

The change in the data collection and processing at NMFS has also affected the processing of data from different sources. Some of the options in this proposed amendment require an analysis of length data from monkfish landed by the commercial fishery. Monkfish are most frequently landed after onboard processing and this makes it difficult for port agents to collect size data. The main source of commercial monkfish size data is from sea sampling. When this document was drafted, sea sampling length data was current through 1996.

Growth rates and maturation information was obtained from Armstrong et al. (1992) and Almeida and Harris (1995). Other life history data included total length to tail length and weight conversions, obtained from Lyons and Creaser (1986) and Wilk et al. (1987), respectively. No information is available for monkfish selectivity in gear with mesh larger than six inches.

Northeast region permit data from NMFS was used to estimate qualification (since vessels with multispecies day-at-sea permits had different criteria) and to evaluate potential impacts. The permit data were current through February 1998 when the Council conducted the biological impact analyses. The benefit-cost analysis (Section 7.1.6) and the analysis of significant action (Regulatory Flexibility Act, Section 1.1) were conducted a little later than the biological analyses and some 1997 data were used in these analyses. During the second round of public hearings, the Councils were given data for New Bedford, MA fishing industry by Dr. Daniel Geogianna. This information was considered when assessing economic and social impacts. There do not appear to be any substantial changes in fishing activity during 1997 that had not been taken into account by the analyses of 1995 and 1996 data.

### **3.0 PROPOSED MANAGEMENT ACTION**

The proposed management action is the Councils' preferred alternative and includes the following primary measures:

- a) Qualification criteria for limited access, allocations of days-at-sea to vessels that qualify for limited access
- b) Trip limits for vessels on a monkfish day-at-sea, bycatch allowances for vessels not on a monkfish day-at-sea
- c) Minimum size limits
- d) Gillnet limits
- e) Mandatory time out of the fishery during the spawning season
- f) A framework adjustment process

Secondary management measures included in the proposed action are:

- a) Two management areas for setting biological reference points and implementing differing management measures
- b) Restrictions on liver landings to prevent high-grading
- c) A "running clock" procedure to administer trip limits without forcing vessels to discard excess monkfish
- d) Minimum mesh restrictions to reduce bycatch of groundfish and other species
- e) Permitting and reporting requirements (for dealers and limited access vessels)
- f) Other measures to ease administration and enforcement

### **3.1 Limited Access**

A moratorium on vessel permits will be implemented effective as of the control date, February 27, 1995. Some vessels will qualify to target monkfish and exceed any applicable bycatch trip limits, based on the vessel's landings history prior to the control date. The Councils intention is to implement the monkfish limited access program as soon as practical, but no later than May 1, 1999, which is the start of the next fishing year. NMFS is encouraged to implement limited access as soon as possible, but the

Councils recognize that it is likely to start on May 1, 1999 due to administrative procedures. As of May 1, 1999, a vessel must have a monkfish limited access permit and operate during a monkfish day-at-sea to retain monkfish above the trip limits defined in Sections 0, 3.5.3, 3.6.2, or 3.6.3. Vessels whose qualification criteria are under appeal or official review may also operate for no more than 40 monkfish day-at-sea during a fishing year until their appeal is concluded.

Vessels that do not qualify may target monkfish (i.e. landings predominately composed of monkfish) as long as they do not exceed the bycatch trip limits that apply in Section 0, 3.5.3, 3.6.2, or 3.6.3. Since there are bycatch allowances for all non-qualifying vessels and more liberal qualification criteria for small vessels, there will be no exceptions to the limited access program. After the monkfish stock has rebuilt to target biomass levels, the Councils may consider recommending the issuance of additional permits for monkfish limited access.

**Rationale:** It is necessary to control the number and characteristics of vessels in the monkfish fishery to ensure that the day-at-sea allocations effectively control fishing effort. If the number of vessels that can target monkfish increases or the fishing power of the vessels increases, fishing mortality would rise above the overfishing targets and thresholds. As a result, the Councils would be forced to reduce the annual monkfish day-at-sea allocations to levels that might be uneconomic to individual vessels.

### **3.1.1 Control Date And Qualification Period**

On February 27, 1995, the Councils published a notice in the Federal Register announcing that new vessels in the monkfish fishery would not be guaranteed future access to the fishery. This notice was necessary to prevent speculative entry into the fishery while the Councils deliberated on a management system that included limited access. Any vessel that had insufficient landings history to indicate that it targeted monkfish and derived significant economic benefit from monkfish will not be allowed to exceed the applicable bycatch allowances defined in Section 0, 3.5.3, 3.6.2, or 3.6.3.

The beginning of the qualification period is February 28, 1991, four years prior to the control date. A four-year qualification period was chosen because it encompassed the development of the directed monkfish fishery and included a sufficiently broad time period so that it was unlikely that a vessel could not qualify due to equipment malfunction, extended maintenance, or illness. The qualification criteria were furthermore chosen such that any vessel that targeted monkfish on even a seasonal basis would be likely to qualify for limited access.

### **3.1.2 Limited access criteria and qualification procedure**

Vessels will qualify for monkfish limited access based on the vessel's (or a replaced vessel's) historic participation from February 28, 1991 to February 27, 1995 (the monkfish control date). This time frame is defined as the "qualification period". Vessels could automatically qualify based on official (NMFS or state) weighout or dealer reports. Other vessels will be allowed to substantiate other data to qualify during a verification period described in Section 3.1.2.3.

#### **3.1.2.1 Landings requirements**

All vessels will qualify, subject to the guidelines explained below, for limited access and be eligible to receive annual monkfish days-at-sea allocations if the vessel landed more than 50,000 pounds tail-weight (166,000 pounds whole-weight) during the qualification period. Vessels that do not have a multispecies or scallop limited access permits and qualifies according to this criterion will receive a "Category A" monkfish limited access permit (Table 4). Vessels that have a multispecies or scallop limited access permit and qualifies according to this criterion will receive a "Category C" monkfish limited access permit.

Vessels that are less than 51 gross registered tons (GRT) and all vessels with a multispecies day-at-sea permit will qualify, subject to the guidelines explained below, for limited access and be eligible to receive annual monkfish days-at-sea allocations if the vessel landed more than 7,500 pounds tail-weight (24,900 pounds whole-weight) during the qualification period. Vessels that do not have a multispecies or scallop limited access permit and qualifies according to this criterion will receive a “Category B” monkfish limited access permit (Table 4). Vessels that have a multispecies or scallop limited access permit and qualifies according to this criterion will receive a “Category D” monkfish limited access permit.

**Table 4.** Monkfish permit categories, qualification criteria, days-at-sea allocations, and trip limit for vessels on a monkfish day-at-sea.

Category	Qualification Criteria	Days-At-Sea Allocation <sup>3</sup>	Trip Limit While On A Monkfish Day-At-Sea After May 1, 2000 <sup>4</sup>
A, C	50,000 pounds tail-weight	Annual amount; multispecies and scallop vessels (category C) must also be on a multispecies or scallop day-at-sea	1,500 pounds tail-weight per day-at-sea while using mobile gear; 300 pounds tail-weight per day-at-sea while using fixed gear
B, D	7,500 pounds tail-weight; vessels < 51 GRT or possessing a multispecies day-at-sea permit	Annual amount; multispecies and scallop vessels (category D) must also be on a multispecies or scallop day-at-sea	1,000 pounds tail-weight per day-at-sea while using mobile gear; 300 pounds tail-weight per day-at-sea while using fixed gear

Vessels must also comply with the following guidelines to be eligible for qualification. These conditions were published and distributed in the control date notice.

1. Newly constructed vessels and vessels that rerigged via vessel modification will be eligible to qualify the vessel was under construction during the period February 28, 1991 to February 27, 1995, as evidenced by written construction contracts or other forms of documentation. To qualify for monkfish limited access, a vessel must meet the qualification criteria (specified in Section 3.1.2.1) during the period of February 28, 1991 (the start of the qualification period) and February 27, 1996 (one year after the control date, Section 3.1.1).
2. Change in ownership: Unless the Regional Administrator determines to the contrary, no more than one vessel may qualify, at any one time, for a limited access monkfish permit based on that or another vessel’s fishing and permit history. If more than one vessel owner claims eligibility for a limited access monkfish permit based on one vessel’s fishing and permit history, the Regional Administrator will determine, based on the provisions below, who is entitled to qualify for the permit and the days-at-sea allocation.

If a vessel was replaced, the Regional Administrator should presume that the original vessel’s history applies to the new vessel for a continuous history of fishing during February 28, 1991 to February 27, 1995, unless the original vessel retained historical participation as specified in the following paragraphs. The Regional Administrator may establish this provision for continuous ownership as either a qualification criteria for receiving a permit or as a ground for appeal of eligibility. For example, the history of a vessel that sank or was otherwise destroyed should be applied to the vessel history of a new replacement vessel if the same individual or entity owned both boats. If the original vessel landed 30,000 pounds tail-weight and the second vessel landed 25,000 pounds tail-weight, both during the four-year qualification period, then the vessel would be eligible for a Category A or C permit, because it landed over 50,000 pounds tail-weight through sequential ownership. The same provision would apply to two or more vessels that individually landed less than 7,500 pounds tail-weight during the four-year qualification period, allowing a vessel to qualify for a Category B or D permit based on the sequential history of two or more replacement vessels. This provision should allow for no more than one vessel to be eligible for monkfish limited access.

<sup>3</sup> Section 3.3.1

<sup>4</sup> Section 3.6.1

If a new owner was in the process of buying a vessel during the control date (Section 3.1.1), the change of ownership will be considered “in-process” and it will qualify under the exception for a newly constructed vessel as described above. That is, a vessel whose sale was “in-process” will have until February 27, 1996 to meet the qualification criteria. An example of an “in-process” sale is one where a bill of sale was signed prior to the control date, but sale did not take place until after the control date. The monkfish landing history of both the new and old owner may be combined for qualification of the vessel under the new ownership.

Historical participation will be presumed to transfer with a vessel, for transfers made after February 27, 1995, unless such transfers were accompanied by a written document indicating the agreement of both buyer and seller that any future fishing rights applicable to that vessel were not transferred via sale, lease, or any other means of conveyance. Any such transfers or explicit retention of fishing rights and permits will be presumed to transfer or be retained in their entirety, unless written documentation clearly states otherwise.

3. Vessel loss or upgrades: If fishing rights are explicitly retained by a previous owner as described above, or a qualifying vessel is lost or destroyed, the owner of said vessel or its rights will qualify for a limited access permit for monkfish without having title to a replacement vessel.
4. Vessel history: A vessel's history may be applied such that no more than one vessel may rely on that history to qualify for the limited access fishery.

**Rationale:** The landings requirements during the qualification period were chosen so that active vessels in the monkfish fishery would be likely to qualify to receive monkfish days-at-sea allocations. Although there is considerable overlap between vessels having greater landings of monkfish as bycatch and vessels landing lesser amounts from targeting monkfish, these landings criteria would allow vessels that had substantial economic dependence on monkfish prior to the control date to qualify. Because the volume of landings can be a function of vessel size, a more liberal criterion was established for vessels less than 51 GRT, considered to be a small vessel less than 40 to 60 feet in length. Other vessels with substantial economic dependence on monkfish either entered the fishery after the control date or would be able to continue targeting monkfish under the bycatch trip limits.

The qualification criteria for a vessel holding a multispecies permit is more liberal than for other vessels, because many vessels have an unavoidable catch of monkfish when they are fishing for large-mesh groundfish. Often monkfish are a component of their targeted catch, comprising 25 to 40 percent of the catch in the Northern Fishery Management Area. Since these catches could not be accommodated by a bycatch allowance and they would not be enough to meet the 50,000 pounds tail-weight criterion, vessels that are less than 51 GRT will be allowed to qualify for monkfish limited access by showing 7,500 pounds tail-weight of monkfish landings during the four-year qualification period.

The guidelines resolve uncertainties about how to handle qualification of vessels that replaced another qualifying vessel or vessels that have been upgraded. The guidelines presume that the history and permits also transfer with the sale of a vessel, unless there is written documentation to specify otherwise. The guidelines also prohibit permit splitting through vessel sale to prevent speculative increases in fishing effort by transferring the monkfish history with the vessel, while transferring other permits (e.g. multispecies or scallop) to another vessel.

