

NOTICE OF OFFICE OF MANAGEMENT AND BUDGET ACTION

Diana Hynek  
Departmental Paperwork Clearance Officer  
Office of the Chief Information Officer  
14th and Constitution Ave. NW.  
Room 6625  
Washington, DC 20230

04/20/2005

In accordance with the Paperwork Reduction Act, OMB has taken the following action on your request for approval of a revision of an information collection received on 03/03/2005.

TITLE: Northeast Region Permit Family of Forms

AGENCY FORM NUMBER(S): None

ACTION : APPROVED WITHOUT CHANGE

OMB NO.: 0648-0202

EXPIRATION DATE: 06/30/2007

BURDEN:	RESPONSES	HOURS	COSTS(\$,000)
Previous	6,210,270	27,097	1,456
New	6,429,834	27,392	1,527
Difference	219,564	295	71
Program Change		295	71
Adjustment		0	0

TERMS OF CLEARANCE: None

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OMB Authorizing Official	Title
Donald R. Arbuckle	Deputy Administrator, Office of Information and Regulatory Affairs

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# PAPERWORK REDUCTION ACT SUBMISSION

**Please read the instructions before completing this form. For additional forms or assistance in completing this form, contact your agency's Paperwork Clearance Officer. Send two copies of this form, the collection instrument to be reviewed, the supporting statement, and any additional documentation to: Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.**

<p>1. Agency/Subagency originating request</p>	<p>2. OMB control number <span style="float: right;">b. <input type="checkbox"/> None</span>                  a. _____ - _____</p>
<p>3. Type of information collection (<i>check one</i>)</p> <p>a. <input type="checkbox"/> New Collection</p> <p>b. <input type="checkbox"/> Revision of a currently approved collection</p> <p>c. <input type="checkbox"/> Extension of a currently approved collection</p> <p>d. <input type="checkbox"/> Reinstatement, without change, of a previously approved collection for which approval has expired</p> <p>e. <input type="checkbox"/> Reinstatement, with change, of a previously approved collection for which approval has expired</p> <p>f. <input type="checkbox"/> Existing collection in use without an OMB control number</p> <p>For b-f, note Item A2 of Supporting Statement instructions</p>	<p>4. Type of review requested (<i>check one</i>)</p> <p>a. <input type="checkbox"/> Regular submission</p> <p>b. <input type="checkbox"/> Emergency - Approval requested by _____ / _____ / _____</p> <p>c. <input type="checkbox"/> Delegated</p>
	<p>5. Small entities                  Will this information collection have a significant economic impact on a substantial number of small entities? <input type="checkbox"/> Yes <input type="checkbox"/> No</p>
	<p>6. Requested expiration date</p> <p>a. <input type="checkbox"/> Three years from approval date b. <input type="checkbox"/> Other Specify: _____ / _____</p>
<p>7. Title</p>	
<p>8. Agency form number(s) (<i>if applicable</i>)</p>	
<p>9. Keywords</p>	
<p>10. Abstract</p>	
<p>11. Affected public (<i>Mark primary with "P" and all others that apply with "x"</i>)</p> <p>a. <input type="checkbox"/> Individuals or households d. <input type="checkbox"/> Farms</p> <p>b. <input type="checkbox"/> Business or other for-profit e. <input type="checkbox"/> Federal Government</p> <p>c. <input type="checkbox"/> Not-for-profit institutions f. <input type="checkbox"/> State, Local or Tribal Government</p>	<p>12. Obligation to respond (<i>check one</i>)</p> <p>a. <input type="checkbox"/> Voluntary</p> <p>b. <input type="checkbox"/> Required to obtain or retain benefits</p> <p>c. <input type="checkbox"/> Mandatory</p>
<p>13. Annual recordkeeping and reporting burden</p> <p>a. Number of respondents _____</p> <p>b. Total annual responses _____</p> <p>    1. Percentage of these responses collected electronically _____ %</p> <p>c. Total annual hours requested _____</p> <p>d. Current OMB inventory _____</p> <p>e. Difference _____</p> <p>f. Explanation of difference</p> <p>    1. Program change _____</p> <p>    2. Adjustment _____</p>	<p>14. Annual reporting and recordkeeping cost burden (<i>in thousands of dollars</i>)</p> <p>a. Total annualized capital/startup costs _____</p> <p>b. Total annual costs (O&amp;M) _____</p> <p>c. Total annualized cost requested _____</p> <p>d. Current OMB inventory _____</p> <p>e. Difference _____</p> <p>f. Explanation of difference</p> <p>    1. Program change _____</p> <p>    2. Adjustment _____</p>
<p>15. Purpose of information collection (<i>Mark primary with "P" and all others that apply with "X"</i>)</p> <p>a. <input type="checkbox"/> Application for benefits e. <input type="checkbox"/> Program planning or management</p> <p>b. <input type="checkbox"/> Program evaluation f. <input type="checkbox"/> Research</p> <p>c. <input type="checkbox"/> General purpose statistics g. <input type="checkbox"/> Regulatory or compliance</p> <p>d. <input type="checkbox"/> Audit</p>	<p>16. Frequency of recordkeeping or reporting (<i>check all that apply</i>)</p> <p>a. <input type="checkbox"/> Recordkeeping b. <input type="checkbox"/> Third party disclosure</p> <p>c. <input type="checkbox"/> Reporting</p> <p>    1. <input type="checkbox"/> On occasion 2. <input type="checkbox"/> Weekly 3. <input type="checkbox"/> Monthly</p> <p>    4. <input type="checkbox"/> Quarterly 5. <input type="checkbox"/> Semi-annually 6. <input type="checkbox"/> Annually</p> <p>    7. <input type="checkbox"/> Biennially 8. <input type="checkbox"/> Other (describe) _____</p>
<p>17. Statistical methods</p> <p>Does this information collection employ statistical methods</p> <p style="text-align: center;"><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>18. Agency Contact (person who can best answer questions regarding the content of this submission)</p> <p>Name: _____</p> <p>Phone: _____</p>

## 19. Certification for Paperwork Reduction Act Submissions

On behalf of this Federal Agency, I certify that the collection of information encompassed by this request complies with 5 CFR 1320.9

**NOTE:** The text of 5 CFR 1320.9, and the related provisions of 5 CFR 1320.8(b)(3), appear at the end of the instructions. *The certification is to be made with reference to those regulatory provisions as set forth in the instructions.*

The following is a summary of the topics, regarding the proposed collection of information, that the certification covers:

- (a) It is necessary for the proper performance of agency functions;
- (b) It avoids unnecessary duplication;
- (c) It reduces burden on small entities;
- (d) It used plain, coherent, and unambiguous terminology that is understandable to respondents;
- (e) Its implementation will be consistent and compatible with current reporting and recordkeeping practices;
- (f) It indicates the retention period for recordkeeping requirements;
- (g) It informs respondents of the information called for under 5 CFR 1320.8(b)(3):
  - (i) Why the information is being collected;
  - (ii) Use of information;
  - (iii) Burden estimate;
  - (iv) Nature of response (voluntary, required for a benefit, mandatory);
  - (v) Nature and extent of confidentiality; and
  - (vi) Need to display currently valid OMB control number;
- (h) It was developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected (see note in Item 19 of instructions);
- (i) It uses effective and efficient statistical survey methodology; and
- (j) It makes appropriate use of information technology.

If you are unable to certify compliance with any of the provisions, identify the item below and explain the reason in Item 18 of the Supporting Statement.

Signature of Senior Official or designee

Date

Agency Certification (signature of Assistant Administrator, Deputy Assistant Administrator, Line Office Chief Information Officer, head of MB staff for L.O.s, or of the Director of a Program or StaffOffice)

Signature

Date

Signature of NOAA Clearance Officer

Signature

Date

**SUPPORTING STATEMENT**  
**Amendment 2 to the Northeast Region Monkfish Fishery Management Plan**  
**and Atlantic Scallop Ownership Form**  
**Revision to the Northeast Region Permit Family of Forms**  
**OMB CONTROL NO. 0648-0202**

**Introduction**

This submission requests Office of Management and Budget (OMB) approval of the information collection requirements contained in Amendment 2 to the Monkfish Fishery Management Plan (FMP) and the Atlantic Scallop Ownership Form required for permitting.

The proposed measures under Amendment 2 contain the following provisions requiring either new or revised information collection requirements: (1) A new limited access monkfish permit for vessels fishing south of 38°20 N. latitude; (2) a new permit category and Vessel Monitoring System (VMS) requirements for vessels participating in an Offshore SFMA Fishery Program; (3) a vessel baseline correction program for limited access monkfish vessels; and (4) the addition of monkfish vessels to the North Atlantic Fisheries Organization (NAFO) Regulatory Area Exemption Program currently in effect for Northeast multispecies vessels. This information request creates a slight increase in the annual budget for the Northeast Region Permit Family of Forms (OMB Control No. 0648-0202) information collection. Thus, if approved, the National Marine Fisheries Service (NOAA Fisheries) intends to integrate this submission for Amendment 2 into OMB Control Numbers 0648-0202 when circumstances allow.

Inclusion of the Atlantic Scallop Ownership Form will not result in an increase in the annual budget for OMB Control No. 0648-0202 as the number of respondents will not change; the form is filled out as part of the Atlantic scallop permit initial or renewal application package.

**Other Information Collections Included but Unaffected by Amendment 2**

The requirements under Amendment 2 to the Monkfish Fishery Management Plan include information collected under the Northeast Region Logbook Family of Forms (OMB Control No. 0648-0212). However, these requirements do not increase the budget for this collection as most of these vessels are already subject to this requirement and the current budget for this collection sufficiently covers this rule.

The New England and Mid-Atlantic Councils are proposing two measures for facilitating and streamlining cooperative research programs under the FMP. One program consists of a DAS set-aside whereby a pool of 500 DAS would be set aside from the total monkfish DAS available to limited access monkfish vessels, excluding carryover DAS. On an annual basis, the Councils would establish research priorities and issue a Request for Proposals (RFP) for monkfish research/surveys to be conducted under the DAS set-aside. Researchers could then submit a research proposal in response to the RFP using the existing NOAA Grant application process. The forms included in the NOAA Grant application, Standard Forms 424, 424A, 424B, and SF-LLL are already approved under OMB control numbers 0348-0043, 0348-0044, 0348-0040, and 0348-0046, respectively. The required certification forms, CD-511 and CD-512, are exempt from PRA requirements. The DAS set-aside program proposed in Amendment 2 would not involve a new collection or increase the current information collection budget, for the previously

approved collections.

The other cooperative research program being considered is a DAS exemption program. The intent of the Councils is for this program to be utilized in conjunction with the DAS set-aside program. Under this program, the DAS set-aside under the previous program that are not distributed to vessels in response to the RFP would be reserved for issuing monkfish DAS exemptions to vessels conducting monkfish research activities. For example, if 300 of the 500 monkfish DAS set aside as part of the DAS set-aside program are distributed as a result of the RFP, there would be 200 DAS available for issuing exemptions. In order to qualify for a DAS exemption under this program, a vessel owner and/or principal investigator would submit an exempted fishing permit (EFP) application to NOAA Fisheries and include a request for a monkfish DAS exemption. If there are exempted DAS available, NOAA Fisheries may approve the request without requiring the applicant to conduct additional environmental analysis. However, if the DAS exemption request exceeds the amount available, the applicant would be required to conduct additional environmental analysis under the National Environmental Policy Act (NEPA) for NOAA Fisheries to make a determination on the exemption request. The EFP application has been approved under OMB control number 0648-0309. The proposed DAS exemption program would not involve a new collection or an increase of the collection budget for the previously approved collection.

## **A. JUSTIFICATION**

### **1. Explain the circumstances that make the collection of information necessary.**

Under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the Secretary of Commerce (Secretary) has responsibility for the conservation and management of marine fishery resources off the coast of the United States. The majority of this responsibility has been delegated to the Regional Fishery Management Councils and the National Oceanic and Atmospheric Administration's (NOAA's) NOAA Fisheries.

The monkfish fishery is jointly managed by the New England and Mid-Atlantic Fishery Management Councils (Councils). The New England Fishery Management Council (NEFMC) approved Amendment 2 to the Monkfish FMP on September 15, 2004, and the Mid-Atlantic Fishery Management Council (MAFMC) approved Amendment 2 on October 6, 2004. The primary goals of this amendment are to address deficiencies in meeting National Environmental Policy Act (NEPA) and Magnuson-Stevens Fishery Conservation and Management Act (MSA) requirements related to essential fish habitat (EFH) as identified in the Court Decision for AOC v. Daley, to address a number of issues that arose out of the implementation of the original FMP, and to update the Environmental Impact Statement (EIS) for the FMP that was originally prepared in 1998.

### **Offshore SFMA Fishery Program – Permit Category and VMS Reporting Requirements**

One of the issues raised in the public scoping process for Amendment 2 was the elimination of the offshore monkfish fishery in the Southern Fishery Management Area (SFMA) resulting from NOAA Fisheries' disapproval of the running clock provision contained in the original FMP. The Council's original FMP proposal would have allowed vessel to run their days-at-sea (DAS) clock upon returning to port to account for any trip limit overages. Without the running clock

provision, offshore vessel owners stated that they could no longer profitably fish for monkfish due to the restrictive monkfish trip limits for vessels fishing in the SFMA, and the requirement that limited access monkfish vessels with a limited access multispecies permit use a multispecies DAS for every monkfish DAS used.

Owners of vessels that intend to participate in the Offshore SFMA Fishery Program would be required to declare their intent to participate in the program when applying for their vessel's annual fishery permit. To declare their intent to participate in the Offshore SFMA Fishery Program, vessel owners would request the monkfish permit category (Category F) that corresponds to vessels participating in the Offshore SFMA Fishery Program on their vessel's annual fishery permit renewal application. Thus, the existing vessel permit applications (initial and renewal) approved under OMB Control No. 06448-0202 would be modified to include the new monkfish permit category for the Offshore SFMA Fishery Program. The purpose of this annual permit declaration requirement is to enable NOAA Fisheries to identify the vessels participating in the Offshore SFMA Fishery Program so that the requirements of the program can be properly enforced. Furthermore, vessels that participate in this program would have their annual monkfish DAS allocations adjusted accordingly to correspond to a fixed trip limit of 1,600 lb of monkfish tails per DAS. The DAS allocation would be calculated as the product of applying a trip limit ratio (the trip limit applicable to non-participating vessels in that permit category in the SFMA divided by 1,600 lb). Vessels not participating in the program are allocated up to 40 monkfish DAS annually, with variable annual trip limits based on a vessel monkfish permit category. For example, during the 2004 fishing year, Category A and C vessels have a trip limit of 550 lb of monkfish tails per DAS, and Category B and D vessels have a trip limit of 450 lb of monkfish tails per DAS.

In addition to the annual permit declaration requirement, vessels that participate in the Offshore SFMA Fishery Program would be required to have a VMS unit in operation during the entire Offshore SFMA Fishery Program season, October 1 – April 30. The purpose of this requirement is to ensure that participating vessels comply with regulations that restrict fishing under a monkfish DAS to the designated Offshore SFMA Fishery Program Area during the specified season.

Vessels required to obtain a VMS unit in order to participate in the Offshore SFMA Fishery Program would be able to power down the VMS unit outside of the proposed season for this program (May 1 – September 30) for a minimum of 30 days provided the vessel obtains a valid exemption letter, and complies with the conditions and requirements of the exemption letter, which includes not participating in any fisheries during the time period of the exemption. The vessel owner would be required to retain this exemption letter on board the vessel for the duration of the exemption. This provision is intended to reduce the operational costs of the VMS during periods when a vessel is not participating in the Offshore SFMA Fishery Program. Vessels would be required to provide vessel identification information, specify the location of the vessel for the duration of the exemption, and indicate the exemption period requested through a written request to the Regional Administrator (RA). The vessel owner may not power down the VMS unit until the letter of exemption has been received. This notification is necessary to ensure proper VMS operation for those required to use VMS in order to maintain compliance with the provisions of the Offshore SFMA Fishery Program. The vessel owner may also request to extend the time period for which the exemption was granted as long as the time period does not overlap with the Offshore SFMA Fishery Program season.

## **Limited Access Program for Vessels fishing South of 38°20 N. Latitude**

Another issue raised during the public scoping process for Amendment 2 was the exclusion of a small group of vessels located in Virginia and North Carolina from the Federal monkfish fishery during the development of the limited entry program contained in the original FMP. During the development of the Monkfish FMP, a fishery for monkfish developed south of the Virginia/North Carolina border. A small number of vessels began participating in this fishery shortly after the publication of the monkfish limited access permit control date on February 27, 1995 (60 FR 10574). Because these vessels did not possess other Federal northeast fishery permits at the time, they did not receive timely notices and other information concerning the limited access proposals contained in the Monkfish FMP. Furthermore, the southern boundary for the monkfish management unit that was initially proposed was the Virginia/North Carolina border. Although the southern boundary of the monkfish management unit was twice modified prior to the public hearings for the Monkfish FMP, the public hearing document for the FMP described the monkfish management unit as terminating at the Virginia/North Carolina border. Thus, the public hearing document led those vessels fishing south of the Virginia/North Carolina border to believe they would not be impacted by the limited access proposals being considered in the FMP. However, the final boundary of the monkfish management unit was extended to North Carolina/South Carolina border, thereby causing those vessels fishing south of the Virginia/North Carolina border to be subject to the limited access program established in the FMP.

The proposed action being considered in Amendment 2 would establish a special limited access permit that is based on the characteristics of the southernmost component of the monkfish fishery, while not opening the entire monkfish fishery to new participants. The program was initially intended for vessels fishing exclusively south of 38° N. latitude. However, during the development of alternatives for the proposed limited entry program, NOAA Fisheries implemented sea turtle protection measures that close the primary fishing areas to large-mesh gillnet gear during the times when monkfish are present in these areas. In response, the Councils proposed to extend the area accessible to vessels that qualify for the new limited access permit from 38°00' N. latitude to 38°20' N. latitude in order to provide these vessels with the opportunity to target monkfish during the peak season outside of the area where closures to protect sea turtles are in effect.

The existing vessel permit applications (initial and renewal) approved under OMB Control No. 0648-0202 would be modified to include two new limited access permit categories. The new monkfish Category G permit would correspond to the existing Category A and C permits (those that had the higher landings qualification criteria of 50,000 lb of monkfish tails), and the new monkfish Category H permit would correspond to the existing Category B and D permits (those with the lower landings qualification criteria of 7,500 lb of monkfish tails). Further, vessels qualifying for these limited access permits would be subject to the same DAS notification, gillnet tagging, vessel trip report, operator permit, and vessel replacement/upgrade/history retention requirements of other limited access monkfish vessels.

In order to qualify for a limited access monkfish permit under the proposed action, vessels would have to submit an application form and provide landings records proving the vessel meets the landings qualification requirements for the permit. To qualify for a such limited access monkfish



permit, a vessel would have to have landed 50,000 lb of monkfish tails for a Category G permit, or 7,500 lb of monkfish tails for a Category H permit, in the area south of 38°N. latitude during the March 15 – June 15 time period over the four years prior to June 15, 1998. All applications for a limited access monkfish permit under the proposed action must be received by April 30, 2006. Vessels that apply for this limited access permit, but are denied, may appeal the denial of the permit within 30 days of the notice of the denial. Any such appeal shall be made in writing, with the only grounds for appeal being that the RA erred in concluding that the vessel did not meet the qualification criteria.

### **Requests to Change Limited Access Monkfish Vessel Baselines**

Under existing regulations, some limited access monkfish vessels have two sets of vessel upgrade baseline specifications as a result of modification or replacement between the time the vessel received its first Federal limited access fishery permit and the time it received its limited access monkfish permit. This ‘dual baseline’ issue was raised during the development of Amendment 2 since it greatly impacts owners of vessels that replaced their original vessel with a smaller vessel, resulting in smaller baseline specifications for the monkfish permit than the baseline specifications of the vessel first issued the Federal limited access permit. To address this issue, the Councils are proposing to set a limited access monkfish vessel’s baseline specifications for length overall, net tonnage, gross tonnage, and horsepower at those corresponding to the vessel holding the first Federal limited access permit. However, a change in a limited access monkfish vessel’s baseline specifications will not be automatic. Vessel owners must request such a change in writing, and the request must be made on or before April 30, 2006, or within one year of the effective date of Amendment 2 (whichever is the latter). This is only a one-time request.

The purpose of requiring vessel owners to request the baseline specification change is due to vessels that are in the reverse situation, where limited access monkfish baseline specifications are greater than the baseline specifications of the vessel holding the first Federal limited access permit. Furthermore, members of the Monkfish Oversight Committee (Committee) expressed concern over different methods for calculating a vessel’s tonnage over the years, which has resulted in some vessels having a larger baseline tonnage for the limited access monkfish permit. In response to these concerns, the Committee recommended a provision that allows a baseline specification change only at the owner’s request. Furthermore, in order to minimize the administrative burden of this measure, the Committee recommended giving vessel owners one year to request the change.

### **NAFO Regulatory Area Exemption**

This proposed action would enable vessels to fish for monkfish in the NAFO Regulatory Area while being exempt from FMP regulations designed to manage the domestic monkfish fishery. Vessels wishing to fish for monkfish in the NAFO Regulatory Area under this exemption would be required to possess a valid High Seas Fishing Compliance permit, as specified under the regulations at 50 CFR 300, and a letter of authorization (LOA) from the RA. The LOA is requested by a telephone call to the permit office. There is no form to submit. In addition, vessels participating this exemption must fish exclusively in the NAFO Regulatory Area for the duration of the trip, stow all gear in accordance with applicable methods while transiting the EEZ, and the vessel operator must comply with the High Seas Fishing Compliance permit and all

NAFO conservation and enforcement measures while fishing in the NAFO Regulatory Area.

The regulations at 50 CFR 300 require all vessels fishing on the High Seas (the area outside the exclusive economic zone (EEZ)) to obtain a High Seas Fishing Compliance permit. Therefore, the only new reporting requirement resulting from the proposed management measure is for vessels to obtain a letter of authorization from the RA. The purpose of this reporting requirement is to identify the vessels participating in this exemption program to ensure compliance with the provisions of the exemption, and consistency with the purpose of the exemption.

### **Atlantic Scallop Ownership Form**

The proposed action is needed to ensure that no person applying for a limited access Atlantic scallop permit owns greater than 5 percent interest in any other limited access Atlantic scallop vessel.

