butterfish, and Atlantic mackerel, up to the amounts specified in § 648.26; spiny dogfish, up to the amount specified in § 648.235; red hake, up to the amount specified in § 648.86(d), monkfish and monkfish parts—up to 10 percent, by weight, of all other species on board or up to 50 lb (23 kg) tail-weight/166 lb (75 kg) whole-weight of monkfish per trip, as specified in § 648.94(c)(4), whichever is less; and American lobster—up to 10 percent, by weight, of all other species on board or 200 lobsters, whichever is less, unless otherwise restricted by landing limits specified in § 697.17 of this chapter.

* * * * *

(F) A vessel fishing in the Cultivator Shoal Whiting Fishery Exemption Area may fish for small-mesh multispecies in exempted fisheries outside of the Cultivator Shoal Whiting Fishery Exemption Area, provided that the vessel complies with the more restrictive gear, possession limit, and other requirements specified in the regulations of that exempted fishery for the entire participation period specified on the vessel's letter of authorization and consistent with paragraph (a)(15)(i)(G) of this section. For example, a vessel may fish in both the Cultivator Shoal Whiting Fishery Exemption Area and the Southern New England or Mid-Atlantic Exemption Areas, and would be restricted to a minimum mesh size of 3 inches (7.6 cm) and a maximum trip limit of 30,000 lb (13,607.8 kg) for silver hake and offshore hake, combined, as required in the Cultivator Shoal Whiting Fishery Exemption Area.

* * * * *

(9) * * *

(i) * * *

(A) Unless otherwise prohibited in § 648.81, a vessel subject to the minimum mesh size restrictions specified in paragraphs (a)(3) or (4) of this section may fish with or possess nets with a mesh size smaller than the minimum size, provided the vessel complies with the requirements of paragraphs (a)(5)(ii) or (a)(9)(ii) of this section, and § 648.86(d), from July 15 through November 15, when fishing in Small Mesh Area 1; and from January 1 through June 30, when fishing in Small Mesh Area 2. While lawfully fishing in these areas with mesh smaller than the minimum size, an owner or operator of any vessel may not fish for, possess on board, or land any species of fish other than: Silver hake and offshore hake, combined, and red hake—up to the amounts specified in § 648.86(d); butterfish, Atlantic mackerel, squid, up the amounts specified in § 648.26; spiny dogfish, up to the amount specified in § 648.235; Atlantic herring, up to the amount specified in § 648.204; and scup, up to the amount specified in § 648.128.

* * * * *

(ii) *Raised footrope trawl.* Vessels fishing in the Small Mesh Areas I and II Exemption Programs described in § 648.80(a)(9) must configure the vessel's gear with a raised footrope trawl, configured in such a way that, when towed, the gear is not in contact with the ocean bottom. Vessels are presumed to be fishing in such a manner if their trawl gear is designed as specified in paragraphs (a)(9)(ii)(A) through (D) of this section and is towed so that it does not come into contact with the ocean bottom.

* * * * *

(15) * * *

(i) * * *

(B) All nets must be no smaller than a minimum mesh size of 2.5-inch (6.4-cm) square or diamond mesh, subject to the restrictions as specified in paragraph (a)(15)(i)(D) of this section. An owner or operator of a vessel enrolled in the raised footrope whiting fishery may not fish for, possess on board, or land any species of fish other than silver hake, offshore hake, and red hake, subject to the applicable possession limits as specified in § 648.86(d), except for the following allowable incidental species: Butterfish, Atlantic mackerel, and squid, up to the amounts specified in § 648.26; scup, up to the amount specified in § 648.128; spiny dogfish, up to the amount specified in § 648.235, and Atlantic herring, up to the amount specified in § 648.204.