### 3.1.2.2 Vessel upgrades between February 27, 1995 and May 1, 1999

Vessels that upgraded since February 27, 1995 and exceed the 51 GRT limited access qualification threshold may qualify according to the criteria for vessels less than 51 GRT, if the vessel or the vessel it replaced was less than 51 GRT between February 28, 1991 and February 27, 1995, inclusive. If the vessel history is consistent with the above criteria, it will receive a Category B or D permit and must fish according to the rules that apply to vessels having a Category B or D permit, respectively. Other types of vessel upgrades (Section 3.2.1.2) prior to plan implementation will not make a vessel ineligible for a limited access monkfish permit.

**Rationale:** Although the above guidelines for upgrading, permit transfers, etc. were included in the control date publication and notification to permit holders, the Councils believe that it would be unfair to make a vessel ineligible for limited access because it exceeded some, as yet undefined, upgrading provisions. The control date notice stated that, “Upgrades or replacements of vessels after February 27, Monkfish FMP

1995 that are inconsistent with the Multispecies Fishery Management Plan will disqualify the vessel from the limited access monkfish fishery.” This provision to allow a vessel to qualify for a permit category having greater restrictions (lower trip limits would apply as of May 1, 2000) is consistent with the vessel history during the four-year qualification period.

### 3.1.2.3 Verification process

Vessels will automatically qualify based on official weighout or dealer records (NMFS or state reports showing the landings for that vessel). The owners of pre-qualified vessels will be notified of the vessel’s status prior to implementation on May 1, 1999 of the limited access regulations. Vessels with insufficient landings in the official weighout/dealer database will be allowed to certify other sources of supporting evidence during a verification period. The verification period is not to exceed one year unless deemed necessary by the Regional Administrator.

Once a vessel has appealed its eligibility for monkfish limited access, the vessel may request an annual allocation of monkfish day-at-sea. The vessel must participate in the call-in system or report time-at-sea via a VMS while fishing for monkfish on trips that are expected to exceed the monkfish bycatch allowances (Sections 0,3.5.3,3.6.2, or 3.6.3). Total fishing effort on trips exceeding the bycatch allowances and days reported as a monkfish day-at-sea must not exceed the annual allocation of days before the verification process is concluded.

**Rationale:** This provision provides a method to qualify vessels whose monkfish landings were not individually recorded in NMFS or state landings programs. Reporting by dealers or vessels of monkfish landings were not required prior to implementation of the Monkfish FMP. It would be patently unfair, therefore, to require official landings records as the sole condition for qualification.

## 3.2 Permits

### 3.2.1 Limited Access Vessel Permits

Vessels that qualify for monkfish-only limited access will be required to submit an application and obtain a monkfish permit. To renew or apply for a limited access monkfish permit, the Regional Administrator must receive a completed application by the last day of the fishing year for which the permit is required. Failure to renew a limited access monkfish permit in any year bars the renewal of the permit in subsequent years. Changes in information supplied for the permit must be reported to the Regional Administrator within 15 calendar days of the change.

Vessels may be able to target or retain monkfish as a bycatch while they are fishing under multispecies or scallop days-at-sea, or another federal permit, provided that they do not exceed the trip limits in Section 3.6.2 or 3.6.3. No additional permits or stamps (permit riders) will be required for these limited access vessels.

Permit holders would be required to carry their permit aboard the fishing vessel during fishing and off-loading operations. It must also be available for inspection upon request by an authorized officer. The Regional Administrator may, after publication in the Federal Register, charge a permit fee for administration.

**Rationale:** Vessel permits are necessary to effectively administer and enforce the days-at-sea restrictions and trip limits. Only vessels that comply with the limits on upgrading, refitting, or replacement (Section 3.2.1.2) and that have a monkfish limited access permit will receive annual allocations of monkfish days-at-sea. Vessels that do not have a monkfish limited access permit and any vessel that does not report the monkfish days for a trip cannot exceed the bycatch allowances (Section 0,3.5.3,3.6.2, or 3.6.3).

#### 3.2.1.1 Transfers, vessel sales, and vessel replacement after May 1, 1999.

The fishing and permit history of a vessel is presumed to transfer with the vessel whenever it is bought, sold, or otherwise transferred, unless there is a written agreement, signed by the transferor/seller and transferee/buyer, or other credible written evidence, verifying that the transferor/seller is retaining the vessel's fishing and permit history for purposes of replacing the vessel. A monkfish limited access permit cannot be transferred to another vessel unless any and all permits associated with that vessel are transferred to the new vessel. Monkfish limited access permits may not be transferred onto another vessel that already has a monkfish limited access permit (i.e. "stacked") unless the original permit is retired (by remitting the permit to the Regional Administrator) or revoked for failure to renew the permit.

**Rationale:** The prohibition on permit 'stacking' prevents a qualifying vessel from using more than one allocation of monkfish days-at-sea, thereby receiving an excessive share of rights to fish. It also prevents fishermen from splitting permits to increase targeting of various species in different fisheries. The prohibition on permit 'splitting' reduces capital stuffing and fishing mortality that would be caused by applying single permits to individual fisheries. It also maintains flexibility for fishing vessels to participate in a mixed-species fishery, consistent with current practices.

### 3.2.1.2 Limits on upgrading, refitting, or replacement

Any upgrade, refit, or vessel replacement must comply with the specifications in the Code of Federal Regulations, 50 CFR, §648.4. Any monkfish limited access vessel that no longer complies with the upgrade, refit, and replacement limits will be issued a confirmation of permit "history" (Section 3.2.3) and the vessel will be allocated no monkfish days-at-sea. A vessel may be upgraded, whether through refitting or replacement, and still be eligible for or be eligible to retain or renew a monkfish limited access permit, only if the upgrade complies with the following:

- a) The vessel's horsepower may be increased, whether through refitting or replacement, only once. Such an increase may not exceed 20 percent of the horsepower of the vessel initially issued a limited access permit as of the date the initial vessel applied for such permit.
- b) The vessel's length, gross registered tonnage (GRT), and net tonnage (NT) may be increased, whether through refitting or replacement, only once. Any increase in any of these three specifications of vessel size may not exceed 10 percent of the respective specification of the vessel initially issued a limited access permit as of the date the initial vessel applied for such permit. If any of these three specifications is increased, any increase in the other two must be performed at the same time. This type of upgrade may be done separately from an engine horsepower upgrade. If a vessel with a Category B or D permit is upgraded beyond 51 GRT and the increase in GRT does not exceed 10 percent, the vessel will retain and fish under the originally issued Category B or D permit that was issued during plan implementation.

**Rationale:** These limits control the fishing power of vessels that target monkfish during a monkfish day-at-sea. Without these limits, fishing mortality could increase although the day-at-sea allocations remain constant. In response, the Councils would have to lower the annual monkfish days-at-sea allocations, possibly to levels that become uneconomic to individual vessels.

### 3.2.1.3 Reporting requirements

There are four types of reports that will be required of vessels with active (NMFS allocates monkfish days-at-sea) limited access vessels:

- a) Information requested on a permit application
- b) Information required when calling in and out of the days-at-sea program
- c) Declaration of fishing areas
- d) Vessel trip reports (VTR)

Vessel owners or operators will be required to report information on the annual limited access permit application (50 CFR, §648.4). Vessel owners or operators will be required to follow the regulations (50 CFR, 648.10) to participate in the days-at-sea program and make fishing log report (VTR) [50 CFR, 648.7(b)] for each trip taken by the vessel.

**Area declaration:** An area declaration will be necessary in year 2 and subsequent years if minimum size limits and trip limits differ among the Northern and Southern Fishery Management Areas. Prior to making a trip, vessels with multispecies, scallops, and monkfish days-at-sea permits will be required to declare, for up to 30 days or longer period of time, into the Northern Fishery Management Area to fish under the less restrictive size limit (11-inches tail-length) and trip limits. This declaration will require that the vessel fish only in the Northern Fishery Management Area during the 30-day period beginning with the date of declaration. If the vessel has not made a Northern Fishery Management Area declaration, it will be presumed that the vessel fished in the Southern Fishery Management Area during the trip and the more conservative restrictions will apply to the entire trip. A vessel that has declared its intent to fish only in the Northern Fishery Management Area may transit the Southern Fishery Management Area provided that it complies with the transiting provisions described in Section 3.4.

**Rationale:** Vessel trip reports are needed to monitor fishing effort and discards. These data are crucial to assessing the future status of monkfish and monitoring the effectiveness of management to reduce fishing mortality while keeping discards to a minimum. The area declaration is needed to ensure that vessels do not fish in the Southern Fishery Management Area and transit the Northern Fishery Management Area to land monkfish under the less restrictive measures that apply in the northern area. The 30-day declaration period is necessary to improve enforceability. Otherwise, vessels could rapidly switch fishing areas leading to confusion and poor compliance with the more restrictive Southern Fishery Management Area restrictions.

### 3.2.2 General Category (bycatch) Permits for Monkfish

Any vessel that retains monkfish for commercial sale must obtain a general category permit. This permit will enable a vessel to retain monkfish in amounts less than the bycatch allowances that are appropriate for the gear and the permit that is held by the vessel. These bycatch trip limits are described in Sections 0 and 3.5.3. Vessels with limited access monkfish permits do not need this permit to operate in another fishery that has a monkfish bycatch allowance. Permits are transferrable to replacement vessels and there are no upgrading restrictions, other than the restrictions place on the vessel by other permits.

#### 3.2.2.1 Reporting requirements

Vessels with a general category monkfish permit must submit a vessel trip report showing the monkfish catch, fishing effort on the trip, and any other information required on a trip report.

### 3.2.3 Confirmation of Permit “History”

Owners of a vessel that qualified for a limited access monkfish permit (Section 3.2.1), and no longer own the vessel, it sank or was otherwise destroyed may apply for a Confirmation of Permit History, provided that the vessel permit was legally retained by the applicant (Section 3.2.1.1). This person or entity will receive no monkfish days-at-sea allocations until the permit is transferred to another vessel that complies with the upgrading requirements (Section 3.2.1.2). All other provisions of 50 CFR §648.4(a)(1)(i)(J) will apply.

**Rationale:** An owner must hold title to a vessel granted a limited access permit and therefore cannot renew one for a vessel that sank or was otherwise destroyed. This Confirmation of Permit History enables a fisherman that had a limited access monkfish permit on a vessel to maintain the permit without assigning it to a non-existent vessel.

### 3.2.3.1 Reporting requirements

Other than providing any required or optional information on the confirmation of permit history application, there will be no reporting requirements associated with this permit status.

## 3.2.4 Operator Permits

An operator of a vessel with a monkfish permit must have an "Operator's Permit" issued by NMFS. Any vessel fishing commercially for monkfish must have on board at least one operator who holds a permit, issued under the Code of Federal Regulations, CFR 50, part 648.5. That operator may be held accountable for violations of the fishing regulations and may be subject to a permit sanction. During the permit sanction period, the individual operator may not work in any capacity aboard a federally permitted fishing vessel.

The permit program has the following requirements:

- a) Any operator of a vessel fishing for monkfish must have an operator's permit issued by the NMFS Regional Administrator.
- b) An operator is defined as the master or other individual on board a vessel who is in charge of that vessel. (Note: a general definition of an operator is specified in the Code of Federal Regulations, CFR 50 part 285.2.)
- c) The operator will be required to submit an application, supplied by the Regional Administrator, for an Operator's Permit. No experience or income requirements would need to be met. Any applicant may receive a permit providing they do not have sanctions placed against another fisheries permit issued to them.
- d) The permit is not transferable.
- e) Permit holders would be required to carry their permit aboard the fishing vessel during fishing and off-loading operations and must have it available for inspection upon request by an authorized officer.
- f) The Regional Administrator may, after publication in the *Federal Register*, charge a permit fee.

**Rationale:** An operators permit is necessary to identify the responsible person(s) for a fishery violation. The permit reduces enforcement costs and increases compliance because an operator's permit can be sanctioned for egregious or repeated violations.

### 3.2.4.1 Reporting requirements

Other than providing any required or optional information on the operator permit application, there are no reporting requirements associated with the permit.