The regulations at 50 CFR 648.4 (m) specify that for any vessel acquired after March 1, 1994, a vessel owner is not eligible to be issued a limited access scallop permit for the vessel if the issuance of the permit will result in the vessel owner, or in any other person who is a shareholder or partner of the vessel owner, having an ownership interest in limited access scallop vessels in excess of 5 percent of the number of all limited access scallop vessels at the time of permit application.

Having an ownership interest includes, but is not limited to, persons who are shareholders in a vessel owned by a corporation, who are partners (general or limited) to a vessel owner, or who, in any way, partly own a vessel.

### **2. Explain how, by whom, how frequently, and for what purpose the information will be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, then explain how the collection complies with all applicable Information Quality Guidelines.**

The annual permit declaration requirement for limited access monkfish vessels participating in the Offshore SFMA Fishery Program will be used, on a daily basis, to identify the vessels participating in the Offshore SFMA Fishery Program to ensure compliance with the provisions with the program, including VMS installation and operation. Vessel permit information is available to the public via the web site for the Northeast Regional Office at [www.nero.noaa.gov](http://www.nero.noaa.gov), and is also available upon request. In most cases, vessel permit information is provided in aggregate form. However, there are cases, such as for law enforcement or mailings, that individual permit information is required. The individual vessel information used for mailings that is derived from the vessel permit application provides NOAA Fisheries with the assurance of reaching all affected constituents with notices of fishery closures, regulatory changes, and other important information. Thus, this information is used frequently; at least once a month.

As stated under response #1, all vessels that participate in the Offshore SFMA Fishery Program will be required to have an operational VMS unit on board the vessel during the entire season, October 1 – April 30. The vessel position information obtained from the VMS will be used on a

daily basis to ensure that participating vessels are complying with area and season requirements while fishing under a monkfish DAS. Furthermore, the monkfish DAS effort information obtained through the VMS unit is used occasionally, a couple times a year, for a variety of analyses conducted by NOAA Fisheries and the Councils. Vessel effort and position information obtained through the VMS is considered confidential. Thus, if VMS information is disseminated to the public, it is only provided in aggregate form.

All vessels required to possess an operational VMS unit on board must complete a form supplied by NOAA Fisheries verifying that a VMS unit has been installed on the vessel and is operational. The form requests information regarding vessel name, Federal permit number, vessel documentation or state registration number, installing dealer information (name, address, and telephone number), date of installation, serial number of unit, and e-mail address of vessel. The form also requests responses to questions concerning whether or not the unit is operational, if the operating instructions have been provided to the owner, and if the vessel owner has been trained on the use of the VMS unit by the vendor. Once the form has been signed, the vessel owner or authorized representative signs and dates the form, and returns it to the address listed on the form. The information collected on this form will be used by NOAA Fisheries, on a weekly to monthly basis, to ensure that any vessel participating in the Offshore SFMA Fishery Program has a VMS unit on board, and the owner/operator has been properly instructed in its use. Furthermore, the contact information on the form (e-mail address) aids NOAA Fisheries in disseminating timely information and/or notifications to users of VMS units. VMS notifications are sent out at least once a month.

Vessels participating in the Offshore SFMA Fishery Program would be authorized to power down their VMS units for a minimum of 30 days at a time outside of the proposed season (May 1 – September 30) when not participating in other fisheries. Owners of vessels wishing to power down their VMS units under this exemption program must obtain a letter of exemption from the VMS transmitting requirements. To obtain this letter of exemption, vessel owners must make a request in writing to the RA and provide information regarding the location of the vessel during the time the exemption is sought, and the exact time period for which the exemption is needed. The information collected as part of the VMS power down exemption request will be used by NOAA Fisheries, on a weekly to monthly basis, to ensure compliance with the provisions of the exemption.

Vessels applying for a limited access monkfish permit under the proposed limited access program would be required to complete an application for the limited access permit category for which they are applying (permit category G or H) and submit proof of monkfish landings (in the form of dealer weighout receipts, or state or Federal fishery landings data) to meet the criteria for that permit category. This information will be used by NOAA Fisheries to qualify the vessel for the applicable limited access permit category. The initial application for a limited access Category G or H permit is a one-time occurrence. However, once a vessel is determined to qualify for a limited access permit, it is required to renew that permit annually. Further, the permit category itself will be used by NOAA Fisheries to identify these new limited access vessels, on a case-by-case basis, to ensure compliance with the restrictions associated with possessing a Category G or H permit (i.e., the vessel must fish south of 38°20' N. latitude).

The vessels that apply for and receive a limited access monkfish permit under the proposed limited access program will be subject to the same recordkeeping and reporting requirements as

other limited access monkfish vessels. Thus, these vessels would be subject to the DAS reporting requirements, vessel trip reporting requirements, gillnet tagging requirements, vessel operator permit requirements, and vessel replacement/upgrade/permit history restrictions. The information collected as a result of these recordkeeping and reporting requirements is used by NOAA Fisheries on a daily basis to ensure compliance with monkfish fishery regulations (DAS reporting, gillnet tagging, replacement/upgrade/permit history) and compliance with general Federal fishery permit conditions and restrictions (vessel operator permit and vessel trip reports). The information collected is also occasionally used by NOAA Fisheries, a couple times a year, in various analyses related to the management of the monkfish fishery.

Owners of vessels wishing to change the vessel baseline specifications for their limited access monkfish permit to those of the vessel that was initially issued the first Federal limited access fishery permit associated with the current vessel, would have a one-time opportunity to request such a change on or before April 30, 2006, or within one year of the effective date of Amendment 2 (whichever is the latter). This information will be used by NOAA Fisheries, on a daily basis, to enforce the vessel replacement and upgrade restrictions applicable to all limited access monkfish vessels. The purpose of these restrictions is to limit the fishing capacity of the monkfish fleet.

Owners of vessels wishing to target monkfish in the NAFO Regulatory Area and be exempt from the monkfish regulations in the U.S. EEZ must obtain a letter of authorization from the RA. These letters are valid for one permit year. The information obtained as part of issuing the letter of authorization would be used by NOAA Fisheries, on a weekly to monthly basis, to identify those vessels participating in this exemption program to assist in monitoring whether these vessels are complying with the conditions and restrictions of the program.

Completion of the Atlantic Scallop Ownership Form permits NOAA Fisheries to ascertain, in accordance with the regulations found at 50 CFR part 648.4 (M), the percent ownership of limited-access Atlantic Scallop permit applicants.

It is anticipated that the information collected will be disseminated to the public or used to support publicly disseminated information. As explained in the preceding paragraphs, the information gathered has utility. NOAA Fisheries will retain control over the information and safeguard it from improper access, modification, and destruction, consistent with NOAA standards for confidentiality, privacy, and electronic information. See response #10 of this Supporting Statement for more information on confidentiality and privacy. The information collection is designed to yield data that meet all applicable information quality guidelines. Prior to dissemination, the information will be subjected to quality control measures and pre-dissemination review pursuant to Section 515 of Public law 106-554.

**3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.**

After initial permit issuance, permit renewal is made as easy as possible for both the public and the issuing office. The information obtained from the vessel's initial permit application is used to prepare a computer generated pre-printed renewal form. This pre-printed form is sent directly the vessel owner each year along with permit renewal instructions. If there are no changes to the

information contained on the pre-printed renewal form, renewal only requires the applicant's signature. This feature minimizes the reporting burden on the public and administrative burden on the agency. Furthermore, vessel owners may also request a pre-printed renewal form at any time during the year to make necessary changes to their permit or contact information.

In addition to being available upon request, vessel permit information and all initial permit applications and forms are available on the Northeast Regional Office's web site at [www.nero.noaa.gov/nero/permits/index.html](http://www.nero.noaa.gov/nero/permits/index.html). Posting this information on the web makes it easier for the general public to obtain necessary forms and instructions, and eases the administrative burden on the agency.

Automated DAS reporting and vessel positioning has been made available through the use of VMS for those limited access monkfish vessels required to have an operational VMS as a condition of their participation in the Offshore SFMA Fishery Program. The cost of the VMS unit, which continues to decrease as new technology develops and more vendors become available, is justified due to the need to monitor and enforce the specific area and season proposed for this program.

#### **4. Describe efforts to identify duplication.**

NOAA Fisheries is aware of all related fishery management activities, and these requirements do not duplicate any in existence.

#### **5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.**

The proposed collection of information will not have a significant impact on small entities. Only the minimum data to meet the requirements of the above data needs are requested from all participants. Furthermore, detailed instructions are included with all required applications and forms to help facilitate proper completion. Since all of the respondents are small businesses, separate requirements based on the size of the business have not been developed.

#### **6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.**

The application for a limited access monkfish permit under the proposed limited access program for vessels fishing south of 38°N. latitude is a one-time application. However, vessels would be required to renew this limited access permit on an annual basis or lose the permit permanently. To require vessels to renew their applications less frequently would result in necessary information not being updated in a timely manner. Furthermore, the information collected on the vessel permit form provides valuable fishery information (fishing power, gears used, etc.) that is used annually to describe the monkfish fleet and conduct the necessary analysis of impacts of changes in management measures. Because an application is essential to identify the vessel applying for a limited access permit, the program could not occur if the collection is not conducted.

The other collection of information requirements that the new monkfish limited access vessels would be subject to, as referenced under responses #1 and #2, are approved under the Northeast

Permit Family of Forms (OMB Control number 0648-0202). To the extent practicable, frequency of information collection under the Permit Family of Forms has been minimized. To reduce the frequency any further, nor not at all, would compromise the intent of each collection of information request. For example, less frequent monitoring of vessels fishing under the monkfish DAS program would reduce the effectiveness of the system in helping prevent violations of DAS controls. With respect to the annual request for gillnet tags, it is not useful to conduct this request less frequently since it is expected that gillnet tags will be routinely lost as part of conducting fishing operations.

The Offshore SFMA Fishery Program permit category is necessary to identify the vessels participating in the program to ensure compliance with the conditions and restrictions of the program. Thus, if this collection was not conducted at all, compliance with the provisions of the program could not be monitored. Furthermore, because the annual monkfish DAS allocations for vessels participating in the program are adjusted based on the applicable trip limit/DAS ratio, declaration must occur on an annual basis at a minimum. To require vessels to declare less frequently (i.e., once every two or three years) would only burden the vessels by requiring them to be locked into participating in the program longer than one year at a time.

Vessels participating in the Offshore SFMA Fishery Program will have their locations polled once an hour, 24 hours a day, through their VMS units. To be polled any less frequently would reduce the effectiveness of the system in monitoring vessels' compliance with the conditions and restrictions of the Offshore SFMA Fishery Program. To not poll vessels' positions at all would make this requirement irrelevant.

As stated under response #2, owners of vessels wishing to target monkfish in the NAFO Regulatory Area and be exempt from the monkfish regulations in the U.S. EEZ must obtain a letter of authorization from the RA annually. Because this information is used to identify the vessels participating in the program and monitor their compliance with the conditions and restrictions of the program, it is reasonable to require these vessels to obtain a new letter of authorization annually. If a letter of authorization were not required, NOAA Fisheries would not be able to adequately enforce the provisions of this program.

Owners of vessels will be given a one-time opportunity to request a change to their monkfish vessels baseline specifications under the program being proposed in Amendment 2, and described under responses #1 and #2. As such, the collection cannot be conducted less frequently. Because the Councils stipulated that vessel owners must request a change to their vessel's baseline specifications to take advantage of the proposed measure, not requiring vessel owners to make such a request would go against the Councils' intent, and essentially void the measure.

NOAA Fisheries would have no practicable way to monitor limited access Atlantic scallop permit ownership. The regulations designed to limit ownership in the scallop fishery could not be enforced.

**7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.**

Some of the requirements may not be consistent with OMB guidelines with regard to reporting

frequency. OMB guidelines suggest that respondents not be required to report more often than quarterly. However, requirements to call-in/call-out of the monkfish DAS program require vessels to report more frequently (for every trip). The call-in/call-out requirement is necessary to accurately monitor a vessel's DAS usage, which is necessary to reduce fishing mortality by restricting total fishing activity.

**8. Provide a copy of the PRA Federal Register notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.**

The Councils held many NEFMC and MAFMC and Monkfish Oversight Committee meetings during the development of Amendment 2 to the FMP. These meetings took place from January 2002 through October 2004. The Councils approved the measures contained in Amendment 2 at their respective September and October 2004 meetings. The information collections contained in this submission are part of a proposed rule to implement the management measures being proposed in Amendment 2. This proposed rule announces the proposed management measures and solicits public comment on these measures and the information collection requirements necessary to implement Amendment 2.

**9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.**

No payments or gifts will be made to respondents.

**10. Describe any assurance of confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.**

All data will be handled in accordance with NOAA Administrative Order 216-100, Confidentiality of Fisheries Statistics, and will not be released for public use except in aggregate statistical form (and without identifying the source of data, i.e., vessel name, owner, etc.). In addition, any information submitted according to the provisions outlined in Amendment 2 would be considered confidential and would not be disclosed except as provided in Section 402(b) of the Magnuson-Stevens Act.

**11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.**

There are no questions of sensitive nature involved in this collection of information.

**12. Provide an estimate in hours of the burden of the collection of information.**

A full summary of the burden estimate involved in this collection of information can be found in

Table 1, page 16.

### **Offshore SFMA Fishery Program – Permit Category and VMS Reporting Requirements**

The Offshore SFMA Fishery Program permit category (Category F) is selected on the vessel's annual fishery permit renewal application and would require an estimated 30 minutes to complete. It is estimated that 50 vessels will declare into the program annually. The burden associated with the VMS unit required to participate in the Offshore SFMA Fishery Program is 1 hour for installation of the unit, 5 minutes for verification of installation of the unit, and 5 seconds per poll for automated polling of the vessel. Limited access monkfish vessels participating in this program would also be able to request to turn off the VMS unit (power down exemption) for a minimum of 30 days at a response time at approximately 5 minutes per request. It is estimated that half of the vessels estimated to participate in the program will not have VMS units. Therefore, it is estimated that 25 vessels will purchase and install VMS units (over the 3 year period) in order to participate in the Offshore SFMA Fishery Program.

### **Limited Access Program for Vessels fishing South of 38°20 N. Latitude**

The initial application for a limited access monkfish permit under the proposed limited access program would require approximately 45 minutes to complete. It is estimated that 20 vessels will apply for a limited access monkfish permit under this program. Subsequent annual renewals of the limited access monkfish permit on a pre-printed renewal form would require an estimated 30 minutes to complete. It is estimated that only 5 vessels will qualify for a limited access monkfish permit under the proposed program. Therefore, only 5 vessels will be expected to renew these limited access monkfish permits annually. Vessels that are denied a limited access monkfish permit under this program will have the ability to appeal the denial of the permit at approximately 2 hours per appeal. It is estimated that a total of 10 vessels will appeal the denial of the limited access monkfish permit over the 3 year period.

Vessels that are issued a limited access monkfish permit under this program (estimated to be 5 vessels) would be subject to the same regulatory requirements as other limited access monkfish vessels. Operators of these vessels would be required to obtain a Federal operator permit. Both initial and renewal vessel operator permit applications require an estimated 1-hour to complete the application due to the requirement to submit a color photograph. In addition, these vessels would be subject to the DAS reporting requirements, which requires an estimated 2 minutes per response when using the call-in system; the vessel trip report requirement, which requires an estimated 5 minutes per response; the gillnet designation/tag order requirement, which requires an estimated 10 minutes per response; requests for additional gillnet tags, which requires an estimated 2 minutes per response; and the requirement to notify NOAA Fisheries of lost tags and request replacement tags, which requires an estimated 2 minutes per response. In addition, owners of these new limited access monkfish vessels may apply for Good Samaritan DAS credits at a burden of 30 minutes for application if the vessel assisted in USCG search and rescue operations or assisted in towing a disabled vessel. It is estimated that no more than one of the 5 vessels possessing this limited access permit will apply for Good Samaritan DAS credit annually.

Finally, these new limited access monkfish vessels would be subject to the same replacement, upgrade, and permit history restrictions as other limited access monkfish vessels. Completion of a replacement or upgrade application requires an estimated 3 hours per response. It is estimated



that no more than two of the 5 vessels possessing these limited access permits will request a vessel replacement or upgrade annually. Completion of a confirmation of permit history (CPH) application requires an estimated 30 minutes per response. It is estimated that no more than one of the 5 vessels possessing these limited access permits will request a CPH annually.

### **Requests to Change Limited Access Monkfish Vessel Baselines**

Under the proposed program, owners of limited access monkfish vessels will have an one-time opportunity to change their monkfish vessel baseline specifications to be those associated with the vessel holding the first Federal limited access permit. The estimated response time for this request is 30 minutes. Since vessel owners will be given only one year to request a change, it is estimated that no more than 20 vessels will request this change to their vessel baseline specifications during the 3-year period.

### **NAFO Regulatory Area Exemption**

Vessels intending fish for monkfish in the NAFO Regulatory Area under the proposed exemption program would be required to obtain a letter of authorization from the RA. The estimated response time for this letter of authorization is 5 minutes per request. It is estimated that no more than 10 vessels will request this letter of authorization annually.

### **Atlantic Scallop Ownership Form**

The Atlantic Scallop Ownership Form is filled out in conjunction with the initial permit application or the renewal permit application, as applicable for the person involved. The initial vessel permit application requires an estimated 45 minutes to complete, while the preprinted vessel permit renewal forms require an estimated 30 minutes per response.

### **13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection (excluding the value of the burden hours in #12 above).**

A full summary of cost to the public associated with this collection of information can be found in Table 1, page 16.

The RA must approve any VMS system used by federally permitted fishing vessels. Currently there are only two vendors that offer VMS units approved for use in the Northeast Region. These vendors are Boatracs, Inc. and Skymate, Inc. The average system offered by Boatracs or Skymate costs approximately \$3,100. Only vessels participating in the Offshore SFMA Fishery Program would be required to purchase and install a VMS unit. Many of the larger limited access monkfish vessels also possess limited access multispecies permits. Since many of the new programs implemented for the Northeast multispecies fishery require operational VMS units, many of the vessels expected to participate in the Offshore SFMA Fishery Program already have a VMS unit installed. As a result, it is estimated that half of the 50 vessels expected to participate in the Offshore SFMA Fishery Program will already have VMS units installed. Furthermore, the cost of purchasing and installing a VMS unit is only incurred during the first year. Thus, the total cost to the public of purchasing and installing VMS units in order to participate in the Offshore SFMA Fishery Program has been divided by 3 to produce an

estimated annual cost of \$25,833.33. DAS monitoring for these vessels would be automated through the VMS unit, eliminating the need for the vessel to use the call-in system. The average monthly cost of a VMS unit from Boatracs or Skymate is approximately \$150, for a total combined estimated annual cost of \$45,000 for new VMS users.

As stated previously, operators of vessels that obtain a limited access monkfish permit through the proposed program for vessels fishing south of 38°N. latitude would be required to obtain a Federal vessel operator permit. Although there is no application cost for this applicants must include a color photograph with their application at a cost of approximately \$10. Because the vessel operator permit is valid for 3 years, the total cost estimate provided in Table 1, page 16, has been divided by 3 to provide an annual estimate of \$16.67 for the 5 vessels expected to qualify for limited access monkfish permits under the proposed program.

All limited access monkfish vessels that declare into the gillnet fishery must obtain gillnet tags. Gillnet tags are purchased from, and supplied to the industry by, an independent contractor. The cost associated with the purchase of gillnet tags is \$1.15 per tag. Since monkfish vessels are allowed to fish up to 160 nets, they are authorized to purchase 160 gillnet tags every three years. Therefore, the total cost of gillnet tags is \$192 ( $\$1.20 \times 160$ ) every three years. Thus the total annualized cost per entity is \$64. This price includes shipping and handling charges, but there is an additional shipping and handling charge of \$5.00 for orders of less than 20 tags.

The Atlantic Scallop Ownership Form is filled out in conjunction with the initial permit application or the renewal permit application package, as applicable for the person involved. The associated costs to respondents remain the same as those previously listed in the Northeast Region Permit Family of Forms.

#### **14. Provide estimates of annualized cost to the Federal Government.**

A full summary of the cost to the Federal Government associated with this collection of information can be found in Table 1, page 16.

The estimated annualized cost to the Federal Government assumes that the average cost to issue a Federal fishery permit or vessel operator permit is \$33 per permit, including labor, printing, distribution, computer time, and handling. The 3-year average annual cost of issuing and renewing new limited access monkfish permits under the proposed program for vessels fishing south of 38°N. latitude is \$330. Since the vessel operator permit is valid for 3 years, the total estimated cost to the government of \$165 (5 permits x \$33) is divided by 3 to produce an annual estimated cost of \$55. The act of declaring into the Offshore SFMA Fishery Program requires the issuance of a new limited access monkfish permit category (Category F). Thus, the annual estimated cost to the government of a limited access monkfish vessel declaring into the Offshore SFMA Fishery Program is \$1,650 (50 vessels x \$33).

The estimated cost to the Federal Government associated with processing monkfish permit appeals is \$25 per hour. It is anticipated that a total of 10 vessels will appeal the denial of their application for a limited access monkfish permit for vessels fishing south of 38°N. latitude. Therefore, the total cost estimate of \$500 has been divided by 3 in Table 1, page 16, to provide an annualized cost estimate of \$166.67.

The annual estimated cost to the Federal Government is estimated to be \$25 per burden hour for VMS requirements. The total estimated cost to the government associated with proof of VMS installation for vessels participating in the Offshore SFMA Fishery Program is \$51.88. However, vessel owners need only to provide proof of installation when first installing a VMS unit. Therefore, the annualized cost estimate of \$17.29 provided in Table 1, page 16, is produced by dividing the total cost estimate by 3. There is no expected additional cost to the government associated with VMS operation since the estimated number of new VMS users as a result of the proposed Offshore SFMA Fishery Program is minimal. The total cost to the government associated with request for a VMS power down exemption is \$51.88.

The annual estimated cost to the Federal Government is estimated to be \$25 per burden hour for all other collection of information requirements contained in Amendment 2. The estimated annual cost to the government of processing vessel replacements, upgrades, or confirmations of permit history associated with the new limited access monkfish permits is \$162.50. The estimated annual cost to the government associated with general reporting requirements (DAS reporting, vessel trip reports, Good Samaritan DAS credit) for the new limited access monkfish permits is \$592.50. The estimated annual cost to the government associated with gillnet designations and issuance of gillnet tags for the new limited access monkfish permits is \$29.50. The estimated cost to the government associated with processing requests to change a vessel's monkfish baseline under the proposed program is \$83.33. Finally, the estimated cost to the government associated with requests for a letter of authorization to participate in the NAFO Regulatory Area exemption program is \$20.75.

