

Fishery Conservation and Management

§ 648.94

impacts of the requested exemptions before issuance of an EFP will be considered.

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

[64 FR 54748, Oct. 7, 1999, as amended at 67 FR 50323, Aug. 1, 2002; 68 FR 4114, Jan. 28, 2003; 68 FR 22329, Apr. 28, 2003; 69 FR 18293, Apr. 7, 2004; 69 FR 22988, Apr. 27, 2004; 70 FR 21942, 22244, Apr. 28, 2005; 70 FR 76429, Dec. 27, 2005; 71 FR 23874, Apr. 25, 2006]

EFFECTIVE DATE NOTE: At 71 FR 19388, Apr. 13, 2006, § 648.92 was amended by suspending paragraphs (a)(1), and (b)(2)(i), and adding paragraphs (a)(3), (b)(2)(iv) and (v), and paragraph (b)(2)(iv)(B) was corrected at 71 FR 25094, Apr. 28, 2006, effective May 1, 2006, through Oct. 10, 2006.

§ 648.93 Monkfish minimum fish sizes.

(a) *General provisions.* (1) All monkfish caught by vessels issued a valid Federal monkfish permit must meet the minimum fish size requirements established in this section.

MINIMUM FISH SIZES (Total Length/Tail Length)	
Total Length	Tail Length
17 inches (43.2 cm)	11 inches (27.9 cm)

(2) The minimum fish size applies to the whole fish (total length) or to the tail of a fish (tail length) at the time of landing. Fish or parts of fish, with the exception of cheeks and livers, must have skin on while possessed on board a vessel and at the time of landing in order to meet minimum size requirements. "Skin on" means the entire portion of the skin normally attached to the portion of the fish or fish parts possessed. Monkfish tails are measured from the anterior portion of the fourth cephalic dorsal spine to the end of the caudal fin. Any tissue anterior to the fourth dorsal spine is ignored. If the fourth dorsal spine or the tail is not intact, the minimum size is measured between the most anterior vertebra and the most posterior portion of the tail.

(b) *Minimum fish size.* The minimum fish size for all vessels is 17 inches (43.2

cm) total length or 11 inches (27.9 cm) tail length.

[64 FR 54749, Oct. 7, 1999, as amended at 68 FR 22329, Apr. 28, 2003; 70 FR 21944, Apr. 28, 2005]

§ 648.94 Monkfish possession and landing restrictions.

(a) *General.* Monkfish may be possessed or landed either as tails only, or in whole form, or any combination of the two. When both tails and whole fish are possessed or landed, the possession or landing limit for monkfish tails shall be the difference between the whole weight limit minus the landing of whole monkfish, divided by 3.32. A 996 lb (452 kg) whole weight trip limit and a 600 lb (272 kg) landing of whole fish shall, for example, allow for a maximum landing of tails of 119.3 lb (54.1 kg).

(b) *Vessels issued limited access monkfish permits—(1) Vessels fishing under the monkfish DAS program in the NFMA.* There is no monkfish trip limit for vessels issued a limited access Category A, B, C, or D permit that are fishing under a monkfish DAS exclusively in the NFMA.

(2) *Vessels fishing under the monkfish DAS program in the SFMA—(i) Category A, C, and G vessels.* Category A, C, and G vessels fishing under the monkfish DAS program in the SFMA may land up to 550 lb (249 kg) tail weight or 1,826 lb (828 kg) whole weight of monkfish per monkfish DAS (or any prorated combination of tail-weight and whole weight based on the conversion factor for tail weight to whole weight of 3.32), unless modified pursuant to § 648.96(b)(2)(ii).

(ii) *Category B, D, and H vessels.* Category B, D, and H vessels fishing under the monkfish DAS program in the SFMA may land up to 450 lb (204 kg) tail weight or 1,494 lb (678 kg) whole weight of monkfish per monkfish DAS (or any prorated combination of tail-weight and whole weight based on the conversion factor for tail weight to whole weight of 3.32), unless modified pursuant to § 648.96(b)(2)(ii).

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

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

(3) *Category C, D, F, G, and H vessels fishing under the multispecies DAS program—(i) NFMA—(A) Category C and D vessels.* There is no monkfish trip limit for a Category C or D vessel that is fishing under a NE multispecies DAS exclusively in the NFMA.

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

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

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

(iii) *Transiting.* A vessel that harvested monkfish in the NFMA may transit the SFMA and possess monkfish in excess of the SFMA landing limit provided such vessel complies with the provisions of § 648.94(e).

(4) *Category C, D, F, G, or H vessels fishing under the scallop DAS program.* A Category C, D, F, G, or H vessel fishing under a scallop DAS may land up to 300 lb (136 kg) tail weight or 996 lb (452 kg) whole weight of monkfish per DAS (or any prorated combination of tail weight and whole weight based on the conversion factor for tail weight to whole weight of 3.32).

