

work; shifts emphasis among work areas or tasks; and

(2) Evaluation and acceptance of reports or other deliverables.

(c) Technical direction must be within the scope of work of the contract and any task order thereunder. The contracting officer technical representative(s) does not have the authority to issue technical direction which:

(1) Requires additional work outside the scope of the contract or task order;

(2) Constitutes a change as defined in the "Changes" clause;

(3) Causes an increase or decrease in the estimated cost of the contract or task order;

(4) Alters the period of performance of the contract or task order; or

(5) Changes any of the other terms or conditions of the contract or task order.

(d) Technical direction will be issued in writing or confirmed in writing within five (5) days after oral issuance. The contracting officer will be copied on any technical direction issued by the contracting officer technical representative.

(e) If, in the contractor's opinion, any instruction or direction by the contracting officer technical representative(s) falls within any of the categories defined in paragraph (c) of this clause, the contractor shall not proceed but shall notify the contracting officer in writing within 3 days after receiving it and shall request that the contracting officer take appropriate action as described in this paragraph. Upon receiving this notification, the contracting officer shall:

(1) Advise the contractor in writing as soon as practicable, but no later than 30 days after receipt of the contractor's notification, that the technical direction is within the scope of the contract effort and does not constitute a change under the "Changes" clause of the contract;

(2) Advise the contractor within a reasonable time that the government will issue a written modification to the contract; or

(3) Advise the contractor that the technical direction is outside the scope of the contract and is thereby rescinded.

(f) A failure of the contractor and contracting officer to agree as to whether the technical direction is within the scope of the contract, or a failure to agree upon the contract action to be taken with respect thereto, shall be subject to the provisions of the clause entitled "Disputes" in this contract.

(g) Any action(s) taken by the contractor, in response to any direction given by any person acting on behalf of the government or any government official other than the contracting officer

or the contracting officer technical representative, shall be at the contractor's risk. (End of clause)

[FR Doc. E8-4153 Filed 3-3-08; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No.071128763-7773-01]

RIN 0648-AW33

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Monkfish Fishery

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS is proposing to implement new management measures for the monkfish fishery recommended in Framework Adjustment 5 (Framework 5) to the Monkfish Fishery Management Plan (FMP), which has been submitted jointly by the New England (NEFMC) and Mid-Atlantic Fishery Management Councils (Councils). This action would implement revised biological reference points in the FMP to be consistent with the recommendations resulting from the most recent stock assessment for this fishery (Northeast Data Poor Stocks Working Group (DPWG, July 2007)), and implement revised management measures to ensure that the monkfish management program succeeds in keeping landings within the target total allowable catch (TAC) levels.

DATES: Written comments must be received no later than 5 p.m. eastern standard time, on March 25, 2008.

ADDRESSES: You may submit comments, identified by RIN number 0648-AW33, by any of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal e-Rulemaking portal <http://www.regulations.gov>.
- Fax: (978) 281-9135, Attn: Allison McHale.
- Mail: Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope: "Comments on Monkfish Framework 5."

Instructions: All comments received are part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

NMFS will accept anonymous comments. Attachments to electronic comments will be accepted via Microsoft Word, Microsoft Excel, WordPerfect, or Adobe PDF file formats only.

Copies of the Environmental Assessment (EA), including the Regulatory Impact Review (RIR) and Initial Regulatory Flexibility Analysis (IRFA), prepared for Framework 5 are available upon request from Paul Howard, Executive Director, NEFMC, 50 Water Street, Newburyport, MA, 01950. The document is also available online at www.nefmc.org.

FOR FURTHER INFORMATION CONTACT:

Allison McHale, Fishery Policy Analyst, e-mail Allison.McHale@noaa.gov, phone (978) 281-9103, fax (978) 281-9135.

SUPPLEMENTARY INFORMATION:

Background

The monkfish fishery is jointly managed by the Councils, with the NEFMC having the administrative lead. The fishery extends from Maine to North Carolina, and is divided into two management units: The Northern Fishery Management Area (NFMA) and the Southern Fishery Management Area (SFMA).