**15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB 83-I.**

Amendment 2 to the Monkfish FMP was developed by the Councils in part to respond to the Joint Stipulation and Order for the AOC v. Daley lawsuit, which requires that NOAA Fisheries prepares an EIS that adequately analyzes the potential adverse effects of fishing on EFH and if there are any practicable steps to minimize any such adverse effects of fishing on EFH. Amendment 2 was also developed in response to several concerns raised during the public scoping process including the disapproval of the running clock provision in the original FMP, and the exclusion of vessels fishing off of southern Virginia and North Carolina due to an error in the public hearing document for the original FMP.

The burden estimates provided in Table 1, page 16, are based on the estimated number of individuals most likely to be affected. The actual number of entities affected by each collection of information requirement may differ slightly from these estimates.

**16. For collections whose results will be published, outline the plans for tabulation and publication.**

The results from this collection may be used in scientific, management, technical, or general information publications such as the Fisheries of the United States, which follows prescribed statistical tabulations and summary table format, and the annual Stock Assessment and Fishery Evaluation (SAFE) Report prepared by the NEFMC for the monkfish fishery. Data obtained from this collection would be available to the public upon request in summary form only. Furthermore, data are available to NOAA Fisheries employees in detailed form on a need-to-

know basis only.

**17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.**

All forms will display the OMB control number and expiration date along with information relevant to the Paperwork Reduction Act of 1995.

**18. Explain each exception to the certification statement identified in Item 19 of the OMB 83-I.**

All instances of this submission comply with 5 CFR 1320.9.

**B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS**

No statistical methods are employed in the information collection procedures.

Table 1. New Recordkeeping and Reporting Requirements In Amendment 2 to the Monkfish FMP

<i>Requirement</i>	<b># of</b>	<b>Items Per</b>	<b>Total #</b>	<b>Response</b>	<b>Total</b>	<b>Cost to:</b>	
	<b>Entities</b>	<b>Entity</b>	<b>of Items</b>	<b>Time</b>	<b>Burden</b>	<b>Public</b>	<b>Govt. <sup>(1)</sup></b>
<b>Offshore Fishery Program <sup>(2)</sup></b>							
Selection of Permit Category	50	1	50	0.500	25.00		1,650.00
VMS Requirements for Program Participants <sup>(3)</sup>							
VMS Installation (time) <sup>(4)</sup>	25	1	25	1.000	8.33		n/a
VMS Installation (Unit cost =\$3,100) <sup>(4)</sup>	25	1	25	n/a	n/a		n/a
						25,833.33	
VMS Proof of Installation <sup>(4)</sup>	25	1	25	0.083	0.69		17.29
Automated VMS Polling of Vessel Position (365*24)	25	8,760	219,000	0.001	219.00		n/a
VMS Operation (\$150 per month per vessel)	25	n/a	n/a	n/a	n/a	45,000.00	n/a
VMS Power Down Exemption	25	1	25	0.083	2.08		51.88
<b>Total <sup>(5)</sup></b>	<b>50</b>		<b>219,150</b>		<b>255.10</b>	<b>70,833.33</b>	<b>1,719.17</b>
<b>NC/VA Moratorium Permit</b>							
Year 1 Initial application for limited access permit <sup>(2)</sup>	20	1	20	0.750	15.00		660.00
Year 2 Permit Renewal <sup>(2)</sup>	5	1	5	0.500	2.50		165.00
Year 3 Permit Renewal <sup>(2)</sup>	5	1	5	0.500	2.50		165.00
<b>3 Year Average Burden</b>							
Monkfish Appeals <sup>(6)</sup>	10	1	10	2.000	6.67		166.67
Operator Permit Initial (time plus \$10 for photograph) <sup>(2) (7)</sup>	5	1	5	1.000	1.67	16.67	55.00
<b>Total <sup>(5)</sup></b>	<b>20</b>		<b>45</b>		<b>28.33</b>	<b>16.67</b>	<b>551.67</b>
<b>RUPH Application</b>							
Replacement/Upgrade	2	1	2	3.000	6.00		150.00
History Retention	1	1	1	0.500	0.50		12.50
<b>Total <sup>(5)</sup></b>	<b>3</b>		<b>3</b>		<b>6.50</b>		<b>162.50</b>
<b>Reporting Requirements</b>							
Good Samaritan DAS Credits	1	1	1	0.500	0.50		12.50
<b>Total <sup>(5)</sup></b>	<b>11</b>		<b>1</b>		<b>0.50</b>		<b>12.50</b>

<b>Gillnet Tagging Requirements</b>							
Gillnet Designations	5	1	5	0.167	0.84		n/a
Attachment of nets tags (\$1.20 x total number of tags) annualized from 3-year renewal period	5	64	320	n/a	n/a	368.00	
Additional tags <sup>(8)</sup>	5	1	5	0.033	0.17		4.13
Notification of lost tags/replacement requests	5	1	5	0.033	0.17		4.13
<b>Total <sup>(5)</sup></b>	<b>5</b>		<b>335</b>		<b>0.33</b>	<b>368.00</b>	<b>29.13</b>
<b>Limited Access Monkfish Vessel Baseline Change</b>							
Request to change monkfish baseline to be that of first Federal limited access permit <sup>(9)</sup>	20	1	20	0.5	3.33		83.33
<b>NAFO Regulatory Area Request</b>							
Request for Letter of Authorization	10	1	10	0.083	0.83		20.75
<b>Totals, Monkfish Amendment 2 <sup>(5)</sup></b>	<b>99</b>		<b>219,564</b>		<b>294.93</b>	<b>71,218.00</b>	<b>2,579.04</b>
Current OMB Inventory Under 0648-0202	42,133		6,210,270		27,097	1,456,000 <sup>(10)</sup>	
<b>Total New Plus Existing (OMB 83I form)</b>	<b>42,232</b>		<b>6,429,834</b>		<b>27,391.93</b>	<b>1,527,218.00</b>	

(1) The cost to the Government is estimated to be \$25 per entity unless otherwise noted.

(2) The cost to the Government is estimated to be \$33 per entity.

(3) The number of entities is only reflective of those that are expected to participate in the Offshore Fishery Program that currently do not have a VMS unit.

(4) The total burden is divided by 3 since 25 vessels are expected to purchase VMS units over the 3-year period.

(5) Counts affected entities only once. Thus, number of entities is not additive across rows.

(6) The total burden is divided by 3 since a total of 10 appeals are anticipated during the 3-year period.

(7) The total burden is divided by 3 since the operator permit is renewed once every 3 years.

(8) The cost of additional tags is included in the total allowed in the initial request.

(9) The total burden is divided by 3 since vessel owners will only have one year to request a baseline change.

(10) This number is the sum of the total annualized start-up costs (\$152,000) and the total annual costs (\$1,349,000) currently approved.

# INITIAL VESSEL APPLICATION

U. S. DEPARTMENT OF COMMERCE Northeast  
NATIONAL OCEANIC & ATMOSPHERIC ADMIN  
NATIONAL MARINE FISHERIES SERVICE  
PERMIT OFFICE  
ONE BLACKBURN DRIVE  
GLOUCESTER, MA 01930-2298  
Tel: (978) 281-9370



Region Federal Fisheries Permit Application

## Section 1 - Vessel/Owner Information

Is this application for a vessel permit transfer? Yes No \* If yes, also complete a RUPH application.

If vessel was previously issued a Federal vessel permit, enter

Enter information in the spaces provided. All items must be completed.

Vessel Name:

Owner Name:

Street Address:

City:

State:

Zip:

Owner Telephone: ( )

CG Documentation or State Registration Number:

Home Port:

Principal Port:

## Section 2 - Vessel Information

Enter information in the spaces provided. All items must be completed.

Vessel Length: \_\_\_\_\_

Overall length in feet.

Dredge Size: \_\_\_\_\_

Dredge size in feet.

Crew Size: \_\_\_\_\_

Average number or crew, including the captain.

Number of Dredges: \_\_\_\_\_

Total number of dredges aboard the vessel.

Gross Tonnage: \_\_\_\_\_

As recorded on US Coast Guard Documentation.

Pump Horsepower: \_\_\_\_\_

This item applies to surf clam/ocean quahog vessels only.

Year Built: \_\_\_\_\_

The year the vessel was built.

Construction: 1 = wood 2 = fiberglass 3 = Steel 4 = Other

(please circle the number that applies to your vessel)

Main Engine HP: \_\_\_\_\_

The vessel engine horsepower.

Propulsion: 1 = gasoline 2 = diesel 3 = Other

(please circle the number that applies to your vessel)

Fish Hold Capacity: \_\_\_\_\_

Measured to the nearest 100 pounds.

Number of Passengers for Charter or Party: \_\_\_\_\_

Number of passengers the vessel is licensed to carry.  
(See Section 5D for additional documents required)

**Remember to include required documents.  
(See instructions, Section 5: Additional Documents Required)**

\* RUPH is a Vessel Replacement, Upgrade, and Confirmation of Permit History application.

New Vessel Permit Number \_\_\_\_\_ (For Office use only)

**Continued on reverse**

### Section 3 - Fishery Information

#### Gear Codes

120 - Purse Seine	210 - Beach Seine	220 - Boat Seines	310 - Bottom Trawl	320 - Mid-water Trawl
330 - Other Trawl	410 - Dredge	800 - Pots & Traps	911 - Hand Lines	912 - Rod & Reel
1010 - Harpoons	1200 - Other Gears	1400 - Diving Gear	700 - Gill/Entangling Nets	920 - Longlines or Setlines

**Please circle the number or letter of the fishery category for which you are applying. Clearly print the numeric gear code(s) from the list above. Refer to the instructions for a description of permit categories and their allowable gear code(s).**

**Please do not select a category or a category and gear code combination for which your vessel is not eligible. Inaccurate or incomplete selections will delay the processing of your permit.**

Fisheries	Open Access	Limited Access Categories								Gear Code(s)
	Categories	Qualified Vessels Only								
Sea Scallop	1	2	3	4	5	6	7	8	9	
Northeast Multispecies	H I J K	A	B	C	D	E	F	G		
Monkfish	E	A	B	C	D	F	G	H		
Surf Clam/Ocean Quahog	1 6								410 - Dredge only	
Maine Mahogany Quahog		7							410 - Dredge only	
Summer Flounder	2	1								
Scup	2	1								
Black Sea Bass	2	1								
Squid, Mackerel, Butterfish	2 3 4	1	5							
Spiny Dogfish	1									
Atlantic Bluefish	1 2									
Atlantic Herring	1 2									
Tilefish	D	A	B	C						
Atlantic Deep-Sea Red Crab	A	B	C							
Skate	1									
American Lobster - Non Trap		1	2							
American Lobster - Trap		A1	A2	A23	A3				800 - Pots and Traps only	
		A4	A5	A6	AOC					

### Section 4 - Owner's Signature

**I, the undersigned, am the owner or legally authorized agent of the owner of the vessel named in Section 1. I affirm, subject to the penalties provided in 18 USC 1001, that all information that I have given in obtaining this permit is true and correct.**

**Signature:** \_\_\_\_\_

**Print Name:** \_\_\_\_\_

**Date:** \_\_\_\_\_

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining data needed, and completing and reviewing the information. Send comments regarding this burden estimate or suggestions for reducing this burden to: National Marine Fisheries Service, Permit Office, One Blackburn Drive, Gloucester, MA 01930-2298. The Paperwork Reduction Act requires that potential respondents for a fishing vessel permit be notified of certain information regarding their rights and the burden associated with applying for Federal fisheries permits. One of the regulatory steps taken by the National Marine Fisheries Service to carry out its conservation and management objectives is the requirement of a permit for users of the resources. All the fisheries included on this application require a permit to fish for or retain specifically recognizes the need for permit issuance. The purpose and use of these permits are to (1) register industry participants and fishing vessels, (2) list the characteristics of fishing vessels, (3) exercise influence over compliance, (4) provide a mailing list for the dissemination of important information to the industry, (5) register participants to be considered to limited entry, and (6) provide a universe for data collection samples. Both the MSFCMA and Executive Orders 12866 et al, require the determination of this information. Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number. Any information submitted by any person to obtain a permit is no confidential, and may be disclosed upon request.



U.S. DEPARTMENT OF COMMERCE  
NOAA/NATIONAL MARINE FISHERIES SERVICE  
ONE BLACKBURN DRIVE  
GLOUCESTER, MA 01930-2298



VESEL RENEWAL APPLICATION  
2000 NE FEDERAL FISHERIES PERMIT

08-DEC-04

Tel: (978) 281-9370

TH

**YOU MUST SIGN AND MAKE ANY CHANGES ON THE BACK OF APPLICATION OR IT WILL NOT BE PROCESSED.**

Section 1 - OWNER INFORMATION		Section 2 - VESSEL INFORMATION	
Vessel Name:		Northeast Federal	
Owner Name:		Vessel Permit Number:	
Address:		CG Documentation Number or	
		State Registration Number:	
		Home Port:	
		Principal Port:	
		Telephone:	
Section 3 - 2000 FISHERY INFORMATION			
Fishery:	Category	Gear (s) :	Cancel :

**YOU MUST SIGN AND MAKE ANY CHANGES ON THE BACK OF APPLICATION OR IT WILL NOT BE PROCESSED.**

**YOU MUST COMPLETE AND SIGN THIS APPLICATION OR IT WILL NOT BE PROCESSED**

**Section 4 - CORRECTIONS AND ADDITIONS**

Please verify that all owner information on the front of this application is complete and correct. Any **NEW** or **UPDATED** address, owner, or vessel information must be written below. This information will be assumed to replace the corresponding information on the front of the form. To cancel a fishery permit, clearly mark the cancel box on the front of this form. Fishery information listed below will be **ADDED** to your record provided your vessel qualifies for the fisheries, categories and gear codes selected.

<b>Vessel Name:</b>	<b>Owner Name:</b>
<b>Owner Address:</b>	
<b>Owner Address:</b>	<b>Owner Telephone: (     )</b>
<b>Home Port:</b>	<b>Principal Port:</b>

**Gear Codes**

<b>120</b> - Purse Seine	<b>210</b> - Beach Seine	<b>220</b> - Boat Seines	<b>310</b> - Bottom Trawl	<b>320</b> - Mid-water Trawl
<b>330</b> - Other Trawl	<b>410</b> - Dredge	<b>700</b> - Gill/Entangling Nets	<b>800</b> - Pots & Traps	<b>911</b> - Hand Lines
<b>912</b> -Rod & Reel	<b>913</b> -Tub Trawl	<b>1010</b> -Harpoons	<b>1200</b> -Other Gears	<b>1400</b> -Diving Gear
			<b>920</b> -Longlines or	

**If you select a fishery category and gear code combination(s) for which your vessel is not eligible, the processing of your permits may be delayed. See instructions for further details or call Northeast Permit Operations at (978) 281-9370.**

Please circle the number or letter of the fishery category for which you are applying. Clearly print the numeric gear code(s) from the list above. Refer to the instructions for a list of permit categories and their description of allowable gear code(s).

Fisheries	Open Access	Limited Access Categories	Gear Code(s)
	Categories	Qualified Vessels Only	
Sea Scallop	1	2 3 4 5 6 7 8 9	
Northeast Multispecies	HB I J K	A C D E F HA	
Monkfish	E	A B C D F G H	
Surf Clam/Ocean Quahog	1 6		410 - Dredge only
Maine Mahogany Quahog		7	410 - Dredge only
Summer Flounder	2	1	
Scup	2	1	
Black Sea Bass	2	1	
Squid, Mackerel, Butterfish	2 3 4	1 5	
Spiny Dogfish	1		
Atlantic Bluefish	1 2		
Atlantic Herring	1 2		
Tilefish	D	A B C	
Atlantic Deep-Sea Red Crab	A	B C	
Skate	1		
American Lobster Non Trap		1 2	
American Lobster - Trap		A1 A2 A3 A4 A5 A6 AOC	800 - Pots and Traps only

**Section 5 - APPLICATION INSTRUCTIONS & SIGNATURE**

<input type="checkbox"/> Issue with requested changes above and on front <input type="checkbox"/> No Longer Own vessel <input type="checkbox"/> Vessel Sold <input type="checkbox"/> Vessel destroyed	I, the undersigned, am the owner or legally authorized agent of the owner of the vessel named in Section 1 above. I affirm, subject to the penalties provided in 18 USC 1001, that all information that I have given in obtaining this permit is true and correct.  Signature: _____  Print Name: _____ Date: _____
--	---

OMB# 0648-0202 Expires June 30, 2007

**Remember to include a copy of your valid State Registration or U.S. Coast Guard Documentation**



National Marine Fisheries Service  
Northeast Regional Office / Fisheries Statistics Office



**Northeast Federal Fisheries  
2005 Vessel Permit Renewal Instructions**

These instructions contain general information about the renewal process (page 1) and specific information about sections 1-5 of your renewal application (pages 2-3). A description of all Northeast Federal Fisheries Permits can be found on pages 4-11.

**Completing the application:** Please use this checklist to help ensure that your application is correct and complete. **Incomplete applications will not be processed and will be returned to you.** To complete your application you must:

- Update or correct the information printed on your application, if necessary
- Enclose a copy of a **valid** State Registration or Coast Guard document for your vessel (see page 3, additional documents required for further details)
- Be in compliance with all reporting requirements found at 50 CFR §648.7 (contact the Fisheries Statistics Office Data Center at 978-281-9246 for further information)
- Submit corporate information **if** your vessel is owned by a corporation or LLC, or submit partnership information **if** your vessel is owned through a partnership (see page 3, additional documents required for further details)
- If you are renewing a party/charter permit, submit copy of valid state charter/party license, USCG Documentation with a Coastwise endorsement, or Captain's license (see page 3, additional documents required for further details)
- Sign and date the application

**Send or return the completed application to:**

National Marine Fisheries Service  
Attention: Permits Operations  
One Blackburn Drive  
Gloucester, MA 01930-2298

**Application processing service is not currently available to walk-in customers.** If you would like to make an appointment to speak with one of our representatives to discuss your permit application, please call us at 978-281-9370.

**When to submit:** Your renewal application should be returned to us at least 30 days prior to the date the permit is required in order to assure processing of your application.

**Who to contact with questions:** The answers to many questions can be found in these instructions. Please contact us at 978-281-9370 if you have further questions. Northeast Fisheries Regulations, permit data, permit applications, and important announcements are available on our website at: [www.nero.nmfs.gov](http://www.nero.nmfs.gov).

**Changes in your information:** If any of the information you submit with this renewal application changes during any permit year, including but not limited to your address or telephone number, you are required to notify the National Marine Fisheries Service within 15 days of that change.

## Description of the renewal application

### Section 1: Owner Information

Please verify that all owner information is complete and correct. Any new or updated address, owner, or vessel information must be written on the back of the form (Section 4). The new information will replace the corresponding information on the front of the form. If your vessel is U.S. Coast Guard documented, a change of vessel name must also be reflected on the U.S. Coast Guard document. A change of ownership of a vessel requires an Initial Vessel Permit Application and cannot be processed using the Vessel Renewal Application.

### Section 2: Vessel Information

For NOAA Fisheries purposes, Home Port and Principal Port are defined as follows:

**Home Port:** City and State where your vessel is moored.  
**Principal Port:** City and State where the majority of your landings occur.

Please make sure the **phone number** and **area code** are complete and correct. Cross out any incorrect information on the front of the form and include the correct information in the space provided on the back of the form in Section 4.

### Section 3: Year 2004 Fishery Information

**Year 2004 Fishery Information** gives information about the Federal permits your vessel held in the permit year 2004. Please review the fisheries listed in this section. The fisheries listed in this section will be issued to your vessel unless you indicate, on the form, that they be cancelled. See section 4 below on instructions for adding a fishery that your vessel is qualified for but is not listed in Section 3. NOAA Fisheries reserves the right to make a final determination on vessel's eligibility for any permit.

**Canceling a fishery:** To cancel a fishery, put an "X" in the column marked "Cancel" on the front of the form (Section 3). Please note that, except in certain specific cases, once you relinquish (cancel) a limited access permit, you will lose your right to renew that limited access permit in subsequent years. If you have questions, contact the Northeast Permits Operations Team.

### Section 4: Corrections and Additions

**Renewal Corrections and Additions** are to be made in Section 4 on the back of the form. Space is provided for any changes you want to make to your Federal fisheries permit. Please cross out information you want to remove, or place an "X" in the column marked "Cancel" for the permit you want to cancel on the front of the form (Section 3). You may add or change a fishery category or gear code by entering new information in this section in the spaces provided. Your vessel must be qualified to apply for limited access fisheries. Contact Northeast Permits Operations for further information.

**Category:** For each fishery you want to add, circle the category numbers or letters in this column. Note that limited access permits require eligibility criteria. Selecting categories that your vessel is not eligible for may delay the processing of your application.

**Gear Code:** For each fishery, you must select the applicable gear codes from the Gear Code table on page 4. Write the gear code numbers in the column marked "Gear Code". You may select more than one gear code for a category. **If no gear code is selected, the application can not be processed and will be returned to you.**

## **Section 5: Application Instructions & Signature**

Please sign and date the form. Unsigned, or otherwise incomplete applications, will be returned. Your signature is an affirmation that, under penalty of perjury, all the information provided in order to obtain this permit is true and correct. Submitting false information in connection with an application could subject you to criminal/civil penalties or permit sanctions [18 U.S.C. 1001]

### **Additional Documents Required**

#### **A. Certificate Of Incorporation, Partnership Agreement Or Annual Reports:**

If the vessel is owned by a corporation, LLC, or a partnership, the following information must be submitted with the application form:

- A copy of the Certificate of Incorporation must be submitted once. Each year, documents showing current corporate status and all officers and shareholders owning 25% or more of the shares in the corporation must be submitted.
- The list of corporate officers and shareholders must include their addresses (examples of acceptable documentation include minutes from the Corporation Annual Meeting listing the names and addresses of the officers and stockholders, or a signed and dated letter from a Corporate Officer listing the names and addresses of current officers and stockholders).
- Partnerships must submit a copy of the partnership agreement once. Each year, the names and addresses of all partners must be submitted.

