

ending overfishing. As required under NEPA, NMFS will analyze potential environmental impacts of various alternatives regarding proposed changes to regional sub-quotas and permit structures for the commercial shark fisheries in U.S. waters of the Atlantic Ocean. NMFS anticipates that the proposed actions would have a low level of potential environmental impact due to the fact that the purpose of Amendment 6 is to propose management measures that have the flexibility to maximize the sustainable yield of the Atlantic shark fisheries, while staying within the acceptable biological catch levels of the various shark management groups in order to achieve optimum yield, rebuild overfished stocks, and end overfishing, as appropriate. Additionally, any potential impacts to protected species would be expected to be minimal. Thus, after consideration of substantive comments received on the 2011 NOI and a preliminary assessment of potential environmental impacts associated with management measures other than a catch share program, NMFS has determined that that an EA will provide an appropriate level of NEPA review to assess the potential effects on the human environment of proposed alternatives and actions under Amendment 6 to the 2006 Consolidated HMS FMP and that preparation of an EIS is not necessary.

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

Dated: May 16, 2014.

**Alan D. Risenhoover,**

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

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 130726661-4419-01]

RIN 0648-BD56

#### Fisheries of the Northeastern United States; Monkfish; Framework Adjustment 8

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS proposes to approve and implement regulations to

implement Framework Adjustment 8 to the Monkfish Fishery Management Plan. The New England and Mid-Atlantic Fishery Management Councils developed Framework Adjustment 8 to revise existing monkfish day-at-sea allocations and landing limits to better achieve optimum yield in each fishery management area. Framework Adjustment 8 would also revise biological reference points for the monkfish stocks in the Northern and Southern Fishery Management Areas based on an updated stock assessment, allow vessels issued a limited access monkfish Category H permit to fish throughout the Southern Fishery Management Area, and enable vessels to use an allocated monkfish-only day-at-sea at any time throughout the fishing year.

**DATES:** Public comments must be received by June 11, 2014.

**ADDRESSES:** You may submit comments on this document, identified by NOAA-NMFS-2013-0173, by any of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to [www.regulations.gov/#/docketDetail;D=NOAA-NMFS-2013-0173](http://www.regulations.gov/#/docketDetail;D=NOAA-NMFS-2013-0173), click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.

- **Mail:** Submit written comments to John K. Bullard, Regional Administrator, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930-2276. Mark the outside of the envelope: "Comments on Monkfish Framework 8."

**Instructions:** 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 by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. 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, Excel, or Adobe PDF file formats only.

New England Fishery Management Council staff prepared an environmental assessment (EA) for Monkfish Framework Adjustment 8 that describes the proposed action and other

considered alternatives. The EA provides a thorough analysis of the biological, economic, and social impacts of the proposed measures and other considered alternatives. Staff from the Northeast Fisheries Science Center also prepared an Initial Regulatory Flexibility Analysis (IRFA) for this action. The IRFA is contained in the EA prepared for this action, but also summarized in the Classification section of this proposed rule. Copies of the Framework 8 EA are available on request from Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950. This document is also available from the following internet addresses: <http://www.nero.noaa.gov> or <http://www.nefmc.org>.

#### FOR FURTHER INFORMATION CONTACT:

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#### SUPPLEMENTARY INFORMATION:

##### Background

The monkfish fishery is jointly managed under the Monkfish Fishery Management Plan (FMP) by the New England and the Mid-Atlantic Fishery Management Councils. The fishery extends from Maine to North Carolina from the coast out to the continental margin. The Councils manage the fishery as two management units, with the Northern Fishery Management Area (NFMA) covering the Gulf of Maine and northern part of Georges Bank, and the Southern Fishery Management Area (SFMA) extending from the southern flank of Georges Bank through the Mid-Atlantic Bight to North Carolina. The monkfish fishery is primarily managed by landing limits and a yearly allocation of monkfish days-at-sea (DAS) calculated to enable vessels participating in the fishery to catch, but not exceed, the annual catch limit (ACL) in each management area. Catch levels are typically set every 3 years, but can be continued or revised at any time based upon updated stock assessments or other relevant information, as appropriate, through the framework adjustment process. Further, based on a yearly evaluation of the monkfish fishery, the Councils may revise existing management measures, including DAS allocations and landing limits, to better achieve the goals and objectives of the FMP and achieve optimum yield (OY), as required by the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

The Councils developed Framework 8 to incorporate the results of the latest

monkfish stock assessment, and to revise measures to better achieve OY and enhance the operational efficiency of existing management measures. In recent years, the monkfish fishery has failed to fully harvest the annual catch target (ACT) specified for each year, particularly in the NFMA. Since Amendment 5 (76 FR 30265; May 25, 2011) defined OY as fully harvesting the ACT, the monkfish fishery has not been achieving OY in either area in recent years. Further, during the development of Framework 8, members of the monkfish fishing industry indicated that existing regulations reduce their ability to maximize available monkfish fishing opportunities and land more monkfish, particularly restrictions on when monkfish-only DAS may be used and where vessels issued a limited access monkfish Category H permit may fish.

Current catch limits and associated management measures for the monkfish fishery were implemented under Amendment 5 for the SFMA and under Framework 7 for the NFMA (76 FR 66192; October 26, 2011) based on the results of the 50th Stock Assessment Workshop (SAW 50) in 2010. Since then, an operational assessment was conducted in April 2013 to update the status of monkfish stocks, and provide projections to assist with setting future catch levels based on additional survey and catch data available since SAW 50. The 2013 assessment update revised existing biological reference points (see Table 3 below), and concluded that the two stocks of monkfish are neither overfished nor subject to overfishing based on these revised reference points. However, the assessment panel report noted that retrospective patterns persisted for both stocks, with the assessment continuing to consistently underestimate the fishing mortality rate (F) and overestimate biomass.

