Appendix B—[Amended]

■ 2. Table 2 of appendix B to part 300 is amended by revising the entry under New York for ''Seneca Army Depot'' to read as follows:

Appendix B to Part 300—National Priorities List

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TABLE 2.—FEDERAL FACILITIES SECTION

St	Site name	City/County	Notes [a]
*	* * * * *	*	*
NY	Seneca Army Depot	Romulus	P
*	* * * * *	*	*

(a) * * *
P = Sites with partial deletion(s).

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 071128763–8490–02]

RIN 0648–AW33

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Monkfish Fishery; Framework Adjustment 5 to the Monkfish Fishery Management Plan

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

ACTION: Final rule.

SUMMARY: NMFS approves and implements 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 approves and implements 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 approves and implements revised management measures to ensure that the monkfish management program succeeds in keeping landings within the target total allowable catch (TAC) levels.

DATES: This rule is effective May 1, 2008.

ADDRESSES: 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. NMFS prepared a Final Regulatory Flexibility Analysis (FRFA), which is contained in the classification section of this rule. The FRFA consists of the IRFA, public comments and responses contained in this final rule, and a summary of impacts and alternatives contained in this final rule. The small entity compliance guide is available from Patricia A. Kurkul, Regional Administrator, Northeast Regional Office, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930 2298, and on the Northeast Regional Office's website at *http://www.nero.noaa.gov*.

FOR FURTHER INFORMATION CONTACT: Tobey Curtis, Fishery Policy Analyst, e-mail *Tobey.Curtis@noaa.gov*, phone (978) 281–9273, 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 implements the revised biological reference points recommended by the DPWG and makes 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.

Framework 5 Management Measures

1. Revision to Biological Reference Points

This action revises 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. Therefore, this final rule establishes a B_{target} of 92,200 mt for the NFMA and 122,500 mt for the SFMA. In addition, the DPWG recommended that $B_{threshold}$ for both management areas be set equivalent to the lowest value of total biomass from 1980 through 2006. As a result, this final rule establishes a $B_{threshold}$ 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, based upon the revised biological reference points being implemented in

this final rule, both monkfish stocks are no longer overfished (B_{2006} above $B_{threshold}$), and are rebuilt (B_{2006} above B_{target}).

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

This action reduces 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. 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, Framework 5 brought into question whether 10 carryover DAS were really needed, especially since 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. As a result, NMFS approved and the Councils recommended a reduction in carryover DAS because it better reflects an amount that is commensurate to a vessel's base DAS allocation, thereby helping to ensure that the target TACs are not exceeded, while still providing members of the fishing industry with some carryover DAS to enhance safety at the end of the fishing year. Since most monkfish trips are less than four days in duration, the reduction to 4 carryover DAS is not expected to undermine the promotion of safe fishing practices at the end of a fishing year. This final rule implements the Councils' recommendation.

3. Revision to DAS Accounting Provision for Gillnet Vessels

This action changes 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 original 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 recommended that the 3-hour provision be eliminated, requiring all monkfish gillnet trips of less than 15 hours in duration to be charged 15 hours. Although removal of this provision reduces some flexibility for gillnet vessels, NMFS approved this recommendation because of the potential negative impacts on the monkfish resource from exploitation of the status quo alternative outweigh the original flexibility and safety intentions of this infrequently invoked provision. Under this action, vessels with VMS will still have the ability to return to port, prior to crossing the VMS demarcation line at the start of a trip, if they experience bad weather or mechanical issues and not be charged DAS. This final rule implements the Councils' recommendation.

This action also adds 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 revises 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 recommended 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. This final rule implements the Councils' recommendation.

5. Revision to Monkfish LOA Requirement

This action eliminates 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, however, will still be required to obtain a Monkfish LOA. The Councils recommended 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 that system, NMFS cannot monitor where these vessels are fishing in the same manner as VMS vessels. In this final rule, NMFS approves the Councils recommendation that the Monkfish LOA requirement be eliminated for VMS vessels, but 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 final rule. The first correction removes 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 corrects 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.

Comments and Responses

The public comment period on the proposed rule ended on March 25, 2008, with three comments received.

Comment 1: The commenter suggested that Framework 5 would allow overfishing of monkfish to continue, and more restrictive measures should be implemented.

Response: There is no scientific basis for the commenter's statements, as monkfish are not currently subject to overfishing, nor in an overfished condition based on the best scientific information available. Measures more restrictive than those implemented under prior actions in the monkfish fishery and in this final rule are not justified at this time.