#### **B. USCG Documentation/State Registration:**

A copy of the vessel's valid US Coast Guard Documentation, or, if undocumented, a copy of the vessel's current State Registration. A vessel's permit application will not be accepted if the vessel registration has expired before NOAA Fisheries receives it.

#### **C. Charter/Party Permit:**

If you are applying for a charter/party permit, you must submit a copy of one of the following documents:

- Valid state license showing the vessel is authorized to carry charter/party passengers.
- Valid US Coast Guard Documentation that shows the vessel is presently documented for the "Coastwise" trade.
- Valid US Coast Guard license to operate or navigate passenger-carrying vessels.

#### **D. Atlantic Herring Fishery:**

If you caught more than 500 mt of Atlantic herring in the previous fishing year, or if you intend to catch more than 500 mt of Atlantic herring during the current fishing year, submit a signed statement verifying that you did so, or that you intend to do so, and attach a copy of a vendor installation receipt from a NMFS-approved Vessel Monitoring System (VMS) vendor, as described in Section 648.9 of the regulations for the Fisheries of the Northeastern United States.

## Description Northeast Fisheries Permits

### Gear Codes and Explanations

Gear Type	Code	Gear Type	Code	Gear Type	Code
Purse Seines	120	Other Trawls	330	Rod and Reel	912
Beach Seines	210	Dredge	410	Tub Trawl	913
Boat Seines	220	Gill/Entangling Nets	700	Longlines or Setlines	920
Bottom Trawls	310	Pots and Traps	800	Harpoons	1010
Mid-water Trawls	320	Hand Lines	911	Other Gears	1200
				Diving Gear	1400

### Description of Northeast Fisheries Permits – Categories Are Shaded

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#### ❖ Atlantic Sea Scallop

**Open Access Permit:** Further restrictions may apply to this category.

<b>1</b>	<b>General:</b> Possess or land no more than 400 lbs of shucked scallops, or 50 US bushels of in-shell scallops per trip (one trip per calendar day). This category includes all gear types.
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**Limited Access Permits:** These permits may only be renewed by vessels that have previously held them or be issued only to approved replacements of such vessels. Please note: All permits issued will be valid for the entire fishing year. A vessel owner has 45 days from the first effective date of the permit within a permit year to make a change to the permit category. **Further restrictions may apply to specific categories. Refer to Northeast Fisheries Regulations.**

<b>2</b>	<b>Full-Time*</b> This category includes all gear types except bottom trawl.
<b>3</b>	<b>Part-Time*</b> This category includes all gear types except bottom trawl.
<b>4</b>	<b>Occasional</b> This category includes all gear types except bottom trawl.
<b>5</b>	<b>Full-Time Small Dredge*</b> Category 3 (Part-Time) vessel may elect this category for the entire year. May fish for scallops using one dredge no larger than 10.5 ft. and a crew no larger than five. This category is limited to dredge (gear code <b>410</b> ) gear only.
<b>6</b>	<b>Part-Time Small Dredge*</b> Category 4 (Occasional) vessel may elect this category for the entire year. May fish for scallops using one dredge no larger than 10.5 ft. and a crew no larger than five. This category is limited to dredge (gear code <b>410</b> ) gear only.
<b>7</b>	<b>Full-Time: Authorized to use trawl nets*</b> This category is limited to bottom trawl nets (gear code <b>310</b> ) only.
<b>8</b>	<b>Part-Time: Authorized to use trawl nets*</b> This category is limited to bottom trawl nets (gear code <b>310</b> ) only.
<b>9</b>	<b>Occasional: Authorized to use trawl nets</b> This category is limited to bottom trawl nets (gear code <b>310</b> ) only.

\*Vessel Monitoring System (VMS) required to be installed and in continuous operation onboard the vessel.

## ❖ Northeast Multispecies

Regulated species: Cod, haddock, yellowtail flounder, pollock, redfish (ocean perch), winter flounder (blackback), American plaice (dab), witch flounder (grey sole), windowpane flounder (sand dab) and white hake

Other Northeast multispecies: Silver hake (whiting), red hake (ling), offshore hake, white hake, ocean pout, and Atlantic halibut (vessels may land or possess on board no more than one Atlantic halibut per trip of at least 36 inches)

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**Limited Access Permits:** These permits may only be renewed by vessels that have previously held them or be issued only to approved replacements of such vessels. Please note: All permits issued will be valid for the entire fishing year. A vessel owner has 45 days from the first effective date of his/her permit within a permit year to make a change to the permit category. Further restrictions may apply to specific categories. Refer to Northeast Fisheries Regulations.

<b>A</b>	<b>Individual DAS:</b> This category includes all gear types except dredge gear.
<b>C</b>	<b>Small Vessel Exemption:</b> (less than or equal to 30 feet) This category includes all gear types except dredge gear.
<b>D</b>	<b>Hook Gear:</b> (Vessels in this category may not change category) This category is limited to handlines (gear code <b>911</b> ), rod and reel (gear code <b>912</b> ), tub trawl (gear code <b>913</b> ) and longlines (gear code <b>920</b> ) gear only.
<b>E</b>	<b>Combination Vessels:</b> (Vessels in this category may not change category) This category includes all gear types except a dredge.
<b>F</b>	<b>Large Mesh Individual DAS:</b> Category A (Individual DAS) or E (Combination) vessels may elect this category for the entire year. Category A DAS for vessels fishing under this permit category will be increased by 36%. These vessels must fish with either gillnets or trawl nets having a minimum of 8.5-inch square or diamond mesh when fishing in the Gulf of Maine, Georges Bank, or Southern New England Regulated Mesh Areas, and 7.5-inch diamond or 8.0-inch square mesh when fishing in the Mid-Atlantic Regulated Mesh Area. This category is limited to gear types/codes <b>120, 210, 220, 310, 320, 330</b> and <b>700</b> only.
<b>HA</b>	<b>Handgear A:</b> (Vessels in this category may not change category) The vessel may possess and land up to 300 lb cod, one Atlantic halibut, and daily possession limit restrictions allowed for the remaining regulated species. This category is limited to rod and reel (gear code <b>912</b> ), handline (gear code <b>911</b> ) or tub trawl (gear code <b>913</b> ) gear only.

\*See page 4 for a list of NE Fisheries gear types and their codes.

**Northeast Multispecies - Open Access Permits:** Further restrictions may apply to specific categories. Refer to Northeast Fisheries Regulations.

<b>HB</b>	<b>Handgear B:</b> The vessel may possess and land up to 75 lb cod, one Atlantic halibut, and daily possession limit restrictions allowed for the remaining regulated species. This category includes rod and reel (gear code <b>912</b> ), handline (gear code <b>911</b> ) or tub trawl (gear code <b>913</b> ) gear only.
<b>I</b>	<b>Charter/Party:</b> The vessel may possess and land multispecies in the EEZ when carrying passengers for hire. (See Section 5D for additional information.) This category is limited to rod and reel (gear code <b>912</b> ) and handline (gear code <b>911</b> ) gear only.
<b>J</b>	<b>Scallop Multispecies Possession Limit:</b> The vessel may possess and land up to 300 lb of regulated species while fishing under a scallop DAS. <b>Vessel must have a Limited Access Scallop Permit to qualify for this category.</b> This category includes all gear types.
<b>K</b>	<b>Open Access Multispecies:</b> The vessel may fish for silver hake (whiting), red hake (ling), offshore hake, ocean pout, or Atlantic halibut (vessels may land or possess on board no more than one Atlantic halibut per trip, at least 36 inches) when participating in an exempted fishing program. This category includes all gear types.

### ❖ Monkfish

**Limited Access Permits:** These permits may only be renewed by vessels that have previously held them, or to approved replacements of such vessels. Further restrictions may apply to specific categories. Refer to Northeast Fisheries Regulations.

<b>A</b>	Vessels may elect this category that were issued permits in this category in the previous fishing year and that do not possess a limited access multispecies permit or a limited access scallop permit. This category includes all gear types except dredge gear.
<b>B</b>	Vessels may elect this category that were issued permits in this category in the previous fishing year and that do not possess a limited access multispecies permit or a limited access scallop permit that are less than 51 Gross Registered Tons (GRT) and do not qualify for a Category A permit. This category includes all gear types except dredge gear.
<b>C</b>	Vessels may elect this category that were issued permits in this category in the previous fishing year and that also possess a limited access multispecies permit or a limited access scallop permit that landed at least 50,000 lb tail-weight or 166,000 lb whole weight of monkfish during the monkfish qualification period.* This category includes all gear types.
<b>D</b>	Vessels may elect this category that were issued permits in this category in the previous fishing year and that also possess a limited access multispecies permit or a limited access scallop permit that are less than 51 Gross Registered Tons (GRT) and do not qualify for a Category C permit. This category includes all gear types.
<b>F</b>	<b>Offshore Fishery Program:</b> Vessels may elect this category that were issued permits in any of the other monkfish limited access permit categories in the previous fishing year. Vessels electing this category must have an operational vessel monitoring system (VMS) installed on the vessel. This category has a specified season of October 1 – April 30 each year. This category includes all gear types.
<b>Vessels Fishing South of 38° 20 N. Latitude</b>	



<b>G</b>	Vessels may elect this category that were issued permits in this category in the previous fishing year and that also possess a limited access multispecies permit or a limited access scallop permit that landed at least 50,000 lb tail-weight or 166,000 lb whole weight of monkfish during the monkfish qualification period* and fish south of 38°20 N. lat. This category includes all gear types except dredge gear.
<b>H</b>	Vessels may elect this category that were issued permits in this category in the previous fishing year and that do not possess a limited access multispecies permit or a limited access scallop permit and do not qualify for an Category A, C, or G permit. This category includes all gear types except dredge gear.

**Open Access Permit:** This permit may be issued to any vessel not issued a monkfish limited access permit—to fish for, possess, or land monkfish. Further restrictions may apply to this category. Refer to Northeast Fisheries Regulations.

<b>E</b>	<b>Incidental Catch:</b> Allows a vessel to possess and land a limited amount of monkfish, depending on fishing year, area fished, and gear fished. For specific limit amounts, contact the Sustainable Fisheries Division at 978-281-9315. This category includes all gear types.
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### ❖ Surfclam/Ocean Quahog

**Open Access Permits:** Further restrictions may apply to specific categories. Refer to Northeast Fishery Regulations.

<b>1</b>	<b>Surfclam:</b> The vessel may fish for surfclams.* This category is limited to dredge (410) gear only.
<b>6</b>	<b>Ocean Quahog:</b> The vessel may fish for ocean quahogs.* This category is limited to dredge (410) gear only.

\* To possess and land surfclams or ocean quahogs from the EEZ, an allocation of quota is required. For more information call 978-281-9315.

**Limited Access Permit:** This permit may only be renewed by vessels that have previously held it or be issued only to approved replacements of such vessels. Further restrictions may apply to this category. Refer to Northeast Fisheries Regulations.

<b>7</b>	<b>Maine Mahogany Quahog:</b> The vessel may harvest and land ocean quahogs without an allocation from the EEZ in the area north of latitude 43 degrees 50 minutes N. This category is limited to dredge (410) gear only.
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### ❖ Summer Flounder (Fluke)

**Limited Access Permit:** This permit may only be renewed by vessels that have previously held it or be issued only to approved replacements of such vessels. Further restrictions may apply to this category. Refer to Northeast Fisheries Regulations.

<b>1</b>	<b>Commercial Moratorium</b> This category includes all gear types.
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**Open Access Permit:** Further restrictions may apply to this category. Refer to Northeast Fisheries Regulations.

<b>2</b>	<b>Charter/Party:</b> May fish for or possess summer flounder in the EEZ while carrying passengers for hire. (See Section 5 D for additional information.) This category includes all gear types.
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### ❖ Scup (Porgy)

**Limited Access Permit:** This permit may only be renewed by vessels that have previously held it or be issued only to approved replacements of such vessels. Further restrictions may apply to this category. Refer to Northeast Fisheries Regulations.

<b>1</b>	<b>Scup Moratorium</b> This category includes all gear types.
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**Open Access Permit:** Further restrictions may apply to this category. Refer to Northeast Fisheries Regulations.

<b>2</b>	<b>Charter/Party:</b> May fish for or possess scup in the EEZ while carrying passengers for hire. (See Section 5 D for additional information.) This category includes all gear types.
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### ❖ Black Sea Bass

**Limited Access Permit:** This permit may only be renewed by vessels that have previously held it or be issued only to approved replacements of such vessels. Further restrictions may apply to this category. Refer to Northeast Fisheries Regulations.

<b>1</b>	<b>Black Sea Bass Moratorium:</b> May fish commercially in the EEZ north of 35 degrees 15.3 minutes N latitude during open season, subject to trip limits. This category includes all gear types.
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**Black Sea Bass continued. Open Access Permit:** Further restrictions may apply to this category. Refer to Northeast Fisheries Regulations.

<b>2</b>	<b>Charter/Party:</b> May fish for or possess black sea bass in the EEZ north of 35 degrees 15.3 minutes N. latitude while carrying passengers for hire. (See Section 5 D for additional information.) This category includes all gear types.
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### ❖ Squid, Mackerel, and Butterfish

**Limited Access Permits:** These permits may only be renewed by vessels that have previously held them or be issued only to approved replacements of such vessels. Further restrictions may apply to specific categories. Refer to Northeast Fisheries Regulations.

<b>1</b>	<b>Loligo/Butterfish Moratorium</b> This category includes all gear types.
<b>5</b>	<b>Illex Squid Moratorium</b> This category includes all gear types.

**Open Access Permits:** Further restrictions may apply to specific categories.

<b>2</b>	<b>Squid/Mackerel/Butterfish Charter/Party:</b> May fish for or possess <b>Loligo</b> or <b>Illex</b> squid, or butterfish in the EEZ while carrying passengers for hire. (See Section 5 D for additional information.) This category includes all gear types.
<b>3</b>	<b>Squid/Butterfish Incidental Catch:</b> May fish commercially in the EEZ for up to 2,500 lb of <b>Loligo</b> squid or butterfish and 10,000 lb of <b>Illex</b> squid per trip. This category includes all gear types.
<b>4</b>	<b>Atlantic Mackerel:</b> May commercially fish for Atlantic mackerel in the EEZ. This category includes all gear types.

### ❖ Spiny Dogfish

**Open Access Permit:** Further restrictions may apply to this category. Refer to Northeast Fisheries Regulations.

<b>1</b>	<b>General:</b> May commercially fish for, possess, or land spiny dogfish caught in or from the EEZ. This category includes all gear types.
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### ❖ Atlantic Bluefish

**Limited Access Permit:** This permit may only be renewed by vessels that have previously held it or be issued only to approved replacements of such vessels. Further restrictions may apply to this category. Refer to Northeast Fisheries Regulations.

<b>1</b>	<b>Scup Moratorium</b> This category includes all gear types.
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**Open Access Permit:** Further restrictions may apply to this category. Refer to Northeast Fisheries Regulations.

<b>2</b>	<b>Charter/Party:</b> May fish for or possess scup in the EEZ while carrying passengers for hire. (See Section 5 D for additional information.) This category includes all gear types.
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### ❖ Black Sea Bass

**Limited Access Permit:** This permit may only be renewed by vessels that have previously held it or be issued only to approved replacements of such vessels. Further restrictions may apply to this category. Refer to Northeast Fisheries Regulations.

<b>1</b>	<b>Black Sea Bass Moratorium:</b> May fish commercially in the EEZ north of 35 degrees 15.3 minutes N latitude during open season, subject to trip limits. This category includes all gear types.
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**Black Sea Bass continued. Open Access Permit:** Further restrictions may apply to this category. Refer to Northeast Fisheries Regulations.

<b>2</b>	<b>Charter/Party:</b> May fish for or possess black sea bass in the EEZ north of 35 degrees 15.3 minutes N. latitude while carrying passengers for hire. (See Section 5 D for additional information.) This category includes all gear types.
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### ❖ Squid, Mackerel, and Butterfish

**Limited Access Permits:** These permits may only be renewed by vessels that have previously held them or be issued only to approved replacements of such vessels. Further restrictions may apply to specific categories. Refer to Northeast Fisheries Regulations.

<b>1</b>	<b>Loligo/Butterfish Moratorium</b> This category includes all gear types.
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<b>5</b>	<b>Illex Squid Moratorium</b> This category includes all gear types.
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**Open Access Permits:** Further restrictions may apply to specific categories.

<b>2</b>	<b>Squid/Mackerel/Butterfish Charter/Party:</b> May fish for or possess <b>Loligo</b> or <b>Illex</b> squid, or butterfish in the EEZ while carrying passengers for hire. (See Section 5 D for additional information.) This category includes all gear types.
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<b>3</b>	<b>Squid/Butterfish Incidental Catch:</b> May fish commercially in the EEZ for up to 2,500 lb of <b>Loligo</b> squid or butterfish and 10,000 lb of <b>Illex</b> squid per trip. This category includes all gear types.
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<b>4</b>	<b>Atlantic Mackerel:</b> May commercially fish for Atlantic mackerel in the EEZ. This category includes all gear types.
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### ❖ Spiny Dogfish

**Open Access Permit:** Further restrictions may apply to this category. Refer to Northeast Fisheries Regulations.

<b>1</b>	<b>General:</b> May commercially fish for, possess, or land spiny dogfish caught in or from the EEZ. This category includes all gear types.
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### ❖ Atlantic Bluefish

**Open Access Permits:** Further restrictions may apply to specific categories. Refer to Northeast Fisheries Regulations.

<b>1</b>	<b>Commercial:</b> May possess or harvest Atlantic bluefish from the EEZ in excess of the daily possession limit. This category includes all gear types.
<b>2</b>	<b>Charter/Party:</b> May fish for or possess Atlantic bluefish from the EEZ while carrying passengers for hire. (See Section 5 D for additional information.) This category includes all gear types.

### ❖ Atlantic Herring

**Open Access Permits:** Further restrictions may apply to specific categories. Refer to Northeast Fisheries Regulations.

<b>1</b>	For vessels that caught more than 500 mt of Atlantic herring in the last calendar year or intend to catch more than 500 mt of Atlantic herring during this calendar year. <b>An operational Vessel Monitoring System is required to be onboard the vessel for this category.</b> (See Section 5E for additional information.) This category includes all gear types.
<b>2</b>	For vessels that did not catch more than 500 mt of Atlantic herring in the previous calendar year or will not catch more than 500 mt of Atlantic herring during the current calendar year. This category includes all gear types.

### ❖ Tilefish

**Limited Access Permits:** These permits may only be renewed by vessels that have previously held them or be issued only to approved replacements of such vessels. **Further restrictions may apply to specific categories. Refer to Northeast Fisheries Regulations.**

<b>A</b>	<b>Full-time tier 1:</b> This category is allocated 66 percent of the TAL, after being reduced 5 percent to adjust for the incidental catch to qualified vessels. This category is limited to longlines or setlines (gear code 920) gear only.
<b>B</b>	<b>Full-time tier 2:</b> This category is allocated 15 percent of the TAL, after being reduced 5 percent to adjust for the incidental catch to qualified vessels. This category is limited to longlines or setlines (gear code 920) gear only.
<b>C</b>	<b>Part-time:</b> This category is allocated 19 percent of the TAL, after being reduced 5 percent to adjust for the incidental catch to qualified vessels. This category is limited to longlines or setlines (gear code 920) gear only.

**Open Access Permit:** This permit may be issued to any vessel not issued a tilefish limited access permit—to fish for, possess, or land tilefish in or from the EEZ. Further restrictions may apply to this category. Refer to Northeast Fisheries Regulations.

<b>D</b>	<b>Incidental Catch:</b> A vessel may possess or land tilefish in or from the EEZ up to 133 lb per trip. This category includes all gear types.
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### ❖ Skate

**Northeast Skate Complex (Skate)** - The following species of skates comprise the NE skate complex and are included under the Federal skate permit: winter skate; barndoor skate; thorny skate; smooth skate; little skate; clearnose skate; and rosette skate.

**Open Access Permit:** Refer to Northeast Fisheries Regulations for further restrictions.

<b>1</b>	<b>General:</b> May commercially fish for, possess, or land skate caught in or from the EEZ. This category includes all gear types.
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## ❖ Atlantic Deep-Sea Red Crab

**Limited Access Permits:** These permits may only be renewed by vessels that have previously held them or be issued only to approved replacements of such vessels. Further restrictions may apply to specific categories. Refer to Northeast Fisheries Regulations.

<b>B</b>	Vessels in this category are subject to a baseline trip limit of 75,000 lb. This category is limited to pots and traps (gear code 800) gear only.
<b>C</b>	Upon demonstrating proof of a trip with landings higher than 75,000 lb, the vessel qualifies for a trip limit equal to the larger trip, rounded to the nearest 5,000 lb. This category is limited to pots and traps (gear code 800) gear only.

**Open Access Permit:** This permit may be issued to any vessel not issued a red crab limited access permit—to fish for, possess, or land red crab in or from the EEZ. Further restrictions may apply to this category. Refer to Northeast Fisheries Regulations.

<b>A</b>	May possess or land red crab in or from the EEZ up to 500 lb per trip. This category includes all gear types.
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**\*See page 4 for a list of NE Fisheries gear types and their codes.**

## ❖ American Lobster

**Limited Access Permits:** These permits may only be renewed by vessels that have previously held them or be issued only to approved replacements of such vessels. If eligible, you may select more than one category. **Further restrictions may apply to specific categories. Refer to Northeast Fisheries Regulations.**

<b>1</b>	<b>Commercial Non-Trap:</b> May harvest lobster in the EEZ. This category includes all gear types except pots and traps.
<b>2</b>	<b>Charter/Party Non-Trap:</b> May harvest lobster in the EEZ. This category includes all gear types except pots and traps.
<b>A1</b>	<b>Commercial Trap Gear Area 1:</b> May harvest lobster in Federal Lobster Management Area 1. This category is limited to pots and traps (gear code 800) gear only.
<b>A2</b>	<b>Commercial Trap Gear Area 2:</b> May harvest lobster in Federal Lobster Management Area 2. This category is limited to pots and traps (gear code 800) gear only.
<b>A6</b>	<b>Commercial Trap Gear Area 6:</b> May harvest lobster in Federal Lobster Management Area 6. Vessel owner must possess a valid CT or NY state lobster license to be eligible for this category. This category is limited to pots and traps (gear code 800) gear only.
<b>AOC</b>	<b>Commercial Trap Gear Outer Cape Area:</b> May harvest in Outer Cape Federal Lobster Management Area. This category is limited to pots and traps (gear code 800) gear only.