## 3.2.5 Dealer Permits

Any dealer of monkfish must have a permit issued by the Regional Administrator. A dealer is be defined as the person who first receives fish by way of purchase, barter, or trade. (Note: a general definition of a dealer is specified in 50 CFR §648.2.) The dealer would be required to submit an application, supplied by the Regional

Administrator, for a Processor/Dealer Permit, which would be issued for a 12-month period. Applications must contain at least the following information, and any other information required by the Regional Administrator: Company name, place(s) of business, mailing address(es) and telephone number(s), owner's name, dealer permit number (if a renewal), name and signature of the person responsible for the truth and accuracy of the application, a copy of the certificate of incorporation if the business is a corporation, and a copy of the Partnership Agreement and the names and addresses of all partners if the business is a partnership.

The permit would not be transferable and would expire upon change in ownership of the business. The permit must be maintained at the place of business and be available for inspection upon request by an authorized officer. The Regional Administrator may, after publication in the *Federal Register*, charge a permit fee. The Regional Administrator may require that all permitted dealers, including restaurants buying directly from boats, comply with any data reporting requirements as a provision of dealer permitting.

**Rationale:** Dealer permits are necessary to effectively administer the mandatory reporting requirements. Without dealer permits, enforcement and monitoring costs would be substantially higher to ensure that every dealer that processes monkfish would report every landing of monkfish.

### 3.2.5.1 Reporting requirements

In addition to required or optional information supplied on a dealer applications, dealers must make weekly reports of all fish landed and received on reports supplied by and sent to the Regional Administrator according to 50 CFR, §648.7.

**Rationale:** Dealer reports are necessary to accurately monitor monkfish landings. Other methods of reporting landings are either inaccurate or ineffective.

## 3.3 Effort Management – Annual Day-At-Sea Allocations

Limiting the amount of time that qualifying vessels may target monkfish will control fishing effort, and therefore fishing mortality. Monkfish days-at-sea will be allocated to vessels that qualify for monkfish limited access at the beginning of the fishing year, May 1. Days-at-sea will be counted using procedures specified in the Code of Federal Regulations, CFR 50 part 648.84 and reported via a call-in or vessel monitoring system (VMS). In the event that the fishing year or the method of counting days-at-sea for day-boat gillnet vessels or for vessels using any other gear is changed in the Multispecies FMP, that new method would automatically apply to vessels fishing under a monkfish day-at-sea.

Monkfish limited access vessels will receive an annual allocation of monkfish days-at-sea that may be used to target monkfish or exceed the bycatch allowances (Sections 0, 3.5.3, 3.6.2, or 3.6.3). Following the same procedures in the Code of Federal Regulations, CFR 50 part 648.84, up to 10 unused days-at-sea from the prior year may be carried forward, provided that the vessel participated in the call-in program during the prior year. Days that are under sanction because of a violation may not be carried forward into the next fishing year.

To meet the mortality objectives of the plan in year 4, no directed days-at-sea will be allowed for multispecies vessels (category C and D), scallop vessels (category C and D), or monkfish-only vessels (category A and B). This measure will take effect unless the Councils, via future framework adjustments, replace it with alternative measures having the same conservation value, or the year 2 management measures are sufficient to reduce mortality below the FMP's rebuilding mortality targets (Table 6).

## Procedure upon implementation

If prior to May 1, 1999, NMFS has satisfactorily completed the automatic qualification process and vessels have had a satisfactory period to apply for a monkfish limited access permit (either through automatic qualification or appeal), a partial-year allocation of days-at-sea may be allocated. Monkfish days would be prorated, on a calendar basis, upon plan implementation. If plan implementation begins on March 1 and the annual fleet allocation is 40 days, for example, then limited access vessels would receive 7 days to target monkfish between March 1 and April 30. Future days-at-sea allocations would be granted at the start of the fishing year, May 1. If the implementation of the monkfish days-at-sea program coincides with May 1, pro-ration will be unnecessary.

**Rationale:** It is desirable to initiate the days-at-sea program as soon as practicable, but the Councils recognize the time it will take to qualify vessels for monkfish limited access. If it is possible to implement the monkfish days-at-sea program before May 1, 1999, this section describes how many days-at-sea should be allocated in the current fishing year.

### 3.3.1 Annual monkfish day-at-sea allocations

Forty (40) days-at-sea will be allocated to vessels with a category A, B, C, and D permit (Table 4) on May 1, 1999 (the beginning of year 1). Forty (40) days-at-sea will also be allocated to monkfish limited access permit holders (categories A-D) at the beginning of years 2 and 3. Unless these allocations of days-at-sea and other restrictions on size limits and bycatch stop overfishing and achieve the annual rebuilding mortality targets, no (0) days-at-sea will be allocated in year 4 and subsequent years of the FMP. The Councils may adjust other measures in the FMP to achieve equivalent fishing mortality reductions and adjust the days-at-sea allocations via the framework process. The anticipated days-at-sea allocations are shown in Table 5.

**Table 5.** Monkfish limited access days-at-sea allocations

Fishing year	Annual days-at-sea allocation:
May 1, 1999 to April 30, 2000	40
May 1, 2000 to April 30, 2001	40
May 1, 2001 to April 30, 2002	40
May 1, 2002 to April 30, 2003 and subsequent fishing years	0

Any vessel may carryover a maximum of 10 unused monkfish days-at-sea to the following fishing year's allocation (including beyond May 1, 2002). NMFS will automatically credit each vessel with the amount of days-at-sea remaining in the prior year's account up to a maximum of 10 days-at-sea. Monkfish days-at-sea may not be carried over beyond the year following the one in which they were unused. A vessel owner will not have to apply to have the days-at-sea carried forward.

**Rationale:** Days-at-sea is one of the primary mechanisms for controlling and reducing fishing mortality. The Councils chose 40 days-at-sea because it is believed that fewer days would not provide enough fishing time for even an economically viable seasonal fishery. Few qualifying vessels appear to fish more than 40 days absent, according to the NMFS weighout data, but the Council believes that vessels without multispecies and scallop permits underreported the landings of monkfish. Additional mortality reduction is also expected by limiting multispecies and scallop vessels to using no more than 40 multispecies or scallop days to target monkfish, provided that the vessel qualifies for monkfish limited access.

The 10-day carryover is needed to provide more flexibility to vessels on trips near the end of the fishing year. Near the end of a fishing year, a vessel with unused days-at-sea might be tempted to extend the trip to avoid

loosing allocated fishing time. This practice could lead to unsafe operating conditions, e.g. overloading the hold capacity, fatigue, or remaining at sea during extremely bad weather. Since a slight delay of a portion of the vessel's fishing activity would not jeopardize the mortality objectives, the benefits of increased safety and better operating conditions is worth the small administrative cost.

### 3.3.2 Multispecies and scallop vessels

Multispecies and scallop vessels that qualify for monkfish limited access (Categories C and D) will receive the same number monkfish day-at-sea as allocated to other permit categories. When the vessel targets monkfish and reports a trip under the monkfish day-at-sea program, the trip will also count against a multispecies or scallop day-at-sea, whichever is applicable. A combination vessel that holds both types of permits may target monkfish during either a multispecies or scallop day-at-sea, provided that unused days are available. The combination vessel must fish according to the rules that would apply to a vessel on either a multispecies or scallop day-at-sea.

**Rationale:** Multispecies and scallop vessels will often qualify for monkfish limited access based on the vessel's monkfish landings while targeting a mix of multispecies/monkfish or scallops/monkfish. In keeping with the mixed catch nature of these two fisheries and the type of fishing effort that qualifies the vessel, trips that exceed the monkfish bycatch allowances must also count against the multispecies or scallop days-at-sea. If multispecies and scallop vessels were able to take their monkfish days apart from (and in addition to) multispecies or scallop days-at-sea, fishing mortality could not be controlled at threshold or target levels. In response, the Councils would have to reduce monkfish days-at-sea allocations to uneconomic levels, possibly to levels that are less than one trip length in duration.

### 3.3.3 Days-at-sea monitoring and reporting requirements

Days-at-sea, collected and monitored by a certified VMS or call-in program, will be deducted from each vessel's annual allotment. Any vessel that intends to take a trip to target monkfish or exceed the bycatch allowances must declare a monkfish trip prior to leaving port. If the vessel declares its intention to use monkfish days, it will be required to have only legal gear aboard for targeting monkfish (Section 3.7). In other words, limited access vessels will not be able to switch between days-at-sea regulated fisheries in the middle of a trip. On the other hand, if the vessel intends on operating in a fishery with an allowable bycatch of monkfish (Sections 0, 3.5.3, 3.6.2, or 3.6.3), it will not be necessary to call-in monkfish day-at-sea to land monkfish in amounts less than or equal to the bycatch allowance.

The annual allocation of monkfish days will coincide with the multispecies fishing year, currently May 1 to April 30. Future allocations or adjustments may occur at other times than the start of the fishing year, but the intention of the scientific monitoring process (Section 3.11.2.1) is to adjust day-at-sea, if necessary, at the start of the fishing year.

**Rationale:** The procedure described above uses existing systems and mechanisms for monitoring days-at-sea in the multispecies and scallop fisheries. If it is possible to use the VMS equipment to report both multispecies and monkfish or scallop and monkfish days, then vessels with VMS equipment can utilize existing equipment to reduce costs and reporting burdens.

#### 3.3.3.1 Vessels using gillnets during a monkfish day-at-sea

Vessels that will fish with gillnets during a monkfish day-at-sea must declare into one of two permit categories, prior to the beginning of the fishing year. Days-at-sea for vessels using gillnets will be monitored with the same procedures used to count multispecies days. The present multispecies monitoring system counts hours away from port. If the Council changes the method of accounting for multispecies, the accounting of monkfish days-at-sea will also change via automatic action.

**Day gillnet category:** If the vessel declares into a day gillnet category, each trip under a monkfish day-at-sea lasting between 3 and 15 hours will be counted as a minimum of 15 hours against the annual monkfish day-at-sea allocation. Trips lasting more than 15 hours will be counted in hours from the time the vessel called into a day-at-sea until it has returned to port and called out of a day-at-sea. Fishing gear may remain untended at sea between trips.

**Trip gillnet category:** If the vessel declares into a trip gillnet category, each trip under a monkfish day-at-sea will be counted in hours from the time the vessel called into a day-at-sea until it has returned to port and called out of a day-at-sea. When fishing under a monkfish day-at-sea, a trip gillnet vessel is required to remove all gillnet gear from the water before calling-out of a monkfish day-at-sea under 50 CFR §648.10(c)(3). When not fishing under a monkfish day-at-sea trip gillnet vessels may fish in an exempted fishery with gillnet gear. Vessels electing to fish under the trip gillnet designation must have on board written confirmation issued by the Regional Administrator, that the vessel is a trip gillnet vessel.

**Rationale:** The two methods of accounting for day-at-sea accommodate different fishing strategies, without unfairly penalizing some fishermen. Vessels that usually make short day-trips to tend gear may do so, but trips that are greater than 3 hours and less than 15 hours will be counted as if the vessel remained at sea for the entire day. This procedure prevents vessels from gaining an unfair advantage by fishing 4 to 8 hours per trip and allowing the net to fish for double or triple the time that other vessels can fish. Vessels fishing under the trip gillnet category will not be penalized for making short trips (by deducting a minimum of hours from the annual day-at-sea allocation), but must not leave the gear untended at sea between trips. This strategy and the method for accounting monkfish day-at-sea is the same as the procedure for vessels using trawls.

### 3.3.3.2 Running clock procedure

Vessels that fish during a monkfish day-at-sea may land more than the directed fishery trip limits specified in Section 3.6.1, provided that the days-at-sea continue to count against the monkfish day-at-sea allocation until the 'trip' is long enough so that the landings do not exceed the daily trip limits had the trip ended at a later time. The same procedures in 50 CFR §648.86 for administering the trip limit for cod under the Multispecies FMP will apply to the landings of monkfish during a monkfish day-at-sea. A vessel that exceeds the directed fishery trip limits must have sufficient monkfish days-at-sea remaining to accommodate the excess catch. Once the vessel has returned to port, it cannot sail to target other species until the vessel has called out of a monkfish day-at-sea. If the vessel was also operating under a multispecies or scallop day-at-sea (Section 3.3.2), the vessel may call out of those days when the vessel returns to port, without calling out of a monkfish day-at-sea.