Comment 2: The commenter supported some Framework 5 measures, but disagreed with others. Specifically, the commenter supported the measures to revise the biological reference points, eliminate the 3-hour provision for gillnet vessels, revise the incidental catch limits, and revise the LOA requirements in the NFMA. The commenter disagreed with the measure to reduce carryover DAS from 10 to 4. The commenter stated that such restrictions were no longer justified given the positive change in monkfish stock status.

Response: The reduction of carryover DAS would, to some extent, reduce flexibility for industry members that were unable to use all of their allotted DAS due to poor 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, NMFS approved the Councils' recommended reduction in carryover DAS because it better reflects an amount of DAS that is commensurate to a vessel's annual DAS allocation, thereby helping to ensure that the target TACs are not exceeded, without compromising the safety benefits of being able to defer some fishing days to the next fishing year. Additionally, a significant amount of uncertainty remains in the results of the DPWG stock assessment. Changes to monkfish management strategies should, therefore, be precautionary, and significant liberalization of measures are not justified at this time.

Comment 3: The commenter was concerned about the dramatic change in monkfish stock status resulting from the revised biological reference points. The commenter was supportive, however, of all the measures included in Framework 5, since they are intended to keep monkfish landings within the target TACs.

Response: NMFS is confident that the revised biological reference points proposed by the DPWG represent the best available science on monkfish stock status. The measures included in Framework 5, however, remain appropriately precautionary due to some level of uncertainty in the assessment.

Classification

The Administrator, Northeast Region, NMFS, determined that Framework 5 is necessary for the conservation and management of the monkfish fishery and that it is consistent with the Magnuson-Stevens Act and other applicable laws.

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

The Assistant Administrator for Fisheries (AA) finds good cause under 5 U.S.C. 553(d)(3), to waive the 30-day delay in effectiveness of this final rule. The need to implement these measures in a timely manner to reduce the risk of overfishing in the monkfish fishery, constitutes good cause under authority contained in 5 U.S.C. 553(d)(3), to establish an effective date less than 30 days after date of publication. If Framework 5 measures are not in place at the start of the new fishing year (May 1, 2008), continuation of the less restrictive measures currently in place would increase the likelihood that the target TACs would be exceeded, potentially leading to overfishing if the target TACs are exceeded by a substantial amount. For example, gillnet vessels could continue to exploit the 3-hour provision to bypass effort controls, and certain large-mesh vessels in the SFMA would be able to continue fishing for monkfish without a sufficient cap on their incidental trip limits.

This action could not be implemented earlier due to the fact that this rulemaking could not be completed until the predicate Council actions were completed. The final approval of Framework 5 by the Councils did not occur until their November 2007 and December 2007 meetings, respectively. The NEFMC submitted this action to NMFS on January 16, 2008, which did not allow sufficient time for review and publication of proposed and final rules prior to the start of the fishing year. In order to implement this final rule for the start of FY 2008, and prevent any negative impacts to the monkfish resource, such as overharvesting of the target TACs, resulting from a delay in implementation, the AA finds that there is good cause to waive the 30-day delay in effectiveness.

Included in this final rule is the FRFA prepared pursuant to 5 U.S.C. 604(a). The FRFA incorporates the IRFA, a summary of the significant issues raised by the public comments in response to the IRFA, and NMFS's responses to those comments, and a summary of the analyses completed to support the action. A copy of the EA/RIR/IRFA is available from the Council (see **ADDRESSES**).

The preamble to the proposed rule included a detailed summary of the analyses contained in the IRFA, and that discussion is not repeated here.

Final Regulatory Flexibility Analysis

Statement of Objective and Need

A description of the reasons why this action is being taken, and the objectives of and legal basis for this final rule are contained in the preambles to the proposed rule and this final rule and are not repeated here.

Summary of Significant Issues Raised in Public Comments

Three comments were submitted on the proposed rule, but none were specific to the IRFA or the economic effects of the rule. NMFS has responded to the comments in the Comments and Responses section of the preamble to this final rule. No changes were made to the final rule as a result of the comments received.

Description and Estimate of Number of Small Entities to Which the Rule will Apply

The Small Business Administration (SBA) defines small businesses in the commercial fishing and recreational fishing sectors as firms with receipts (gross revenues) of up to $4.0 million and $6.5 million, respectively. No large entities participate in this fishery, as defined in section 601 of the RFA. Therefore, there are no disproportionate 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 monkish. 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 with carryover DAS; 101 limited access monkfish gillnet vessels landing monkfish on trips less than 3 hours in duration; 3 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 525 vessels with a VMS that fish in the NFMA.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

No additional reporting, recordkeeping, or other compliance requirements are included in this final rule. This rule does not duplicate, overlap, or conflict with other Federal rules.

