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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

Docket Number 170314267-7566-02

RIN 0648-BG48

Fisheries of the Northeastern United States; Monkfish; Framework Adjustment 10

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

ACTION: Final rule.

SUMMARY: This action approves and implements regulations submitted by the New England and Mid-Atlantic Fishery Management Councils in Framework Adjustment 10 to the Monkfish Fishery Management Plan. This action sets monkfish specifications for fishing years 2017-2019 (May 1, 2017, through April 30, 2020). It also increases current days-at-sea allocations and trip limits. This action is intended to allow the fishery to more effectively harvest its optimum yield.

DATES: This rule is effective [*insert date of publication in the Federal Register*].

ADDRESSES: Copies of Framework Adjustment 10 and the accompanying environmental assessment (EA) are available on request available from: John K. Bullard, Regional Administrator, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930. Framework 10 and the EA are also accessible via the Internet at: <https://www.greateratlantic.fisheries.noaa.gov/sustainable/species/monkfish/index.html>. These documents are also accessible via the Federal eRulemaking Portal: <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: William Whitmore, Fishery Policy Analyst, (978) 281-9182.

SUPPLEMENTARY INFORMATION:

Background

The New England and the Mid-Atlantic Fishery Management Councils jointly manage the Monkfish Fishery Management Plan (FMP). The fishery extends from Maine to North Carolina from the coast out to the end of the continental shelf. The Councils manage the fishery as two management units, with the Northern Fishery Management Area (NFMA) covering the Gulf of Maine (GOM) and northern part of Georges Bank, and the Southern Fishery Management Area (SFMA) extending from the southern flank of Georges Bank through Southern New England and into 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 target total allowable landings (TAL) for each management area. The catch limits are calculated to maximize yield in the fishery over the long term. Based on a yearly evaluation of the monkfish fishery, the Councils may revise existing management measures through the framework provisions of the FMP to better achieve the goals and objectives of the FMP and achieve optimum yield, as required by the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

The monkfish fishery has not fully harvested its quota since 2011. The fishery underharvested its available quota in the last three years (Table 1). The Councils developed Framework 10 to enhance the operational efficiency of existing management measures in an effort to better achieve optimum yield.

Table 1 – Monkfish Landings Comparison for Fishing Years 2013-2015

Management Area	Target TAL (mt) for Fishing Years 2013-2015	2013 Landings (mt)	2014 Landings (mt)	2015 Landings (mt)	Average Percent (%) of TAL Landed 2013-2015
NFMA	5,854	3,596	3,403	4,080	63%
SFMA	8,925	5,088	5,415	4,733	57%

Approved Measures

1. Establish Specifications for Fishing Years 2017-2019

This action retains the biological reference points previously established in Framework 8 (79 FR 41919; July 8, 2014). The overfishing limit (OFL) for fishing years 2017-2019 (May 1, 2017 through April 30, 2020) is 17,805 mt for the NFMA and 23,204 mt for the SFMA. The acceptable biological catch (ABC) for each area, which equals the annual catch limit (ACL), is 7,592 mt for the NFMA and 12,316 mt for the SFMA. Additional background information on these specifications is available in the proposed rule (82 FR 21498; May 9, 2017), and is not repeated here.

Although the biological reference points are unchanged, this action increases monkfish total allowable landings (TAL), or quotas, for the next three fishing years (Table 2). The TALs are derived after reducing an assumed amount of discards and a management uncertainty buffer from the ABC.

Table 2 - Specification Changes in Framework Adjustment 10 for Fishing Years 2017-2019

Management Area	Management Uncertainty Buffer		Discard Rate		Total Allowable Landings (TAL)		TAL Change (%)
	Previous (%)	Revised (%)	Previous (%)	Revised (%)	Previous (mt)	Revised (mt)	
NFMA	13.5	3	10.9	13.9	5,854	6,338	8.27
SFMA	6.5	3	22.5	24.6	8,925	9,011	0.96

Framework 10 updates the discard rates for both management areas using operational

assessment discard information from fishing years 2013-2015 (Table 2). These changes slightly increase the discard rate in both management areas, which in itself would decrease the TAL.

However, Framework 10 also reduces the management uncertainty buffers to 3 percent (Table 2). The management uncertainty buffers are used as an offset between the ACL and TAL to prevent the ACL from being exceeded. The approach used to calculate discards has performed well in the past; an adequate amount of discards has been forecasted, reducing the likelihood of the ACL being exceeded. Further, as previously explained, the TALs have been consistently underharvested in both areas. As a result, there is little risk of exceeding the TALs and a more substantive management uncertainty buffer is no longer necessary.

2. Monkfish DAS and Trip Limit Increases

This action approves trip limit increases in both management areas (Table 3) as well as a DAS increase in the SFMA.

Table 3 – Trip Limit Changes in Framework Adjustment 10*

Permit Category	NFMA		SFMA	
	Previous limit	Revised limit	Previous limit	Revised limit
A	No Changes		610 lb (277 kg)	700 lb (318 kg)
B			500 lb (227 kg)	575 lb (261 kg)
C	600 lb (272 kg)	900 lb (408 kg)	610 lb (277 kg)	700 lb (318 kg)
D	500 lb (227 kg)	750 lb (340 kg)	500 lb (227 kg)	575 lb (261 kg)

*Trip limit values are monkfish tail weights

In the NFMA, this action increases incidental landing limits for Category C and D vessels fishing on a groundfish DAS. Vessels targeting groundfish land most of the monkfish in the NFMA. Increasing the incidental trip limits for vessels targeting groundfish may increase monkfish landings. Increasing the incidental trip limit also allows these vessels to retain

additional monkfish that otherwise would have been discarded when fishing solely on a groundfish DAS under the previous (lower) trip limits. This measure reduces the administrative burden for most these vessels because they will no longer need to declare a monkfish DAS to retain a higher monkfish possession limit.