* * * * *

(16) * * *

(i) * * *

(A) All nets must comply with a minimum mesh size of 2.5-inch (6.4-cm) square or diamond mesh, subject to the restrictions specified in paragraph (a)(16)(i)(B) of this section. An owner or operator of a vessel participating in the GOM Grate Raised Footrope Trawl Exempted Whiting Fishery may not fish for, possess on board, or land any species of fish, other than silver hake and offshore hake, subject to the applicable possession limits as specified in paragraph (a)(16)(i)(C) of this section, and red hake, subject to the possession limit specified in § 648.86, except for the following allowable incidental species: Butterfish, Atlantic mackerel, and squid, up to the amounts specified in § 648.26; Atlantic herring, up to the amount specified in § 648.204; and alewife.

* * * * *

(ii) * * *

(A) An owner or operator of a vessel fishing in the GOM Grate Raised Footrope Trawl Exempted Whiting Fishery must configure the vessel's gear with a raised footrope trawl as specified in paragraphs (a)(9)(ii)(A) through (C) of this section. In addition, the restrictions specified in paragraphs (a)(16)(ii)(B) and (C) of this section apply to vessels fishing in the GOM Grate Raised Footrope Trawl Exempted Whiting Fishery.

* * * * *

4. In § 648.86, (d)(1)(i) introductory text, (d)(1)(ii) introductory text, (d)(1)(iii) introductory text, and paragraph (d)(4)(ii) are revised to read as follows:

§ 648.86 NE Multispecies possession restrictions.

* * * * *

(d) * * *

(1) * * *

(i) *Vessels possessing on board or using nets of mesh size smaller than 2.5 inches (6.4 cm).* An owner or operator of a vessel may possess and land not more than 5,000 lb (2,268 kg) of red hake, and not more than 3,500 lb (1,588 kg) of combined silver hake and offshore hake, if either of the following conditions apply:

* * * * *

(ii) *Vessels possessing on board or using nets of mesh size equal to or greater than 2.5 inches (6.4 cm) but less than 3 inches (7.6 cm).* An owner or operator of a vessel that is not subject to the possession limit specified in paragraph (d)(1)(i) of this section may possess and land not more than 5,000 lb (2,268 kg) of red hake, and not more than 7,500 lb (3,402 kg) of combined

silver hake and offshore hake if either of the following conditions apply:

* * * * *

(iii) *Vessels possessing on board or using nets of mesh size equal to or greater than 3 inches (7.6 cm).* An owner or operator of a vessel that is not subject to the possession limits specified in paragraphs (d)(1)(i) and (ii) of this section may possess and land not more than 5,000 lb (2,268 kg) of red hake, and not more than 30,000 lb (13,608 kg) of combined silver hake and offshore hake when fishing in the Gulf of Maine or Georges Bank Exemption Areas, as described in § 648.80(a), and not more than 40,000 lb (18,144 kg) of combined silver hake and offshore hake when fishing in the Southern New England or Mid-Atlantic Exemption Areas, as described in §§ 648.80(b)(10) and 648.80(c)(5), respectively, if both of the following conditions apply:

* * * * *

(4) * * *

(ii) *Silver hake and offshore hake.* If a possession limit reduction is needed for a stock area, the incidental possession limit for silver hake and offshore hake, combined, in that stock area will be 2,000 lb (907 kg) for the remainder of the fishing year.

* * * * *

5. In § 648.90, paragraphs (b)(1), (b)(2), (b)(2)(i)(C), (b)(2)(ii)(C), (b)(3), (b)(4), (b)(5)(ii), and (c)(1) are revised to read as follows:

§ 648.90 NE multispecies assessment, framework procedures and specifications, and flexible area action system.

* * * * *

(b) * * *

(1) *Three-year specifications process, annual review, and specifications package.* The Council will specify on at least a 3-year basis the OFL, ABC, ACLs, and TALs for each small-mesh multispecies stock in accordance with the following process.

