

procedures for framework adjustments specified under paragraph (c)(3) of this section must be followed.

(3) *Framework Adjustment Procedures.* Framework adjustments shall require at least one initial meeting of the Monkfish Oversight Committee or one of the Councils (the agenda must include notification of the framework adjustment proposal) and at least two Council meetings, one at each Council. The Councils shall provide the public with advance notice of the availability of both the proposals and the analysis, and opportunity to comment on them prior to the first of the two final Council meetings. Framework adjustments and amendments to the Monkfish FMP require majority approval of each Council for submission to the Secretary.

(i) *Councils' recommendation.* After developing management actions and receiving public testimony, the Councils shall make a recommendation to the Regional Administrator. The Councils' recommendation must include supporting rationale and, if management measures are recommended, an analysis of impacts and a recommendation to the Regional Administrator on whether to issue the management measures as a final rule. If the Councils recommend that the management measures should be issued as a final rule, the Councils must consider at least the following four factors and provide support and analysis for each factor considered:

(A) Whether the availability of data on which the recommended management measures are based allows for adequate time to publish a proposed rule, and whether regulations have to be in place for an entire harvest/fishing season;

(B) Whether there has been adequate notice and opportunity for participation by the public and members of the affected industry in the development of the Councils' recommended management measures;

(C) Whether there is an immediate need to protect the resource or to impose management measures to resolve gear conflicts; and

(D) Whether there will be a continuing evaluation of management measures adopted following their implementation as a final rule.

(ii) *Action by NMFS.* (A) If the Regional Administrator approves the Councils' recommended management measures and determines that the recommended management measures should be issued as a final rule based on the factors specified in paragraph (c)(3)(i) of this section, the Secretary may, for good cause found under the standard of the Administrative Procedure Act, waive the requirement for a proposed rule and opportunity for

public comment in the **Federal Register**. The Secretary, in so doing, shall publish only the final rule. Submission of the recommendations does not preclude the Secretary from deciding to provide additional opportunity for prior notice and comment in the **Federal Register**.

(B) If the Regional Administrator concurs with the Councils' recommendation and determines that the recommended management measures should be published first as a proposed rule, then the measures shall be published as a proposed rule in the **Federal Register**. After additional public comment, if NMFS concurs with the Councils' recommendation, then the measures shall be issued as a final rule in the **Federal Register**.

(C) If the Regional Administrator does not concur, then the Councils shall be notified in writing of the reasons for the non-concurrence.

(iii) *Adjustments for gear conflicts.* The Councils may develop a recommendation on measures to address gear conflict as defined under § 600.10 of this chapter, in accordance with the procedure specified in § 648.55(d) and (e).

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 030210027-3097-02; I.D. 012103E]

RIN 0648- AQ35

50 CFR Part 648

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Framework Adjustment 37 to the Northeast Multispecies Fishery Management Plan

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement measures contained in Framework Adjustment 37 (Framework 37) to the Northeast (NE) Multispecies Fishery Management Plan (FMP) to eliminate the Year 4 default measure for whiting in both stock areas; reinstate the Cultivator Shoal whiting fishery (CSWF) season through October 31 each year; eliminate the 10-percent restriction on red hake incidental catch in the CSWF;

adjust the incidental catch allowances in Small Mesh Areas 1 and 2 so that they are consistent with those in the Cape Cod Bay raised footrope trawl fishery; clarify the transfer-at-sea provisions for small-mesh multispecies for use as bait; modify slightly the Cape Cod Bay raised footrope trawl fishery area; and retain the 30,000-lb (13.6-mt) trip limit for the CSWF.

DATES: Effective May 1, 2003.

ADDRESSES: Copies of the Framework 37 document, its Regulatory Impact Review (RIR), the Environmental Assessment and other supporting documents for the framework adjustment are available from Paul J. Howard, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950. These documents are also available online at <http://www.nefmc.org>.

This action is also based upon analyses conducted in support of Amendment 12 to the FMP. Copies of the Amendment 12 document, its RIR, IRFA and the July 1, 1999, supplement to the IRFA prepared by NMFS, the Final Supplemental Environmental Impact Statement, and other supporting documents for Amendment 12 are available from Paul J. Howard (See address above). The Final Regulatory Flexibility Analysis (FRFA) for Amendment 12 consisted of the IRFA, public comments and responses contained in the final rule implementing Amendment 12 (65 FR 16766, March 29, 2000), and the summary of impacts and alternatives in that final rule.

FOR FURTHER INFORMATION CONTACT: E. Martin Jaffe, Fishery Policy Analyst, 978-281-9272.

SUPPLEMENTARY INFORMATION: This final rule implements measures contained in Framework 37 to the FMP. Details concerning the justification for and development of Framework 37 and the implementing regulations were provided in the preamble to the proposed rule (68 FR 8731, February 25, 2003) and are not repeated here.

This framework adjustment eliminates the Year 4 default measure in both whiting stock areas and implements adjustments to allow for moderate increases in effort on small-mesh multispecies in the northern stock area. This adjustment is necessary because current regulations specify that the Year 4 default measure will become effective in both stock areas on May 1, 2003, unless modified or eliminated by a New England Fishery Management Council (Council) action.

This final rule also reinstates the CSWF season through October 31 each