The New England Council's Scientific and Statistical Committee (SSC) met on May 16, 2013, and again on August 20, 2013, to discuss the 2013 monkfish stock assessment update, and develop recommendations for acceptable biological catch (ABC) in each

management area beginning in fishing year (FY) 2014. Due to uncertainty in the assessment results noted by the assessment panel, the SSC considered analysis by the Monkfish Plan Development Team (PDT) that corrected for retrospective bias noted in the 2013 assessment update and explored the use of alternative approaches to calculating the fishing mortality rate (F) that were independent from the assessment model. However, the PDT indicated that there were analytical difficulties calculating retrospectively adjusted F, and the SSC concluded that alternative estimates of F were too reliant on highly uncertain life history parameters. After extensive discussion, the SSC observed that the updated assessment provides both positive and negative indications of stock status. Data suggest that both stocks are above biomass targets, F is below F<sub>MAX</sub> (the level of fishing mortality that produces the greatest yield from the fishery), and survey trends are stable or increasing. However, the assessment also states that retrospective patterns continue, recent recruitment has been below average, and that uncertainties persist with age estimates. The SSC concluded that these "conflicting considerations" suggest that neither drastic increases nor decreases to existing catch levels are warranted at this time. Therefore, in conjunction with the analytical difficulties of incorporating retrospective adjustments and alternative estimates of F, the SSC ultimately recommended maintaining existing ABCs in each area (7,592 mt for the NFMA and 12,316 mt for the SFMA).

The Councils considered the results of the 2013 assessment update, the PDT analysis, and the advice of the SSC when developing measures in Framework 8. Although the Councils considered alternative estimates of management uncertainty (a reduction in catch levels based on a consideration of the effectiveness of management measures at achieving desired catch levels), the Councils did not elect to

change existing monkfish ABCs, ACLs, ACTs, or total allowable landing (TAL) amounts for either monkfish stock under this action. The Councils concluded that existing management uncertainty buffers were sufficient at ensuring that ACLs are not exceeded, and that overfishing does not occur. As a result, existing catch levels are not revised by this action, and would remain in place until changed by a future management action (see Table 1).

TABLE 1—MONKFISH CATCH LEVELS CONTINUED UNDER FRAMEWORK ADJUSTMENT 8

Catch limit	Monkfish management area	
	NFMA	SFMA (mt)
ABC .....	7,592	12,316
ACL .....		
ACT .....	6,567	11,513
TAL .....	5,854	8,925

Because Framework 8 was not adopted by both Councils until late February, it was not possible to approve and implement any of the proposed management measures included in Framework 8 and summarized below until after the start of FY 2014 on May 1, 2014. The measures effective during FY 2013 were implemented under an emergency action published on April 30, 2013 (78 FR 25214), and revised on October 25, 2013 (78 FR 63892), but expire on April 30, 2014. Therefore, the measures in effect at the start of FY 2014 reflect those implemented under Amendment 5 for the SFMA and under Framework 7 for the NFMA and last effective during FY 2012 (see Table 2 for a summary of the measures). Consistent with the regulations at 50 CFR 648.96(a)(3)(iv), any monkfish DAS used by a vessel on or after the start of FY 2014 will be counted against any monkfish DAS allocation the vessel ultimately receives during FY 2014 upon the implementation of measures approved under Framework 8.

TABLE 2—MAIN MONKFISH MANAGEMENT MEASURES IN EFFECT ON MAY 1, 2014 \*

Management measure	NFMA	SFMA
Monkfish DAS Allocation .....	40 (only 28 DAS can be used in the SFMA)	
Landing Limits while on a Monkfish DAS (tail weight/DAS).	1,250 lb (567 kg) for Category A/C permits; 600 lb (272 kg) for Category B/D permits.	550 lb (249 kg) for Category A/C permits; 450 lb (204 kg) for Category B/D permit.
	1,600 lb (726 kg) for Category F permits	

TABLE 2—MAIN MONKFISH MANAGEMENT MEASURES IN EFFECT ON MAY 1, 2014 \*—Continued

Management measure	NFMA	SFMA
Incidental Landing Limits while on a Northeast Multispecies (groundfish) DAS (tail weight/ DAS).	Up to 25% of the total weight of fish on board, not to exceed 300 lb (136 kg) for Category C, D, E, or F permits.	50 lb (23 kg) for Category C, D, or F permits fishing with non-trawl gear. 300 lb (136 kg) for Category C, D, or F permits fishing with trawl gear.
DAS Use Requirement .....	Vessels must use a monkfish DAS in conjunction with available groundfish DAS. Once available groundfish DAS are used, remaining monkfish DAS may be used as monkfish-only DAS, provided the vessel fishes under the regulations applicable to a Category B permit and does not retain regulated groundfish.	
Category H Boundary .....	Vessels issued a Category H permit may not fish north of 38°40' N. latitude.	

\* These measures are effective May 1, 2014, and may be revised after the start of FY 2014, as proposed under Framework 8.