(5) *Category C, D, F, G, or H scallop vessels declared into the monkfish DAS program without a dredge on board, or not under the net exemption provision.*

Category C, D, G, or H vessels that have declared into the monkfish DAS program and that do not fish with or have a dredge on board, or that are not fishing with a net under the net exemption provision specified in § 648.51(f), are subject to the same landing limits as specified in paragraphs (b)(1) and (b)(2) of this section, or the landing limit specified in § 648.95(g)(1), if issued a Category F permit. Such vessels are also subject to provisions applicable to Category A and B vessels fishing only under a monkfish DAS, consistent with the provisions of this part.

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

(7) *Category C, D, F, G, and H vessels fishing under the multispecies DAS program—(i) NFMA—(A) Category C and D vessels.* There is no monkfish trip limit for a Category C or D vessel that is fishing under a NE multispecies DAS exclusively in the NFMA, except for vessels participating in the Regular B DAS Program, as specified in § 648.85(b)(10)(iv)(D). Category C and D vessels participating in the Regular B DAS Program are subject to the incidental catch limit specified in paragraph (c)(1)(i) of this section.

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

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

during the trip, except for vessels participating in the Regular B DAS Program, as specified in § 648.85(b)(10)(iv)(D). Category C and D vessels participating in the Regular B DAS Program are subject to the incidental catch limit specified in paragraph (c)(1)(ii) of this section.

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

(iii) *Transiting.* A vessel that harvested monkfish in the NFMA may transit the SFMA and possess monkfish in excess of the SFMA landing limit provided such vessel complies with the provisions of § 648.94(e).

(c) *Vessels issued a monkfish incidental catch permit*—(1) Vessels fishing under a NE multispecies DAS—(i) *NFMA.* Vessels issued a monkfish incidental catch (Category E) permit, or issued a valid limited access Category F, G, or H permit, fishing under a NE multispecies DAS exclusively in the NFMA, may land up to 400 lb (181 kg) tail weight or 1,328 lb (602 kg) whole weight of monkfish per DAS, or 50 percent (where the weight of all monkfish is converted to tail weight) of the total weight of fish on board, whichever is less. For the purpose of converting whole weight to tail weight, the amount of whole weight possessed or landed is divided by 3.32.

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

(2) *Scallop vessels fishing under a scallop DAS.* A scallop vessel issued a monkfish incidental catch (Category E) permit fishing under a scallop DAS, may land up to 300 lb (136 kg) tail weight or 996 lb (452 kg) whole weight

of monkfish per DAS (or any prorated combination of tail weight and whole weight based on the conversion factor).

(3) *Vessels fishing with large mesh and not fishing under a DAS*—(i) A vessel issued a valid monkfish incidental catch (Category E) permit or a limited access monkfish permit (Category A, B, C, D, F, G, or H) fishing in the GOM or GB RMAs, or the SNE RMA east of the MA Exemption Area boundary with mesh no smaller than specified at §§ 648.80(a)(3)(i), (a)(4)(i), and (b)(2)(i), respectively, while not on a monkfish, NE multispecies, or scallop DAS, may possess, retain, and land monkfish (whole or tails) only up to 5 percent (where the weight of all monkfish is converted to tail weight) of the total weight of fish on board. For the purpose of converting whole weight to tail weight, the amount of whole weight possessed or landed is divided by 3.32.

(ii) A vessel issued a valid monkfish incidental catch (Category E) permit or a limited access monkfish permit (Category A, B, C, D, F, G, or H) fishing in the SNE or MA RMAs west of the MA Exemption Area boundary with mesh no smaller than specified at § 648.104(a)(1) while not on a monkfish, NE multispecies, or scallop DAS, may possess, retain, and land monkfish (whole or tails) only up to 5 percent (where the weight of all monkfish is converted to tail weight) of the total weight of fish on board, but not to exceed 450 lb (204 kg) tail weight or 1,494 lb (678 kg) whole weight of monkfish. For the purpose of converting whole weight to tail weight, the amount of whole weight possessed or landed is divided by 3.32.

(iii) A vessel issued a valid monkfish incidental catch (Category E) permit or a limited access monkfish permit (Category A, B, C, D, F, G, or H) fishing in the GOM or GB RMAs, or the SNE RMA east of the MA Exemption Area boundary with mesh no smaller than specified at §§ 648.80(a)(3)(i), (a)(4)(vi), and (b)(2)(vii), respectively, while not on a monkfish, NE multispecies, or scallop DAS, may possess, retain, and land monkfish (whole or tails) only up to 5 percent (where the weight of all monkfish is converted to tail weight) of the total weight of fish on board. For the purpose of converting whole

weight to tail weight, the amount of whole weight possessed or landed is divided by 3.32.

(4) *Vessels fishing with small mesh and not fishing under a DAS.* A vessel issued a valid monkfish incidental catch (Category E) permit or a limited access monkfish permit (Category A, B, C, D, F, G, or H) fishing with mesh smaller than the mesh size specified by area in paragraph (c)(3) of this section, while not on a monkfish, NE multispecies, or scallop DAS, may possess, retain, and land only up to 50 lb (23 kg) tail weight or 166 lb (75 kg) whole weight of monkfish per day or partial day, not to exceed 150 lb (68 kg) tail weight or 498 lb (226 kg) whole weight per trip.

