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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No.: 200910-0238]

RIN 0648-BJ79

Fisheries of the Northeastern United States; Monkfish; Framework Adjustment 12

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

ACTION: Final rule.

SUMMARY: We are implementing specifications submitted by the New England and Mid-Atlantic Fishery Management Councils in Framework Adjustment 12 to the Monkfish Fishery Management Plan. This action sets monkfish specifications for fishing year 2020 and projects specifications for the 2021 and 2022 fishing years. This action is needed to establish allowable monkfish harvest levels that will prevent overfishing.

DATES: These final specifications for the 2020 monkfish fishery are effective [*insert date 30 days after date of publication in the FEDERAL REGISTER*].

ADDRESSES: Copies of the Framework 12 document, including the Regulatory Flexibility Act Analysis and other supporting documents for the specifications, are available from Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950. The specifications document is also accessible via the Internet at: <https://www.nefmc.org/management-plans/monkfish>.

FOR FURTHER INFORMATION CONTACT: Allison Murphy, Fishery Policy Analyst, (978) 281-9122.

SUPPLEMENTARY INFORMATION:

Background

The New England and the Mid-Atlantic Fishery Management Councils jointly manage the monkfish fishery under the Monkfish Fishery Management Plan (FMP). The New England Council has the administrative lead for the FMP. The fishery extends from Maine to North Carolina from the coast out to the end of the continental shelf. The Councils manage the fishery as two management units, with the Northern Fishery Management Area (NFMA) covering the Gulf of Maine and northern part of Georges Bank, and the Southern Fishery Management Area (SFMA) extending from the southern flank of Georges Bank through Southern New England and into the Mid-Atlantic Bight to North Carolina.

The monkfish fishery is primarily managed by landing limits and a yearly allocation of monkfish days-at-sea calculated to enable vessels participating in the fishery to catch, but not exceed, the target total allowable landings (TAL) and the annual catch target (ACT). The ACT is the TAL plus an estimate of expected discards, for each management area. Both the ACT and the TAL are calculated to maximize yield in the fishery over the long term.

Approved Measures

1. Specifications

We are approving adjustments to the NFMA and SFMA quotas for fishing year 2020 (Table 1), based on the Councils' recommendations. We are also projecting these

quotas for fishing years 2021 and 2022. In August 2019, the New England Council’s Scientific and Statistical Committee (SSC) recommended acceptable biological catch levels in the NFMA and SFMA for fishing years 2020-2022. The Councils approved the specifications during their fall 2019 meetings. Both Councils’ recommendations for the 2020-2022 monkfish specifications are based on the results of the 2019 assessment update and the recommendations of the SSC.

The Councils recommended a 10-percent increase in the acceptable biological catch and annual catch limit in the NFMA and status quo acceptable biological catch and annual catch limit in the SFMA, when compared to the 2017-2019 specifications. Discards, calculated using a moving average of the most recent three years of data, increased in both areas, but more significantly in the SFMA. Data indicate that this substantial increase is due to the large 2015 monkfish year class being discarded by scallop dredge gear. After accounting for discards, the Councils recommend a 5-percent increase in the TAL for the NFMA and a 35-percent decrease in the TAL for the SFMA. Despite these changes, both Councils recommend no adjustments to day-at-sea allocations or landing limits. The small increase in the NFMA is expected to convert fish that were discarded in previous fishing years into landings. The Councils do not expect the lower SFMA TAL to be constraining because SFMA landings have been lower than the 2020 TAL since 2008.

Table 1 – Approved Framework 12 Specifications

| Catch Limits | NFMA | | SFMA | |
|-----------------------------|----------------------|--------------------------|----------------------|--------------------------|
| | 2020-2022 Specs (mt) | Percent Change from 2019 | 2020-2022 Specs (mt) | Percent Change from 2019 |
| Acceptable Biological Catch | 8,351 | 10 | 12,316 | 0 |

| | | | | |
|---|-----------|----|-----------|-----|
| Annual Catch Limit | 8,351 | 10 | 12,316 | 0 |
| Management Uncertainty | 3 percent | - | 3 percent | - |
| Annual Catch Target (Total Allowable Landings + discards) | 8,101 | 10 | 11,947 | 0 |
| Discards | 1,477 | - | 6,065 | 107 |
| Total Allowable Landings | 6,624 | 5 | 5,882 | -35 |

At the end of each fishing year, we evaluate catch information and determine if the quota has been exceeded. If a quota is exceeded, the regulations at 50 CFR 648.96(d) require the Councils to revise the monkfish ACT if it is determined that the annual catch limit was exceeded in any given year, or for NMFS to revise the monkfish ACT if the Councils fail to take action. We would publish a notice in the **Federal Register** of any revisions to these proposed specifications if an overage occurs. We expect, based on preliminary 2019 year end accounting, that no adjustment is necessary. We will provide notice of the 2021 and 2022 quotas prior to the start of each respective fishing year.

2. Regulatory Corrections

Using our authority under section 305(d) of the Magnuson-Stevens Fishery Conservation and Management Act, we are clarifying trip declaration requirements at 50 CFR 648.10 for vessels making trip declarations through the interactive voice response system. Regulations require vessels using a vessel monitoring system to submit a trip declaration less than 1 hour prior to leaving port. No timeframe is specified in the regulations for vessels using the interactive voice response system. This rule clarifies that declarations using either system must be made less than 1 hour prior to leaving port. This requirement is intended to make the declaration requirements consistent for all monkfish fishery participants.

Additionally, we are using the same authority to correct the monkfish incidental catch limits in four Northeast multispecies exempted fisheries specified in § 648.80. In

the final rule implementing Amendment 5 to the Monkfish FMP (76 FR 30265; May 25, 2011), we updated the tail-to-whole-weight (landed) conversion factor from 3.32 to 2.91, and applied this updated conversion to the monkfish possession limits in § 648.94.