If the monkfish landings exceed the applicable directed fishery trip limit, the vessel operator would not call-out of the monkfish day-at-sea program until sufficient time has elapsed to account for and justify the amount of monkfish harvested at the time of offloading regardless of whether all of the monkfish on board is offloaded. For example, a vessel that has called-in to the monkfish day-at-sea program at 3 p.m. on Monday may fish and come back into port at 4 p.m. on Wednesday of that same week with 4,000 lb (1,814.4 kg) of monkfish, and offload some or all of its catch, but cannot call out of the monkfish day-at-sea program until 3:01 p.m. the next day, Thursday (i.e., 3 days plus one minute).

Upon entering port, and before offloading, the vessel operator must notify the Regional Administrator and provide the following information: Vessel name and permit number, owner and caller name, phone number, and the hail weight of monkfish on board and the amount of monkfish to be offloaded, if any. A vessel that has not exceeded the landing limit and is offloading and ending its trip by calling out of the monkfish day-at-sea program does not have to report the landings of monkfish via this call-in system. A vessel that has not exceeded the monkfish landing limits described in Section 3.6.1 and that is offloading some or all of its catch is subject to the call-in requirement described in Section 3.3.3.

**Rationale:** This procedure is necessary to account for the vagaries of fishing and avoiding situations when vessels must discard catch to return to port or sit in the ocean during bad weather to avoid discarding fish. Even though the vessels would probably be targeting monkfish while on a monkfish day-at-sea, catches are unpredictable. A vessel that has a few good hauls early in the trip or an unexpected good haul late in the trip can return to port early due to bad weather or equipment problems without violating the directed fishery trip limits or discarding valuable monkfish.

### **3.4 Management areas**

Federal management will apply throughout the range of the species. Two management areas for monkfish will be established (Figure ), a northern fishery management area (NFMA) and a southern fishery management area (SFMA). The Northern Fishery Management Area is defined by a line starting at the intersection of 70° W longitude and the south-facing shoreline of Cape Cod, MA (point A), then southward along 70° W longitude to 41° N latitude, then eastward to the U.S. - Canada boundary, then in a northerly direction along the U.S. - Canada boundary until it intersects the Maine shoreline, and then following the coastline in a southerly direction until it intersects with point A. The SFMA would be defined by a line starting at point A, then in a southerly direction to 33°50' N latitude (the NC-SC border), then due east to the 200 mile limit, then in a northerly direction along the 200 mile limit to the U.S. - Canada boundary, then in a northwesterly direction along the U.S. - Canada boundary to 41° N latitude, then westward to 70° W longitude, then north to the shoreline at Cape Cod, MA (point A). The boundary between these two management areas is shown in Figure . Different management measures will apply to vessels fishing in different management areas or sub-areas.

**Transiting provisions:** Vessels may transit from one area to another for the purposes of fishing for monkfish, provided that fishing gear is properly stowed and not available for immediate use (50 CFR, §648.23(b)).

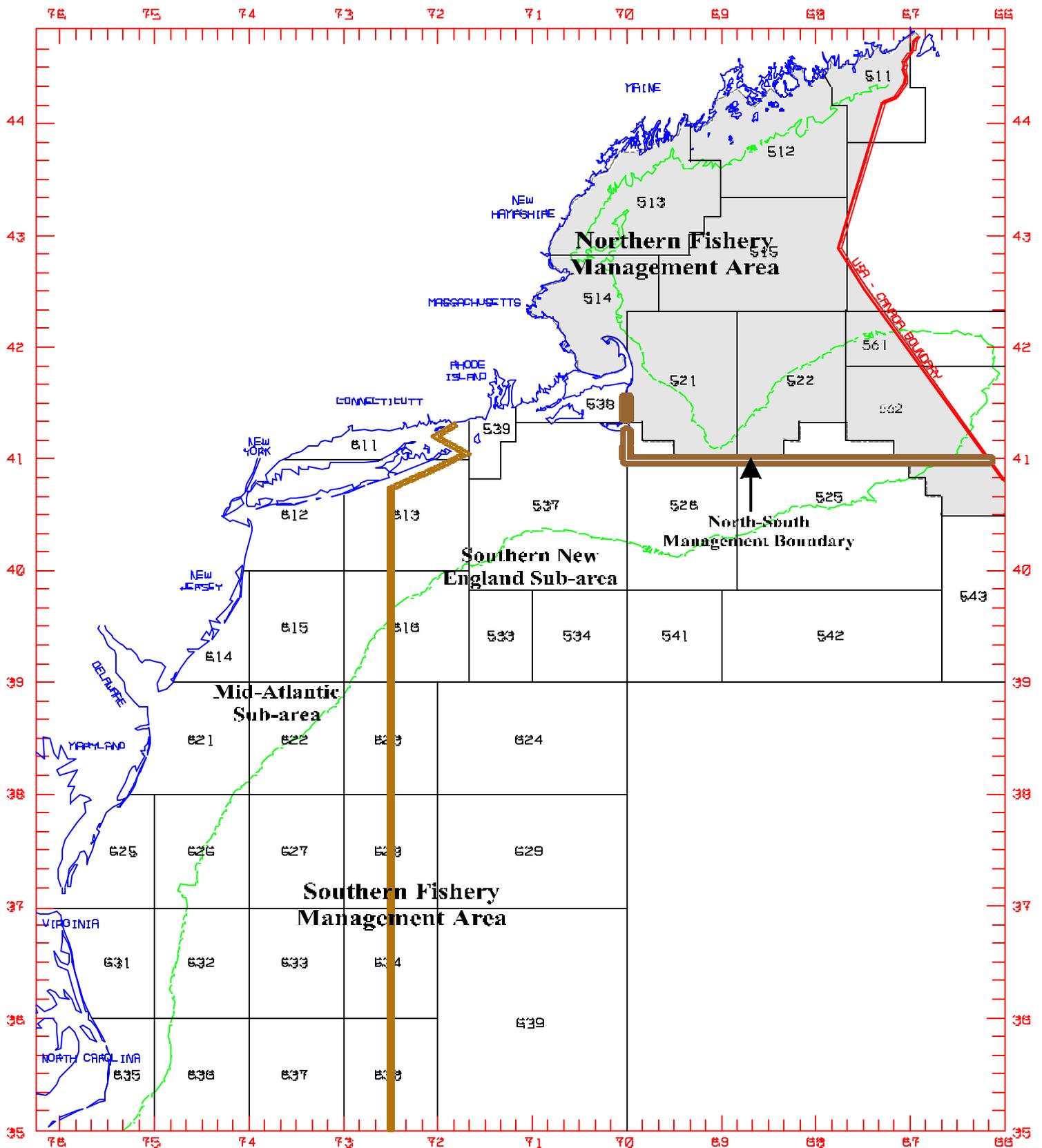
These two areas will also be used to monitor the status of the monkfish resource. Different trip limits and size limits may apply to vessels fishing in each area, depending on what fishery the vessel is participating in. For example, monkfish trip limits while on a multispecies day-at-sea will differ among the two areas, because of the frequency of catching monkfish as unavoidable bycatch when fishing for groundfish. For the same reason, the size limits will also differ among the two areas due to the amount of monkfish caught along with groundfish vs. the amount of monkfish caught in a directed fishery for monkfish.

Target Total Allowable Catches (TACs) have been estimated for the two principal management areas and are consistent with the overfishing definition and the rebuilding strategy adopted by the Councils. The target TACs will be reviewed annually (Section 3.11.2) and adjusted through the framework adjustment procedure (Section 3.11.4.1). The table below shows the planned reductions in the TACs, beginning from a 1995-1996 baseline to the fourth year by which fishing is reduced to the overfishing threshold. During years 5 to 10 (2002 through 2007) a lower, target fishing rate must be achieved to allow rebuilding of the stocks. A third management area would also be considered to differentiate the predominant Mid-Atlantic gillnet fishery (west of 72°30' W longitude) from the mixed-species Southern New England/Georges Bank fisheries.

**Table 6.** TACs corresponding to the fishing mortality objectives for The Northern and Southern Fishery Management Areas.

Fishing year	Objective	NFMA TAC (mt)	SFMA TAC (mt)
1995 - 1996	Baseline	12,739	14,667
May 1, 1998 to April 30, 1999	Partial implementation	Undefined	Undefined
May 1, 1999 to April 30, 2000	Mortality reduction	5,673	6,024
May 1, 2000 to April 30, 2001	Mortality reduction	5,673	6,024
May 1, 2001 to April 30, 2002	Mortality reduction	5,673	6,024
May 1, 2002 to April 30, 2003	Stop overfishing	4,047	3,252
May 1, 2003 to April 30, 2004 and subsequent fishing years	Rebuilding	4,047	2,224

**Rationale:** The reason for the segregation is partly based on the biological characteristics of the resource and partly based on the differences in fisheries in the Gulf of Maine versus areas to the south. Although growth rates are similar for monkfish in both areas, monkfish demonstrate different patterns in recruitment and stock biomass over the survey time series. There appears to be little adult migration between the two areas and egg masses from spawning in the Gulf of Maine probably stay within the Gulf of Maine and northern Georges Bank. Catches from each area will be monitored to evaluate the effectiveness of management measures to meet the individual mortality objectives.



**Figure 5.** Proposed northern and southern management areas for monkfish and three-digit statistical reporting areas. The shaded area represents the statistical areas that will be used to monitor the TACs for the northern monkfish stock. The TAC for the Southern Fishery Management Area will be split into two components for monitoring purposes. For monitoring the effectiveness of management measures in the respective sub-areas, the Multispecies Monitoring Committee will compare the catches from the Southern New England and Mid-Atlantic sub-areas to the catches during 1994-1997