**Proposed Measures**

*1. Revised Biological and Management Reference Points*

This action proposes to maintain the methods used to calculate these biological and management reference points originally adopted under Amendment 5 in 2011, but update the resultant values to be consistent with those recommended by the SSC and the best available scientific information from the 2013 monkfish assessment update (see Table 3). The reference points currently established in the Monkfish FMP are used to determine if overfishing is occurring on either stock

( $F_{Threshold}$ ), if either stock is overfished ( $B_{Threshold}$ ), or if either stock is rebuilt ( $B_{Target}$ ).

Under the methods adopted in Amendment 5, OFL is calculated as the product of  $F_{Threshold}$  and current exploitable biomass. The values for  $F_{Threshold}$  in each area were updated as part of the 2013 monkfish operational assessment. However, during its review of the 2013 operational assessment update, the SSC expressed concern with calculating OFL using the current estimate of biomass. Because complete data for FY 2012 were not available, the terminal year of data used in the 2013

operational assessment was from FY 2011. This would mean that estimates of current biomass used in calculating OFL would be 3 years old before they would be implemented in 2014 under this proposed action. Therefore, the SSC recommended using the 2014 exploitable biomass projected from the terminal year of the assessment rather than the biomass as of 2011 as the “current exploitable biomass” used in the calculation of OFL. This would give a more recent estimate of exploitable biomass in the calculation of OFL compared to biomass as of 2011 from the 2013 operational assessment.

TABLE 3—COMPARISON OF MONKFISH BIOLOGICAL REFERENCE POINTS BETWEEN SAW 50 (2010) AND THE 2013 MONKFISH ASSESSMENT UPDATE

Monkfish management area	Biological reference point	SAW 50 and 2010 SSC review	2013 Assessment update and SSC review
NFMA .....	$F_{MAX}$ (threshold) .....	0.43 .....	0.44
	$B_{Target}$ .....	52,930 mt .....	46,074 mt
	$B_{Threshold}$ .....	26,465 mt .....	23,037 mt
	OFL .....	19,557 mt .....	17,805 mt
	Maximum Sustainable Yield (MSY) .....	10,745 mt .....	9,383 mt
SFMA .....	$F_{MAX}$ (threshold) .....	0.46 .....	0.37
	$B_{Target}$ .....	74,490 mt .....	71,667 mt
	$B_{Threshold}$ .....	37,245 mt .....	35,834 mt
	OFL .....	36,245 mt .....	23,204 mt
	MSY .....	15,279 mt .....	14,328 mt

*2. Changes to Monkfish DAS Allocations and Landing Limits*

This action would revise existing monkfish DAS allocations and landing limits to help increase monkfish landings and the proportion of the TAL and ACT caught in each area. The Councils sought to achieve a balance among competing factors by increasing monkfish fishing opportunities and associated landings and fishing revenue, without excessively increasing catch and F to such a degree that may unintentionally adversely impact monkfish stocks or reduce market price due to a greater influx of monkfish

landings throughout the FY. Under this action, all limited access monkfish permits would be allocated a total of 46 monkfish DAS, of which up to 32 may be used in the SFMA. This represents a 6–DAS increase in a permit’s total monkfish DAS allocation, and a 4–DAS increase in the number of monkfish DAS that may be used in the SFMA. Each permit’s monkfish DAS allocation would then be reduced by a small amount to set aside 500 monkfish DAS under the Monkfish Research Set Aside (RSA) program, as required by the existing regulations at § 648.92(b)(1)(v). Each vessel’s contribution to RSA DAS is calculated by dividing 500 RSA DAS

by the total number of limited access monkfish permits issued in the previous FY. In 2013, 627 limited access monkfish permits were issued. Therefore, each permit’s monkfish RSA contribution would be reduced by 0.8 DAS (500 RSA DAS ÷ 627 permits). Deducting these RSA set aside DAS from each vessel’s monkfish DAS allocation would leave 45.2 monkfish DAS (46 DAS–0.8 DAS) allocated to each limited access monkfish permit starting in FY 2014.

The proposed changes to monkfish landing limits in each area reflect the predominant source of monkfish landings in each area. In the NFMA, a

majority of monkfish landings occur as incidental landings while vessels are fishing for groundfish under a groundfish DAS. In the SFMA, however, the majority of monkfish landings occur when vessels are targeting monkfish under a monkfish DAS. As a result,

monkfish incidental limits would be increased for limited access monkfish Category C and D vessels fishing under a groundfish DAS in the NFMA, while monkfish limits when under a monkfish DAS would be increased in the SFMA, as summarized in Table 4 below. With

the exception of incidental landing limits for monkfish Category C and D vessels fishing under a groundfish DAS in the NFMA, all incidental landing limits would remain the same as those implemented by previous management actions.

TABLE 4—PROPOSED CHANGES TO MONKFISH DAS ALLOCATIONS AND LANDING LIMITS FOR LIMITED ACCESS MONKFISH CATEGORY A, B, C, AND D PERMITS  
[In tail weight/DAS]

Management area	Incidental landing limit	Monkfish permit category A/C landing limit	Monkfish permit category B/D landing limit	Monkfish DAS allocation*
NFMA .....	600 lb (272 kg) for Category C Permits and 500 lb (227 kg) for Category D permits when fishing under a groundfish DAS and Status Quo for other situations.	1,250 lb (567 kg) .....	600 lb (272 kg) .....	45.2
SFMA .....	Status Quo .....	610 lb (277 kg) .....	500 lb (227 kg) .....	32

\* The SFMA monkfish DAS allocation represents the maximum number of monkfish DAS that could be used in the SFMA.