In the SFMA, the DAS allocation and trip limits will increase by 15 percent (Table 3). Monkfish permitted vessels can fish in the SFMA for 37 DAS (an increase of 5 DAS). The majority of monkfish landings in the SFMA come from vessels directly targeting monkfish. Vessels directing on monkfish in the SFMA are more restricted by DAS allocations and trip limits than vessels fishing in the NFMA. Therefore, these trip limit and DAS increases are projected to generate more fishing opportunities and landings in the SFMA.

Comments and Responses on Measures Proposed in Framework 10

We received four comments on the proposed rule, two comments from members of the fishing industry and two comments from the general public. One commenter suggested that the incidental landing limits for the open access fishery be increased. One commenter requested that the current management measures should remain unchanged. Two comments argued that monkfish need additional protections. We consolidated responses to similar comments and our responses are below.

Comment 1: One commenter stated that vessel trip limits for the open-access category vessels (permit Category E) that catch an incidental limit of monkfish should increase.

Response: This suggestion was not considered by the Councils in this action, is not within the scope of this action, and would need to be proposed in a future action. As a result, the Category E possession limits remain unchanged.

Comment 2: One commenter suggested that no changes be implemented due to

uncertainties in the fishery.

Response: Although the stock assessment model was not used in the recent operational assessment update, there is still plenty of scientific and catch data, which was recently reviewed in an operational assessment and endorsed by the Council's Scientific and Statistical Committee. This action incorporates the best scientific information available. Furthermore, this action retains scientific uncertainty buffers between the OFL and ABCs and management uncertainty buffers between the ACLs and TALs. These buffers are designed to specifically ensure that there is a low likelihood of overfishing the monkfish stock. The fishery remains in a healthy state and is currently underharvested and underutilized. We are approving this action to increase harvests in an effort to better achieve optimum yield.

Comment 3: Two commenters argued that more restrictive management measures are necessary to protect monkfish.

Response: As explained in Comment 2, the fishery remains in a healthy state and is currently underharvested and underutilized. The monkfish fishery is not in a rebuilding plan, is not subject to overfishing, and is not considered overfished. Measures approved in this action will further promote a sustainable fishery.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that the management measures implemented in this final rule are necessary for the conservation and management of the Monkfish fishery and consistent with the Magnuson-Stevens Act, and other applicable law.

This final rule has been determined to be not significant for purposes of Executive Order (E.O.) 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) at the proposed rule stage that this action would not have a significant economic effect on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification, and the initial certification remains unchanged. As a result, a final regulatory flexibility analysis is not required and none has been prepared.

The Assistant Administrator for Fisheries finds good cause, under 5 U.S.C. 553(d)(3), to waive the 30-day delayed effectiveness of this action. As explained in the preamble, this rule provides immediate benefits to the fishing industry and does not require any new regulatory restrictions that would require fishermen to modify their fishing operations. Further delay of this action would reduce the positive economic impacts that are intended by these measures, prevent regulatory discards from being reduced, require the use of unnecessary effort controls (e.g. DAS restrictions), retain unnecessary administrative measures, and further prevent the fishery from achieving optimum yield. This action increases trip limits by 50 percent in the NFMA and 15 percent SFMA and increases the DAS that can be fished in the SFMA by 15 percent. Increasing the trip limits removes the need for many fishermen to use a DAS when fishing for monkfish, reducing the administrative burden on fishermen. This modification also provides additional fishing opportunities. Increasing the trip limit and removing the need for fishermen to utilize a DAS also reduces the risk of fishermen discarding monkfish due to trip limit restrictions under a DAS. These changes represent substantial benefits to fishermen.

Furthermore, the fishing year started on May 1, 2017. Since much of the fishing effort on monkfish occurs during the months of May and June, any additional delay implementing these

measures would further reduce the positive economic impacts that are intended by these measures and frustrate fishermen.

This action was designed to increase fishing opportunities and catch. Any delay in implementing this action reduces the ability for the fishery to harvest its optimum yield.

For the reasons explained above, this action is not subject to the 30-day delayed effectiveness provision of the Administrative Procedures Act (APA).

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: July 6, 2017.

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, revise paragraph (b)(1)(ii) to read as follows:

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

* * * * *

(b) * * *

(1) * * *

(ii) *DAS restrictions for vessels fishing in the SFMA.* A vessel issued a limited access monkfish permit may not use more than 37 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.

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

§ 648.94 Monkfish possession and landing restrictions.

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(b) * * *

(2) *Vessels fishing under the monkfish DAS program in the SFMA—(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 700 lb (318 kg) tail weight or 2,037 lb (924 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 575 lb (261 kg)

tail weight or 1,673 lb (759 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.

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(3) *Category C, D, F, G, and H vessels fishing under the multispecies DAS program—(i) NFMA.* Unless otherwise specified in paragraph (b)(1) of this section, a vessel issued a limited access monkfish Category C permit that fishes under a NE multispecies DAS, and not a monkfish DAS, exclusively in the NFMA may land up to 900 lb (408 kg) tail weight or 2,619 lb (1,188 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 permit that fishes under a NE multispecies DAS, and not a monkfish DAS, exclusively in the NFMA may land up to 750 lb (340 kg) tail weight or 2,183 lb (990 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.

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