## 3.5 Possession Limits

### 3.5.1 Minimum size

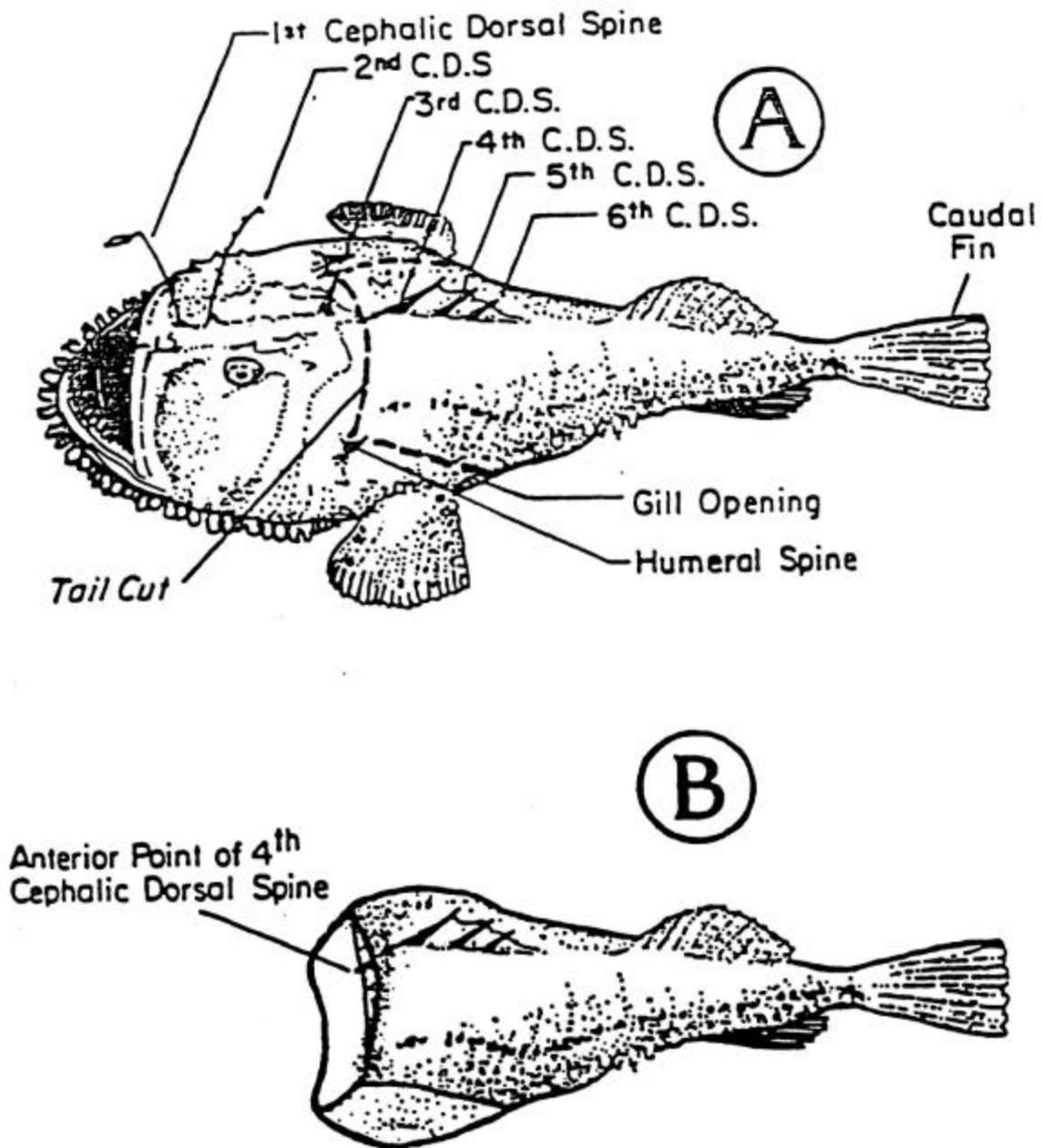
**When final rules implementing the Monkfish FMP are published:** Possession or landing of monkfish tails measuring less than 11 inches in length or whole monkfish less than 17 inches total length by any vessel with a federal fisheries permit or any vessel fishing in the EEZ would be prohibited. Fishermen that process monkfish at sea should use 17 inches total length as a guideline before processing. In nearly all cases, monkfish that are over 17 inches total length will have an 11-inch tail after being cut according to standard practices. Since the minimum size limit applies to all vessels, it is unnecessary to delay implementation of this measure until May 1, 1999 when the first fishing year begins or when monkfish days-at-sea are allocated.

**May 1, 2000:** If the year 1 management measures allow catches to exceed the Southern Fishery Management Area TAC or the Councils fail to take other action to meet the mortality objectives via framework action, a higher size limit will be implemented via a "Notice Action" for vessels fishing in the Southern Fishery Management Area (Figure ). For all vessels fishing in the Northern Fishery Management Area, the minimum size possession limits will remain as described in the above paragraph. For all vessels fishing in the Southern Fishery Management Area, possession or landing of monkfish tails measuring less than 14 inches in length or whole monkfish less than 21 inches total length would be prohibited. Fishermen that process monkfish at sea should use 21 inches total length as a guideline before processing. In nearly all cases, monkfish that are over 21 inches total length will have a 14-inch tail after being cut according to standard practices.

Enforcement of a minimum size is often more convenient at the point of landing, or at the location of the first transaction, usually a shore-side dealer. As a possession limit, however, the proposed measure can be enforced at any point and impedes efforts to avoid the regulation through illegal landings or at-sea transfers. Monkfish tails would be measured from the anterior portion of the fourth cephalic dorsal spine to the end of the caudal fin (Figure ). Any tissue anterior to the 4th dorsal spine would be ignored. If the 4th dorsal spine or the tail are not intact, the minimum size would be measured between the most anterior vertebra and the most posterior portion of the tail.

**Rationale:** The minimum size limit is intended to minimize mortality on juvenile monkfish in two ways. Where monkfish is caught predominately as a bycatch, the minimum size limit is intended to prevent increased fishing effort on small fish to compensate for the new restrictions that limit landings and fishing effort. The 11-inch minimum size appears to reflect current catch and discard practices due to market conditions and state regulations. In areas where monkfish are caught more frequently in a directed fishery, fishermen have attested that small monkfish can be avoided. The size limit is also intended to discourage fishing on small, immature fish and cause changes in fishing behavior to selectively target large fish.

Trawl and dredge vessels will be forced to discard a high proportion of formerly landed monkfish under the proposed 14-inch minimum size. A significant fraction of monkfish caught by trawls in the southern area are targeted, so the vessels may be able to avoid catching small monkfish or it might be uneconomic to target monkfish until they re-recruit to the new minimum size. It will take only 13 months for a monkfish that yield an 11-inch tail to grow to a size that will yield a 14-inch tail



**Figure 6.** Monkfish morphology and tail-section: a) labeled figure (dashed line denotes area of tail cur) and b) tail-section as unloaded from commercial fishing boats (from Lyons and Creaser 1986).

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### 3.5.2 Trip limits for vessels using large mesh while not on a day-at-sea

Vessels using large mesh (5½ -inch (14.0-cm) diamond or 6-inch square mesh throughout the body, extension, and codend) while not on a monkfish, multispecies, or scallop day-at-sea may retain and land monkfish (whole or tails) up to 5 percent of the total weight of fish onboard.

**Rationale:** This trip limit approximates the customary monkfish bycatch by vessels in other large mesh fisheries. Generally these fisheries operate in areas where monkfish are less abundant or the vessels have no markets to accept monkfish.

### 3.5.3 Trip limits for vessels using small mesh, rod and reel, or handlines and multispecies vessels less than 20 feet electing not to fish under day-at-sea

Vessels that are not on a day-at-sea and fishing with small mesh, rod and reel, or handlines may land up to 50 pounds tail-weight (166 pounds whole -weight) per trip. Small mesh is considered to be any mesh is smaller than the large mesh provisions described in Section 0.

Multispecies vessels that are less than 20 feet and elect not to fish under the multispecies days-at-sea program may also land up to 50 pounds tail-weight (166 pounds whole -weight) of monkfish per trip.

**Rationale:** These trip limits approximate the customary monkfish bycatch in small mesh and hook fisheries. The Councils want to discourage any targeting of immature monkfish and minimize discarding of monkfish by vessels using small mesh.

### 3.5.4 Trip limits for liver landings

Possession or landing of livers whose aggregate weight totals more than 25% of the total weight of monkfish tails, or 10% of the total weight of round monkfish on any trip or calendar day, whichever is greater will be prohibited. If a vessel lands both monkfish tails and round monkfish, the following weight ratio could not exceed 10%:

$$\text{Aggregate weight of livers} / (\text{Aggregate weight of tails} \times 3.32 + \text{Aggregate weight of round fish})$$

Enforcement of a possession limit at sea will be very difficult, but a possession limit will act as a deterrent to illegal landing of excess livers or at-sea transfers. If a portion of the catch is landed separately (at a different dock, for example), the vessel operator will be required to have a signed receipt from all dealers receiving the trip's monkfish which shows the amount of tails and/or livers landed.

**Rationale:** A liver limit is necessary to prevent vessels from landing the most valuable part of the monkfish and avoiding the size and trip limits by discarding the monkfish carcasses. Without the liver limit, fishing mortality could increase if vessels circumvented the size and trip limits by highgrading and landing only livers. It is impossible to count livers once they have been packaged aboard the vessel, so a weight ratio is necessary to prevent highgrading. The limit (25 percent of the weight of tails) is intentionally set above the mean weight ratio (17 to 18 percent) to allow for seasonal variability and not force vessels to retain tails or whole fish while discarding valuable livers.

## 3.6 Landings limits

Management measures in this section are impossible to enforce at sea, because compliance with a daily trip limit during a trip is impossible and checking livens at sea is impractical. It is therefore necessary to enforce these measures at the point of landing.

### 3.6.1 Trip limits during a monkfish day-at-sea

**Prior to May 1, 2000:** No trip limits will apply to vessels fishing during a monkfish day-at-sea prior to and during year 1 of the FMP.

**After April 30, 2000:** If the year 1 management measures allow catches to exceed the Southern Fishery Management Area TAC or the Councils fail to take other action to meet the mortality objectives via framework action, trip limits will be implemented via a "Notice Action" for vessels fishing during a monkfish day-at-sea in the Southern Fishery Management Area (Figure ):

- Category A and C vessels using mobile gear during a monkfish day-at-sea will have a 1,500 pounds tail-weight (4,980 pounds whole-weight) per day-at-sea landing limit
- Category B and D vessels using mobile gear during a monkfish day-at-sea will have a 1,000 pounds tail-weight (3,320 pounds whole-weight) per day-at-sea landing limit
- Any vessel using fixed gear during a monkfish day-at-sea will have a 300 pounds tail-weight (996 pounds whole-weight) per day-at-sea landing limit.

Landings that exceed the applicable trip limits will be allowed, provided that the vessel operator does not call out of the monkfish day-at-sea program until sufficient time has elapsed. The vessel must have sufficient days-at-sea remaining to account for the landings overage and the operator should not call out until the trip's monkfish days-at-sea have accumulated enough to account for the excess landings. If the vessel with a monkfish limited access permit is not called into the monkfish day-at-sea program or has no unused days remaining, the bycatch allowances (Sections 0, 3.5.3, 3.6.2, or 3.6.3) will apply, depending on what other fishery the vessel is participating in.

**Rationale:** The trip limits are expected to contribute to mortality reduction and achieve the biological objectives in year 2.

### 3.6.2 Trip limits during a multispecies day-at-sea

The trip limits given below apply when a vessel with a monkfish and a multispecies limited access permit is fishing for regulated groundfish during a multispecies day-at-sea only. Vessels that call into the monkfish day-at-sea program will instead have trip limits given in Section 3.6.1.

**Rationale:** The trip limits approximate bycatch amount for multispecies vessels that target groundfish. Since the multispecies vessels that qualify for monkfish limited access also have a history of catching monkfish as a component of the customary groundfish catch, higher trip limits are provided during their multispecies day-at-sea.

#### 3.6.2.1 Vessels with category C or D monkfish limited access permits

**Beginning May 1, 1999 or the date of implementation of the monkfish day-at-sea program, whichever comes first:** A Multispecies vessel that fishes only in the Northern Fishery Management Area will have no trip limit when it is on a multispecies day-at-sea. If the vessel fishes for any portion of the trip during a multispecies day-at-sea (but not during a monkfish day-at-sea) in the Southern Fishery Management Area, the vessel will be able to land up to

300 pounds tail-weight (996 pounds whole-weight) of monkfish per day-at-sea while using mobile gear or 50 pounds tail-weight (166 pounds whole-weight) of monkfish per day-at-sea while using fixed gear.

**Beginning May 1, 2002:** Vessels that are on a multispecies, but not a monkfish day-at-sea while fishing in any area will be able to land up to 300 pounds tail-weight (996 pounds whole-weight) of monkfish per day-at-sea, or 25 percent of total weight of fish onboard, whichever is less. Trip limits for vessels using fixed gear in the Southern Fishery Management Area will remain at 50 pounds tail-weight (166 pounds whole-weight) of monkfish per day-at-sea.

### 3.6.2.2 Vessels without monkfish limited access permits

**Beginning May 1, 1999 or the date of implementation of the monkfish day-at-sea program, whichever comes first:** Vessels that are on a multispecies day-at-sea while fishing in the Northern Fishery Management Area will be able to land up to 300 pounds tail-weight (996 pounds whole-weight) of monkfish per day-at-sea, or 25 percent of total weight of fish onboard, whichever is less. If the vessel fishes for any portion of the trip during a multispecies day-at-sea in the Southern Fishery Management Area, the vessel will be able to land up to 50 pounds tail-weight (166 pounds whole-weight) of monkfish per day-at-sea.

### 3.6.3 Trip limits during a scallop day-at-sea

The trip limits given below apply when a vessel with a monkfish and a scallop limited access permit is fishing during a scallop day-at-sea or when a vessel has a sea scallop dredge (with rings) aboard. Vessels that call into the monkfish day-at-sea program and do not have a dredge aboard will have monkfish trip limits given in Section 3.6.1.