Monkfish DAS allocations and landing limits for vessels electing to participate in the Offshore Fishery Program in the SFMA and issued a limited access Category F permit are calculated separately. As outlined in § 648.95(g)(2), the monkfish DAS allocation for each Category F permit is calculated by dividing the daily landing limit when fishing under the Offshore Fishery Program (1,600 lb (726 kg) tail weight) by the SFMA monkfish landing limit applicable to the vessel's monkfish limited access permit category, and then multiplying that number by the vessel's monkfish DAS allocation. For example, under the proposed monkfish DAS allocations and SFMA landing limits, a limited access Category C permit would be allocated 17.5 monkfish DAS under the Offshore Fishery Program [(610 lb (277 kg) Category C SFMA landing limit ÷ 1,600 lb (726 kg) Offshore Fishery Program landing limit) × 46 allocated monkfish DAS]. Similarly, a limited access Category D permit participating in the Offshore Fishery Program would be allocated 14.4 monkfish DAS to participate in this program [(500 lb (227 kg) Category D SFMA landing limit ÷ 1,600 lb (726 kg) Offshore Fishery Program landing limit) × 46 allocated monkfish DAS]. Any carryover monkfish DAS will be included in the calculation of monkfish DAS for Category F vessels.

3. Modified Monkfish DAS Usage Requirements

This action would revise the regulations at § 648.92(b)(2) to allow Category C and D vessels to use monkfish-only DAS at any time throughout the FY. Existing regulations require that a vessel issued a limited access monkfish Category C or D permit

use available groundfish DAS when fishing under a monkfish DAS. Such a vessel could only use available monkfish-only DAS (the difference between a vessel's allocation of monkfish and groundfish Category A DAS) after all groundfish DAS had already been used. The proposed changes would help vessels maximize the economic value of monkfish fishing opportunities by enabling vessels to use monkfish-only DAS to selectively target monkfish earlier in the FY with minimal by-catch of groundfish, and later use both monkfish and groundfish DAS to fish for monkfish when groundfish are more abundant and could be landed in greater amounts.

4. Expanded Boundary Line for Monkfish Limited Access Permit Category H Vessels

This action proposes to modify the northern boundary line applicable to monkfish limited access Category H vessels to be consistent with the northern boundary of the SFMA. Category H vessels were originally allowed to fish for monkfish south of 38°20' N lat. under Amendment 2 (April 28, 2005; 70 FR 21927). This boundary line was moved northward by 20 miles (32.2 km) under Framework 4 (September 21, 2007; 72 FR 53942) to 38° 40' N lat. to increase opportunities to fish following the implementation of sea turtle closure areas. To provide even greater operational flexibility to vessel operators and enable them to maximize opportunities to fish for monkfish, this action would enable Category H vessels to fish throughout the SFMA.

5. Corrections and Clarifications to Existing Regulations

This proposed rule would correct a number of inadvertent errors, omissions, and ambiguities in existing regulations in order to ensure consistency with, and accurately reflect the intent of, previous actions under the FMP, or to more effectively administer and enforce existing and proposed provisions pursuant to the authority provided to the Secretary of Commerce in section 305(d) of the Magnuson-Stevens Act. The following proposed measures are listed in the order in which they appear in the regulations.

In § 648.2, a definition of "monkfish-only DAS" would be inserted to clarify the use of that term in the monkfish effort-control program provisions specified at § 648.92. The proposed definition is based upon existing language in § 648.92(b)(2) that was originally implemented under Amendment 13 to the Northeast (NE) Multispecies FMP (April 27, 2004; 69 FR 22906). However, that text did not specify when monkfish-only DAS would be calculated or how such DAS balances would be maintained throughout the FY. The revised text would specify that a permit's initial allocation of monkfish-only DAS would be based upon the difference between a permit's monkfish and NE multispecies Category A DAS allocation at the beginning of the FY, but may vary throughout the fishing year based upon the acquisition or relinquishment of groundfish DAS under the NE Multispecies DAS Leasing Program.

In § 638.92, paragraph (b)(3) would be revised to state that, with the exception of monkfish DAS charged when fishing with gillnet gear pursuant to § 648.92(b)(8)(v), all monkfish DAS

fished shall be charged to the nearest minute. The existing regulations at § 638.92(b)(3) reference the Atlantic sea scallop DAS accrual regulations at § 648.53(f) to describe the accrual of monkfish DAS. However, that cross reference is no longer valid or appropriate. The Atlantic sea scallop DAS accrual provisions originally specified at § 648.53(f) were moved to § 648.53(e) as part of Amendment 11 to the Atlantic Sea Scallop FMP (73 FR 20090; April 14, 2008), and now include include a reduced DAS charge in scallop open areas to help defray the cost of observer coverage. Therefore, the proposed revisions would ensure that the monkfish DAS accrual provisions are implemented consistent with the original intent of the FMP.

In § 648.93, paragraph (b) would be deleted. This paragraph is redundant with paragraph (a), as both paragraphs list the minimum size of monkfish. In addition, paragraphs (a)(1) and (a)(2) would be designated as paragraphs (a) and (b), respectively, to clarify the organization of the remaining provisions.

In § 648.94, paragraph (f) would be revised to clarify that a vessel operator may declare his/her intent to fish in the NFMA via the vessel monitoring system (VMS) or the interactive voice response (IVR) call-in system. The current regulations require a vessel operator to declare his/her intent to fish in the NFMA via VMS. However, since the use

of VMS in the monkfish fishery is voluntary, this action would clarify that either VMS or IVR could be used.