(i) At least every 3 years, based on the annual review, described below in paragraph (b)(3) of this section, and/or the specifications package, described in paragraph (b)(4) of this section, recommendations for ABC from the Scientific and Statistical Committee (SSC), and any other relevant information, the Whiting PDT shall recommend to the Whiting Oversight Committee and Council specifications including the OFL, ABC, ACL, and TAL for each small-mesh multispecies stock for a period of at least 3 years. The Whiting PDT and the Council shall follow the process in paragraph (b)(2) of this section for setting these specifications.

(ii) The Whiting PDT, after reviewing the available information on the status of the stock and the fishery, may recommend to the Council any measures necessary to assure that the specifications will not be exceeded, as well as changes to the appropriate specifications.

(iii) Taking into account the annual review and/or specifications package described in paragraphs (b)(2) and (b)(4), respectively, of this section, the advice of the SSC, and any other relevant information, the Whiting PDT may also recommend to the Whiting Oversight Committee and Council changes to stock status determination criteria and associated thresholds based on the best scientific information available, including information from peer-reviewed stock assessments of small-mesh multispecies. These adjustments may be included in the Council's specifications for the small-mesh multispecies fishery.

(iv) *Council recommendation.* (A) The Council shall review the recommendations of the Whiting PDT, Whiting Oversight Committee, and SSC, any public comment received thereon, and any other relevant information, and make a recommendation to the Regional Administrator on appropriate specifications and any measures necessary to assure that the specifications will not be exceeded.

* * * * *

(2) *Process for specifying ABCs, ACLs, and TALs.* The Whiting PDT shall calculate the OFL and ABC values for each small-mesh multispecies stock based on the control rules established in the FMP. These calculations shall be reviewed by the SSC, guided by terms of reference developed by the Council. The ACLs and TALs shall be calculated based on the SSC's approved ABCs, as specified in paragraphs (a)(2)(i)(A) through (C), and (a)(2)(ii)(A) through (C) of this section.

(i) * * *

(C) *TALs.* (*1*) The northern silver hake and southern whiting TALs are equal to the northern silver hake and southern whiting ACLs minus a discard estimate based on the most recent 3 years of data. The northern silver hake and southern whiting TALs are then reduced by 3 percent to account for silver hake and offshore hake landings that occur in state waters.

(*2*) If more than two-thirds of the southern red hake TAL is harvested in a single year, the Regional Administrator shall consult with the Council and will consider implementing quarterly TALs in the following fishing year, as proscribed in the FMP and in a manner consistent with the requirements of the Administrative Procedure Act.

(ii) * * *

(C) *TALs.* (*1*) The northern silver hake and southern whiting TALs are equal to the northern silver hake and southern whiting ACLs minus a discard estimate based on the most recent 3 years of data. The northern silver hake and southern whiting TALs are then reduced by 3 percent to account for silver hake and offshore hake landings that occur in state waters.

(*2*) If more than two-thirds of the southern whiting TAL is harvested in a single year, the Regional Administrator shall consult with the Council and will consider implementing quarterly TALs in the following fishing year, as proscribed in the FMP and in a manner consistent with the requirements of the Administrative Procedure Act.

(3) *Annual Review.* (i) Using a report provided by NMFS that includes trends in the fishery, changes in stock biomass, and total catch data, the Whiting PDT shall meet at least once annually to review the status of the stock and the fishery and the adequacy of the 3-year specifications. Based on such review, the PDT shall provide a report to the Council on any changes or new information about the small-mesh multispecies stocks and/or fishery, and it shall recommend whether the specifications for the upcoming year(s), established pursuant to paragraph (b)(1) of this section, need to be modified. At a minimum, this review must include a review of at least the following data, if available: Commercial catch data; discards; stock status (exploitation rate and survey biomass); sea sampling, port sampling, and survey data or, if sea sampling data are unavailable, length frequency information from port sampling and/or surveys; impact of other fisheries on the mortality of small-mesh multispecies; and any other relevant information.