**Rationale:** The trip limits provide a liberal bycatch allowance for scallop vessels while targeting scallops. Other than the monkfish day-at-sea provisions for scallop vessels that qualify for monkfish limited access, there are no provisions for landing monkfish as a component catch during a scallop day-at-sea, because the Councils want to discourage targeting monkfish with a standard scallop dredge. If a scallop vessel has a dredge aboard and has called into the sea scallop day-at-sea program, this management measure presumes that the vessel is fishing for scallops, not monkfish. Monkfish caught with dredges are primarily small, immature fish.

#### 3.6.3.1 Vessels with category C or D monkfish limited access permits

**Beginning May 1, 1999 or the date of implementation of the monkfish day-at-sea program, whichever comes first:** Vessels that have a scallop dredge aboard or are on a scallop, but not a monkfish day-at-sea will be able to land up to 300 pounds tail-weight (996 pounds whole-weight) of monkfish per day-at-sea.

**Beginning May 1, 2002:** Vessels that have a scallop dredge aboard or are on a scallop, but not a monkfish day-at-sea will be able to land up to 200 pounds tail-weight (664 pounds whole-weight) of monkfish per day-at-sea.

#### 3.6.3.2 Vessels without monkfish limited access permits

**Beginning May 1, 1999 or the date of implementation of the monkfish day-at-sea program, whichever comes first:** Vessels that are on a scallop day-at-sea will be able to land up to 300 pounds tail-weight (996 pounds whole-weight) of monkfish per day-at-sea.

**Beginning May 1, 2002:** Vessels that are on a scallop day-at-sea will be able to land up to 200 pounds tail-weight (664 pounds whole-weight) of monkfish per day-at-sea.

## 3.7 Gear Restrictions

The following restrictions establish the type of fishing gear that may be used while the vessel is called into a monkfish day-at-sea. Non-conforming gear must be properly stowed to prevent its use during the monkfish trip. Dredges must not be onboard the vessel when it is fishing during a monkfish day-at-sea. Nothing in this section is meant to supersede more restrictive regulations (existing or future) that are intended to protect harbor porpoise or other marine mammals and endangered species.

### 3.7.1 Authorized gear while on a monkfish day-at-sea

Vessels called into the monkfish day-at-sea program may use large mesh trawls, large mesh beam trawls, large mesh gillnets, or any hook gear. Large mesh for vessels using nets during a monkfish day-at-sea means the minimum mesh defined in Section 3.7.2. Dredges may not be used to harvest monkfish while on a monkfish day-at-sea. These gears are defined under the regulations governing the Fisheries of the Northeastern United States at 50 CFR, §648.2.

Vessels with a hook-only limited access multispecies permit that also qualify for monkfish limited access will be allowed to use hook, trawl, or gillnet fishing gear while on a monkfish day-at-sea, provided that the trawl and gillnet gear comply with Sections 3.7.2 and 3.7.3, the vessel operates in a monkfish fishery that is exempt from the multispecies day-at-sea regulations (50 CFR, §648.80), and the vessel possesses no large-mesh multispecies.

**Rationale:** It is necessary to restrict the directed monkfish fishery to gears that have better size selectivity to achieve objective 3. Dredges have poorer size selection than do other gears and therefore are prohibited from use during a monkfish day-at-sea.

The hook-only provision is necessary to allow certain multispecies vessels to target monkfish during a monkfish day-at-sea. The multispecies regulations prohibit hook-only vessels from using trawls or gillnets while on a multispecies day-at-sea [50 CFR, §648.82(b)(4)(i)(A)]. Since a multispecies vessel on a monkfish day-at-sea must also call into a multispecies day-at-sea (Section 3.3.2), it would be impossible for a hook-only multispecies permit holder that also qualifies for monkfish limited access to target monkfish with trawls or gillnets. The vessels in this category chose to target multispecies with hook gear, but they qualified for monkfish limited access by catching monkfish with nets during February 28, 1991 through February 27, 1995 (the monkfish qualification period). Monkfish are only infrequently captured by hook gear, making it a poor choice for targeting monkfish. This policy of allowing a multispecies vessel to target monkfish on a multispecies day-at-sea with different gear is analogous to the policy for scallop dredges in Section 3.3.2.

### 3.7.2 Minimum mesh

Vessels fishing under monkfish days-at-sea must fish with trawls having mesh no smaller than 10-inches square or 12-inches diamond in the codend, unless the vessel has a Category C or D permit and is also fishing under a multispecies day-at-sea. If a vessel is fishing during a multispecies and monkfish day-at-sea, a trawl must have mesh that conforms with the regulations for the Multispecies FMP, currently 6-inch square or diamond throughout the entire net. If using a gillnet during a monkfish day-at-sea, the gillnet must have mesh no smaller than 10-inches diamond. Vessels may have smaller mesh on board if it is stowed so that it is not available for immediate use.

To accommodate situations when a vessel hauls up mesh smaller than the minimum legal size (for example, a lost or discarded small mesh net), the minimum mesh on board regulation will apply to pieces of mesh larger than three feet square. Vessel captains should take necessary steps to render the mesh unusable (e.g. cutting up large pieces into pieces smaller than three feet square, and otherwise destroying the mesh).

**Rationale:** The primary purpose of requiring large mesh is to reduce bycatch of other marine species while retaining the larger monkfish. This management measure could improve the possibility that more exempted areas would be open for targeting monkfish, if the bycatch of other species was below the legal thresholds. Monkfish size

selectivity by these large mesh nets is unknown, but they could have a beneficial effect on size selection. The body shape of monkfish, however, prevents even large changes in minimum mesh size from substantially improving monkfish selectivity. The FMP, therefore, relies more on day-at-sea allocations, trip limits, and size limits to reduce fishing mortality.

### 3.7.3 Gillnet limits and net tags

A vessel that qualifies for monkfish limited access may place no more than 160 net tags on any combination of monkfish and groundfish gillnets. Vessels without multispecies permits will of course be prohibited from using monkfish net tags on groundfish nets.

**Number and size of nets:** Vessels may not fish with, haul, possess, or deploy more than 160 monkfish gillnets. Multispecies vessels may fish any combination of monkfish, roundfish, and flatfish gillnets, up to 160 nets, provided that the number of monkfish, roundfish, and flatfish gillnets does not exceed the limitations and the nets are tagged in accordance with the regulations in 50 CFR, §648.82. Nets may not be longer than 300-ft (91.44 m), or 50-fathoms, in length.

**Tagging requirements:** Beginning May 1, 1999 or the date of implementation of the monkfish days-at-sea program, whichever comes first, all monkfish gillnets fished, hauled, possessed, or deployed must have one tag per net, with one tag secured to every other bridle of every net within a string of nets. Tags must be obtained as described in 50 CFR, §648.4. The vessel operator must produce all net tags upon request by an authorized officer.

Vessel owners or operators seeking replacement of lost, destroyed, or missing tags must request replacement of tags by letter or fax to the Regional Administrator. A check for the cost of the replacement tags must be received before tags will be re-issued.

**Rationale:** Restrictions on the number of nets is necessary to ensure that vessels using gillnets do not increase the amount of gear fished to compensate for the restrictions on fishing effort and landings. If the number of nets increases, the Councils would have to prohibit leaving nets untended at sea between trips or reducing the number of day-at-sea or trip limits to contain total fishing effort. Some vessels will need to reduce the number of monkfish gillnets they deploy, if they currently fish more than 160 nets. The proposed net limit, however, will accommodate many fishermen in New England that tend to fish more nets and nearly all fishermen in the Mid-Atlantic that tend to fish fewer nets.

## 3.8 Closed Areas

The Councils do not currently propose any closed areas to preserve monkfish, although future closed areas may be implemented via a framework action to protect spawning aggregations. Some areas may be closed to the monkfish limited access fishery, however, because of unacceptably high bycatch of other species.

### 3.8.1 Exempted fisheries

The Multispecies FMP regulations at 50 CFR, §648.80 specifies the type of gear that may be used within the Gulf of Maine/Georges Bank regulated mesh area and the Southern New England regulated mesh area. Vessels that are not called into the multispecies day-at-sea program cannot fish in these areas unless they operate in an exempted fishery.

Three exempted fisheries for monkfish are defined in the multispecies regulations:

- Gulf of Maine/Georges Bank Monkfish Gillnet Exempted Area – July 1 to September 14
- Southern New England Monkfish and Skate Gillnet Exempted Area – Year around

- Southern New England Monkfish and Skate Trawl Exempted Area – Year around

Thus, vessels that qualify for monkfish limited access, but do not have a multispecies limited access permit can only fish for monkfish in these three exempted areas and the entire Mid-Atlantic regulated mesh area. Future changes to the exempted areas may apply to monkfish without amending or adjusting this FMP.

**Rationale:** The multispecies restrictions on gear and fishing activity were intended to limit groundfish bycatch below acceptable levels. The exempted fishery program for multispecies will therefore apply to vessels fishing under only monkfish day-at-sea, unless there are other areas that would become exempted under the Multispecies FMP.

### **3.9 Closed Seasons**

#### **3.9.1.1 Blocks of time out of the fishery – Vessels with monkfish-only days-at-sea**

Vessels with a Category A or B permits (i.e. “monkfish-only”) will be required to declare out of the monkfish fishery and cannot use a monkfish day-at-sea for a continuous 20-day block during the months of April, May, and June. The vessels may engage in other fisheries that they can legally participate in, but they may possess no monkfish during this 20-day block.

**Rationale:** The 20-day block out of the fishery is necessary to limit fishing mortality during known spawning periods. Monkfish become more vulnerable to fishing, especially to monkfish gillnets, when they migrate and aggregate to spawn. Reasons for this action would be to protect spawning, to avoid catching immature monkfish, and to enhance economic value. Blocks of time out of the fishery may also be required to avoid captures of marine mammals and endangered species.

#### **3.9.1.2 Blocks of time out of the fishery – Vessels with multispecies days-at-sea**

Specified periods to protect groundfish spawning when multispecies vessels are required to declare out of the fishery would also apply to multispecies days-at-sea used to target monkfish. Multispecies days-at-sea vessels that have declared out of the multispecies fishery, for any reason including the fulfillment of its 20 day out periods, will be prohibited from possessing monkfish. Vessels that target species other than groundfish and monkfish will, however, be able to participate in exempted fisheries during the mandatory groundfish tie-up periods. Multispecies vessels with a category C or D would not be required to comply with the provisions in Section 3.9.1.1.

**Rationale:** Since vessels with multispecies day-at-sea permits must use a multispecies day-at-sea to target monkfish, either as the sole target species or as a component of a mixed groundfish catch, the vessel cannot fish for monkfish independently when the vessel is declared out of the multispecies fishery.

### **3.10 Recreational Fishery Management**

Fishing mortality from recreational catches is a negligible fraction of the total. The Councils therefore propose no regulations for recreational fishing at this time.

### **3.11 Framework Adjustment Process and Monitoring**

Many management measures in the Monkfish FMP can be adjusted via framework action. The effectiveness of the management program depends on uncertain factors that may change over time. Achieving the FMP's mortality objectives will require at least annual adjustments to the management measures. It is therefore necessary to have an administrative mechanism in place that fulfills the Councils' public input and notification requirements while maximizing flexibility and responsiveness.

The framework adjustment process allows changes to be made in regulations in a timely manner without going through the plan amendment process. The purpose is to provide a formal opportunity for public comment that substitutes for the customary public comment period provided when publishing a proposed rule. If changes to the management measures were contemplated in the FMP, there was sufficient opportunity for public comment on the framework action, and the changes are not highly controversial, the Secretary of Commerce may waive the need for additional public comment through publication of a proposed rule in the Federal Register.

#### **3.11.1 Framework Adjustment Process**

The Councils will develop and analyze the proposed actions over the span of at least two Council meetings, and provide advanced public notice of the availability of both the proposals and the analyses. Opportunity to provide written and oral comments will be provided throughout the process before submitting the recommendations to the Regional Administrator. The Councils may convene and consider the advice of scientists on the Monkfish Monitoring Committee and the Industry Advisory Committee during this process.

In response to the annual review by the Monkfish Monitoring Committee or at any other time, either Council may recommend adjustments to any of the measures proposed by this FMP. These include but are not limited to the measures described in Section 3.11.4. The joint Monkfish Oversight Committee (subject to approval of the Council chairmen) or either Council may initiate a framework adjustment. Framework adjustments will require one initial meeting (the agenda must include notification of the framework adjustment proposal) and two final Council meetings, one at each Council.

