

an arbitration award on certain limited grounds.

§ 1108.8 Arbitration procedures.

(a) The Arbitrator will establish rules, including timetables, for each arbitration proceeding.

(1) The evidentiary process will be completed within 90 days from the start date established by the Arbitrator. The Arbitrator's decision will be issued within 30 days from the close of the record.

(2) Discovery will be permitted only with the agreement of the parties or as directed by the Arbitrator.

(b) Evidence will be submitted under oath. Evidence may be submitted in writing or orally, at the direction of the Arbitrator. Hearings for the purpose of cross-examining witnesses will be permitted at the sound discretion of the Arbitrator. The Arbitrator, at his/her discretion, may require additional evidence.

(c) Subject to alteration by the Arbitrator in individual proceedings, as a general rule where evidence is submitted in written form, the complaining party will proceed first, and the defendant will proceed next. The parties will then be given an opportunity to file simultaneous replies. At the discretion of the Arbitrator, argument may be submitted with each evidentiary filing or in the form of a brief after the submission of all evidence. Pagination limits will be set by each Arbitrator for all written submissions of other than an evidentiary nature.

(d) Any written document, such as a common carrier rate schedule, upon which a party relies should be submitted as part of that party's proof, in whole or in relevant part. The Arbitrator will not be bound by formal rules of evidence, but will avoid basing a decision entirely or largely on unreliable proof.

(e) Where proof submitted to an Arbitrator addresses railroad costs, such proof should be prepared in accordance with the standards employed by the STB in ascertaining the costs at issue.

(f) Where the Arbitrator is advised that any party to an arbitration proceeding wishes to keep matters relating to the arbitration confidential, the Arbitrator shall take such measures as are reasonably necessary to ensure that such matters are treated confidentially by the parties or their representatives and are not disclosed by the Arbitrator to non-authorized persons. If the Arbitrator regards any confidential submission as being essential to his/her written decision, such information may be included in

the decision, but the Arbitrator will make every effort to omit confidential information from his/her written decision.

§ 1108.9 Decisions.

(a) Decisions of the Arbitrator shall be in writing and shall contain findings of fact and conclusions. All such Decisions shall be served by the Arbitrator by hand delivery or overnight mail on the parties and the STB.

(b) By agreeing to arbitrate pursuant to these procedures, each party agrees that the decision and award of the Arbitrator shall be binding and judicially enforceable in law and equity in any court of appropriate jurisdiction, subject to a limited right of appeal to the STB as provided below.

§ 1108.10 Precedent.

Arbitration decisions rendered pursuant to these procedures shall have no precedential value.

§ 1108.11 Enforcement and appeals.

(a) An arbitration decision rendered pursuant to these procedures may be appealed to the STB within 20 days of service of such decision. Any such appeal shall be served by hand delivery or overnight mail on the parties and the STB. Replies to such appeals may be filed within 20 days of service of the appeal. An appeal or a reply under this paragraph shall not exceed 20 pages in length. The filing fee for such appeal will be as set forth in 49 CFR 1002.2(f)(87).

(b) The filing of an appeal, as allowed in paragraph (a) of § 1108.11, automatically will stay an arbitration decision pending disposition of the appeal. The STB will decide any such appeal within 30 days of the date on which the reply is due. Such decision by the STB shall be served in accordance with normal STB service procedures.

(c) The STB will only review cases involving issues of general transportation importance. The STB may vacate or amend an arbitration award, in whole or in part, only on the grounds that such award:

(1) Exceeds the STB's statutory jurisdiction; or
(2) Does not take its essence from the ICCTA.

(d) Effective arbitration decisions rendered pursuant to these procedures, whether or not appealed to the STB, may only be enforced in accordance with 9 U.S.C. 9 and vacated by a court in accordance with 9 U.S.C. 10.

§ 1108.12 Additional matters.

Where an arbitration demand is filed by one or more plaintiffs against one or

more defendants, the plaintiffs as a group and the defendants as a group shall be entitled to exercise those rights, with respect to the selection of arbitrators, as are conferred on individual arbitration parties.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[I.D. 021097C]

New England Fishery Management Council; Mid-Atlantic Fishery Management Council; Reopening of Comment Period

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

ACTION: Public hearings; reopening of comment period.

SUMMARY: The New England and Mid-Atlantic Fishery Management Councils (Councils) held public hearings to receive comments on Amendment 9 to the Northeast Multispecies Fishery Management Plan (FMP). The Councils are reopening the comment period to allow additional time for all interested parties to submit written comments.

DATES: The comment period, which closed on March 14, 1997, is reopened through April 1, 1997.

ADDRESSES: Written comments or requests for copies of the public hearing document, draft Amendment 9 document, or the draft Supplemental Environmental Impact Statement should be directed to Paul J. Howard, Executive Director, New England Fishery Management Council, 5 Broadway, Saugus, MA 01906; telephone 617-231-0422, or David Keifer, Executive Director, Mid-Atlantic Fishery Management Council, 300 South New Street, Suite 2115, Dover, DE 19901; telephone 302-674-2331.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, 617-231-0422.

SUPPLEMENTARY INFORMATION: On February 21, 1997 (62 FR 7991), NMFS published a notification of public hearings on Amendment 9 to the FMP and comments were solicited through March 14, 1997. The Councils are aware of the public interest in the management measures being proposed for the monkfish fishery and want to allow

interested parties additional time to comment.

Amendment 9 to the FMP would bring monkfish under Federal management authority through the Northeast region (Virginia to Maine). The Councils are considering two management areas for monkfish, a northern fishery management area and a southern fishery management area based on the differences in fisheries in the Gulf of Maine versus areas to the south. Total allowable landings targets already

have been established for the two fishery management areas and are consistent with the monkfish overfishing definition and a rebuilding strategy adopted by the Councils.

A limited access program for vessels that target and land large volumes of monkfish would be based on historic participation in the fishery. These limited access vessels could target monkfish under a seasonal quota or under a limited number of days-at-sea, depending on the management

measures in the final amendment. Trip limits would be used to control monkfish bycatch.

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

Dated: March 20, 1997.

George H. Darcy,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

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