In July 2007, the DPWG completed and accepted a new monkfish assessment. The results of this assessment indicate that neither stock is overfished, overfishing is no longer occurring, and both stocks are rebuilt based on a new modeling approach and newly recommended biological reference points. In addition to the fact that this assessment was the first to use a new analytical model, the July 2007 assessment report emphasizes the high degree of uncertainty in the analyses due to the dependence on assumptions about natural mortality, growth rates, and other model inputs. The report concluded that the data-poor nature of this species and the significant uncertainty in assessing the stocks should be considered when developing management measures. Framework 5 is needed to implement the revised biological reference points recommended by the DPWG and would make other modifications to the

regulations to ensure that the management program succeeds in keeping landings within the target TACs implemented in Framework Adjustment 4 (72 FR 53942; September 21, 2007). The management measures contained in Framework 5 are described in detail in the following paragraphs.

Proposed Framework 5 Management Measures

1. Revision to Biological Reference Points

This action would revise the biological reference points contained in the FMP to be consistent with those recommended in the July 2007 assessment report. In that report, the DPWG recommended that B_{target} for both management areas be set equivalent to the average of the total biomass from 1980 through 2006. This would establish a B_{target} of 92,200 mt for the NFMA and 122,500 mt for the SFMA. In addition, the DPWG recommended that $B_{\text{threshold}}$ for both management areas be set equivalent to the lowest value of total biomass from 1980 through 2006. This would establish a $B_{\text{threshold}}$ of 65,200 mt for the NFMA and 96,400 mt for the SFMA. The most recent estimate of biomass for each management area (B_{2006}) is 118,700 mt for the NFMA and 135,500 mt for the SFMA. Therefore, under the revised biological reference points contained in Framework 5, both monkfish stocks would officially no longer be considered overfished (B_{2006} above $B_{\text{threshold}}$), and would be rebuilt (B_{2006} above B_{target}).

2. Reduction in Carryover Days-at-Sea (DAS)

This action would reduce the number of unused monkfish DAS that a limited access monkfish vessel is allowed to carry over from one fishing year into the next from 10 to 4 DAS. Under this management measure, the carryover DAS allowance would represent 13 percent of the total annual DAS allocated to monkfish vessels (31 DAS) and 17 percent of the DAS allowed in the SFMA (23 DAS).

Carryover DAS are intended to enhance safety at sea by allowing a vessel, at the end of a fishing year, to avoid the predicament of using or losing DAS in the event of bad weather or mechanical problems. However, the use of carryover DAS contributed to a substantial overage (60 percent) in the target TAC for the SFMA during FY 2006, when vessels in this area were only allocated 12 DAS for the fishing year. During that fishing year, carryover DAS represented over an 80-percent increase above a limited access

monkfish vessel's base allocation of monkfish DAS. Therefore, the Councils are recommending that carryover DAS be reduced to reflect an amount that is more commensurate to a vessel's base DAS allocation to help ensure that the target TACs are not exceeded.

3. Revision to DAS Accounting Provision for Gillnet Vessels

This action would change the manner in which DAS are counted for monkfish gillnet vessels. The FMP currently states that monkfish gillnet vessels are charged actual time fished on trips less than 3 hours or greater than 15 hours in duration, but are charged a minimum of 15 hours for trips from 3 to 15 hours in duration. The intent of this regulation was to adjust gillnet effort to be more equivalent to trawl effort, but allow vessels that run into bad weather or experience mechanical difficulties at the beginning of a trip to return to port and only be charged actual time at sea (i.e., trips less than 3 hours in duration). However, as monkfish DAS have been reduced in recent years, some vessels have begun to exploit this 3-hour window and use it to catch and land monkfish. As a result, an allocation of 23 monkfish DAS, for example, would normally allow a vessel to take approximately 36 15-hour trips. If that vessel exploited the 3-hour provision, the number of potential trips could increase to as many as 184. It appears that only a few vessels are currently exploiting this provision, but there is potential for increased usage, which then increases the probability that the target TACs will be exceeded. As a result, the Councils are recommending that the 3-hour provision be eliminated, requiring all monkfish gillnet trips of less than 15 hours in duration to be charged 15 hours.

This action would also add a sentence to the section of the regulations concerning the monkfish gillnet accounting rules, found at § 648.92 (b)(8)(v), to clarify that a monkfish gillnet vessel fishing under a joint monkfish and NE multispecies DAS, that is declared as a trip gillnet vessel under the NE Multispecies FMP, must remove its gillnet gear from the water prior to calling out of the DAS program. The language contained in this section was recently clarified in a letter from the Regional Administrator to limited access monkfish permit holders, dated August 13, 2007.