After a management action has been initiated, the Councils will develop and analyze appropriate management actions over the span of at least two Council meetings. The Councils will provide the public with advance notice of the availability of both the proposals and the analysis and opportunity to comment on them prior to and at the two final Council meetings. Documentation and analyses for the framework adjustment will be available at least two weeks before the first of the final two meetings. The Councils' recommendation for adjustments or additions to management measures must come from one or more of the categories listed in Section 3.11.4.

The Councils may refer the proposed adjustments to the joint oversight committee for further deliberation and review. Upon receiving the recommendations of the oversight committee, the Councils will publish notice of its intent to take action and provide the public with any relevant analyses and opportunity to comment on any possible actions. After receiving public comment, the Councils must take action (to approve, modify, disapprove, or table) on the recommendation at the second Council meeting following the meeting at which it received the recommendations.

Management adjustments or amendments for monkfish will require majority approval of each Council for submission to the Secretary. The Councils may recommend through the framework adjustment process

implementation of stock-specific, gear-specific, or regional adjustments provided that there is adequate opportunity for public comment, and all other regulatory requirements are observed.

After developing management actions and receiving public testimony, the Councils may make a recommendation to the Regional Administrator. The Councils' recommendation will include supporting rationale and, if management measures are recommended, an analysis of impacts and a recommendation to the Regional Administrator on whether to issue the management measures as a final rule. If the Councils recommend that the management measures should be issued as a final rule, the Councils will consider at least the following four factors and provide support and analysis for each factor considered:

- a) Whether the availability of data on which the recommended management measures are based allows for adequate time to publish a proposed rule, and whether regulations have to be in place for an entire harvest/fishing season;
- b) Whether there has been adequate notice and opportunity for participation by the public and members of the affected industry in the development of the Councils' recommended management measures;
- c) Whether there is an immediate need to protect the resource or to impose management measures to resolve gear conflicts; and
- d) Whether there will be a continuing evaluation of management measures adopted following their implementation as a final rule.

If the Regional Administrator concurs with the Councils' recommended management measures they will be published as either a final rule based on the factors specified above or as a proposed rule in the Federal Register. If the Councils' recommendation is published as a proposed rule and the Regional Administrator concurs with the Councils' recommendation after additional public comment, the measures will be published as a final rule in the Federal Register.

If the Regional Administrator approves the Councils' recommendations, the Secretary is expected to waive for good cause the requirement for a proposed rule and opportunity for public comment in the *Federal Register*. The Secretary, in so doing, will publish a "final rule" to remain in effect until amended. Submission of recommendations does not preclude the Secretary from deciding to provide additional opportunity for prior notice and comment in the *Federal Register*, but it contemplates that the Council process will adequately satisfy that requirement.

The Regional Administrator may approve, disapprove, or partially disapprove the Councils' recommendation. If the Regional Administrator does not approve the Councils' specific recommendation, he must notify the Council in writing the reasons for his action prior to the first Council meeting following publication of his decision. Nothing in this proposal prevents the Secretary of Commerce from soliciting additional comment, but it is contemplated that the Councils' process will adequately satisfy that requirement.

### **3.11.2 Annual review and adjustments**

#### **3.11.2.1 Monkfish Monitoring Committee**

The Councils will establish a Monkfish Monitoring Committee consisting of technical staff from the New England and Mid-Atlantic Fishery Management Councils, the NMFS Northeast Regional Office, the Northeast Fisheries Science Center, the U.S. Coast Guard, two representatives of the fishing industry selected by the Council chairmen, and representatives from affected coastal states appointed by the Atlantic States Marine Fisheries Commission. One fisherman should be appointed from each management area with one of the two fishermen from the multispecies or scallop fisheries. Affected coastal states include Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, and North Carolina. The Monkfish Monitoring Committee will elect a chairman from within its ranks, subject to approval by both Council chairmen.

The Monkfish Monitoring Committee will meet at least annually, but may meet more frequently or as needed. The term of reference for the Monitoring Committee will be to monitor the effectiveness of the management plan and to develop options for framework adjustments such that the plan continues to meet the objectives. This role is separate from the PDT, whose purpose is to provide technical support to the Monkfish Oversight Committee in the development of amendments and management measures.

### **Development of target TACs and adjustment options**

The Monkfish Monitoring Committee (MMC) will hold its final meeting at least 6 months prior to the beginning of the next fishing year. The MMC may hold earlier meetings to accomplish the work by the deadline. The fishing year for monkfish will coincide with the multispecies fishing year (Section 3.3), presently running from May 1 to April 30. With this fishing year schedule, the MMC must therefore complete its work by November 15 for the Councils to receive the findings of the MMC and initiate a framework action. The MMC will review available data pertaining to: discards and landings; days-at-sea and other measures of fishing effort; stock status and fishing mortality rates; enforcement of and compliance with management measures; and any other relevant information. Data will be provided primarily by NMFS, but the MMC may also consider data provided by the states, ASMFC, the U.S. Coast Guard and other sources.

The MMC will review the data to develop target TAC recommendations and management options necessary to achieve the FMP goals and objectives. The management options may include a preferred option to achieve the plan objectives. The MMC will demonstrate through analysis and documentation that the options it develops are expected to meet the Monkfish FMP goals and objectives. The MMC may review the performance of different user groups or fleet sectors in developing options. The range of options may include any of the management measures in the plan including, but not limited to those listed in Section 3.11.4.

### **3.11.2.2 Annual framework adjustment**

Following the procedures described in Section 3.11.1, the Councils will initiate a framework adjustment in response to the MMC report and recommendations. The Councils will meet as soon as practicable to review the recommended target TACs and all of the options developed by the MMC and other relevant information, consider public comment, and develop a recommendation to meet the Monkfish FMP objectives, consistent with the other applicable law. The Councils may delegate the Joint Monkfish Oversight committee to conduct an initial review of the options developed by the MMC. The oversight committee will review all of the options developed by the MMC and any other relevant information, consider public comment and make a recommendation to the Councils.

### **Submission of the recommendation**

Based on this review, the New England and Mid-Atlantic Fishery Management Councils shall submit a recommendation to the Regional Administrator of any changes, adjustments or additions to days-at-sea allocations, closed areas or other measures necessary to achieve the Monkfish FMP's goals and objectives. Included in the Councils' recommendation will be supporting documents, as appropriate, concerning the environmental and economic impacts of the proposed action and the other options considered by the Councils.

If the New England and Mid-Atlantic Fishery Management Councils submit, on or before January 7, a recommendation to the Regional Administrator after one framework meeting, and the Regional Administrator concurs with the recommendation, the Regional Administrator will publish the Councils' recommendation in the Federal Register as a proposed rule. The Federal Register notification of the proposed action will provide a 30-day public comment period.

The New England and Mid-Atlantic Councils may instead submit their recommendation on or before February 1, if they choose to follow the framework process outlined in Section 3.11.3 and request that the Regional Administrator publish the recommendation as a final rule. If the Regional Administrator concurs that the Councils'

recommendation meets the Monkfish FMP objectives and is consistent with other applicable law, and determines that the recommended management measures should be published as a final rule, the action will be published as a final rule in the Federal Register. If the Regional Administrator concurs that the recommendation meets the FMP objectives and is consistent with other applicable law and determines that a proposed rule is warranted, and, as a result, the effective date of a final rule falls after the start of the fishing year, fishing may continue. However, days-at-sea used by a vessel on or after the start of a fishing year will be counted against any days-at-sea allocation the vessel ultimately receives for that year.

If the Councils fail to submit a recommendation that meets the Monkfish FMP objectives and is consistent with other applicable law, the Regional Administrator may adopt any option developed by the MMC, unless it was rejected by either the New England or Mid-Atlantic Council; provided the option meets the Monkfish FMP objective and is consistent with other applicable law. If either the New England or Mid-Atlantic Fishery Management Council has rejected all options, then the Regional Administrator may select any measure that has not been rejected by both Councils.

Table 7 gives a hypothetical example where the Councils have jointly rejected all options. Table 8 gives another hypothetical example where the Councils have rejected only some options (i.e. they have not jointly rejected all options).

**Table 7.** Hypothetical example where the two Councils have jointly rejected all options.

Management option recommended by the MMC	Options rejected by the New England Council	Options rejected by the Mid-Atlantic Council	Options that may be chosen by the Regional Administrator
1	X		X
2	X	X	
3		X	X
4	X		X

**Table 8.** Hypothetical example where one or more options have not been rejected by either Council.

Management option recommended by the MMC	Options rejected by the New England Council	Options rejected by the Mid-Atlantic Council	Options that may be chosen by the Regional Administrator
1	X		
2	X	X	
3		X	
4	X		
5			X

### 3.11.2.3 Triennial review of biological objectives and reference points

A triennial review will be conducted, beginning in year 3 (2001), to evaluate threshold and target biological reference points. This review will trigger a framework action in January 2002 to replace the existing (“default”) measures that would take effect on May 1, 2002 (year 4). The framework process would include a comprehensive evaluation, conducted by the Monkfish Monitoring Committee during 2001, of the effectiveness of the management measures to reduce mortality below the overfishing threshold and allow rebuilding within (at that time) six years. The framework process will follow the procedure described in Section 3.11.2, but may have different timing to accommodate the availability of year two data and allow for time necessary to conduct a more comprehensive review than would happen in other years.

### 3.11.3 Within season management action

Either Council or the joint monkfish oversight committee (subject to approval of the Council chairmen) may, at any time, initiate a framework adjustment to add or adjust management measures. The Councils may add or adjust management measures if they find that action is necessary to meet or be consistent with the goals and objectives of the Monkfish FMP. Framework adjustments will require one initial oversight committee meeting (the agenda must include notification of the framework adjustment proposal) and two final Council meetings, one at each Council. Documentation and analyses for the framework adjustment will be available at least two weeks before the first of the final two meetings. Management adjustments or amendments for monkfish will require majority approval of each Council for submission to the Secretary.

### 3.11.4 Management Measures That Can Be Adjusted Via Framework

The management measures described below are contemplated for future framework adjustment. The impacts of changes in these measures have not been fully analyzed but fall within the scope of possible management restrictions contemplated by this FMP.

#### 3.11.4.1 Target TACs

Adjustments to the target TACs will be necessary to reflect future stock conditions so that the TACs are consistent with the mortality objectives. If abundance increases through good recruitment or biomass increases through rebuilding, the TACs that correspond with the mortality objectives would increase. Conversely, stock declines through continued overfishing or poor recruitment could require lower TACs.

**Rationale:** This adjustment is necessary so that the Councils are sure that the mortality objectives are being met if the catches do not exceed the target TACs and that optimum yield is being achieved.

#### 3.11.4.2 Overfishing definition reference points

Improved data collection and a better understanding of the monkfish population dynamics may change the perception whether the fishing mortality rate during 1970 to 1979, or any other period, allowed the stock(s) to on average reproduce itself and remain at a stable level of biomass. In addition, new biological evidence may indicate that other biological reference points are more appropriate for management targets.

In the northern fishery management area, for example, there is currently no mortality rate target established by the overfishing definition. As an initial management target, the Council adopted  $F_{0.1}$  as an appropriate level of fishing that would promote conservation, while enhancing yield and maintaining a healthy age-structure. More detailed scientific investigation (Appendix I) revealed that the replacement fishing mortality rate for the northern management area appears to be less than  $F_{0.1}$ . A target mortality rate, in this case  $F_{0.1}$ , which is higher than the threshold rate,  $F_{1970-1978}$  does not make sense. It is possible, however, for the replacement fishing mortality rate to be less than  $F_{0.1}$ . This outcome can be expected where survival of sub-legal fish is very low (further explanation is given in the FEIS).

At the triennial review or if new biological information becomes available, the Council may adjust the overfishing definition or by amending the Monkfish FMP. If the Council chooses to make technical adjustments to the overfishing definition, it will consider the technical merits and potential impacts by convening the Monkfish Monitoring Committee to evaluate these factors arising from assessment advice or other scientific literature. The potential impacts will be estimated and included in at least an Environmental Assessment prepared for the

framework action public documents. Public comment will be taken on the proposed overfishing definition adjustments and their potential impact according to the framework adjustment process described above.