**Classification**

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has made a preliminary determination that this proposed rule is consistent with the Monkfish FMP, Framework 8, provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment. NMFS, in making a final determination, will take into account the data, views, and comments received during the comment period.

Pursuant to Executive Order 12866, the Office of Management and Budget has determined that this proposed rule is not significant.

This proposed rule does not contain policies with Federalism or takings implications as those terms are defined in E.O. 13132 and E.O. 12630, respectively.

The New England Council prepared an EA for Framework 8 to the Monkfish FMP that discusses the impact on the environment as a result of this action. A copy of the EA is available from the Council (see ADDRESSES).

An IRFA has been prepared for this rule, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact this proposed rule, if adopted, would

have on small entities, and consists of the draft IRFA in Framework 8, this preamble, and the following summary. A description of the action, why it is being considered, and the legal basis for this action are contained in the preamble to this proposed rule and in the background, purpose, and need discussion (Section 2.0) of the EA prepared for this action. A copy of this analysis is available from the New England Council (see ADDRESSES).

The Councils fully analyzed and considered three principal alternatives for changes to monkfish DAS and landing limits in the NFMA, and four alternatives for similar measures in the SFMA (see Table 5). Two alternatives (No Action and the proposed alternative described above) were each considered for modifying monkfish DAS usage provisions and the Category H border. The proposed action would eliminate the existing prohibition on using monkfish-only DAS until all groundfish DAS have been used, while the No Action Alternative would retain this prohibition. The proposed action would also revise the current northern border for Category H vessels to reflect the SFMA boundary, while the No Action Alternative would retain the northern border at 38°40' N. lat. For a more complete description of the alternatives considered in this action, refer to the EA prepared for this action (see ADDRESSES).

TABLE 5—MONKFISH DAS AND LANDING LIMIT ALTERNATIVES CONSIDERED IN FRAMEWORK 8

Management area	Alternative	Incidental landing limit * (tail weight/DAS)	A,C daily landing limit (tail weight/DAS)	B,D daily landing limit (tail weight/DAS)	DAS
NFMA .....	1—No Action ....	Status quo .....	1,250 lb (567 kg) .....	600 lb (272 kg) .....	40
	2 .....	Status quo .....	1,250 lb (567 kg) .....	600 lb (272 kg) .....	64
	3 (Proposed) .....	600 lb (272 kg) for C permit and 500 lb (227 kg) for D permit when fishing under a groundfish DAS (elimination of 25% landings threshold), status quo all others.	1,250 lb (567 kg) .....	600 lb (272 kg) .....	46
SFMA .....	1—No Action ....	Status quo .....	550 lb (249 kg) .....	450 lb (204 kg) .....	28
	2 (Proposed) .....	Status quo .....	610 lb (277 kg) .....	500 lb (227 kg) .....	32
	3 .....	Status quo .....	550 lb (249 kg) .....	450 lb (204 kg) .....	51
	4 .....	Status quo .....	610 lb (277 kg) .....	500 lb (227 kg) .....	28

\* Existing monkfish incidental landing limits are summarized at: <http://www.nero.noaa.gov/sustainable/species/monkfish/>.

This proposed rule does not duplicate, overlap, or conflict with other Federal rules.

This proposed action does not contain any new recordkeeping or reporting requirements, and does not impose any additional costs to affected vessels.

*Description and Estimate of the Number of Small Entities to Which the Proposed Rule Would Apply*

The proposed action would affect any vessel issued a valid Federal limited

access monkfish permit. As of April 1, 2014, 625 limited access monkfish permits were issued during FY 2013, including 20 Category A permits, 41 Category B permits, 279 Category C permits, 264 Category D permits, 14 Category F permits, and 7 Category H permits. Also, there were 1,594 open access Category E monkfish permits. In recent years, the number of active permits (i.e., those actually landing monkfish during the FY) has been lower than the number issued permits.

Therefore, it is likely that a subset of these entities will be affected by this action. A more complete description of the monkfish fishery is found in Section 4.0 of the EA prepared for this action (see ADDRESSES).

The Small Business Administration (SBA) defines a small business in the finfish fishing sector (NAICS code 114111) as a firm or affiliate group with gross revenue less than \$19.0 million; and the shellfish fishing sector (NAICS code 114112) as a firm or affiliate group

with gross revenue less than \$5.0 million. NMFS guidelines identify the affiliate group (or "entity") rather than permit as the appropriate level of analysis for regulatory actions. Affiliate groups were identified using permit ownership data recently added to the NMFS permit database, with designations of large and small entities based on each entity's 3-year average ex-vessel revenue. Data from FY 2012 are the most complete data available with which to make a determination regarding the size of entities affected by the proposed action. During FY 2012, 651 entities landed at least one pound of monkfish. Of these, 534 entities were composed of a single vessel permit, 110 were composed of 2 to 5 permits, and 7 were composed of 6 or more permits. Further, 401 entities were plurality-finish, while 250 are plurality-shellfish. Using the above criteria, of the 651 entities that landed monkfish during FY 2012, 629 entities were classified as "small," while the remaining 22 were classified as "large."

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

The economic value of monkfish landings depends upon several factors, including the area fished (NFMA vs. SFMA); whether the vessel is directly targeting monkfish (i.e., fishing under a monkfish DAS), or landing monkfish incidentally when targeting another species; volumes landed; and market category landed. Together, these factors may affect realized economic impacts that may differ from those analyzed in support of this action and described below.