4. Revision to the Incidental Catch Limit in the SFMA

This action would revise the monkfish incidental catch limit applicable to large-mesh vessels fishing

in the Southern New England Regulated Mesh Area (SNE RMA), as defined under the Northeast (NE) multispecies regulations, east of 72°30' W long., but not under a monkfish, NE multispecies, or scallop DAS, or vessels fishing under a Skate Bait Letter of Authorization (LOA) in the SNE RMA east of 74°00' W long., to be 5 percent (tail weight) of the total weight of fish on board, not to exceed 50 lb (23 kg) tail weight per day, up to 150 lb (68 kg) tail weight per trip. The Councils are recommending this change to the incidental catch limit in response to reports that vessels fishing for skate as bait in the SNE RMA, using mesh larger than the multispecies minimum mesh size (i.e., large mesh), are targeting monkfish using the existing incidental catch limit; which is 5 percent (tail weight) of the total weight of fish on board with no limit on the amount of monkfish that the vessel can land. This behavior could undermine the FMP's ability to prevent overfishing. The landings cap recommended by the Councils in this action is equivalent to the incidental catch limit applicable to vessels not fishing under a DAS in the SNE RMA with small-mesh, hook gear, or dredge gear.

5. Revision to Monkfish LOA Requirement

This action would eliminate the requirement to obtain a Monkfish LOA to fish under the less restrictive management measures of the NFMA for vessels using a vessel monitoring system (VMS). Monkfish vessels using the interactive voice response (IVR) call-in system would still be required to obtain a Monkfish LOA. The Councils are considering this action because requiring an LOA was determined to be burdensome and unnecessary, given that VMS screens were recently revised to enable limited access monkfish vessels to declare the management area in which they are fishing when declaring a monkfish DAS. In addition, the VMS system enables NMFS to monitor where these vessels are fishing. Conversely, although vessels using the IVR call-in system can now declare the management area in which they are fishing through this system, NMFS cannot monitor where these vessels are fishing in the same manner as VMS vessels. Therefore, the Councils are recommending that the Monkfish LOA requirement be retained for vessels using the IVR call-in system.

Technical Corrections to Monkfish FMP Regulations

Two corrections to the regulations implementing the Monkfish FMP are included in this proposed rule. The first

correction would remove a duplicate paragraph concerning the impact of leasing NE multispecies DAS on a vessel's monkfish DAS allocation (§ 648.92(b)(2)(iii)). This paragraph should have been removed in the final rule implementing Framework 4. The second set of corrections would correct the cross-references to the regulations implementing the Atlantic Sea Scallop FMP concerning accrual of DAS and the Good Samaritan credit found at § 648.92(b)(3) and (4). It appears that the final rule implementing Amendment 10 to the Atlantic Sea Scallop FMP (69 FR 35215; June 23, 2004) revised § 648.53, thereby inadvertently impacting these cross-references in the monkfish regulations.

Classification

NMFS has determined that this proposed rule is consistent with the FMP and has preliminarily determined it is consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

An IRFA was prepared for Framework 5, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA consists of the discussion in the preamble and this section, and the analysis of impacts in Framework 5. 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 in the preamble and in the **SUMMARY** of this proposed rule. A copy of this analysis is available from the NEFMC (see **ADDRESSES**). A summary of the analysis follows:

The primary reason for this action is to adopt the revisions to the biological reference points as recommended by the DPWG. However, additional measures were included to address comments from the Regional Administrator and the public that were raised during the development and implementation of Framework 4. As a result, three additional measures aimed at reducing the potential for monkfish landings to exceed the TACs were added to Framework 5. In addition, a measure to eliminate the need for a Monkfish LOA to fish for monkfish in the NFMA for vessels with VMS was included to reduce the administrative burden on vessel operators.