**Note:** Northeast Fisheries Regulations require NMFS to issue a Commercial Trap Gear Area 2/3 Overlap permit to any vessels that renew a Commercial Trap Gear Area 2 and (or) Area 3 permit.

### American Lobster Historical Participation

**Limited Access Permits:** For information on the American Lobster Historical Participation program contact the NMFS Northeast Region at (978) 281-9144.

<b>A3</b>	<b>Commercial Trap Gear Area 3:</b> May harvest lobster in Federal Lobster Management Area 3. This category is limited to pots and traps (gear code 800) gear only. <b>**See eligibility requirements below.</b>
<b>A4</b>	<b>Commercial Trap Gear Area 4:</b> May harvest lobster in Federal Lobster Management Area 4. This category is limited to pots and traps (gear code 800) gear only. <b>**See eligibility requirements below.</b>
<b>A5</b>	<b>Commercial Trap Gear Area 5:</b> May harvest lobster in Federal Lobster Management Area 5. This category is limited to pots and traps (gear code 800) gear only. <b>**See eligibility requirements below.</b>

**Note:** Northeast Fisheries Regulations make mandatory the issuance of a Commercial Trap Gear Area 2/3 Overlap permit to any vessels that renew a Commercial Trap Gear Area 2 and (or) Area 3 permit.

**\*\* You may only select Areas 3, 4 or 5 on your 2005 permit under the following circumstances:**

1. You have received a written Final Determination of Lobster Trap Area Eligibility letter that declares your eligibility and specifies an approved trap allocation.
2. You submitted a Lobster Trap Area Eligibility Application prior to July 31, 2003, and were subsequently issued an interim permit (LOI) to continue fishing in Area 3, 4 or 5 until the end of the 2003 fishing year or until notified by NMFS of your eligibility. If you fall into this category and have not yet been notified of your eligibility, your interim permit can be carried over into the 2005 fishing year.

**Note:** If you did not submit a Lobster Trap Eligibility Application for Areas 3, 4 or 5 prior to July 31, 2003, but submitted one between August 1, 2003 and December 31, 2003, you may not fish in Areas 3, 4 or 5 until you have received a Final Determination of Lobster Trap Area Eligibility letter that declares your eligibility and specifies an approved trap allocation.

**Additional Documents Required (Section 5 B)**

**Scallop Vessels owned** – All owners of the vessel that is the subject of this application should list all vessels in which they have ownership interests that have limited access permits in the Atlantic Sea Scallop fishery. Having an ownership interest includes, but is not limited to, persons who are shareholders in a vessel with a limited access Atlantic Sea Scallop permit owned by a Corporation, who are partners (general or limited) of a vessel with a limited access Atlantic Sea Scallop permit, or who, in any way, have any other type of ownership interest in a vessel with a limited access Atlantic Sea Scallop permit.

**Vessel Name:** \_\_\_\_\_ **Vessel Permit Number:** \_\_\_\_\_

<b>DO NOT list business or Corporate names.</b>	Other Limited Access Atlantic Sea Scallop vessels that this owner has ownership interest.	Other Limited Access Atlantic Sea Scallop vessels that this owner has ownership interest.	Other Limited Access Atlantic Sea Scallop vessels that this owner has ownership interest.
<b>Owners of the vessel listed above</b>	<b>Vessel Name &amp; Permit Number</b>	<b>Vessel Name &amp; Permit Number</b>	<b>Vessel Name &amp; Permit Number</b>





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Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining data needed, and completing & reviewing the information. Send comments regarding this burden estimate or suggestions for reducing this burden to: National Marine Fisheries Service, Permit Office, 1 Blackburn Drive, Gloucester, MA 01930-2298. The Paperwork Reduction Act requires that potential respondents for a fishing vessel permit be notified of certain information regarding their rights and the burden associated with applying for Federal fisheries permits. One of the regulatory steps taken by the National Marine Fisheries Service to carry out its conservation and management objectives is the requirement of a permit for users of the resources. All the fisheries included on this application require a permit to fish for or retain these species in or from the EEZ, Section 303 (b)(1) of the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA) specifically recognizes the need for permit issuance. The purpose and use of these permits are to: (1) register industry participants and fishing vessels, (2) list the characteristics of fishing vessels, (3) exercise influence over compliance, (4) provide a mailing list for the dissemination of important information to the industry, (5) register participants to be considered for limited entry, and (6) provide a universe for data collection samples. Both the MSFCMA and Executive Orders 12866 et al. require the determination of this information. Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number. Any information submitted by any person to obtain a permit is not confidential, and may be disclosed upon request.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. ; I.D.]

RIN 0648-AN25

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Monkfish Fishery; Amendment 2

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement measures in Amendment 2 to the Monkfish Fishery Management Plan (FMP) developed jointly by the New England and Mid-Atlantic Fishery Management Councils (Councils). Amendment 2 was developed to address essential fish habitat (EFH) and bycatch issues, and to revise the FMP to address several issues raised during the public scoping process. This proposed action includes the following programs and measures: A new limited access permit for qualified vessels fishing south of 38° 20' N. lat.; an offshore trawl fishery in the Southern Fishery Management Area (SFMA); a maximum disc diameter of 6-inches (15.2 cm) for trawl gear vessels fishing in the SFMA; closure of two deep-sea canyon areas to all gears when fishing under the monkfish day-at-sea (DAS) program; establishment of a research DAS set-aside program; an exemption program for vessels fishing outside of the Exclusive Economic Zone (EEZ); adjustments to the incidental monkfish catch

limits; a decrease in the minimum monkfish size in the SFMA; removal of the 20-day block requirement; revisions to the monkfish baseline provisions; and additions to the frameworkable measures. This intent of this action is to provide efficient management of the monkfish fishery and to meet conservation objectives.

DATES: Comments must be received by 5 p.m., [insert date 30 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: Written comments on the proposed interim rule may be submitted by any of the following methods:

- E-mail: E-mail comments may be submitted to [mnkamnd2@noaa.gov](mailto:mnkamnd2@noaa.gov). Include in the subject line the following “Comments on the Proposed Rule for Monkfish Amendment 2.”
- Federal e-Rulemaking Portal: <http://www.regulations.gov>
- Mail: Comments submitted by mail should be sent to Patricia A. Kurkul, Regional Administrator, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930-2298. Mark the outside of the envelope “Comments on the Proposed Rule for Monkfish Amendment 2.”
- Facsimile (fax): Comments submitted by fax should be faxed to (978) 281-9135.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule should be submitted to the Regional Administrator at the address above and by e-mail to [David Rostker@omb.eop.gov](mailto:David.Rostker@omb.eop.gov), or fax to (202) 395-7285.

Copies of Amendment 2, its Regulatory Impact Review (RIR), including the Initial Regulatory Flexibility Analysis (IRFA), and the Final Supplemental Environmental Impact Statement (FSEIS) are available on request from Paul J. Howard, Executive Director, New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950. These documents are also available online at <http://www.nefmc.org>.

FOR FURTHER INFORMATION CONTACT: Allison R. Ferreira, Fishery Policy Analyst, (978) 281-9103; fax (978) 281-9135; e-mail [allison.ferreira@noaa.gov](mailto:allison.ferreira@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

The Councils developed Amendment 2 to address a number of issues that arose out of the implementation of the original FMP, as well as issues that were identified during public scoping.

Issues arising from the original FMP include: The displacement of vessels from their established monkfish fisheries due to restrictive trip limits; unattainable permit qualification criteria for vessels in the southern end of the range of the fishery; discards (bycatch) of monkfish due to regulations (i.e., minimum size restrictions and incidental catch limits); and deficiencies in meeting Magnuson-Stevens Act requirements pertaining to protection of Essential Fish Habitat (EFH) in accordance with the Joint Stipulation and Order resulting from the legal challenge American Oceans Campaign, et al. v. Daley. Issues arising from public scoping include: Deficiencies in meeting Magnuson-Stevens Act requirements, including preventing overfishing and rebuilding overfished stocks; a need to improve monkfish data collection and research; the need to establish a North Atlantic Fisheries Organization (NAFO) exemption program for

monkfish; multiple vessel baseline specifications for limited access monkfish vessels; a need to update environmental documents describing the impact of the FMP; and a need to reduce FMP complexity where possible.

A notice of availability of a Draft Supplemental Environmental Impact Statement (DSEIS), which analyzed the impacts of all of the measures under consideration in Amendment 2, was published on April 30, 2004 (69 FR 23571), with public comment accepted through July 28, 2004. Public hearings were held between June 15 and June 24, 2004, in six locations from Maine to North Carolina.

#### Proposed Measures

##### 1. Modification of the Limited Access Permit Qualification Criteria

Modification of the limited access monkfish permit qualification criteria is being proposed to address concerns raised by some vessel owners who believe that they were not adequately notified of the monkfish control date and/or because of confusion regarding the southern boundary of the monkfish management unit in the initial FMP.

Amendment 2 would provide a renewed opportunity for a non-limited access monkfish vessel to qualify for a new limited access monkfish permit if it could demonstrate that it had monkfish landed in the area south of 38°00' N. lat. during the qualification period March 15 through June 15, for the years 1994 through 1998. Two permits would be available, depending on the amount of monkfish the vessel landed during the qualification period. Qualifying monkfish landing levels for these permits (specified below) would be the same amounts that were required for the original monkfish limited access permits. Vessels that could demonstrate that they landed at least 50,000 lb (22,680 kg) tail-weight, or 166,000 lb (75,298 kg) whole-

weight, of monkfish from the area south of 38°00' N. lat. during the qualification period would qualify for a monkfish limited access Category G permit (these landing criteria correspond to the current Category A and C permits). Vessels that could demonstrate that they landed at least 7,500 lb (3,402 kg) tail-weight, or 24,900 lb (11,295 kg) whole-weight, of monkfish from the area south of 38°00' N. lat. during the qualification period would qualify for a monkfish limited access Category H permit (these landing criteria correspond to the current Category B and D permits). Vessels would be prequalified for these permits based on landings information currently on file with NMFS. Vessels that have not prequalified for the Category G or H permits, or vessels that want to obtain a different permit than the one for which they qualified, would be required to submit written information documenting monkfish landings during the qualification period specified above. Landings would need to be documented through dealer weighout receipts or dealer reports submitted to NMFS or other NMFS-approved entity. An appeal process would be established, similar to the appeal process established for the original monkfish limited access program, to allow a vessel owner to appeal a denial of a Category G or H permit, if it is determined that the denial was based on incorrect information.

Vessels qualifying for a Category G or H permit would be restricted to fishing on a monkfish DAS south of 38°20' N. lat. (the initial line was established at 38°00' N. lat. but was revised to 38°20' N. lat. in response to sea turtle protection measures). In addition, the landing limit for Category G vessels when fishing under a monkfish DAS would be the same as for Category A or C vessels. The landing limit for Category H vessels when fishing under a monkfish DAS would be the same as Category B or D vessels. The Councils did not address the issue of monkfish incidental catch limits when not fishing under a monkfish DAS for Category G

and H vessels. Therefore, NMFS intends to keep the incidental catch limit for these vessels the same as the incidental catch limits for vessels not issued a limited access monkfish permit (Category E vessels).

## 2. Offshore Fishery Program

Amendment 2 would establish an Offshore Fishery Program in the SFMA that would allow vessels to elect to fish under a monkfish trip limit of 1,600 lb (725.8 kg) tail-weight (or 5,312 lb (2,410 kg) whole-weight) when fishing in the Offshore Fishery Program Area, under specific conditions, regardless of the trip limit that would otherwise be applicable to that vessel. For a vessel electing to fish in this program, monkfish DAS would be pro-rated based on a trip limit ratio (the standard permit category trip limit applicable to non-program vessels fishing in the SFMA, divided by 1,600 lb (725.8 kg) (the trip limit specified for vessels fishing in the program)), multiplied by the monkfish DAS available to the vessel's permit category when fishing in the SFMA. For example, in fishing year 2004, when the trip limit and DAS for permit Category C were set at 550 lb (249.5 kg) tail-weight and 28 DAS, respectively, a permit Category C vessel would be provided 9.6 monkfish DAS if electing to fish under the Offshore Fishery Program  $(550 \text{ lb (249.5 kg)} / 1,600 \text{ lb (725.8 kg)} \times 28 \text{ DAS} = 9.6 \text{ DAS})$ .

Vessels electing to fish in this program would be required to fish under the program rules for the entire fishing year and would receive a separate monkfish permit category (Category F). For the 2005 fishing year, vessels would be allowed to change their current permit category to permit Category F within 45 days of the effective date of the final rule implementing Amendment 2, if approved, provided the vessel did not fish under a monkfish DAS during the 2005 fishing year.

A vessel electing to fish in this program would be allowed to fish its monkfish DAS only within the Offshore Fishery Program Area from October through April. In addition, vessels would be prohibited from fishing on a monkfish DAS outside the program area. Enrolled vessels would be required to have on board a vessel monitoring system (VMS) that is operational during the entire October through April season. Unless subject to VMS requirements under regulations specific to another FMP, vessels would be allowed to turn their VMS units off between May 1 and September 30 for a minimum of 30 days.

A vessel electing to fish in this program would be subject to the gear requirements applicable to monkfish permit Category A and B vessels (monkfish vessels that do not also possess a Northeast (NE) multispecies or scallop limited access permit) when fishing under a monkfish DAS, i.e., vessels fishing with trawl gear must fish with a minimum mesh size of 10-inch (25.4-cm) square or 12-inch (30.5-cm) diamond mesh throughout the codend. Monkfish Category C and D vessels that elect to fish in this program would still be required to use a NE multispecies or scallop DAS when fishing on a monkfish DAS. Any vessel not electing to fish under this program would still be allowed to fish in the Offshore Fishery Program Area under the rules and regulations applicable to non-program vessels.

Establishment of the Offshore Fishery Program would help restore the offshore monkfish fishery that has largely ceased to occur due to the small trip limits implemented under the initial FMP and the disapproval of the “running clock” measure that was proposed in the FMP, which would have provided vessels with the ability to account for any trip limit overages. This program is intended to provide flexibility to the fishing industry without impacting the mortality objectives of the FMP.



### 3. Closure of Oceanographer and Lydonia Canyons

Under this proposed rule, vessels fishing on a monkfish DAS would be prohibited from fishing in the offshore canyon areas known as Oceanographer and Lydonia Canyons, which contain deep-sea corals, regardless of gear used. This measure is being proposed to minimize, to the extent practicable, the adverse impact of monkfish fishing on EFH, especially due to the potential impacts associated with an expansion of the directed offshore monkfish fishery under the Offshore Fishery Program proposed in this rule.

Twenty-three federally managed species have been observed or collected in surveys within the two proposed closure areas, and many of them have EFH defined as hard substrates in depths greater than 200 m. In addition, the EFH designations for juvenile and/or adult life stages of six of these species (redfish, tilefish, and four species of skates) overlap with the two proposed area closures. EFH for all six of these species has been determined to be moderately or highly vulnerable to the effects of bottom trawls and minimally vulnerable to bottom gillnets. Deep-sea corals have not been identified as a component of EFH for any species in the NE region, although they are known to grow on hard substrates, which are included in the EFH descriptions for many of the federally managed species within the proposed closures. They are also known to be particularly vulnerable to damage or loss by bottom trawls, and likely to be damaged or removed from the bottom by gillnet gear. Additionally, avoiding any direct adverse impacts of monkfish bottom trawl gear and gillnet gear for six species of fish, and any indirect adverse impacts on hard bottom substrates and species of emergent epifauna, including corals, that grow on those substrates within the boundaries of the two

proposed closure areas, would minimize any adverse impacts resulting from the potentially expanding offshore monkfish fishery proposed under this amendment. These closures are also expected to help mitigate bycatch concerns.

#### 4. SFMA Roller Gear Restriction

Amendment 2 proposes to restrict the diameter of roller gear used on trawl net vessels when fishing in the SFMA. Under this proposed rule, the roller gear on all trawl vessels fishing under a monkfish DAS would be restricted to a maximum diameter of 6 inches (15.2 cm). This measure is being proposed to minimize, to the extent practicable, the adverse impact of trawl fishing in the SFMA on EFH. This measure is specific to the SFMA, since it would help ensure that trawl vessels, which are known to be able to better target monkfish successfully with smaller roller gear in the SFMA than in the Northern Fishery Management Area (NFMA), do not fish in areas of more complex bottom characteristics, including the offshore canyon areas.

#### 5. Cooperative Research Incentive Programs

Amendment 2 proposes two programs that would encourage vessels to engage in cooperative research, including, but not limited to: Research to minimize bycatch and interactions of the monkfish fishery with sea turtles and other protected species; research to minimize the impact of the monkfish fishery on EFH; research or experimental fisheries for the purpose of establishing a monkfish trawl exempted fishery (under the NE Multispecies FMP) in the NFMA; research on the biology or population structure and dynamics of monkfish; cooperative surveys; and gear efficiency.

A pool of 500 DAS would be set aside to distribute to vessels to engage in cooperative research projects. These DAS would be created by removing 500 DAS

from the total available monkfish DAS prior to distribution to individual vessels. This reduction would amount to less than 1 DAS deducted for each individual vessel allocation. Should this program be approved, and individual DAS allocations changed because of this approval, vessel owners would be notified of their new monkfish DAS allocation.

Under the first research program, NMFS would publish a request for proposals (RFP) and vessels would submit competitive bids to participate in specific research or survey projects. NMFS would then convene a review panel composed of Council members from the Councils' Monkfish Oversight Committee, the Council's Research Steering Committee, and other technical experts to review the proposals. NMFS would consider the recommendations of each panel member and award the contracts to successful applicants, including a distribution of DAS from the set-aside pool.

Any of the 500 DAS not distributed through the RFP process would be available to vessels through a second program, i.e., the existing experimental fishery permit (EFP) process, on a first-come-first-served basis. Under this second program, vessels applying for an EFP would indicate the number of monkfish DAS they would require to complete their research project. NMFS would then review the EFP application and, if approved, issue the permit exempting the vessel from monkfish DAS usage requirements. The total number of monkfish DAS that could be used in the two programs (distributed under the RFP process or used in the exemption program) could not exceed the originally established 500 DAS annual set-aside pool. For any DAS requested that exceed the analyzed 500 DAS set-aside, the applicant would be required to prepare an Environmental Assessment for the additional DAS exemption request.

These two research programs are being proposed for the purpose of expanding incentives to participate in a range of monkfish research and survey activities by reducing costs associated with research, and to streamline the EFP process.

#### 6. Northwest Atlantic Fisheries Organization (NAFO) Regulated Area Exemption Program

Amendment 2 proposes an exemption from certain FMP regulations for vessels that are fishing for monkfish under a High Seas Permit in the NAFO Regulated Area and transiting the EEZ with monkfish on board or landing monkfish in U.S. ports. Similar to the NAFO waters exemption in the NE Multispecies FMP, monkfish vessels enrolled in the NAFO Regulated Area Exemption Program would be exempt from the monkfish regulations pertaining to permit, minimum mesh size, effort control (DAS) and possession limit rules. Further, the monkfish catch from the NAFO Regulated Area would not count against the monkfish total allowable catch (TAC), provided: The vessel has on board a letter of authorization (LOA) issued by the Regional Administrator; except for transiting purposes, the vessel fishes exclusively in the NAFO Regulated Area and does not harvest fish in, or possess fish harvested from, the EEZ; when transiting the EEZ, all gear is properly stowed and not available for immediate use; and the vessel complies with all High Seas Fishing Compliance Permit and NAFO conservation and enforcement measures while fishing in the NAFO Regulated Area. This proposed action would provide additional flexibility to monkfish vessels without compromising the mortality objectives of the FMP.

#### 7. Incidental Catch Provisions

Three adjustments to the monkfish incidental catch limits would be made under this rule. The first adjustment would increase the current 50-lb (22.7-kg) possession limit to 50 lb (22.7 kg) per day, or partial day, up to a maximum of 150 lb (68 kg) per trip, for vessels not fishing under a monkfish DAS and fishing with handgear and small mesh (see below), and for NE multispecies limited access vessels that are less than 30 feet in length. Small mesh is defined as mesh smaller than the NE multispecies minimum mesh size requirements when fishing in the Georges Bank, Gulf of Maine, and Southern New England Regulated Mesh Areas (RMAs), and mesh smaller than the summer flounder minimum mesh size when fishing in the Mid-Atlantic RMA.

The second adjustment would implement the same incidental monkfish trip limit of 50 lb (22.7 kg) per day, or partial day, up to a maximum of 150 lb (68 kg) per trip, for vessels fishing with surfclam or ocean quahog hydraulic dredges, and General Category sea scallop vessels fishing with a scallop dredge. These vessels are currently prohibited from retaining monkfish. For the purposes of these new trip limits, a day would be counted starting with the time the vessel leaves port (as recorded in its Vessel Trip Report (VTR)), or, if the vessel has an operational VMS, when the vessel crosses the VMS demarcation line.

The third monkfish incidental catch limit adjustment would be applicable to vessels fishing with large mesh in the NE Multispecies Mid-Atlantic Exemption Area (an area defined as west of 72°30' N. long. and which extends eastward around Long Island, NY). This adjustment would increase the current 50-lb (22.7-kg) possession limit to 5 percent of the total weight of fish on board, up to a maximum of 450 lb (204.1 kg), based on tail weight equivalent. These three adjustments are proposed for the purpose of minimizing regulatory discards due to the

incidental catch regulations without affecting the overall stock rebuilding program. Additionally, the third adjustment is being proposed to restore the trip limit that was in effect prior to redefining the Mid-Atlantic RMA in the NE Multispecies FMP.

#### 8. Decrease in Minimum Fish Size

Amendment 2 proposes to reduce the minimum fish size for monkfish in the SFMA to 11 inches (27.9 cm) tail length, 17 inches (43.2 cm) total length, from the current limit of 14 inches (35.6 cm) tail length, 21 inches (53.3 cm) total length. This change would make the minimum size consistent with that which currently applies in the NFMA, simplifying the FMP rules and improving enforceability. Allowing vessels to retain smaller monkfish would also likely minimize regulatory discards.