Estimates of the economic impacts from adjustments to monkfish DAS allocation/usage limit and landing limits were derived using a model that incorporated proportional increases in monkfish landings based on the fishing patterns observed during FY 2012. Resultant projected landings for each alternative were then multiplied by the expected market price after incorporating a flexibility assumption of -0.41 percent assumed to apply throughout the fishery. This means that for every 1-percent increase in monkfish landings, it is expected that price would decrease by 0.41 percent. Under these assumptions, even if the proposed measures would not change landings for a vessel compared to FY 2012, ex-vessel revenues could decrease due to increased monkfish landings in another area by other vessels. It should be noted that this price flexibility assumption was based on a very small sample set. Further, monkfish revenue recorded

during periods in which similar amounts of monkfish expected under this action were landed suggests that the price flexibility assumption may actually underestimate benefits associated with proposed measures (i.e., market price may not fall as much as expected despite increased monkfish landings). Therefore, the revenue streams listed below may provide a lower bound for potential economic benefits resulting from this action. A detailed description of the methods used to estimate economic impacts of the proposed action is provided in the Framework 8 EA (see ADDRESSES).

Under the combination of proposed measures described above, Framework 8 analysis estimated overall monkfish revenues would be approximately \$21.7 million during FY 2014. The proposed measures would result in approximately an 11.3-percent increase in revenue across all ports, with minor to significant positive economic impacts across all individual ports and increased revenues for all vessel size classes ranging from 15 to 18.5 percent. However, it is expected that ex-vessel price would decrease by approximately 7.8 percent overall due to the price flexibility associated with increased monkfish landings throughout the fishery. Of the 629 small entities that would be directly affected under the proposed action, 309 would likely have a net decline in revenues, while 319 would likely have an increase in net revenues under the proposed action. The mean change would be +0.7 percent, suggesting that mean effect of this action would be positive in terms of vessel revenues. Only one entity would have a decrease in expected revenues greater than 5 percent, and a total of 11 entities would have a decrease in expected revenues greater than 1 percent. The potential economic impacts may change, however, if the price flexibility assumption proves incorrect, or if vessel operators can alter fishing behavior in a manner that would offset any potential losses.

Considered separately, the proposed measures for the NFMA would likely result in about \$10.7 million in vessel revenue from monkfish alone, while proposed measures for the SFMA would likely result in about \$11.9 million in vessel revenue from monkfish. When compared to other alternatives considered, the proposed NFMA measures would result in approximately \$0.6 million more in revenue than existing measures (No Action Alternative), but about \$650,000 less revenue than Alternative 2 measures (increasing monkfish DAS allocations to 64 DAS while maintaining existing

monkfish landing limits). The proposed SFMA measures would result in about \$0.7 million more monkfish revenue than expected under existing measures (No Action Alternative), \$3.2 million less monkfish revenue than under Alternative 3 (increasing monkfish DAS allocations to 51 DAS while maintaining existing monkfish landing limits) and \$1.5 million more in monkfish revenue than under Alternative 4 (existing monkfish DAS usage limit, but higher directed landing limits).

The other two measures proposed under Framework 8 (allowing monkfish DAS to be used throughout the year and Category H permits to fish throughout the SFMA) are expected to generally increase monkfish fishing opportunities and increase the operational efficiency of affected entities. By allowing monkfish-only DAS to be used at any time throughout the FY, vessels can more effectively target monkfish earlier in the FY when monkfish are more prevalent, and preserve monkfish-groundfish combination DAS until groundfish are more readily available later in the FY, particularly in the SFMA. This could increase vessel returns for monkfish Category C and D vessels by allowing vessels to land more groundfish later in the FY under both a monkfish and groundfish DAS. Similarly, Category H vessels would have additional flexibility to fish for monkfish throughout the SFMA rather than being confined to fishing below 38°40' N. lat. and during times when turtle and harbor porpoise measures allow. Under both proposed measures, it is likely that affected entities will benefit from such changes, although precise economic benefits would depend upon the composition and volume of catch associated with any additional monkfish effort realized from such gains in efficiency and operational flexibility.

**List of Subjects in 50 CFR Part 648**

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: May 20, 2014.

**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 § 648.2, add a definition for “Monkfish-only DAS” in alphabetical order to read as follows:

**§ 648.2 Definitions.**

\* \* \* \* \*

*Monkfish-only DAS* means monkfish DAS allocated to a limited access monkfish Category C, D, F, G, or H permit that are in excess of that permit’s initial allocation of Northeast multispecies Category A DAS at the beginning of a fishing year.

■ 3. In § 648.92, revise paragraphs (b)(1)(i), (b)(1)(ii), (b)(2), (b)(3), and (b)(9)(i) to read as follows:

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

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(i) *General provision.* Each vessel issued a limited access monkfish permit shall be allocated 46 monkfish DAS each fishing year which must be used in accordance with the provisions of this paragraph (b), unless otherwise specified by paragraph (b)(1)(ii) of this section or modified by § 648.96(b)(3), or unless the permit is enrolled in the Offshore Fishery Program in the SFMA, as specified in paragraph (b)(1)(iv) of this section. The annual allocation of monkfish DAS to each limited access monkfish permit shall be reduced by the amount calculated in paragraph (b)(1)(v) of this section for the research DAS set-aside. Unless otherwise specified under this subpart F, a vessel issued a limited access NE multispecies or limited access sea scallop permit that is also issued a limited access monkfish permit must use a NE multispecies or sea scallop DAS concurrently with each monkfish DAS utilized, except as provided in paragraph (b)(2) of this section.

