

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration**

[Docket No. 030514123-3123-01; I.D. 041003B]

RIN 0648-AQ76

50 CFR Part 648**Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Framework Adjustment 38**

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes measures contained in Framework Adjustment 38 (Framework 38) to the Northeast Multispecies Fishery Management Plan (FMP) that would exempt a fishery from the Gulf of Maine (GOM)/Georges Bank (GB) Regulated Mesh Area mesh size regulations. Framework 38 would establish an exempted small mesh silver hake (*Merluccius bilinearis*) (whiting) fishery in the inshore GOM. The exempted fishery would be authorized from July 1 through November 30 each year; require the use of specific exempted grate raised footrope trawl gear; establish a maximum whiting possession limit of 7,500 lb (3,402 kg); and include incidental catch restrictions.

DATES: Comments on this proposed rule must be received on or before June 5, 2003.

ADDRESSES: Copies of the Framework 38 document, its Regulatory Impact Review (RIR), the Initial Regulatory Flexibility Analysis (IRFA), 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>.

Written comments on the proposed rule should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope "Comments on Framework 38." Comments may also be sent via facsimile (fax) to (978) 281-9135. Comments will not be accepted if submitted via e-mail or the Internet.

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

SUPPLEMENTARY INFORMATION: In September 2002, the New England Fishery Management Council's (Council) Whiting Monitoring Committee (WMC) released the 2002 Stock Assessment and Fishery Evaluation (SAFE) Report for small-mesh multispecies (whiting, red hake, and offshore hake), which represents the WMC's third-year review of the whiting management program implemented in Amendment 12 to the FMP. The 2002 SAFE Report also includes the WMC's recommendations regarding the future management of the small mesh multispecies resources. The WMC determined that the fishing mortality objectives of the whiting management program appear to have been achieved, based on the evaluation of relative exploitation indices as a proxy for fishing mortality.

The northern stock of whiting (as well as the northern stock of red hake) is considered to be "rebuilt," or above its target biomass level according to the Amendment 12 overfishing definition. The relative exploitation of northern whiting is far below the target value that the WMC set as a proxy for FMSY, so overfishing is not thought to be occurring. The current relative exploitation index is only 11 percent of the WMC's FMSY proxy. With respect to management thresholds, targets, and biological objectives, the WMC concluded that exploitation of the northern stock of whiting could absorb some increase. As one way to increase exploitation in the northern stock area, the WMC recommended consideration of new exempted fisheries for small mesh multispecies if experimental data demonstrate that these fisheries can minimize regulated species bycatch.

Based on this recommendation, the Council initiated a framework action pursuant to 50 CFR 648.80(a)(8)(ii), which allows additions or deletions to small mesh exemptions in the NE multispecies regulated mesh areas in cases where there may be insufficient data or information to determine, without public comment, the percentage catch of regulated species or small mesh species. This framework adjustment would establish a seasonal exempted grate raised footrope trawl fishery for silver hake (whiting) in the inshore GOM. This action would allow for a transition from a successful experimental fishery for whiting focused on minimizing regulated species bycatch to a more permanent fishery that provides a seasonal small

mesh fishing opportunity for vessels in the GOM. The exempted grate raised footrope trawl fishery proposed in this framework adjustment is the product of 8 years of experimental work conducted by the Maine Department of Marine Resources (ME DMR), in cooperation with the fishing industry. The gear itself evolved throughout the course of the experimental fisheries, as different mesh configurations and grate bar spacing were tested. The gear proposed for the exempted fishery in this framework adjustment represents the configuration that encountered the most success minimizing regulated species bycatch when vessels used it to target whiting in the area proposed for exemption. The proposed season (July 1 - November 30) and area (see coordinates below) for this fishery most closely represents the traditional Maine whiting fishery and the area utilized by the fishermen who participated in the experimental whiting grate fisheries.

The biological analyses in Framework 38 indicate that establishing a seasonal grate raised footrope trawl fishery in the inshore GOM would not be expected to significantly impact fishing mortality or rebuilding schedules for any small mesh multispecies or large mesh regulated groundfish stocks. Fishing mortality (F) on whiting in the northern area is very low and the increase in F that would be created by the grate fishery is projected to be very low.

The Groundfish Plan Development Team (PDT) reviewed the grate raised footrope trawl experimental fishery data in the context of juvenile groundfish bycatch and determined that the impacts of this fishery on juvenile groundfish mortality would not likely be significant. The PDT concluded that, based on the experimental data, this fishery would primarily take juvenile American plaice, redfish, witch flounder, and white hake as bycatch. The amount of bycatch would depend in large measure on the amount of effort in the fishery. In terms of weight, data presented in the Framework 38 document indicate that expected regulated species bycatch would be less than 5 percent of the total catch. Using additional data provided by ME DMR from the 2002 experimental fishery, the PDT estimated that the numbers of juvenile fish that may be caught in this fishery could increase the catch of juvenile plaice by 1.57 percent and the catch of juvenile witch flounder could increase less than 0.5 percent. While catch-at-age estimates are not available to make these comparisons for redfish and white hake, the PDT expects bycatch of these species to be minimal.