Description of the Steps Taken to Minimize Economic Impact on Small Entities

The effort controls and possession limits modified by this rule are constrained by the conservation objectives of the FMP, under the authority of the Magnuson-Stevens Act. However, steps were taken to minimize economic impacts on small entities by selecting measures that have less of an economic impact than the other alternatives considered, to the extent possible.

The preferred alternative to reduce carryover DAS from 10 to 4 (alternative 2) does not have a substantially different economic impact than the alternative to reduce carryover DAS from 10 to 6 (alternative 1) since only a small number of vessels appear to be constrained by the current DAS allocations. However, by further restricting the amount of carryover DAS a vessel can carryover from on fishing year to the next, the preferred alternative would have a greater probability of keeping landings within the target TAC than the other DAS carryover alternative or the no action alternative. Allowing up to 4 carryover DAS allows limited access monkfish vessels some flexibility to make up for missed fishing opportunities, but addresses the Councils' concern that the use of these carryover DAS has resulted in overages in the target TAC in the SFMA in recent years, which is why this was selected as the preferred alternative.

The preferred alternative to eliminate the 3-hour gillnet provision would affect approximately 100 monkfish gillnet vessels that have historically taken trips less than 3 hours in duration. However, only those vessels that take more trips than available, if using a 15-hour DAS (e.g. dividing total DAS by 0.625) could likely be impacted by this action. Only 5 monkfish gillnet vessels met this criteria. The preferred alternative (alternative 3B) is functionally equivalent from an economic impact perspective to the alternative to prohibit the landing of monkfish on trips less than 3 hours in duration (alternative 1) since under either alternative, a limited access monkfish vessel would be required to take a 15 hour DAS charge (0.625 DAS) in order to land monkfish. However, there were enforceablility concerns with alternative 1, which is why alternative 3B was selected as the preferred alternative. Alternative 2, which would allow vessels to land monkfish on one 3-hour trip per calendar day, would have an even smaller economic impact than alternatives 1 and 3B. If more than one 3-hour trip is taken in a calendar day, all but one trip would no longer be allowed, resulting in economic loss to the vessel. However, less than 1 percent of 3-hour trips in FY 2006 were the result of more than one trip within a calendar day. Similar to alternative 1, this alternative was not selected due to enforceability concerns.

The revision to the incidental catch limit applicable to non-DAS vessels in the SFMA affects a relatively small number (3) of vessels. In fact, the economic analysis contained in Framework 5 indicates that alternative 1A and the no action alternative are functionally the same from an economic perspective, but that the preferred alternative (1B) would have a marginal affect on revenues for the affected vessels in comparison to the other two alternatives. Given the fact that there is a minimal difference in economic impacts among the 3 alternatives, alternative 1B was selected because it is the more restrictive of the 3 alternatives; therefore, providing a greater likelihood that this measure will help keep monkfish landings within the target TACs.

In comparison to the no action alternative, the preferred alternative to remove the requirement to obtain a Monkfish LOA to fish in the NFMA for vessels using a VMS would reduce the administrative burden and potentially increase flexibility for limited access monkfish vessels, particularly those that fish in both the NFMA and SFMA. Although the positive economic effects associated with the preferred alternative are likely small, this alternative was selected because it would reduce administrative burden and increase flexibility.

Overall, Framework 5 is expected to have long-term positive impacts on affected small entities. Under the new biological reference points implemented by this action, monkfish are no longer considered overfished, which eliminates the potential need for further management restrictions. Continued stability in the management program will potentially allow for higher and sustainable yields from the monkfish resource. The negative economic impacts from this action are estimated to be relatively minor, short-term, and affect comparatively few vessels.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as ''small entity compliance guides.'' The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a small entity compliance guide will be sent to all holders of Federal permits issued for the monkfish fishery. In addition, copies of this final rule and guide (i.e., permit holder letter) are available from NMFS (see **ADDRESSES**) and at the following website: *http://www.nero.noaa.gov*.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: April 21, 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 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)(J), 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.

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(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 shall accrue 15 hours monkfish DAS for all trips less than or equal to 15 hours in duration. Such vessels shall 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)–(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.

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(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 is not required to and 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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