The regulations implementing the FMP, found at 50 CFR part 648, subpart F, authorize the Council to adjust management measures as needed to

achieve FMP goals. The objective of this action is to achieve the goals of the FMP by using the best scientific information available by adopting new biological reference points, to reduce the probability of monkfish landings exceeding the target TACs by reducing unanticipated opportunities for additional landings, and to reduce the administrative burden on vessels. Thus, the proposed action is consistent with the goals of the FMP and its implementing regulations.

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 gross sales). Therefore, there are no differential impacts between large and small vessels. As of November 30, 2007, there were 765 limited access monkfish permit holders and 2,142 vessels holding an open access Category E permit. In FY 2006, there were 616 limited access permits holders that participated in the monkfish fishery based on vessel trip report (VTR) records. During the same period, 574 Category E permit holders reported landing monkfish. Based on VTR information from FY 2006 (the most recent FY for which complete information is available) this action would affect up to 194 limited access monkfish vessels that would like to carry over more than 4 monkfish DAS; 101 limited access monkfish gillnet vessels landing monkfish on trips less than 3 hours in duration; 21 vessels using large mesh (and not on a DAS) or under a Skate Bait LOA in the SNE RMA and landing monkfish above the proposed 50 lb (23 kg) per day, up to 150 lb (68 kg) per trip incidental catch limit; and 105 vessels with a VMS that fish in the NFMA.

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.

Economic Impacts of Proposed Framework 5 Measures

1. Revision to Biomass Reference Points

This measure would modify the existing biomass reference points ($B_{\text{threshold}}$, B_{target}) for monkfish, consistent with the results of the most recent stock assessment. The proposed revision to the biological reference points does not immediately affect any vessels because it does not change any management measures or otherwise modify vessel level aspects of the management program.

2. Reduction in Carryover DAS

This measure would reduce the number of unused monkfish DAS that a limited access monkfish vessel is allowed to carry over from one fishing year into the next from 10 to 4 DAS. Reducing the number of unused DAS that can be carried forward into the next fishing year to 4 DAS would reduce the economic opportunities for those vessels that would like to carry forward more DAS. In FY 2006, 186 vessels used an average of between 8.4 and 9.3 DAS, depending on management area fished, in addition to their allocated DAS used, while 8 vessels did not have carryover DAS available. An additional 46 vessels used only carryover DAS, suggesting they were not constrained by available DAS. Thus, based on FY 2006 data, approximately 194 vessels may have economic opportunities reduced by the proposed reduction in carryover DAS. A caveat with this information is that carryover DAS are used prior to allocated DAS, making it difficult to fully assess the impact of carryover DAS.

When permit holders are unconstrained by their base allocation of monkfish DAS, there is no economic value associated with carryover DAS. In FY 2006, 240 permit holders used monkfish DAS, of which 5 permit holders fished only in the SFMA and used more than 23 DAS (base allocation plus carryover), the amount allowed for use in the SFMA during FY 2007. For permit holders that fished only in the NFMA, or both in the NFMA and SFMA, during FY 2006, 15 had total DAS usage above the 31 monkfish DAS allocated to these vessels during FY 2007. In general, this analysis suggests that 20 vessels would fully utilize their current DAS allocation, and so could have value for carryover DAS. However, the results for the NFMA should be viewed with caution since recent revisions to the monkfish regulations may require higher monkfish DAS usage in the NFMA. As a result, more permit holders may be constrained by the FY 2007 DAS allocation, and so have an economic value for carryover DAS.

While a permit holder may associate economic value with carryover DAS, this information does not provide guidance on how many carryover DAS a permit holder would value, or the value they would place on a carryover DAS. Additionally, other measures in Framework 5 (e.g. elimination of 3-hour DAS use) would require higher DAS use for some permit holders, particularly in the SFMA. Combined, the information suggests that while negative economic impacts would be anticipated for

Alternative 2 (4 carryover DAS) and Alternative 1 (6 carryover DAS) relative to Alternative 3 (no action), the number of affected permit holders would be small.

3. Revision to DAS Accounting Provision for Gillnet Vessels

The proposed action would require that all monkfish gillnet vessels be charged a minimum of 15 hours for each trip, even on trips less than 3 hours in duration. In FY 2006, 101 gillnet vessels had DAS charges of 3 hours (0.13 DAS) or less on 447 trips. The estimated total revenue generated by these trips was \$891,229. A portion of this revenue would be lost as a result of this action since vessels may not have sufficient monkfish DAS available to convert all 3-hour trips to 15-hour trips (i.e., DAS allocation is constraining). It was estimated that fewer than five vessels would fall into this category. However, it is difficult to estimate the portion of total revenue lost, since it is not known how vessels would modify their fishing behavior to adjust for the elimination of the 3-hour provision. In general, the level of economic impact will depend on future DAS allocations and the degree to which these allocations are constraining on limited access monkfish vessels.