#### 3.11.4.3 Closed seasons or closed areas

As soon as information is available to identify suitable areas, it is the Councils' intention to initiate a framework action to protect monkfish spawning areas via closure or another suitable management measure. Adjustments to these closed seasons and areas may be necessary to compensate for changing fishing practices, migratory patterns, or market conditions.

**Rationale:** Closed seasons or areas could be effective for protecting spawning activity, reducing mortality and selectivity on immature fish to improve yield-per-recruit, and improving economic yield. The framework adjustment process would allow the Councils flexibility in responding to changing conditions. Closed seasons or closed areas may also be required to avoid captures of marine mammals and endangered species.

#### 3.11.4.4 Minimum size limits

The status of the resource will be reviewed annually to determine if the resource is overfished or if gains in yield per recruit can be achieved through increases in the minimum size at the current fishing mortality rates. If the stock is overfished, or if the current yield per recruit is 10% below its maximum at the current fishing mortality rate and yield, and as a result of the increased size limit yield would recover to current levels within two years, then the Council may increase the minimum tail size by one or more inches. The minimum size for whole fish will also increase to the corresponding total length converted from the minimum tail length using the scientifically accepted conversion. The minimum size for whole fish will be rounded up to the nearest one-half inch.

**Rationale:** Considerable gains in yield-per-recruit and in protection of immature fish could be realized through improve size selection by the fishery. The size limits were initially set at levels that reflect current discard and marketing practices, thereby preventing the fishery from prosecuting small fish to compensate for the implementation of restrictions on fishing effort and trip limits. It is uncertain how much discards would be created at the proposed or at higher size limits, because it depends on changes of fishing behavior rather than mesh selection. If fishermen that target monkfish are able to avoid concentrations of small monkfish, then minimum size limits above current levels could be effective at reducing mortality on small fish and improving yield-per-recruit.

#### 3.11.4.5 Liver to monkfish landings ratios

If the liver to tail landings ratio is inappropriate, the proposed measure might allow some fishermen to disregard the FMP's intentions and discard small monkfish while retaining their livers. If the landings limit for livers is too high, fishermen can circumvent the minimum size limit by cutting livers from undersized fish. On the other hand, a ratio that is too restrictive would force fishermen to discard valuable livers in order to retain legal sized monkfish. The Councils' intent is to avoid both situations and fine-tuning adjustments may be necessary after FMP implementation. This adjustment may include a liver to tail ratio that varies by area or by season. The effectiveness of this measure will be reviewed as needed and the Council may initiate the process for making adjustments at any time.

**Rationale:** Adjustments to this management measure may be necessary to minimize discarding of fish or valuable livers.

#### 3.11.4.6 Annual monkfish days-at-sea allocations and monitoring

Annual adjustments to the monkfish day-at-sea allocations could be needed to reduce mortality below target levels or to optimize yield if the fishery is underharvesting the resource. Limits on days-at-sea are one of the primary management measures affecting mortality. Catch per day-at-sea is expected to change linearly with stock abundance if a day-at-sea is closely linked with a unit of fishing effort. Other than for inaccuracies in the original FMP assessment or due to changes in fishing power, the annual days-at-sea allocations should not change due to fluctuations in abundance and biomass. If catch per day-at-sea increases due to technological improvements, however, then absent any other management adjustments the days-at-sea allocations would have to decline to compensate for the increased fishing power. Both increases and decreases in annual days-at-sea allocations are possible.

Days-at-sea adjustments, if necessary, would be adjusted at the start of the fishing year, so problems with prorating unused effort can be avoided. Mid-year adjustments are not anticipated.

**Rationale:** Days-at-sea adjustments may be needed to respond to changing resource and fishery conditions or to correct for inaccuracies in the original FMP assessment.

#### 3.11.4.7 Trip or possession limits, possibly expressed as a daily limit and possibly administered via a running clock.

This framework adjustment applies to the directed fishery trip limit (Section 3.6.1) as well as limits on landings of bycatch (Sections 0, 3.5.3, 3.6.2, 3.6.3). The former management measure is to control mortality while allocating an amount of days that represents at least a seasonal fishery for qualifying vessels. The effectiveness of the directed fishery trip limits depends on exploitable stock biomass. If exploitation remains above the overfishing definition thresholds, stock biomass is expected to continue declining and reduced trip limits would be necessary to maintain their intended effect. On the other hand when stock rebuilding occurs or after good recruitment, stock biomass and catch per effort will increase making the trip limits a greater factor (compared to days-at-sea limits) in controlling mortality. In the long run, the directed fishery trip limits could cause excessive discarding and would not be needed for controlling mortality if total effort is restricted.

The effectiveness of bycatch limits will also depend on exploitable stock biomass levels. At high stock biomass, the current bycatch limits (based on 1994 and 1995 landings) could be insufficient to allow many vessels targeting other species to land their unavoidable, monkfish bycatch. At low stock biomass, the bycatch limits could be insufficient to have the desired effect (discouraging non-limited access vessels from targeting monkfish). Some fine-tuning of the bycatch limits is probably likely to correct for potential inaccuracies in the initial bycatch limits and to respond to changing fishing patterns.

Administering the daily trip limits could also require adjustments as the daily trip limit monitoring system matures. The “running clock” system (Section 3.6.1) is relatively new and not all the bugs in the system have been worked-out yet. Since the proposed system for monkfish will have the same features as the one for Gulf of Maine cod, any changes to the administration of the cod trip limit will also precipitate changes to the one for monkfish. There could, however, be valid reasons for treating differently the landings for each species, if the fishery and markets for cod and monkfish are dissimilar.

**Rationale:** Directed fishery trip limits could require adjustments to control fishing mortality from limited access monkfish vessels on a day-at-sea. This management measure is one of the three primary ones (days-at-sea allocations, trip limits, size limits) controlling exploitation by vessels that qualify for monkfish limited access. Adjustments to the bycatch allowances could be needed to respond to changes in exploitable stock biomass.

#### 3.11.4.8 Gear restrictions

Adjustments to these management measures may include but not be limited to changes in minimum mesh size and configuration, the number of nets a vessel could use, and twine size or gauge.

The status of the resource will be reviewed annually to determine if the resource is overfished or if gains in yield per recruit can be achieved through improvements in selectivity. The Monkfish Monitoring Committee may consider and recommend changes in gear regulations, if it is calculated that improvements in yield per recruit can be achieved by new or existing technology.

**Rationale:** A framework procedure to adjust gear restrictions is needed to respond to development of new gear technology, such as gear that would reduce unwanted bycatch of small fish and other species. Changes in gear restrictions may also be necessary to reduce encounters with marine mammals and endangered species.

#### 3.11.4.9 Transferability of permits and permit rights (framework adjustment would require full public hearings) or administration of vessel upgrades, vessel replacement, or permit assignment.

The Councils may need to make future technical adjustments to the measures that govern how permits are issued and what rights are assigned to them. Adjustments that decrease the number of qualifying vessels or make the upgrade restrictions retroactive will not be considered as a frameworkable management change. Only adjustments that correct for inequities or alleviate administrative problems would be considered under this framework process. If a very low number of vessels qualified for “history” permits, for example, a framework adjustment to activate those permits (i.e. allocate days-at-sea) could be considered if it did not have a measurable effect on fishing mortality.

**Rationale:** Certain adjustments to the permits or the permitting procedure may be necessary to collect better data, to improve efficiency and reduce costs, and to improve law enforcement. It is likely that recommendations for adjustments to this measure will be made so that they are implemented at the beginning of a permitting cycle.

#### 3.11.4.10 Other frameworkable measures presently included in the Northeast Multispecies Fishery Management Plan (50 CFR Part 648.90) and the Atlantic Sea Scallop Fishery Management Plan (50 CFR Part 648.55).

Other than the measures specifically listed above, the Multispecies and Atlantic Sea Scallop FMPs include adjustments to the following management measures: scallop shell height limits, offloading windows, crew limits, onboard observers, measures to resolve gear conflict, and any other management measure currently included in the FMPs. Offloading windows, crew limits, onboard observers, measures to resolve gear conflict could apply to monkfish limited access vessels to ease enforcement burden, improve compliance, or resolve gear conflict. Changes to crew size on scallop vessels, for example, will be possible even though the crew size limit is currently seven for scallop vessels using a scallop day-at-sea. Atlantic Sea Scallop FMP limits on crew size were intended to restrict harvesting capacity and therefore fishing mortality. On the other hand, the Councils may later decide to waive the crew size limits when the vessel is on a monkfish day-at-sea and it has no dredges aboard.

**Rationale:** Since multispecies and scallop vessels must take the monkfish days-at-sea concurrently with the multispecies or scallop days, concurrent adjustments may be necessary to change management measures in the Multispecies and Monkfish FMPs or the Sea Scallop and Monkfish FMPs. This cross-reference is necessary to ensure that a framework adjustment in one plan is not blocked because it was not included in the other.

## 4.0 COMPLIANCE WITH NATIONAL STANDARDS

### 4.1 National Standard 1 – Optimum Yield

*“Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the OY from each fishery for the U.S. fishing industry.”*

This FMP includes all elements of optimum yield as defined by the Sustainable Fisheries Act and the final guidelines, published on May 1, 1998. Optimum yield, a definition of overfishing, and a rebuilding schedule are described in Sections 2.4.2, 2.4.1.1, and 2.4.1.2, respectively.

Optimum yield (Section 2.4.2) is defined as the yield produced by the target fishing mortality rate when the stock is at a target biomass level. The target fishing mortality rate is  $F_{0.1}$  in the Southern Fishery Management Area and at an undefined level below  $F_{\text{threshold}}$  in the Northern Fishery Management Area. The target biomass level is a proxy value for MSY conditions (Overfishing Definition Review Panel 1998). Optimum yield is therefore measurable, if some basic assumptions about the relationship between survey biomass measurements, fishing mortality, and commercial catch is made. The long-term yield, associated with optimum yield is estimated in Section 7.1.5.2.5.1.

The overfishing definition (Section 2.4.1.1) includes the four types of reference points that are recommended by the National Standard 1 guidelines (50 CFR, §600.310). These reference points are a maximum fishing mortality threshold consistent with  $F_{\text{MSY}}$ , a minimum biomass threshold, a biomass target consistent with  $B_{\text{MSY}}$ , and a fishing mortality target that is risk averse.

The overfishing definition includes a proxy value for a threshold fishing mortality rate, consistent with  $F_{\text{MSY}}$  (Overfishing Definition Review Panel 1998). The target fishing mortality rates have been chosen to be risk averse, but there has been no formal assessment of risk because there is too little information about monkfish stock dynamics. Fishing mortality has been estimated by the SAW 23 (NEFSC 1997) and the fishing mortality reference points can be directly compared to these mortality estimates. The fishing mortality reference points were estimated using the Beverton and Holt (1956) method that the SAW 23 used to estimate current fishing mortality.

Stock biomass thresholds have been chosen to determine when the monkfish resource is in an overfished condition, i.e. depleted. The biomass reference point for each stock is defined from the most recent period of time when the monkfish resource was in a healthy condition, i.e. there was a high proportion of mature fish in the population and the population trend was stable. Thus the biomass during 1970-1979 serves as an acceptable proxy for a minimum biomass threshold that is risk averse. Similarly, the Council chose a higher biomass target that is an acceptable proxy for  $B_{\text{MSY}}$ . It is unclear how this minimum biomass threshold is related to a rebuilding threshold, because the Council was unable to model monkfish stock dynamics and predict rebuilding potential. The biomass target is  $\frac{1}{2}$  of the maximum (three-year average) level observed since 1963 in the autumn research survey.

The rebuilding schedule (Section 2.4.1.2) for monkfish is 10 years, the maximum allowed under the Sustainable Fisheries Act. Due to the inability to model monkfish stock dynamics and estimate rebuilding potential, the fishing mortality rate that will meet the rebuilding goal is uncertain. The Council has however established a comprehensive monitoring (Section 3.11.2.3) and framework adjustment process (Section 3.11.1) to ensure the rebuilding goal is achievable.