(ii) *DAS restrictions for vessels fishing in the SFMA.* A vessel issued a limited access monkfish permit may not use more than 32 of its 46 monkfish DAS allocation in the SFMA during each fishing year. Each vessel issued a limited access monkfish permit fishing in the SFMA must declare that it is fishing in this area through the vessel call-in system or VMS prior to the start of every trip. In addition, if a vessel does not possess a valid letter of authorization from the Regional Administrator to fish in the NFMA as described in § 648.94(f), NMFS shall presume that any monkfish DAS used were fished in the SFMA.

\* \* \* \* \*

(2) *Category C, D, F, G, or H limited access monkfish permit holders.* (i) *General provision.* Unless otherwise

specified in paragraph (b)(2)(ii) of this section, each monkfish DAS used by a vessel issued a limited access monkfish Category C, D, F, G, or H permit and a limited access NE multispecies or scallop DAS permit shall also be counted as a NE multispecies or scallop DAS, as applicable. A vessel issued a limited access monkfish Category C, D, F, or H permit may not use a NE multispecies Category B Regular DAS under the NE Multispecies Regular B DAS Program, as specified under § 648.85(b)(6), in order to satisfy the requirement of this paragraph (b)(2)(i) to use a NE multispecies DAS concurrently with a monkfish DAS.

(ii) *Monkfish-only DAS.* When a vessel issued a limited access monkfish Category C, D, F, G, or H permit and a limited access NE multispecies DAS permit has an allocation of NE multispecies Category A DAS, specified under § 648.82(d)(1), that is less than the number of monkfish DAS allocated for the fishing year May 1 through April 30, that vessel shall be allocated “monkfish-only” DAS equal to the difference between the number of its allocated monkfish DAS and the number of its allocated NE multispecies Category A DAS at the start of a fishing year. For example, if a vessel issued a limited access monkfish Category D permit is allocated 46 monkfish DAS and 26 NE multispecies Category A DAS, it would be allocated 20 monkfish-only DAS at the start of each fishing year. The available balance of monkfish-only DAS may vary throughout the fishing year based upon monkfish-only DAS usage and the acquisition or relinquishment of NE multispecies DAS under the NE Multispecies DAS Leasing Program, as specified in paragraph (b)(2)(iii) of this section. A vessel issued a limited access monkfish Category C, D, F, G, or H permit may use monkfish-only DAS without the concurrent use of a NE multispecies DAS at any time throughout the fishing year, regardless of the number of NE multispecies Category A DAS available. When fishing under a monkfish-only DAS, the vessel must fish under the regulations pertaining to a limited access monkfish Category A or B permit, as applicable, and may not retain any regulated NE multispecies. For example, a vessel issued a limited access monkfish Category C permit must comply with the monkfish landing limits applicable to a Category A monkfish permit when fishing under a monkfish-only DAS.

(iii) *Category C, D, F, G, or H vessels that lease NE multispecies DAS.* (A) A vessel issued a limited access monkfish Category C, D, F, G, or H permit that has monkfish-only DAS, as specified in

paragraph (b)(2)(ii) of this section, and that leases NE multispecies DAS from another vessel pursuant to § 648.82(k), must fish its available monkfish-only DAS in conjunction with its leased NE multispecies DAS, to the extent that the vessel has NE multispecies DAS available.

(B) A vessel issued a limited access monkfish Category C, D, F, G, or H permit that leases NE multispecies DAS to another vessel(s), pursuant to § 648.82(k), must forfeit a monkfish DAS for each NE multispecies DAS that the vessel leases, equal in number to the difference between the number of remaining NE multispecies DAS and the number of unused monkfish DAS at the time of the lease. For example, if a lessor vessel that had 31 unused monkfish DAS and 35 allocated NE multispecies DAS leased 10 of its NE multispecies DAS to another vessel, the lessor would forfeit 6 of its monkfish DAS (10-(35 NE multispecies DAS–31 monkfish DAS) = 6).

(3) *Accrual of DAS.* Unless otherwise provided in § 648.92(b)(8)(v), all monkfish DAS fished shall be charged to the nearest minute.

\* \* \* \* \*

(9) \* \* \*

(i) A vessel issued a limited access monkfish Category G or H permit may fish under a monkfish DAS only in the SFMA, as defined at § 648.91(b).

\* \* \* \* \*

**§ 648.93 [Amended]**

■ 4. In § 648.93, remove paragraph (b), and redesignate paragraphs (a)(1) and (a)(2) as paragraphs (a) and (b), respectively.

■ 5. In § 648.94, revise paragraphs (b)(1)(ii), (b)(2)(i), (b)(2)(ii), (b)(3)(i), (c)(1)(i), and (f) to read as follows:

**§ 648.94 Monkfish possession and landing restrictions.**

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(ii) *Category B and D vessels.* Limited access monkfish Category B and D vessels that fish under a monkfish DAS exclusively in the NFMA may land up to 600 lb (272 kg) tail weight or 1,746 lb (792 kg) whole weight of monkfish per DAS (or any prorated combination of tail weight and whole weight based on the conversion factor for tail weight to whole weight of 2.91). For every 1 lb (0.45 kg) of tail-only weight landed, the vessel may land up to 1.91 lb (0.87 kg) of monkfish heads only, as described in paragraph (a) of this section.