However, we inadvertently failed to update the incidental monkfish possession limits for the Northeast multispecies exempted fisheries at §§ 648.80(a)(6)(1)(B), (a)(10)(i)(D), (b)(3)(ii), and (h)(3)(iii)(A). Through this final rule, we are correcting the incidental monkfish whole weight possession limits using the 2011 conversion factor.

Comments and Responses

The public comment period for the proposed rule (85 FR 39157; June 30, 2020) ended on July 30, 2020. No comments were received on the proposed rule.

Changes from the Proposed Rule

There are no changes from the proposed rule.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with the Monkfish FMP, Framework 12, provisions of the Magnuson-Stevens Act, and other applicable law.

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

This final rule is not an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial

number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

This final rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing.

Dated: September 11, 2020.

Samuel D. Rauch III,
Deputy Assistant Administrator for Regulatory Programs,
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

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

2. In § 648.10, revise paragraph (h)(1) introductory text to read as follows:

§ 648.10 VMS and DAS requirements for vessel owners/operators.

* * * * *

(h) * * *

(1) Less than 1 hr prior to leaving port, for vessels issued a limited access NE multispecies DAS permit or, for vessels issued a limited access NE multispecies DAS permit and a limited access monkfish permit (Category C, D, F, G, or H), unless otherwise specified in paragraph (h) of this section, or an occasional scallop permit as specified in this paragraph (h), and, less than 1 hr prior to leaving port, for vessels issued a limited access monkfish Category A or B permit, the vessel owner or authorized representative must notify the Regional Administrator that the vessel will be participating in the DAS program by calling the call-in system and providing the following information:

* * * * *

3. In § 648.80, revise paragraphs (a)(6)(i)(B), (a)(10)(i)(D), (b)(3)(ii), and (h)(3)(iii)(A) to read as follows:

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

* * * * *

(a) * * *

(6) * * *

(i) * * *

(B) An owner or operator of a vessel fishing in this area may not fish for, possess on board, or land any species of fish other than whiting and offshore hake combined—up

to a maximum of 30,000 lb (13,608 kg), except for the following, with the restrictions noted, as allowable incidental species: Atlantic herring, up to the amount specified in § 648.204; longhorn sculpin; squid, butterfish, and Atlantic mackerel, up to the amounts specified in § 648.26; spiny dogfish, up to the amount specified in § 648.235; red hake, up to the amount specified in § 648.86(d), monkfish and monkfish parts—up to 10 percent, by weight, of all other species on board or up to 50 lb (23 kg) tail-weight/146 lb (66 kg) whole-weight of monkfish per trip, as specified in § 648.94(c)(4), whichever is less; and American lobster—up to 10 percent, by weight, of all other species on board or 200 lobsters, whichever is less, unless otherwise restricted by landing limits specified in § 697.17 of this chapter.

* * * * *

(10) * * *

(i) * * *

(D) *Incidental species provisions.* The following species may be possessed and landed, with the restrictions noted, as allowable incidental species in the Nantucket Shoals Dogfish Fishery Exemption Area: Longhorn sculpin; silver hake—up to 200 lb (90.7 kg); monkfish and monkfish parts—up to 10 percent, by weight, of all other species on board or up to 50 lb (23 kg) tail-weight/146 lb (66 kg) whole-weight of monkfish per trip, as specified in § 648.94(c)(4), whichever is less; American lobster—up to 10 percent, by weight, of all other species on board or 200 lobsters, whichever is less, unless otherwise restricted by landing limits specified in § 697.17 of this chapter; and skate or skate parts—up to 10 percent, by weight, of all other species on board.

* * * * *

(b) * * *

(3) * * *

(ii) *Possession and net stowage requirements.* Vessels may possess regulated species while in possession of nets with mesh smaller than the minimum size specified in paragraphs (a)(4) and (b)(2) of this section when fishing in the SNE Exemption Area defined in paragraph (b)(10) of this section, provided that such nets are stowed and are not available for immediate use as defined in § 648.2, and provided that regulated species were not harvested by nets of mesh size smaller than the minimum mesh size specified in paragraphs (a)(4) and (b)(2) of this section. Vessels fishing for the exempted species identified in paragraph (b)(3)(i) of this section may also possess and retain the following species, with the restrictions noted, as incidental take to these exempted fisheries: Conger eels; sea robins; black sea bass; red hake; tautog (blackfish); blowfish; cunner; John Dory; mullet; bluefish; tilefish; longhorn sculpin; fourspot flounder; alewife; hickory shad; American shad; blueback herring; sea raven; Atlantic croaker; spot; swordfish; monkfish and monkfish parts—up to 10 percent, by weight, of all other species on board or up to 50 lb (23 kg) tail-weight/146 lb (66 kg) whole weight of monkfish per trip, as specified in § 648.94(c)(4), whichever is less; American lobster—up to 10 percent, by weight, of all other species on board or 200 lobsters, whichever is less; and skate and skate parts (except for barndoor skate and other prohibited skate species (see §§ 648.14(v)(2) and 648.322(g))—up to 10 percent, by weight, of all other species on board.

* * * * *

(h) * * *

(3) * * *

(iii) * * *

(A) A vessel fishing in the Scallop Dredge Fishery Exemption Areas specified in paragraphs (h)(3)(i) and (ii) of this section may not fish for, possess on board, or land any species of fish other than Atlantic sea scallops and up to 50 lb (23 kg) tail weight or 146 lb (66 kg) whole weight of monkfish per trip.

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