4. Revision to the Incidental Catch Limit in the SFMA

This measure would revise the monkfish incidental catch limit applicable to large-mesh vessels fishing in the SNE RMA, but not under a monkfish, NE multispecies, or scallop DAS, or vessels fishing under a Skate Bait Letter of Authorization (LOA) in the SNE RMA east of 74°00' W long., to be 5 percent (tail weight) of the total weight of fish on board, not to exceed 50 lb (23 kg) tail weight per day, up to 150 lb (68 kg) tail weight per trip. The proposed action would affect vessels fishing with large mesh in the SNE RMA east of 72°30' W long., and vessels fishing under a Skate Bait LOA anywhere in the SNE RMA. Approximately 12 vessels met these criteria in FY 2006. Only trips that exceed the proposed incidental landings limit of 50 lb (23 kg) of monkfish (tail weight) per day absent, or 150 lb (68 kg) of monkfish (tail weight) per trip, would see a reduction in trip revenues, and thus net revenues. Based on FY 2006 VTR information, three trips taken by three vessels would be affected with average lost revenues of \$588 per vessel.

5. Revision to Monkfish LOA Requirement

This measure would eliminate the requirement to obtain a Monkfish LOA to fish under the less restrictive management measures of the NFMA for vessels using VMS. This action would reduce the administrative burden for those vessels that have VMS and fish in the NFMA at some time during the fishing year, including vessels with a monkfish incidental catch permit (i.e. Category E). According to VTR data, in FY 2006, 322 vessels fished only in the NFMA, with 263 of those vessels using VMS or a combination of VMS and IVR to report DAS for some species. Similarly, 282 vessels fished in both the NFMA and SFMA, 262 of which reported DAS with either only VMS or a combination of VMS and IVR. This suggests that at least 525 vessels, or 87 percent of those fishing in the NFMA, would have the capacity to utilize VMS to offset the need for a Monkfish LOA to fish in the NFMA.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: February 27, 2008

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out 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 § 648.92, paragraphs (a)(1), (b)(3), (b)(4), and (b)(8)(v) are revised to read as follows:

§ 648.92 Effort-control program for monkfish limited access vessels.

* * * * *

(a) * * *

(1) *End of year carryover.* With the exception of a vessel that held a Confirmation of Permit History, as described in § 648.4(a)(1)(i)(f), for the entire fishing year preceding the carryover year, a limited access monkfish vessel that has unused monkfish DAS on the last day of April of any year may carry over a maximum of 4 unused monkfish DAS into the next fishing year. A vessel whose DAS have been sanctioned through enforcement proceedings shall be credited with unused DAS based on its DAS

allocation minus any DAS that have been sanctioned.

* * * * *

(b) * * *
(3) *Accrual of DAS.* Same as § 648.53(f).

(4) *Good Samaritan credit.* Same as § 648.53(g).

(8) * * *

(v) *Method of counting DAS.* A vessel fishing with gillnet gear under a monkfish DAS will accrue 15 hours monkfish DAS for all trips less than or equal to 15 hours in duration. Such vessels will accrue monkfish DAS based on actual time at sea for trips greater than 15 hours in duration. A vessel fishing with gillnet gear under only a monkfish DAS is not required to remove gillnet gear from the water upon returning to the dock and calling out of the DAS program, provided the vessel complies with the requirements and conditions of paragraphs (b)(8)(i) through (v) of this section. A vessel fishing with gillnet gear under a joint monkfish and NE multispecies DAS, as required under § 648.92(b)(2)(i), that is declared as a trip gillnet vessel under the NE Multispecies FMP, must remove its gillnet gear from the water prior to calling out of the DAS program, as specified at § 648.82(j)(2).

* * * * *

3. In § 648.94, paragraphs (c)(3) and (f) are revised to read as follows:

§ 648.94 Monkfish possession and landing restrictions.