#### 9. Removal of 20-day Spawning Block Requirement

Current monkfish regulations require limited access monkfish permit holders to take a 20-day block out of the fishery during April through June each year, paralleling a similar regulation in the NE Multispecies FMP that applies from March through May. Amendment 2 proposes to eliminate this requirement, since it imposes an enforcement burden and increases the regulatory burden on monkfish vessels with no apparent biological or economic benefit. This change does not affect the requirement for monkfish vessels that also hold a NE multispecies limited access permit and, who, therefore, must abide by the NE multispecies 20-day spawning block requirement when fishing under a monkfish/multispecies DAS.

#### 10. Vessel Permit Baseline Modification

Currently, a vessel is limited to upgrading its vessel permit characteristics by 10 percent of the length and tonnage, and 20 percent of the horsepower of the vessel at

the time it was issued a monkfish limited access permit. Since the monkfish limited access program was not implemented until 1999, vessels that also had been issued a prior limited access permit under another FMP, and that also downsized the vessel characteristics (either through a vessel replacement or modifications to the vessel, such as an engine replacement) in the period between the issuance of the two permits, would have two different vessel permit baselines--one for the initial vessel characteristics, and one for the vessel characteristics at the time the monkfish permit was issued. This situation limits the ability of the vessel owner to transfer the permit to another vessel that is within the original upgrading limitations but that exceeds the monkfish permit upgrading limitations, without losing the vessel's monkfish permit. Amendment 2 would provide a one-time opportunity to allow vessel owners to set the monkfish permit baseline at the characteristics of the vessel when it was issued its first Federal limited access permit, rather than the vessel characteristics at the time it was issued a monkfish limited access permit under the initial monkfish FMP. Such an adjustment would only be made at the request of the vessel owner, provided such a request is made on or before April 30, 2006, or within 1 year of implementation of the final rule for Amendment 2, if approved, whichever is later.

NMFS notes this measure as one of concern since, although this measure would benefit some vessels, it would not provide a solution to the broader problem of there being more than one vessel permit baseline for many vessels. For example, a monkfish vessel that holds Federal limited access permits in fisheries for which limited access programs were established after implementation of the initial monkfish FMP would not be affected by this proposed change and, therefore, could continue to have more than

one vessel permit baseline on that vessel. Because it would not address the issue of more than one baseline for all fisheries, NMFS believes that it may be more efficient and comprehensive to address this particular change in an omnibus amendment that would address all FMP regulations that include Federal limited access permits and corresponding vessel permit baselines. Due to this concern, NMFS is highlighting this particular measure for comment.

#### 11. Modification of the Framework Adjustment Procedures

Amendment 2 proposes three additions to the list of actions that can be taken under the existing framework adjustment procedure. The proposed additional items that the Councils could consider under the framework adjustment procedure are: A monkfish DAS Leasing Program; measures to minimize the impact of the fishery on endangered or protected species; and measures that would implement bycatch reduction devices. Including these additional measures to the list of frameworkable items could reduce the time required to implement such regulations, which otherwise would have to be done through an FMP amendment process.

#### 12. Regulatory Changes

The proposed regulations also include several editorial revisions to the existing text in 50 CFR 648, subpart F, that are not proposed in Amendment 2. These revisions would remove obsolete language (references to regulations in effect during previous fishing years) and improve the organization and clarity of the regulations.

This proposed rule would also correct an error in the incidental catch limit regulations for scallop vessels fishing under a scallop DAS found at 50 CFR 648.94(c)(2). The original FMP and the preamble to the final rule implementing the FMP (64 FR 54732, October 7, 1999) stated



that all vessels issued an incidental monkfish permit that are fishing under a scallop DAS, including both dredge vessels and vessels fishing under the trawl net exemption, are subject to an incidental catch limit of 300 lb (136.1 kg) tail-weight per DAS (see section 4.6.3.2 of the FMP). However, the regulatory text in the final rule implementing the FMP inadvertently only referenced scallop dredge vessels fishing under a scallop DAS. This proposed rule would correct the regulations at § 648.94(c)(2) to apply to all vessels fishing under a scallop DAS, consistent with the intent of the original FMP.

In addition, this proposed rule would correct the monkfish minimum trawl mesh size for the Southern New England (SNE) Monkfish and Skate Trawl Exemption Area, specified at § 648.80(b)(5)(i)(B), to be consistent with the minimum trawl mesh size for vessels fishing under only a monkfish DAS, specified at § 648.91(c)(1)(i). The necessary minimum mesh size change to this exemption program under the NE Multispecies FMP was inadvertently missed in drafting the regulatory text for the final rule implementing the original FMP.

Finally, this proposed rule would correct an error in the possession limit regulations for limited access Category C and D vessels fishing on a multispecies DAS in the SFMA with gear other than trawl gear, specified at § 648.94(b)(3)(ii), to reference the fact that the 50-lb (22.7-kg) tail-weight possession limit is per multispecies DAS. This error inadvertently occurred in the regulatory text of the final rule implementing the FMP, but was correctly described in the preamble to that rule.

#### Classification

At this time, NMFS has not determined that the FMP amendment that this proposed rule would implement is consistent with the national standards of the Magnuson-Stevens Act and

other applicable laws. NMFS, in making that determination, will take into account the data, views, and comments received during the comment period.

The Councils prepared a DSEIS for this amendment; a notice of availability was published on April 30, 2004 (69 FR 23751); a correction of the telephone number included in the April 30, 2004, Federal Register notice (69 FR 23751) was published on May 7, 2004 (69 FR 25574). The Councils prepared an FSEIS for this amendment and submitted the final version to NMFS on December 10, 2004. A notice of availability for the FSEIS will publish shortly. The FSEIS analyzed the impact of the proposed action and alternatives compared to taking no action. The FSEIS concluded that the biological impact of the proposed measures would be neutral, except for a possible minor negative impact on monkfish yield per recruit resulting from the reduction in minimum fish size in the SFMA, if vessels target smaller fish. Also, the proposed Offshore Fishery Program in the SFMA and the modification of the permit qualification criteria could cause some effort to shift from inshore to offshore areas, but the impact of such a shift cannot be predicted. The proposed measures are not expected to have a significant impact on protected species, although the Offshore Fishery Program may have a positive impact, since overall effort would be reduced due to the pro-rating of DAS. The proposed measures will not have an adverse impact on habitat. Two measures are specifically designed to minimize, to the extent practicable, the effect of the fishery on EFH. These measures, the SFMA roller gear restriction and the closure of Oceanographer and Lydonia Canyons, would have a positive, but not significant, impact on habitat, since both are preventative, rather than restrictive, when compared to current fishing practices. The socio-economic impacts of the proposed action are

expected to be slightly positive, although some measures would have no impact because they are either administrative or do not affect current fishing activities (i.e., they are preventative).

This proposed rule has been determined to be not significant for the purposes of E.O. 12866.

The Councils prepared an IRFA 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. 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. There are no Federal rules that may duplicate, overlap, or conflict with the proposed rule. A summary of the IRFA follows. A copy of this analysis is available from the New England Fishery Management Council (see ADDRESSES).

#### Description of Small Entities to Which the Proposed Rule Will Apply

The measures proposed in Amendment 2 could impact any commercial vessel issued a Federal monkfish vessel permit. There are two main components of the monkfish fleet: Vessels eligible to participate in the limited access sector of the fleet, and vessels that participate in the open access sector under the incidental catch permit. In 2001, there were 723 monkfish limited access vessels, 687 of which were participants during fishing year (FY) 2001. In addition, there were 1,977 incidental catch permits, 1,023 of which participated in the fishery. Under the Small Business Administration (SBA) size standards for small fishing entities, i.e., \$3.5 million, all of the participating vessels are considered small, as gross sales by any entity do not exceed this threshold. The proposed actions would provide regulatory relief to small fishing vessels participating in the monkfish fishery.

## Economic Impacts of the Proposed Action

### 1. Modification of the permit qualification criteria

Under the new limited access permits proposed in Amendment 2, economic opportunities would be restored for some vessels fishing south of 38° 20'N. lat. It is possible that the addition of new moratorium permitted vessels will have an impact on the trip limits for other vessels fishing in the SFMA, since the TAC would be distributed over an increased number of vessels, although this economic impact from this change cannot be accurately estimated. Preliminary estimates indicate that up to five additional vessels could qualify for a limited access monkfish permit under the proposed action. From January 1, 1995, to the implementation of the initial FMP in November 1999, these five vessels averaged approximately \$78,000 in revenues from monkfish, out of their total revenues of \$480,000 for the same period.

### 2. Offshore Fishery Program

The proposed Offshore Fishery Program in the SFMA would be voluntary and would allow vessels to use their available fishing time more efficiently by providing vessels with an increased monkfish trip limit in exchange for a reduction in their monkfish DAS. Over a fishing season, a vessel participating in the program could potentially achieve higher profitability because more monkfish could be retained using fewer overall inputs. While VMS would be required for participating vessels, and vessels currently not having VMS would have to bear the cost of installation, each individual would be able to weigh the benefits and costs of participating in the program.

### 3. Closure of Oceanographer and Lydonia Canyons

The economic effect of the proposed closure of Oceanographer and Lydonia Canyons to monkfish vessels was estimated by identifying the fishing activity taking place within the areas using the position coordinates provided in VTRs for calendar years 1999 and 2001. No trips were identified as having occurred within the proposed closure areas. Based upon this analysis, the economic effect of the closure would be zero.

#### 4. SFMA Roller Gear Restriction

Restricting the trawl roller gear diameter to a 6-inch (15.2-cm) maximum for vessels fishing on a monkfish DAS in the SFMA may have some short-term negative economic impacts on some vessels, since vessels using non-conforming gear would be required to bear the cost of making the necessary change. However, 6-inch (15.2-cm) roller gear is already used by many vessels in the SFMA, reducing the potential impact of this proposed measure. The effect of this measure is not quantifiable, since the number of non-conforming vessels cannot be determined at this time.

#### 5. Cooperative Research Incentive Programs

The economic impacts of the changes to the cooperative research programs funding would be, at most, redistributive in nature. The 500-DAS set-aside available for research purposes would be drawn equally from the DAS allocations of all monkfish vessels. Thus, monkfish vessels that use their full allocation of DAS and do not participate in research projects would experience a loss in fishing opportunities, although minor (less than 1 DAS per vessel), while other vessels could expand their fishing opportunities through participation in such projects. Vessels not using their full allocations of DAS would not be affected.

#### 6. NAFO Regulated Area Exemption Program

The proposed action would exempt anyone fishing in the NAFO regulatory area from EEZ regulations. Vessels would be assumed compliant with NAFO regulations and would be issued a High Seas Fishing Compliance permit, relieving participating vessels from dual compliance with both NAFO and EEZ regulations. While this would provide vessels with greater flexibility compared to current regulations, the economic impact of this change cannot be estimated, since the extent that current regulations inhibit domestic vessels from participating in the NAFO Regulatory Area is unknown. However, this reduction in regulatory burden would likely have a positive economic impact, since the EEZ measures are more restrictive than their NAFO counterparts.

#### 7. Incidental catch provisions

Based on FY 2001 VTR records, modification of the incidental catch limits would affect a total of 835 trips made by 112 vessels, providing these small entities an opportunity to retain more monkfish than under current conditions. Since the proposed change represents an increase over current trip limits, it is impossible to provide a precise estimate of the economic benefit provided by the change; however, an upper bound estimate of the economic benefit can be calculated by assuming that all trips would retain the maximum allowable limit. Using the average 2001 monkfish (tail-weight) price of \$2.53 per lb, the maximum revenue gain would be \$192,000, an average benefit of \$1,700 in gross fishing revenue for the 112 vessels that would benefit.

Based on FY2001 VTR data, 1,620 trips made by 52 vessels would potentially be affected by the proposed change to the incidental catch limit for General category scallop and clam dredge vessels. Most of these trips were 24 hours or less, and nearly all were less than 48

hours. Thus, the maximum benefit from a 50-lb (22.7-kg) trip limit would be \$204,000, again using the average 2001 monkfish price of \$2.53 per lb. This maximum benefit assumes that catch rates on every trip would be at least 50 lb (22.7 kg), which is unlikely, since the median landings for vessels with an monkfish incidental catch permit were only 25 lb (11.3 kg). At this median level, the revenue gain would be approximately \$102,000, an average of just under \$2,000 per vessel. The proposed incidental catch limit increase would provide only a modest increase above this level since few General category scallop or clam dredge trips are more than 24 hours, and nearly all are less than 48 hours. Assuming median landings, the maximum benefit would be only \$10,250 more than that of the 50-lb (22.7-kg) incidental trip limit.

Based on FY 2001 VTR records, the proposed change to the incidental catch limit for summer flounder vessels would affect 114 vessels. Using these VTR records, an estimate of the potential revenues that would be restored to these vessels was calculated. Adjusting the observed monkfish landings by the current incidental catch limit of 50 lb (22.7 kg) per trip, the average annual restored landings per vessel would be 326 lb (147.9 kg), translating to \$825 per vessel at the average 2001 monkfish price per pound of \$2.53. However, the impact varies greatly across vessels, ranging from no impact for vessels without an observed trip exceeding 50 lb (22.7 kg), to almost \$10,000.

#### 8. Minimum fish size

The proposed Amendment 2 change to the minimum fish size is specific to the SFMA and, therefore, would affect only vessels that fish in that area. Based on FY 2001, the 170 vessels that fished in the SFMA would experience reduced regulatory burden as well as increased economic opportunities under this proposed measure. The 73 additional vessels that

chose to fish in both management areas would also benefit, though only on the trips in the SFMA. However, as noted above, without detailed information on the size distribution of the commercial catch in both areas, an accurate assessment of the economic benefit that would accrue to each vessel is not possible.

#### 9. Removal of the 20-day block requirement

The proposed removal of the 20-day block requirement would result in a reduction in regulatory burden when compared to current conditions for the 45 Category A and B monkfish limited access vessels. Category C and D monkfish permitted vessels that also hold a NE multispecies permit, are required to take a 20-day block out of the NE multispecies fishery. However, the extent of the regulatory relief provided by the proposed removal of this requirement is unknown. The current requirement to be out of the fishery for 20 days only means that vessels cannot call in a monkfish DAS during that time. The vessels are still able to fish in other fisheries and are allowed to retain monkfish up to the incidental catch limits for those fisheries. Since the 20-day block may be taken at any time during the prescribed period, vessels can choose the block they expect to be the most advantageous. Nonetheless, as above noted, removal of this requirement does afford the vessels greater flexibility in choosing when to fish for monkfish and when to fish for other species.

#### 10. Vessel baseline modification

Allowance of a vessel permit baseline modification would not have an immediate economic impact on a vessel's ability to earn fishing income in the monkfish fishery, since no proposed measures are tied to the physical dimensions of the vessels. However, the value of the vessel could be affected, depending on whether the baseline is higher or lower than the current



monkfish baseline, and there may be implications for the pool of trading partners should a monkfish DAS leasing program be developed in the future.

#### 11. Modification of the framework adjustment procedure

The proposed action would modify the framework adjustment process, expanding the list of frameworkable measures to include development of a monkfish DAS leasing program, measures to minimize impact on protected species, and requirements to use bycatch reduction devices. While the individual frameworkable measures may have associated economic impacts and regulatory burdens, which will be dependent on the specific measures that may be proposed in the future, simply adding these measures to the list of actions that can be taken under the framework adjustment process is administrative in nature and does not have any impacts on any participant in the fishery. The economic impact of each measure will be analyzed in the associated framework action, should the measures be given further consideration by the Councils.

#### Economic Impacts of Alternatives to the Proposed Action

This section describes the impacts of management measures that were considered by the Councils but not adopted as part of Amendment 2 and compares the economic of the specified measure to those resulting from no action under Amendment 2.

##### 1. Monkfish DAS Usage by Limited Access Monkfish Category C and D Vessels

The Councils considered several alternatives that would have allowed limited access monkfish Category C and D vessels to fish under a monkfish DAS without concurrently using a NE multispecies or scallop DAS, including two options that would have allocated monkfish-only DAS uniformly among all vessels or individually based on a vessel's fishing history. These

alternatives would have affected 662 limited access Category C or D monkfish vessels.

Economic impacts would have likely resulted in neutral or positive economic impacts, assuming that the overall effort within the monkfish fishery would not have increased. If effort in the monkfish fishery would have increased, necessary reductions in trip limits and DAS allocations would have resulted in reduced economic opportunities.

## 2. Incidental Catch Limits

The Councils considered increasing the current monkfish incidental catch limit of 50 lb (22.7 kg) per trip to a maximum of 500 lb (226.8 kg) per trip by allowing vessels to retain up to 50 lb (22.7 kg) of monkfish per day for a 10-day trip. A total of 112 vessels would have been affected by this measure, resulting in a revenue gain of \$322,000, or an average benefit of \$2,900 per vessel.

## 3. Minimum Trawl Mesh Size When Fishing on a Monkfish DAS

Two alternatives were considered by the Councils that would have required vessels to use 12-inch (30.5-cm) square mesh in the codend and either 12-inch (30.5-cm) diamond mesh or the minimum mesh size required in the NE Multispecies FMP in the body of the net. These gear requirements would have been required when fishing monkfish-only DAS, if de-coupled from NE multispecies or scallop DAS as proposed in other rejected alternatives specified above, or on a monkfish/multispecies DAS for limited access monkfish Category C or D vessels. These measures would have affected all limited access monkfish vessels using large mesh otter trawls. These vessels would have had to replace any nonconforming gear, at considerable expense.

## 4. Minimum Fish Size

The Council considered four alternatives for minimum fish size: (1) The no action alternative (11-inch (27.9-cm) tail-length, 17-inch (43.2-cm) total-length in the NFMA, and 14-inch (35.6-cm) tail-length, 21-inch (53.3-cm) total-length in the SFMA); (2) a uniform 10-inch (25.4-cm) tail-length or 15-inch total-length minimum fish size (Alternative 2, Option 2); (3) elimination of the minimum size limit (Alternative 3); and (4) a 14-inch (35.6-cm) tail-length or 21-inch (53.3-cm) total-length minimum fish size for vessels fishing under a monkfish-only DAS (Alternative 4). Alternative 2 would likely have increased economic opportunities for all vessels fishing for monkfish, but would have had a greater beneficial impact on vessels fishing in the SFMA than those fishing in the NFMA since it would have resulted in a greater reduction in the minimum size, and, therefore, more of an increase in the size range of monkfish that vessels fishing in the SFMA are able to land. Based on public comment, Alternative 3 would have provided an incentive to develop markets for smaller monkfish, which could have had a negative impact on yield-per-recruit. Finally, the analysis in the SEIS indicates that Alternative 4 would not have affected vessels fishing in the SFMA, but would have resulted in decreased economic opportunities for vessels fishing in the NFMA under a monkfish-only DAS, with only negligible affects.

#### 5. Closed Season or Time Out of the Fishery

The Councils rejected an alternative that would have doubled the current 20-day block out of the fishery to 40 days, but that would have allowed vessels to take the entire 40 days out of the fishery consecutively or as two 20-day blocks. The Councils also rejected an alternative that would have required all limited access monkfish vessels, including scallop vessels also possessing limited access monkfish Category C or D permits, to take time out of the monkfish

fishery. The economic impacts of these alternatives are unclear, given the difficulty in assessing when individual vessels will plan their trips. However, it is not expected that the latter alternative would have adversely impacted scallop vessels.

#### 6. Offshore Fishery Program

The Councils are proposing the establishment of an Offshore Fishery Program in Amendment 2 (Alternative 2). However, within Alternative 2, the Councils considered, but rejected, options for the area covered under this program (Area Option 2), and for the applicable trip limits and associated DAS allocation (DAS/Trip Limit Option 1).

Since the rejected area option is not significantly different from the proposed area, and given the proposed distance from shore, participation in the fishery would likely be limited to larger vessels. Further, the rejected trip limit option would provide vessels with the flexibility of choosing the DAS/trip limit ratio that is most economically beneficial to them. Under these rejected options, vessels would still be subject to VMS requirements. As a result, vessels that do not have a VMS unit currently installed would have to bear the cost of installation in order to participate in this voluntary program.

#### 7. Modification of the Limited Access Permit Qualification Criteria

The Councils considered four alternatives, plus the no action alternative, for modifying the limited access permit qualification criteria, and ultimately selected Alternative 3. The only difference between the non-preferred alternatives and the preferred alternative is the qualification period. The qualification periods for the non-preferred alternatives are as follows: Alternative 1, the four years prior to June 15, 1998; Alternative 2, the four years prior to June 15, 1997; Alternative 4, the four years prior to June 15, 1997, where landing took place during the

months of March 15 - June 15. Under the no action alternative, no additional vessels would qualify for a limited access monkfish permit. Analysis of the NOAA Fisheries weighout and North Carolina Division of Marine Fisheries data indicate that the number of vessels that would qualify for monkfish limited access permits range from three under Alternatives 2 and 4, to seven under Alternative 1.

The vessel level economic impact on affected vessels is likely to be positive, due to the increased opportunity to fish for monkfish in the EEZ, but the magnitude of the impact cannot be determined for the following reasons: These vessels already prosecute the monkfish fishery in state waters during the same limited season when they would be able to fish in the EEZ; and it is unclear how the limitations on the fishery resulting from the sea turtle closures would offset any immediate benefit these vessels might realize from obtaining a Federal limited access monkfish permit.

#### 8. Alternatives to Protect EFH

The Councils considered an alternative that contained alternative trawl configurations designed to minimize the impact of the monkfish fishery on EFH for other species if DAS usage requirements were separated. This alternative (Alternative 4) may have had some short-term negative economic effects depending on the trawl configuration selected and the management area to which the configuration requirements would have applied. Changing the trawl configuration would require vessels using non-conforming gear to bear the cost of making the necessary changes.

The Councils also considered an option to close the waters above up to 12 large canyons from Norfolk Canyon to the Hague Line. Information from the VTR database shows that 30

trips occurred in these areas during 1999 and 2001. An assessment of all non-directed monkfish trips indicates that the majority of vessels were targeting squid or whiting, while most other trips were associated with the directed summer flounder fishery. Under closure option 1 (trawl gear only), nine trawl trips would have been affected based on the 1999 VTR data, and less than 3 trips would have been affected based on the 2001 VTR data. Option 2 would have affected an additional 21 gillnet trips based on the 2001 VTR data.

#### 9. NFMA Monkfish Trawl Experimental Fishery

A 2-year experimental fishery to establish a trawl exempted fishery in the NFMA was not adopted by the Councils. This experimental fishery would have allowed vessels to determine the appropriate time, place, and gear to target monkfish while on a monkfish-only DAS, without concurrently using a NE multispecies DAS. Since the Councils did not adopt a measure that would separate monkfish DAS from scallop or NE multispecies DAS, there would be little economic benefit for trawl vessels to use large mesh in the NFMA, as the current trip limits for vessels using groundfish gear would provide more economic opportunity for affected vessels.