\* \* \* \* \*

(2) \* \* \*

(i) *Category A, C, and G vessels.* A vessel issued a limited access monkfish Category A, C, or G permit that fishes under a monkfish DAS in the SFMA may land up to 610 lb (277 kg) tail weight or 1,775 lb (805 kg) whole weight of monkfish per DAS (or any prorated combination of tail weight and whole weight based on the conversion factor for tail weight to whole weight of 2.91). For every 1 lb (0.45 kg) of tail-only weight landed, the vessel may land up to 1.91 lb (0.87 kg) of monkfish heads only, as described in paragraph (a) of this section.

(ii) *Category B, D, and H vessels.* A vessel issued a limited access monkfish Category B, D, or H permit that fishes under a monkfish DAS in the SFMA may land up to 500 lb (227 kg) tail weight or 1,455 lb (660 kg) whole weight of monkfish per DAS (or any prorated combination of tail weight and whole weight based on the conversion factor for tail weight to whole weight of 2.91). For every 1 lb (0.45 kg) of tail-only weight landed, the vessel may land up to 1.91 lb (0.87) of monkfish heads only, as described in paragraph (a) of this section.

\* \* \* \* \*

(3) \* \* \*

(i) *NFMA.* A vessel issued a limited access monkfish Category C or F permit that fishes under a NE multispecies DAS, and not a monkfish DAS, exclusively in the NFMA may land up to 600 lb (272 kg) tail weight or 1,746 lb (792 kg) whole weight of monkfish per DAS (or any prorated combination of tail weight and whole weight based on the conversion factor for tail weight to whole weight of 2.91). A vessel issued a limited access monkfish Category D or F permit that fishes under a NE multispecies DAS, and not a monkfish DAS, exclusively in the NFMA may land up to 500 lb (227 kg) tail weight or 1,455 lb (660 kg) whole weight of monkfish per DAS (or any prorated combination of tail weight and whole weight based on the conversion factor for tail weight to whole weight of 2.91). A vessel issued a limited access monkfish Category C, D, or F permit participating in the NE Multispecies Regular B DAS program, as specified under § 648.85(b)(6), is also subject to the incidental landing limit specified in paragraph (c)(1)(i) of this section on such trips.

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \*

(i) *NFMA.* A vessel issued a valid monkfish incidental catch (Category E) permit fishing under a NE multispecies DAS exclusively in the NFMA may land

up to 300 lb (136 kg) tail weight or 873 lb (396 kg) whole weight of monkfish per DAS, or 25 percent (where the weight of all monkfish is converted to tail weight) of the total weight of fish on board, whichever is less. For the purpose of converting whole weight to tail weight, the amount of whole weight possessed or landed is divided by 2.91. For every 1 lb (0.45 kg) of tail-only weight landed, the vessel may land up to 1.91 lb (0.87 kg) of monkfish heads only, as described in paragraph (a) of this section.

\* \* \* \* \*

(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 or through the vessel call-in system, as applicable. A vessel that is not required to and does not possess a VMS unit must also 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.

\* \* \* \* \*

■ 6. In § 648.95, revise paragraphs (a)(2), (c), (e)(3), (f), (g) introductory heading, (g)(1), and (g)(3); and add paragraph (g)(4) to read as follows:

**§ 648.95 Offshore Fishery Program in the SFMA.**

(a) \* \* \*

(2) A vessel issued a limited access monkfish Category C or D permit that applies for and is issued a Category F permit remains subject to the provisions specific to Category C and D vessels, unless otherwise specified under this subpart F.

\* \* \* \* \*

(c) *Offshore Fishery Program Area.* The Offshore Fishery Program Area is bounded on the south by 38°00' N. lat. and on the north, west, and east by the

following coordinates, connected in the order listed by rhumb lines.

Point	N. Latitude	W. Longitude
1 .....	41°18.6'	66°24.8'
2 .....	40°55.5'	66°38.0'
3 .....	40°45.5'	68°00.0'
4 .....	40°37.0'	68°00.0'
5 .....	40°30.0'	69°00.0'
6 .....	40°22.7'	69°00.0'
7 .....	40°18.7'	69°40.0'
8 .....	40°21.0'	71°03.0'
9 .....	39°41.0'	72°32.0'
10 .....	38°47.0'	73°11.0'
11 .....	38°04.0'	74°06.0'

\* \* \* \* \*

(e) \* \* \*

(3) A vessel issued a limited access monkfish Category F permit fishing on a monkfish DAS is subject to the minimum mesh size requirements specified in § 648.91(c)(1)(i) and (c)(1)(iii), as well as the other gear requirements specified in § 648.91(c)(2) and (c)(3).

\* \* \* \* \*

(f) *Transiting.* A vessel issued a limited access monkfish Category F permit fishing under a monkfish DAS that is transiting to or from the Offshore Fishery Program Area, described in paragraph (c) of this section, shall have all gear stowed and not available for immediate use in accordance with the gear stowage provisions specified in § 648.23(b).

\* \* \* \* \*

(g) *Monkfish landing limits and DAS allocations.* (1) A vessel issued a limited access monkfish Category F permit may land up to 1,600 lb (726 kg) tail weight or 4,656 lb (2,112 kg) whole weight of monkfish per monkfish DAS (or any prorated combination of tail weight and whole weight based on the conversion factor for tail weight to whole weight of 2.91).

\* \* \* \* \*

(3) A vessel issued a limited access monkfish Category F permit that is fishing under a NE multispecies DAS in the NFMA is subject to the incidental landing limit specified at § 648.94(b)(3).

(4) When not fishing on a monkfish DAS, a vessel issued a limited access monkfish Category F permit may fish under the regulations applicable to the monkfish incidental catch (Category E) permit, specified at § 648.94(c).

\* \* \* \* \*