* * * * *

(c) * * *

(3) *Vessels fishing with large mesh and not fishing under a DAS—*

(i) A vessel issued a valid monkfish incidental catch limit (Category E) permit or a limited access monkfish permit (Category A, B, C, D, F, G, or H) fishing in the GOM or GB RMAs with mesh no smaller than specified at § 648.80(a)(3)(i) and (a)(4)(i), respectively, while not on a monkfish, NE multispecies, or scallop DAS, may possess, retain, and land monkfish (whole or tails) only up to 5 percent (where the weight of all monkfish is converted to tail weight) of the total weight of fish on board. For the purpose of converting whole weight to tail weight, the amount of whole weight possessed or landed is divided by 3.32.

(ii) A vessel issued a valid monkfish incidental catch (Category E) permit or a limited access monkfish permit (Category A, B, C, D, F, G, or H) fishing in the SNE RMA east of the MA Exemption Area boundary with mesh no smaller than specified at

§ 648.80(b)(2)(i), while not on a monkfish, NE multispecies, or scallop DAS, may possess, retain, and land monkfish (whole or tails) only up to 5 percent (where the weight of all monkfish is converted to tail weight) of the total weight of fish on board, not to exceed 50 lb (23 kg) tail weight or 166 lb (75 kg) whole weight of monkfish per day or partial day, up to a maximum of 150 lb (68 kg) tail weight or 498 lb (226 kg) whole weight per trip. For the purpose of converting whole weight to tail weight, the amount of whole weight possessed or landed is divided by 3.32.

(iii) A vessel issued a valid monkfish incidental catch (Category E) permit or a limited access monkfish permit (Category A, B, C, D, F, G, or H) fishing in the SNE RMA under a Skate Bait Letter of Authorization, as authorized under § 648.322(b), while not on a monkfish, NE multispecies, or scallop DAS, may possess, retain, and land monkfish (whole or tails) only up to 5 percent (where the weight of all monkfish is converted to tail weight) of the total weight of fish on board, not to exceed 50 lb (23 kg) tail weight or 166 lb (75 kg) whole weight of monkfish per day or partial day, up to a maximum of 150 lb (68 kg) tail weight or 498 lb (226

kg) whole weight per trip. For the purpose of converting whole weight to tail weight, the amount of whole weight possessed or landed is divided by 3.32.

(iv) A vessel issued a valid monkfish incidental catch (Category E) permit or a limited access monkfish permit (Category A, B, C, D, F, G, or H) fishing in the SNE or MA RMAs west of the MA Exemption Area boundary with mesh no smaller than specified at § 648.104(a)(1) while not on a monkfish, NE multispecies, or scallop DAS, may possess, retain, and land monkfish (whole or tails) only up to 5 percent (where the weight of all monkfish is converted to tail weight) of the total weight of fish on board, but not to exceed 450 lb (204 kg) tail weight or 1,494 lb (678 kg) whole weight of monkfish, unless that vessel is fishing under a Skate Bait Letter of Authorization in the SNE RMA. Such a vessel is subject to the incidental catch limit specified under paragraph (c)(3)(iii) of this section. For the purpose of converting whole weight to tail weight, the amount of whole weight possessed or landed is divided by 3.32.

* * * * *

(f) *Area declaration requirement for a vessel fishing exclusively in the NFMA.*

A vessel intending to fish for, or fishing for, possessing or landing monkfish under a multispecies, scallop, or monkfish DAS under the less restrictive management measures of the NFMA, must fish exclusively in the NFMA for the entire trip. In addition, a vessel fishing under a monkfish DAS must declare its intent to fish in the NFMA through the vessel's VMS unit. A vessel that does not possess a VMS unit, such as a vessel that declares DAS through the call-in system, must declare its intent to fish in the NFMA by obtaining a letter of authorization from the Regional Administrator, for a period of not less than 7 days. A vessel that has not declared into the NFMA under this paragraph (f) shall be presumed to have fished in the SFMA and shall be subject to the more restrictive requirements of that area. A vessel that has declared into the NFMA may transit the SFMA, providing that it complies with the transiting and gear storage provision described in paragraph (e) of this section, and provided that it does not fish for or catch monkfish, or any other fish, in the SFMA.

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