#### 10. Changes to the Fishing Year

The Councils did not adopt several alternatives that would have changed the start date of the fishing year. These changes would have complicated the permit renewal process, since the monkfish fishing year would no longer have corresponded to the NE multispecies fishing year and would have affected a vessel owner's ability to effectively plan vessel operations for the year, as vessels would have received their DAS allocations for various fisheries at different times of the year. This would also have resulted in increased costs for applying for and administering permit renewals.

Description of the Proposed Reporting, Recordkeeping, and Other Compliance Requirements of the Proposed Rule

Reporting and Recordkeeping Requirements

The proposed measures under Amendment 2 include the following provisions requiring either new or revised reporting and record keeping requirements: (1) Annual declaration into the Offshore Fishery Program on the initial vessel permit application or vessel permit renewal application; (2) VMS purchase and installation; (3) VMS proof of installation; (4) automated VMS polling of vessel position once per hour while fishing under a Monkfish DAS in the Offshore Fishery Program; (5) request to power down VMS unit for a minimum of one month; (6) initial application for a limited access monkfish permit (Category G or H) under program for vessels fishing south of 38°20' N. lat.; (7) renewal of limited access monkfish permit (Category G or H) under program for vessels fishing south of 38°20' N. lat.; (8) appeal of denial of a limited access monkfish permit (Category G or H) under the program for vessels fishing south of 38°20' N. lat.; (9) application for a vessel operator permit for new limited access monkfish vessels; (10) vessel replacement or upgrade application for new limited access monkfish vessels; (11) confirmation of permit history application for new limited access monkfish vessels; (12) DAS reporting requirements (call-in/call-out) for new limited access monkfish vessels; (13) application for Good Samaritan DAS credit for new limited access monkfish vessels; (14) annual gillnet declaration and tag order request; (15) requests for additional gillnet tags; (16) notification of lost tags and request for replacement tags; (17) requests to change limited access monkfish vessel baseline specifications; and (18) requests for a LOA to fish for monkfish in NAFO Regulatory Area under the proposed exemption program.

## Other Compliance Requirements

The measures proposed under Amendment 2 would require that all vessels participating in the Offshore Fishery Program purchase and install a VMS unit. The average VMS unit offered by the two vendors currently approved by NMFS costs approximately \$3,100 to purchase and install. Many of the limited access monkfish vessels expected to participate in the Offshore Fishery Program also possess limited access NE multispecies permits. Since several new programs implemented under Amendment 13 to the NE Multispecies FMP also require the use of VMS, it is estimated that half of the 50 vessels expected to participate in the Offshore Fishery Program already have VMS units through participation in these NE multispecies programs and only 25 additional limited access monkfish vessels would be required to purchase a VMS under Amendment 2. This results in a combined one-time cost of \$77,500 for these 25 vessels. In addition, the average monthly cost to operate a VMS unit is \$150. This results in a combined annual cost associated with VMS usage under Amendment 2 of \$45,000 for these new VMS users. Five vessels fishing south of 38° 00' N. lat. are expected to qualify for a limited access monkfish permit under Amendment 2. These vessels would be required to obtain a Federal vessel operator permit, if they do not already have one. These permits cost approximately \$10 due to the need for a color photograph, and are valid for 3 years. As a result, the yearly cost to these five vessels is estimated at \$16.67, or approximately \$3.33 per vessel. Finally, limited access monkfish vessels using gillnet gear must purchase gillnet tags. Each tag costs \$1.20 and may be used for at least 3 years. Monkfish vessels are allowed to use up to 160 gillnets. Therefore, if the five vessels fishing south of 38° 00' N. lat. expected to qualify for a limited access monkfish permit under Amendment 2 elect to fish with gillnet gear, yearly costs



associated with purchasing gillnet tags for each vessel would be a maximum of \$64 (i.e., \$192 every 3 years).

#### Public Reporting Burden

This proposed rule contains a collection-of-information requirement subject to review and approval by OMB under the Paperwork Reduction Act (PRA). This requirement has been submitted to OMB for approval. Public reporting burden for this collection of information is estimated to average as follows:

1. Annual declaration into the Offshore Fishery Program on initial vessel permit application or vessel permit renewal application, OMB Control Number 0648-0202 (30 min/response);
2. VMS purchase and installation, OMB Control Number 0648-0202 (1 hr/response);
3. VMS proof of installation, OMB Control Number 0648-0202 (5 min/response);
4. Automated VMS polling of vessel position once per hour while fishing under a monkfish DAS in the Offshore Fishery Program, OMB Control Number 0648-0202 (5 sec/response);
5. Request to power down VMS unit for a minimum of 30 days, OMB Control Number 0648-0202 (5 min/response);
6. Initial application for a limited access monkfish permit (Category G or H) under program for vessels fishing south of 38° 20' N. lat., OMB Control Number 0648-0202 (45 min/response);
7. Renewal of limited access monkfish permit (Category G or H) under program for vessels fishing south of 38° 20' N. lat., OMB Control Number 0648-0202 (30 min/response);

8. Appeal of denial of a limited access monkfish permit (Category G or H) under the program for vessels fishing south of 38° 20' N. lat., OMB Control Number 0648-0202 (2 hr/response);
9. Application for a vessel operator permit for new limited access monkfish vessels, OMB Control Number 0648-0202 (1 hr/response);
10. Vessel replacement or upgrade application for new limited access monkfish vessels, OMB Control Number 0648-0202 (3 hr/response);
11. Confirmation of permit history application for new limited access monkfish vessels, OMB Control Number 0648-0202 (30 min/response);
12. DAS reporting requirements (call-in/call-out) for new limited access monkfish vessels, OMB Control Number 0648-0202 (2 min/response);
13. Application for Good Samaritan DAS credit for new limited access monkfish vessels, OMB Control Number 0648-0202 (30 min/response);
14. Annual gillnet declaration and tag order request, OMB Control Number 0648-0202 (10 min/response);
15. Requests for additional gillnet tags, OMB Control Number 0648-0202 (2 min/response);
16. Notification of lost tags and request for replacement tags, OMB Control Number 0648-0202 (2 min/response);
17. Requests to change limited access monkfish vessel baseline specifications, OMB Control Number 0648-0202 (30 min/response); and

18. Requests for a letter of authorization to fish for monkfish in the NAFO Regulatory Area under the proposed exemption program, OMB Control Number 0648-0202 (5 min/response).

These burden estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Public comment is sought regarding: Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to NMFS and to OMB (see ADDRESSES).

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of PRA, unless that collection of information displays a currently valid OMB Control number.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated:

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, the definition of “Prior to leaving port” is revised to read as follows:

§ 648.2 Definitions.

\* \* \* \* \*

Prior to leaving port, with respect to the call-in notification system for NE multispecies, and the call-in notification system for monkfish vessels that are fishing under the limited access monkfish Category C, D, F, G or H permit provisions that are also fishing under a NE multispecies DAS, means no more than 1 hour prior to the time a vessel leaves the last dock or mooring in port from which that vessel departs to engage in fishing, including the transport of fish to another port. With respect to the call-in notification system for monkfish vessels that are fishing under the limited access monkfish Category A or B permit provisions, it means prior to the last dock or mooring in port from which a vessel departs to engage in fishing, including the transport of fish to another port.

\* \* \* \* \*

3. In § 648.4, the introductory text of paragraph (a)(9)(i) is revised, paragraphs (a)(9)(i)(B), (H), and (M), and (a)(9)(i)(N)(1) and (3) are revised, and paragraphs (a)(9)(i)(A)(5), (6), and (7) are added to read as follows:

§ 648.4 Vessel permits.

(a) \* \* \*

(9) \* \* \*

(i) Limited access monkfish permits.

(A) \* \* \*

(5) Category F (vessels electing to participate in the Offshore Fishery Program). Vessels intending to fish, or are fishing in, the Offshore Fishery Program, as described under 648.95, must apply for and be issued a Category F permit and fish under this permit category for the entire fishing year. For fishing year 2005, the owner of a vessel, or authorized representative, may change its previous 2005 limited access monkfish permit to a Category F permit within 45 days of the effective date of the final rule implementing Amendment 2, provided the vessel has not fished under the monkfish DAS program during the 2005 fishing year.

(6) Category G permit (vessels restricted to fishing south of 38\_20'N. lat. as described in § 648.92(b)(9)) that do not qualify for a monkfish limited access Category A, B, C, or D permit. The vessel landed  $\geq$  50,000 lb (22,680 kg) tail-weight or 166,000 lb (75,297.6 kg) whole weight of monkfish in the area south of 38\_N. lat. during the period March 15 through June 15 in the years 1995 to 1998.

(7) Category H permit (vessels fishing only south of 38\_20'N. lat. as described in § 648.92(b)(9)) that do not qualify for a monkfish limited access Category A, B, C, D, or G permit). The vessel landed  $\geq$  7,500 lb (3,402 kg) tail-weight or 24,900 lb (11,294.6 kg) whole weight of monkfish in the area south of 38\_N. lat. during the period March 15 through June 15 in the years 1995 to 1998.

(B) Application/renewal restrictions. No one may apply for an initial limited access monkfish permit for a vessel after November 7, 2000, unless otherwise allowed in this paragraph (a)(9)(i)(B). Vessels applying for an initial limited access Category G or H permit, as described in paragraphs (a)(9)(i)(A)(6) and (7) of this section must do, so on or before April 30, 2006.

\* \* \* \* \*

(H) Vessel baseline specification. The vessel upgrading baseline specifications in this section are the respective specification (length, GRT, NT, and horsepower) of the vessel that was initially issued a limited access permit as of the date the initial vessel applied for such a permit, unless otherwise specified in this paragraph (a)(9)(i)(H). The owner of a vessel with multiple Federal limited access permits with different vessel baseline specifications for its monkfish limited access permit than the vessel baseline specifications for one or more of its other Federal permits may request that the Regional Administrator revise the monkfish permit vessel baseline specifications to be consistent with that of the vessel's first Federal limited access permit, provided such a request is made prior to May 1, 2006.

\* \* \* \* \*

(M) Notification of eligibility for Category G and H permits. (1) NMFS will attempt to notify all owners of vessels for which NMFS has credible evidence available to inform them that they meet the qualification criteria described in paragraph (a)(9)(i)(A)(6) or (7) of this section and that they qualify for a limited access monkfish Category G or H permit. Vessel owners that pre-qualify for a Category G or H permit must apply for the limited access permit for which they pre-qualified prior to May 1, 2006, to meet the qualification requirements.

(2) If a vessel owner has not been notified that the vessel is eligible to be issued a limited access monkfish Category G or H permit, and the vessel owner believes that there is credible evidence that the vessel does qualify under the pertinent criteria, the vessel owner may apply for a limited access monkfish Category G or H permit prior to May 1, 2006, by submitting written evidence that the vessel meets the qualification requirements described in paragraph (a)(9)(i)(A)(6) or (7) of this section.

(N) Appeal of denial of permit. (1) An applicant denied a limited access monkfish Category G or H permit may appeal to the Regional Administrator within 30 days of the notice of denial. Any such appeal shall be in writing. The only ground for appeal is that the Regional Administrator erred in concluding that the vessel did not meet the criteria described in paragraph (a)(9)(i)(A)(6) or (7) of this section. The appeal shall set forth the applicant's belief that the Regional Administrator made an error.

(2) \* \* \*

(3) Status of vessels pending appeal. (i) A vessel denied a limited access monkfish Category G or H permit may fish under the monkfish DAS program, provided that the denial has been appealed, the appeal is pending, and the vessel has on board a letter from the Regional Administrator authorizing the vessel to fish under the monkfish DAS program. The Regional Administrator will issue such a letter for the pendency of any appeal, which decision is the final administrative action of the Department of Commerce pending a final decision on the appeal. The letter of authorization must be carried on board the vessel. A vessel with such a letter of authorization shall not exceed the annual allocation of monkfish DAS as specified in § 648.92(b)(1) and must report the use of monkfish DAS according to the provisions of §

648.10(b) or (c), whichever applies. If the appeal is finally denied, the Regional Administrator shall send a notice of final denial to the vessel owner; the authorizing letter shall become invalid 5 days after receipt of the notice of denial. If the appeal is finally approved, any DAS used during pendency of the appeal shall be deducted from the vessel's annual allocation of monkfish DAS for that fishing year.

(ii) Monkfish incidental catch vessels (Category E). A vessel of the United States that is subject to these regulations and that has not been issued a limited access monkfish permit under paragraph (a)(9)(i)(A) of this section, is eligible for and may be issued a monkfish incidental catch (Category E) permit to fish for, possess, or land monkfish subject to the restrictions in § 648.94(c).

\* \* \* \* \*

4. In § 648.9, paragraph (c)(2)(i)(C) is revised, and paragraph (c)(2)(i)(D) is added to read as follows:

§ 648.9 VMS requirements.

\* \* \* \* \*

(c) \* \* \*

(2) \* \* \*

(i) \* \* \*

(C) The vessel has been issued an Atlantic herring permit, and is in port, unless required by other permit requirements for other fisheries to transmit the vessel's location at all times; or

(D) For vessels electing to fish under the Offshore Fishery Program in the SFMA, as specified under § 648.95, and that have been issued a valid monkfish limited access Category F



permit, the vessel owner signs out of the VMS program for a minimum period of 30 days by obtaining a valid letter of exemption pursuant to paragraph (c)(2)(ii) of this section, provided the vessel does not sign out of the VMS program during the Offshore Fishery Program season specified at § 648.95(d), does not engage in any fisheries for which VMS is required, and the vessel complies with all conditions and requirements of said letter.

\* \* \* \* \*

5. In § 648.10, paragraph (c)(1) is revised and paragraph (b)(1)(ix) is added to read as follows:

§ 648.10 DAS notification requirements.

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(ix) A limited access monkfish vessel electing to fish in the Offshore Fishery Program in the SFMA, as provided in § 648.95.

\* \* \* \* \*

(c) \* \* \*

(1) Less than 1 hour prior to leaving port, for vessels issued a limited access NE multispecies DAS permit or, for vessels issued a limited access NE multispecies DAS permit and a limited access monkfish permit (Category C, D, F, G, or H), unless otherwise specified in this paragraph (c)(1), and, prior to leaving port for vessels issued a limited access monkfish Category A or B permit, the vessel owner or authorized representative must notify the Regional Administrator that the vessel will be participating in the DAS program by calling the Regional

Administrator and providing the following information: Owner and caller name and phone number, vessel's name and permit number, type of trip to be taken, port of departure, and that the vessel is beginning a trip. A DAS begins once the call has been received and a confirmation number is given by the Regional Administrator, or when a vessel leaves port, whichever occurs first, unless otherwise specified in paragraph (c)(6) of this section. Vessels issued a limited access monkfish Category C, D, F, G, or H permit that are allowed to fish as a Category A or B vessel in accordance with the provisions of § 648.92(b)(2)(i), are subject to the call-in notification requirements for limited access monkfish Category A or B vessels specified under this paragraph (c)(1) for those monkfish DAS where there is not a concurrent NE multispecies DAS.

\* \* \* \* \*

6. In § 648.14, paragraphs (a)(125), (x)(8), (y)(1)(iii), (y)(3), (y)(4), (y)(7)-(11), and (y)(21) are revised, and paragraphs (y)(1)(iv) and (y)(22) are added to read as follows:

§ 648.14 Prohibitions.

\* \* \* \* \*

(a) \* \* \*

(125) For vessels issued a limited access NE multispecies permit, or those issued a limited access NE multispecies permit and a limited access monkfish permit (Category C, D, F, G, or H), but are not fishing under the limited access monkfish Category A or B provisions as allowed under § 648.92(b)(2), call into the DAS program prior to 1 hour before leaving port.

\* \* \* \* \*

(x) \* \* \*

(8) Monkfish. All monkfish retained or possessed on a vessel issued any permit under § 648.4 are deemed to have been harvested from the EEZ, unless the preponderance of evidence demonstrates that such fish were harvested by a vessel that fished exclusively in the NAFO Regulatory Area, as authorized under § 648.17.

\* \* \* \* \*

(y) \* \* \*

(1) \* \* \*

(iii) The monkfish were harvested in or from the EEZ by a vessel not issued a Federal monkfish permit that engaged in recreational fishing; or

(iv) The monkfish were harvested from the NAFO Regulatory Area in accordance with the provisions specified under § 648.17.

\* \* \* \* \*

(3) Sell, barter, trade, or otherwise transfer, or attempt to sell, barter, trade, or otherwise transfer for a commercial purpose, any monkfish, unless the vessel has been issued a monkfish permit, unless the monkfish were harvested by a vessel with no monkfish permit that fishes for monkfish exclusively in state waters, or unless the monkfish were harvested from the NAFO Regulatory Area in accordance with the provisions specified under § 648.17.

(4) Unless otherwise exempted under § 648.17, operate or act as an operator of a vessel fishing for, possessing, retaining, or landing monkfish in or from the EEZ without having been issued and possessing a valid operator permit pursuant to § 648.5, and this permit is onboard the vessel.

\* \* \* \* \*

(7) Possess, land, or fish for monkfish in excess of the incidental catch limits specified under § 648.94(c)(8) while in possession of dredge gear on a vessel not fishing under the scallop DAS program as described in § 648.53, or fishing under a General scallop permit, except for vessels with no monkfish permit that fish for monkfish exclusively in state waters.

(8) Purchase, possess, or receive as a dealer, or in the capacity of a dealer, monkfish in excess of the possession or trip limits specified in § 648.94 as is applicable to a vessel issued a valid monkfish limited access or incidental catch permit, unless the vessel is otherwise exempted under § 648.17.

(9) Fail to comply with the monkfish size limit restrictions of § 648.93 when issued a valid monkfish permit under § 648.4(a)(9), unless otherwise exempted under § 648.17.

(10) Fail to comply with the monkfish possession limits and landing restrictions, including liver landing restrictions, specified under § 648.94 when issued a valid monkfish permit under § 648.4(a)(9), unless otherwise exempted under § 648.17.

(11) Fail to comply with the monkfish DAS provisions specified at § 648.92 when issued a valid limited access monkfish permit, and fishing for, possessing, or landing monkfish in excess of the incidental catch limits specified at § 648.94 (c), unless otherwise exempted under § 648.17.

\* \* \* \* \*

(21) Fail to comply with the area declaration requirements specified at §§ 648.93(b)(2) and 648.94(f) when fishing under a scallop, NE multispecies or monkfish DAS exclusively in the NFMA under the less restrictive monkfish size and possession limits of that area, unless otherwise exempted under § 648.17.

(22) Fail to comply with the area restrictions applicable to limited access Category G and H vessels specified under § 648.92(b)(9).

\* \* \* \* \*

7. Section 648.17 is revised to read as follows:

§ 648.17 Exemptions for vessels fishing in the NAFO Regulatory Area.

(a) Fisheries included under exemption. (1) NE Multispecies. A vessel issued a valid High Seas Fishing Compliance permit under 50 CFR part 300 and that complies with the requirements specified in paragraph (b) of this section, is exempt from NE multispecies permit, mesh size, effort-control, and possession limit restrictions, specified in §§ 648.4, 648.80, 648.82 and 648.86, respectively, while transiting the EEZ with NE multispecies on board the vessel, or landing NE multispecies in U.S. ports that were caught while fishing in the NAFO Regulatory Area.

(2) Monkfish. A vessel issued a valid High Seas Fishing Compliance permit under 50 CFR part 300 and that complies with the requirements specified in paragraph (b) of this section is exempt from monkfish permit, mesh size, effort-control, and possession limit restrictions, specified in §§ 648.4, 648.91, 648.92 and 648.94, respectively, while transiting the EEZ with monkfish on board the vessel, or landing monkfish in U.S. ports that were caught while fishing in the NAFO Regulatory Area.

(b) General Requirements. (1) The vessel operator has a letter of authorization issued by the Regional Administrator on board the vessel;

(2) For the duration of the trip, the vessel fishes, except for transiting purposes, exclusively in the NAFO Regulatory Area and does not harvest fish in, or possess fish harvested in, or from, the EEZ;

(3) When transiting the EEZ, all gear is properly stowed in accordance with one of the applicable methods specified in § 648.23(b); and

(4) The vessel operator complies with the High Seas Fishing Compliance permit and all NAFO conservation and enforcement measures while fishing in the NAFO Regulatory Area.

8. In § 648.80, paragraph (b)(5)(i)(B) is revised to read as follows:

§ 648.80 NE multispecies regulated mesh areas and restrictions on gear and methods of fishing.

\* \* \* \* \*

(b) \* \* \*

(5) \* \* \*

(i) \* \* \*

(B) All trawl nets must comply with the minimum mesh size specified under § 648.91(c)(1)(i).

\* \* \* \* \*

9. In § 648.82, paragraph (k)(4)(vi) is revised to read as follows:

§ 648.82 Effort-control program for NE multispecies limited access vessels.

\* \* \* \* \*

(k) \* \* \*

(4) \* \* \*

(vi) Monkfish Category C, D, F, G and H vessels. A vessel that possesses a valid limited access NE multispecies DAS permit and a valid limited access monkfish Category C, D, F, G or H permit and leases NE multispecies DAS to or from another vessel is subject to the restrictions specified in § 648.92(b)(2).

\* \* \* \* \*

10. In § 648.91, paragraph (c)(1)(ii) and (iv) are revised, and paragraph (c)(3) is added to read as follows:

§ 648.91 Monkfish regulated mesh areas and restrictions on gear and methods of fishing.

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \*

(ii) Trawl nets while on a monkfish and NE multispecies DAS. For vessels issued a Category C, D, G or H limited access monkfish permit and fishing with trawl gear under both a monkfish and NE multispecies DAS, the minimum mesh size is that allowed under regulations governing mesh size at § 648.80(a)(3), (a)(4), (b)(2)(i), or (c)(2)(i), depending upon, and consistent with, the NE multispecies regulated mesh area being fished, unless otherwise specified in this paragraph (c)(1)(ii). Trawl vessels participating in the Offshore Fishery Program, as described in § 648.95, and that have been issued a Category F monkfish limited access permit, are subject to the minimum mesh size specified in paragraph (c)(1)(i) of this section.