(ii) If new and/or additional information becomes available, the Whiting PDT shall consider it during this annual review. Based on this review, the Whiting PDT shall provide guidance to the Whiting Oversight Committee and the Council regarding the need to adjust measures for the small-mesh multispecies fishery to better achieve the FMP's objectives. After considering this guidance, the Council may submit to NMFS its recommendations for changes to management measures, as appropriate, through the specifications process described in this section, the process specified in paragraph (c) of this

section, or through an amendment to the FMP.

(4) *Specifications package.* (i) The Whiting PDT shall prepare a specification package, including a SAFE Report, at least every 3 years. Based on the specification package, the Whiting PDT shall develop and present to the Council recommended specifications as defined in paragraph (a) of this section for up to 3 fishing years. The specifications package shall be the primary vehicle for the presentation of all updated biological and socio-economic information regarding the small-mesh multispecies fishery. The specifications package shall provide source data for any adjustments to the management measures that may be needed to continue to meet the goals and objectives of the FMP.

(ii) In any year in which a specifications package, including a SAFE Report, is not completed by the Whiting PDT, the annual review process described in paragraph (a) of this section shall be used to recommend any necessary adjustments to specifications and/or management measures in the FMP.

(5) *Accountability measures for the small-mesh multispecies fishery.*

(i) * * *

(ii) *Post-season adjustment for an overage.* If NMFS determines that a small-mesh multispecies ACL was exceeded in a given fishing year, the in-season accountability measure adjustment trigger, as specified in § 648.90(b)(5)(i) shall be reduced in a subsequent fishing year by 1 percent for each 1 percent by which the ACL was exceeded through notification consistent with the Administrative Procedure Act. For example, if the in-season adjustment trigger is 90 percent, and an ACL is exceeded by 5 percent, the adjustment trigger for the stock whose ACL was exceeded would be reduced to 85 percent for subsequent fishing years.

* * * * *

(c) * * *

(1) *Adjustment process.* (i) After a management action has been initiated, the Council shall develop and analyze appropriate management actions over the span of at least two Council meetings. The Council shall provide the public with advance notice of the availability of both the proposals and the analyses and opportunity to comment on them prior to and at the second Council meeting. The Council's recommendation on adjustments or additions to management measures, other than to address gear conflicts, must come from one or more of the following categories: DAS changes, effort monitoring, data reporting, possession limits, gear restrictions, closed areas, permitting restrictions, crew limits, minimum fish sizes, onboard observers, minimum hook size and hook style, the use of crucifer in the hook-gear fishery, sector requirements, recreational fishing measures, area closures and other appropriate measures to mitigate marine mammal entanglements and interactions, description and identification of EFH, fishing gear management measures to protect EFH, designation of habitat areas of particular concern within EFH, and any other management measures currently included in the FMP.

(ii) The Council's recommendation on adjustments or additions to management measures pertaining to small-mesh NE multispecies, other than to address gear conflicts, must come from one or more of the following categories: Quotas and appropriate seasonal adjustments for vessels fishing in experimental or exempted fisheries that use small mesh in combination with a separator trawl/grate (if applicable); modifications to separator grate (if applicable) and mesh configurations for fishing for small-mesh NE multispecies; adjustments to whiting stock boundaries for management purposes; adjustments for fisheries exempted from minimum mesh requirements to fish for small-mesh NE multispecies (if applicable); season adjustments; declarations; participation requirements for any of the Gulf of Maine/Georges Bank small-mesh multispecies exemption areas; OFL and ABC values; ACL, TAL or TAL allocations, including the proportions used to allocate by season or area; small-mesh multispecies possession limits, including in-season AM possession limits; changes to reporting requirements and methods to monitor the fishery; and biological reference points, including selected reference time series, survey strata used to calculate biomass, and the selected survey for status determination.

(iii) *Adjustment process for whiting DAS.* The Council may develop recommendations for a whiting DAS effort reduction program through the framework process outlined in paragraph (c) of this section only if these options are accompanied by a full set of public hearings that span the area affected by the proposed measures in order to provide adequate opportunity for public comment.

* * * * *

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