(iii) \* \* \*

(iv) Authorized gear while on a monkfish and scallop DAS. Vessels issued a Category C, D, G or H limited access monkfish permit and fishing under a monkfish and scallop DAS may only fish with and use a trawl net with a mesh size no smaller than that specified in paragraph (c)(1)(i) of this section.

\* \* \* \* \*

(3) SFMA trawl roller gear restriction. The roller gear diameter on any vessel on a monkfish DAS in the SFMA may not exceed 6 inches (15.2 cm) in diameter.

11. In § 648.92, paragraphs (b)(1)(i), (b)(2), (b)(6), and (b)(8)(i)(B) are revised; paragraphs (b)(1)(iii) and (iv), (b)(9) and (c) are added; and paragraph (b)(5) is reserved to read as follows:

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

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(i) General provision. All limited access monkfish permit holders shall be allocated monkfish DAS each fishing year to be used in accordance with the restrictions of this paragraph (b), unless modified by paragraph (b)(1)(ii) of this section according to the provisions specified at §648.96(b)(3). The number of monkfish DAS to be allocated, before accounting for any such modification, is 40 DAS minus the amount calculated in paragraph (b)(1)(iv) of this section, unless the vessel is enrolled in the Offshore Fishery Program in the SFMA, as specified in paragraph (b)(1)(iii) of this section. Limited access NE multispecies and limited access sea scallop permit holders who also possess a valid limited access monkfish permit must use a NE multispecies or sea scallop DAS concurrently with their monkfish DAS, except as provided in paragraph (b)(2) of this section, unless otherwise specified under this Part F.

\* \* \* \* \*

(iii) Offshore Fishery Program DAS allocation. A vessel issued a Category F permit, as described in § 648.95, shall be allocated a pro-rated number of DAS as specified at § 648.95(g)(2).

(iv) Research DAS set-aside. A total of 500 DAS will be available for cooperative research programs as described in paragraph (c) of this section. These DAS will be deducted



from the total number of DAS allocated to all monkfish limited access permit holders, as specified under paragraph (b)(1)(i) of this section. A per vessel deduction will be determined as follows: Allocated DAS minus the quotient of 500 DAS divided by the total number of limited access permits issued in the previous fishing year. For example, if the DAS allocation equals 40 DAS and if there are 750 limited access permits issued in FY 2004, the number of DAS allocated to each vessel in FY 2005 will be 40 DAS minus (500 DAS divided by 750 permits), or 40 DAS minus 0.7 DAS, or 39.3 DAS.

(2) Category C, D, F, G or H limited access monkfish permit holders. (i) Unless otherwise specified in paragraph (b)(2)(ii) of this section, each monkfish DAS used by a limited access NE multispecies or scallop DAS vessel holding a Category C, D, F, G or H limited access monkfish permit shall also be counted as a NE multispecies or scallop DAS, as applicable, except when a Category C, D, F, G or H vessel with 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. Under this circumstance, the vessel may fish under the monkfish limited access Category A or B provisions, as applicable, for the number of DAS that equal the difference between the number of its allocated monkfish DAS and the number of its allocated NE multispecies Category A DAS. For such vessels, when the total allocation of NE multispecies Category A DAS has been used, a monkfish DAS may be used without concurrent use of a NE multispecies DAS. (For example, if a monkfish Category D vessel's NE multispecies Category A DAS allocation is 30, and the vessel fished 30 monkfish DAS, 30 NE multispecies Category A DAS would also be used, unless otherwise authorized under § 648.85(b)(6). However, after all 30 NE multispecies Category A DAS are used, the vessel may utilize its remaining 10 monkfish DAS to fish on

monkfish, without a NE multispecies DAS being used, provided that the vessel fishes under the regulations pertaining to a Category B vessel and does not retain any regulated NE multispecies.)

(ii) Category C, D, F, G or H vessels that lease NE multispecies DAS. (A) A monkfish Category C, D, F, G or H vessel that has “monkfish-only” DAS, as specified in paragraph (b)(2)(i) of this section, and that leases NE multispecies DAS from another vessel pursuant to § 648.82(k), is required to 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 monkfish Category C, D, F, G or H vessel that leases DAS to another vessel(s), pursuant to § 648.82(k), is required to forfeit a monkfish DAS for each NE multispecies DAS that the vessel leases, equal in number to the difference between the number of remaining multispecies DAS and the number of unused monkfish DAS at the time of the lease. For example, if a lessor vessel, which had 40 unused monkfish DAS and 47 allocated multispecies DAS, leased 10 of its multispecies DAS, the lessor would forfeit 3 of its monkfish DAS (40 monkfish DAS - 37 multispecies DAS = 3) because it would have 3 fewer multispecies DAS than monkfish DAS after the lease.

\* \* \* \* \*

(5) [Reserved]

(6) Declaring monkfish DAS. A vessel's owner or authorized representative shall notify the Regional Administrator of a vessel's participation in the monkfish DAS program using the notification requirements specified in § 648.10.

\* \* \* \* \*

(8) \* \* \*

(i) \* \* \*

(B) Category C, D, F, G and H vessels that possess a limited access NE multispecies permit. A vessel issued a valid monkfish limited access Category C, D, F, G or H permit that possesses a valid limited access NE multispecies permit and fishing under a monkfish DAS may not fish with, haul, possess, or deploy more than 150 gillnets. A vessel issued a NE multispecies limited access permit and a limited access monkfish permit, and fishing under a monkfish DAS, may fish any combination of monkfish, roundfish, and flatfish gillnets, up to 150 nets total, provided that the number of monkfish, roundfish, and flatfish gillnets is consistent with the limitations of § 648.82. Nets may not be longer than 300 ft (91.4 m), or 50 fathoms, in length.

(9) Category G and H limited access permit holders. Vessels issued limited access Category G and H permits shall be restricted to fishing on a monkfish DAS in the area south of 38\_20' N. lat.

(c) Monkfish Research. (1) DAS Set-Aside Program. (i) NMFS will publish a Request for Proposals (RFP) in the Federal Register at least 3 months prior to the start of the upcoming fishing year, consistent with procedures and requirements established by the NOAA Grants Office, to solicit proposals from industry for the upcoming fishing year, based on research priorities identified by the Councils.

(ii) NMFS shall convene a review panel that may include members of the Councils' Monkfish Oversight Committee, the Council's Research Steering Committee, and other technical experts, to review proposals submitted in response to the RFP.

(A) Each panel member shall recommend which research proposals should be authorized to utilize the research DAS set aside in accordance with paragraph (b)(1)(iv) of this section, based on the selection criteria described in the RFP.

(B) The Regional Administrator and the NOAA Grants Office shall consider each panel member's recommendation, provide final approval of the projects and exempt selected vessel(s) from regulations specified in each of the respective FMPs through written notification to the project proponent.

(iii) The grant awards approved under the RFPs shall be for the upcoming fishing year. Proposals to fund research that would start prior to the fishing year are not eligible for consideration. Multi-year grant awards may be approved under an RFP for an upcoming fishing year, so long as the research DAS available under subsequent RFPs are adjusted to account for the approval of multi-year awards. All research trips shall be completed within the fishing year(s) for which the research grant was awarded.

(iv) Research projects shall be conducted in accordance with provisions approved and provided in an Exempted Fishing Permit (EFP) issued by the Regional Administrator, as authorized under § 600.745(b)(2).

(v) If the Regional Administrator determines that the annual allocation of research DAS will not be used in its entirety once all of the grant awards have been approved, the Regional Administrator shall reallocate the unallocated research DAS as exempted DAS to be authorized as described in paragraph (c)(2) of this section.

(iv) For proposals that require other regulatory exemptions that extend beyond the scope of the analysis contained in the Monkfish FMP, subsequent amendments, or framework adjustments, applicants may be required to provide additional analysis of the impacts of the requested exemptions before issuance of an EFP will be considered.

(2) DAS Exemption Program. (i) Vessels that seek to conduct monkfish research within the current fishing year, and that were not included in the RFP process during the previous

fishing year, may seek exemptions from monkfish DAS for the purpose of conducting exempted fishing activities, as authorized at § 600.745(b), under the following conditions and restrictions:

(A) The request for a monkfish DAS exemption must be submitted along with a complete application for an EFP to the Regional Administrator. The requirements for submitting a complete EFP application are provided in § 600.745(b)(2).

(B) Exempted DAS must be available for usage. Exempted DAS shall only be made available by the Regional Administrator if it is determined that the annual set-aside of research DAS will not be used in its entirety, as described in paragraph (c)(1)(v) of this section. If exempted DAS are not available for usage, the applicant may continue to seek an exemption from monkfish DAS, but may be required to conduct an analysis of the impacts associated with the monkfish DAS exemption request before issuance of the EFP application will be considered.

(C) For EFP applications that require other regulatory exemptions that extend beyond the scope of the analysis contained in the Monkfish FMP, subsequent amendments, or framework adjustments, applicants may be required to provide additional analysis of the impacts of the requested exemptions before issuance of an EFP will be considered.

(ii) Monkfish DAS exemption requests shall be reviewed and approved by the Regional Administrator in the order in which they are received.

12. In § 648.93, paragraph (b) is revised to read as follows:

§ 648.93 Monkfish minimum fish sizes.

\* \* \* \* \*

(b) Minimum fish size. The minimum fish size for all vessels is 17 inches (43.2 cm) total length/11 inches (27.9 cm) tail length.

13. In § 648.94, paragraphs (b)(2)(i), (ii) and (iii), (b)(3)(i) and (ii), (b)(5), (b)(6), and (c) are revised, and paragraph (b)(3)(iv) is added to read as follows:

§ 648.94 Monkfish possession and landing restrictions.

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(i) Category A, C, and G vessels. Category A, C, and G vessels fishing under the monkfish DAS program in the SFMA may land up to 550 lb (250 kg) tail-weight or 1,826 lb (828 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 3.32), unless modified pursuant to § 648.96(b)(2)(ii).

(ii) Category B, D, and H vessels. Category B, D and H vessels fishing under the monkfish DAS program in the SFMA may land up to 450 lb (204 kg) tail-weight or 1,494 lb (678 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 3.32), unless modified pursuant to § 648.96(b)(2)(ii).

(iii) Category F vessels. Vessels issued a Category F permit are subject the possession and landing restrictions specified at § 648.95(g)(1).

(iv) Administration of landing limits. A vessel owner or operator may not exceed the monkfish trip limits as specified in paragraphs (b)(2)(i) through (iii) of this section per monkfish DAS fished, or any part of a monkfish DAS fished.

(3) Category C, D, F, G and H vessels fishing under the multispecies DAS program.--

(i) NFMA. (A) Category C and D vessels. There is no monkfish trip limit for a Category C or D vessel that is fishing under a NE multispecies DAS exclusively in the NFMA.

(B) Category, F, G and H vessels. Vessels issues a Category F, G or H permit that are fishing under a multispecies DAS in the NFMA are subject to the incidental catch limit specified in paragraph (c)(1)(i) of this section.

(ii) SFMA. (A) Category C, D, and F vessels. If any portion of a trip is fished only under NE a multispecies DAS, and not under a monkfish DAS, in the SFMA, a Category C, D, or F vessel may land up to 300 lb (136 kg) tail-weight or 996 lb (452 kg) whole weight of monkfish per DAS if trawl gear is used exclusively during the trip, or 50 lb (23 kg) tail-weight or 166 lb (75 kg) whole weight per DAS if gear other than trawl gear is used during the trip.

(B) Category G and H vessels. Vessels issues a Category G or H permit that are fishing under a multispecies DAS in the SFMA are subject to the incidental catch limit specified in paragraph (c)(1)(ii) of this section.

\* \* \* \* \*

(5) Category C, D, G, or H scallop vessels declared into the monkfish DAS program without a dredge on board, or not under the net exemption provision. Category C, D, G or H vessels that have declared into the monkfish DAS program and that do not fish with or have a dredge on board, or that are not fishing with a net under the net exemption provision specified in § 648.51(f), are subject to the same landing limits as specified in paragraphs (b)(1) and (b)(2) of this section, or the landing limit specified in § 648.95(g)(1), if issued a Category F permit. Such vessels are also subject to provisions applicable to Category A and B vessels fishing only under a monkfish DAS, consistent with the provisions of this part.

(6) Vessels not fishing under a NE multispecies, scallop or monkfish DAS. The possession limits for all limited access monkfish vessels when not fishing under a multispecies, scallop, or monkfish DAS are the same as the possession limits for a vessel issued a monkfish incidental catch permit specified under paragraphs (c)(3) through (c)(6) of this section.

\* \* \* \* \*

(c) Vessels issued a monkfish incidental catch permit--(1) Vessels fishing under a multispecies DAS--(i) NFMA. Vessels issued a monkfish incidental catch (Category E) permit, or issued a valid limited access Category F, G or H permit, fishing under a multispecies DAS exclusively in the NFMA may land up to 400 lb (181 kg) tail weight or 1,328 lb (602 kg) whole weight of monkfish per DAS, or 50 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 purposes of converting whole weight to tail weight, the amount of whole weight possessed or landed is divided by 3.32.

(ii) SFMA. If any portion of the trip is fished by a vessel issued a monkfish incidental catch (Category E) permit, or issued a valid limited access Category G or H permit, under a multispecies DAS in the SFMA, the vessel may land up to 50 lb (23 kg) tail-weight or 166 lb (75 kg) whole weight of monkfish per DAS (or any prorated combination of tail-weight and whole weight based on the conversion factor).

(2) Scallop vessels fishing under a scallop DAS. A scallop vessel issued a monkfish incidental catch (Category E) permit, or issued a valid limited access Category G or H permit, fishing under a scallop DAS may land up to 300 lb (136 kg) tail-weight or 996 lb (452 kg) whole weight of monkfish per DAS (or any prorated combination of tail-weight and whole weight based on the conversion factor).



(3) Vessels fishing with large mesh and not fishing under a monkfish, NE multispecies or scallop DAS.--(i) A vessel issued a valid monkfish incidental catch (Category E) permit fishing in the GOM or GB RMAs, or the SNE RMA east of the MA Exemption Area boundary with mesh no smaller than specified at § 648.80(a)(3)(i), (a)(4)(i), and (b)(2)(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 purposes 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 fishing in the SNE and 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. For the purposes of converting whole weight to tail weight, the amount of whole weight possessed or landed is divided by 3.32.

(4) Vessels fishing with small mesh and not fishing under a monkfish, NE multispecies or scallop DAS. A vessel issued a valid monkfish incidental catch (Category E) permit fishing with mesh smaller than the mesh size specified by area in paragraph (c)(3) of this section, while not on a monkfish, NE multispecies, or scallop DAS, may possess, retain, and land only up to 50 lb (23 kg) tail-weight or 166 lb (75 kg) whole weight of monkfish per day or partial day, not to exceed 150 lb (68 kg) per trip.

(5) Small vessels. A vessel issued a limited access NE multispecies permit and a valid monkfish incidental catch (Category E) permit that is < 30 ft (9.1 m) in length and that elects not to fish under the NE multispecies DAS program may possess, retain, and land up to 50 lb (23 kg) tail-weight or 166 lb (75 kg) whole weight of monkfish per day or partial day, not to exceed 150 lb (68 kg) per trip.

(6) Vessels fishing with handgear. A vessel issued a valid monkfish incidental catch (Category E) permit and fishing exclusively with rod and reel or handlines with no other fishing gear on board, while not on a monkfish, NE multispecies, or scallop DAS, may possess, retain, and land up to 50 lb (23 kg) tail-weight or 166 lb (75 kg) whole weight of monkfish per day or partial day, not to exceed 150 lb (68 kg) per trip.

(7) Vessels fishing with surfclam or ocean quahog dredge gear. A vessel issued a valid monkfish incidental catch (Category E) permit and a valid surfclam or ocean quahog permit, while fishing exclusively with a hydraulic clam dredge or mahogany quahog dredge, may possess, retain, and land up to 50 lb (23 kg) tail-weight or 166 lb (75 kg) whole weight of monkfish per day or partial day, not to exceed 150 lb (68 kg) per trip.

(8) General Category Scallop vessels. A vessel issued a valid monkfish incidental catch (Category E) permit and a valid General Category Scallop permit, while fishing exclusively with scallop dredge as specified in § 648.51(b), may possess, retain, and land up to 50 lb (23 kg) tail-weight or 166 lb (75 kg) whole weight of monkfish per day or partial day, not to exceed 150 lb (68 kg) per trip.

\* \* \* \* \*

14. Section 648.95 is revised to read as follows:

§ 648.95 Offshore Fishery Program in the SFMA.

(a) General. Any vessel issued a valid monkfish limited access permit is eligible to apply for a Category F permit in order to fish in the Offshore Fishery Program in the SFMA. A vessel issued a Category F permit is subject to the specific provisions and conditions of this section while fishing on a monkfish DAS. When not fishing on a monkfish DAS, a Category F vessel may fish under the regulations applicable to the monkfish incidental catch (Category E) permit, specified under paragraph § 648.94(c) of this section. When fishing on a NE multispecies DAS in the NFMA, a Category F vessel that also possesses a NE multispecies limited access permit is subject to the possession limits applicable to vessels issued an incidental catch permit as described in § 648.94(c)(1)(i).

(b) Declaration. A vessel intending to fish in, or fishing in, the Offshore Fishery Program must obtain a monkfish limited access Category F permit and fish under this permit for the entire fishing year, subject to the conditions and restrictions specified under this part. For fishing year 2005, the owner of a vessel, or authorized representative, may change its previous 2005 limited access monkfish permit category to permit Category F within 45 days of the effective date of the final rule implementing Amendment 2, provided the vessel has not fished under the monkfish DAS program during the 2005 fishing year.

(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 area coordinates specified in § 648.23(a).

(d) Season. October 1 through April 30 each year.

(e) Restrictions. (1) Except for the transit provisions provided for in paragraph (f) of this section, a vessel issued a valid Category F permit may only fish for, possess, and land monkfish in or from the Offshore Fishery Program Area while on a monkfish DAS.

(2) A vessel enrolled in the Offshore Fishery Program is restricted to fishing under its monkfish DAS during the season in paragraph (d) of this section.

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

(4) VMS. A vessel issued a Category F permit must have installed on board an operational VMS unit that meets the minimum performance criteria specified in §§ 648.9 and 648.10.

(f) Transiting. A vessel issued a Category F permit and fishing under a monkfish DAS that is transiting to or from the Offshore Fishery Program Area, described in paragraph (c)(1) of this section, shall have all gear stowed and not available for immediate use in accordance with the gear stowage provisions described in § 648.23(b).

(g) Monkfish possession limits and DAS allocations. (1) A vessel issued a Category F permit may land up to 1,600 lb (726 kg) tail-weight or 5,312 lb (2,409 kg) whole weight of monkfish per monkfish DAS (or any prorated combination of tail-weight and whole weight based on the conversion factor of 3.32 times tail-weight).

(2) The monkfish DAS allocation for vessels issued a Category F permit shall be based on a proration of the trip limit applicable to the vessel's monkfish limited access permit category in relation to the fixed daily possession limit specified in paragraph (g)(1) of this section multiplied by the DAS allocation for limited access monkfish vessels not issued Category F permits, specified under § 648.92(b)(1). For example, if a vessel has a limited access monkfish Category C permit, and the applicable trip limit is 800 lb (363 kg) for this category, and the

vessel has an annual allocation of 40 monkfish DAS, then the monkfish DAS allocated to that vessel when issued a Category F permit would be 20 monkfish DAS (800 lb/1,600 lb x 40 monkfish DAS = 20 DAS). Any carryover monkfish DAS will be included in the proration calculation.

(3) Incidental catch limit when fishing under a multispecies DAS in the NFMA. Vessels issues a Category F permit that are fishing under a multispecies DAS in the NFMA are subject to the incidental catch limit specified in paragraph (c)(1)(i) of this section.

(h) DAS usage by NE multispecies or sea scallop limited access permit holders. A vessel issued a Category F permit that also has been issued either a NE multispecies or sea scallop limited access permit, and is fishing on a monkfish DAS, is subject to the DAS usage requirements specified in § 648.92(b)(2).

15. In § 648.96, paragraph (c)(1)(i) is revised to read as follows:

§ 648.96 Monkfish annual adjustment process and framework specifications.

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \*

(i) Based on their annual review, the MFMC may develop and recommend, in addition to the target TACs and management measures established under paragraph (b) of this section, other options necessary to achieve the Monkfish FMP's goals and objectives, which may include a preferred option. The MFMC must demonstrate through analysis and documentation that the options it develops are expected to meet the Monkfish FMP goals and objectives. The MFMC may review the performance of different user groups or fleet sectors in developing options. The range of options developed by the MFMC may include any of the management measures in the

Monkfish FMP, including, but not limited to: Closed seasons or closed areas; minimum size limits; mesh size limits; net limits; liver-to-monkfish landings ratios; annual monkfish DAS allocations and monitoring; trip or possession limits; blocks of time out of the fishery; gear restrictions; transferability of permits and permit rights or administration of vessel upgrades, vessel replacement, or permit assignment; measures to minimize the impact of the monkfish fishery on protected species; gear requirements or restrictions that minimize bycatch or bycatch mortality; transferable DAS programs; and other frameworkable measures included in § § 648.55 and 648.90.

\* \* \* \* \*

16. Section 648.97 is added to read as follows:

§ 648.97 Closed Areas.

(a) Oceanographer Canyon Closed Area. No fishing vessel or person on a fishing vessel may enter, fish, or be in the area known as Oceanographer Canyon Closed Area (copies of a chart depicting this area are available from the Regional Administrator upon request), as defined by straight lines connecting the following points in the order stated, while on a monkfish DAS:

Oceanographer Canyon Closed Area

Point N. Lat. W. Long.

OC1 40° 10' 68° 12'

OC2 40° 24' 68° 09'

OC3 40° 24' 68° 08'

OC4 40° 10' 67° 59'

OC1 40° 10' 68° 12'

(b) Lydonia Canyon Closed Area. No fishing vessel or person on a fishing vessel may enter, fish, or be in the area known as Lydonia Canyon Closed Area (copies of a chart depicting this area are available from the Regional Administrator upon request), as defined by straight

lines connecting the following points in the order stated, while on a monkfish DAS:

Oceanographer Canyon Closed Area

Point N. Lat. W. Long.

LC1 40° 16' 67° 34'

LC2 40° 16' 67° 42'

LC3 40° 20' 67° 43'

LC4 40° 27' 67° 40'

LC1 40° 27' 67° 38'

LC1 40° 16' 67° 34'