(5) *Small vessels.* A vessel issued a limited access NE multispecies small vessel category permit and a valid monkfish incidental catch (Category E) permit that is less than 30 ft (9.1 m) in length and that elects not to fish under the NE multispecies DAS program, may possess, retain, and land up to 50 lb (23 kg) tail weight or 166 lb (75 kg) whole weight of monkfish per day or partial day, not to exceed 150 lb (68 kg) tail weight or 498 lb (226 kg) whole weight per trip.

(6) *Vessels fishing with handgear.* A vessel issued a valid monkfish incidental catch (Category E) permit or a limited access monkfish permit (Category A, B, C, D, F, G, or H) and fishing exclusively with rod and reel or handlines with no other fishing gear on board, while not on a monkfish, NE multispecies, or scallop DAS, may possess, retain, and land up to 50 lb (23 kg) tail weight or 166 lb (75 kg) whole weight of monkfish per day or partial day, not to exceed 150 lb (68 kg) tail weight or 498 lb (226 kg) whole weight per trip.

(7) *Vessels fishing with surfclam or ocean quahog dredge gear.* A vessel issued a valid monkfish incidental catch (Category E) permit and a valid surfclam or ocean quahog permit, while fishing exclusively with a hydraulic clam dredge or mahogany quahog dredge, may possess, retain, and land up to 50 lb (23 kg) tail weight or 166 lb (75 kg) whole weight of monkfish per day or partial day, not to exceed 150 lb (68 kg) tail weight or 498 lb (226 kg) whole weight per trip.

(8) *Scallop vessels not fishing under a scallop DAS with dredge gear.* A vessel issued a valid monkfish incidental catch (Category E) permit and a valid General Category scallop permit or a limited access scallop vessel not fishing under a scallop DAS, while fishing exclusively with scallop dredge as specified in § 648.51(b), may possess, retain, and land up to 50 lb (23 kg) tail weight or 166 lb (75 kg) whole weight of monkfish per day or partial day, not to exceed 150 lb (68 kg) tail weight or 498 lb (226 kg) whole weight per trip.

(d) *Monkfish liver landing restrictions.* (1) A vessel authorized to land monkfish under this part may possess or land monkfish livers up to 25 percent of the tail-weight of monkfish, or up to 10 percent of the whole weight of monkfish, per trip, except as provided under paragraph (d)(2) of this section.

(2) If a vessel possesses or lands both monkfish tails and whole monkfish, the vessel may land monkfish livers up to 10 percent of the whole weight of monkfish per trip using the following weight ratio:

$$(0.10) \times [(\text{tail weight} \times 3.32) + (\text{whole fish} \times 1)]$$

NOTE TO PARAGRAPH (d)(2): The value 3.32 is the live weight conversion for tails and the value of 1 is the live weight conversion for fish landed in a whole condition.

(e) *Transiting.* A vessel that has declared into the NFMA for the purpose of fishing for monkfish under the less restrictive measures of the NFMA, may transit the SFMA provided that the vessel does not harvest or possess monkfish, or any other fish, from the SFMA, and the vessel's gear is properly stowed and not available for immediate use in accordance with the regulations specified under § 648.23(b).

(f) *Area declaration requirement for vessels fishing exclusively in the NFMA.* Vessels fishing under a multispecies, scallop, or monkfish DAS under the less restrictive management measures of the NFMA, must fish for monkfish exclusively in the NFMA and declare into the NFMA for a period of not less than 7 days by obtaining a letter of authorization from the Regional Administrator. A vessel that has not declared into the NFMA under this paragraph (f) shall be presumed to have fished in the

Fishery Conservation and Management

§ 648.95

SFMA and shall be subject to the more restrictive requirements of that area. A vessel that has declared into the NFMA may transit the SFMA, providing that it complies with the transiting and gear storage provision described in paragraph (e) of this section, and provided that it does not fish for or catch monkfish, or any other fish, in the SFMA.

(g) *Other landing restrictions.* Vessels are subject to any other applicable landing restrictions of this part.

[64 FR 54749, Oct. 7, 1999, as amended at 65 FR 11480, Mar. 3, 2000; 65 FR 37917, June 19, 2000; 68 FR 22330, Apr. 28, 2003; 69 FR 18293, Apr. 7, 2004; 69 FR 22988, Apr. 27, 2004; 70 FR 21944, 22244, Apr. 28, 2005; 71 FR 23874, Apr. 25, 2006]

EFFECTIVE DATE NOTE: At 71 FR 19389, Apr. 13, 2006, §648.94 was amended by suspending paragraphs (b)(3) and (c)(3)(I), and adding paragraphs (b)(7) and (c)(3)(iii), effective May 1, 2006, through Oct. 10, 2006

§ 648.95 Offshore Fishery Program in the SFMA.

(a) *General.* Any vessel issued a valid monkfish limited access permit is eligible to apply for a Category F permit in order to fish in the Offshore Fishery Program in the SFMA.

(1) A vessel issued a Category F permit is subject to the specific provisions and conditions of this section while fishing on a monkfish DAS.

(2) When not fishing on a monkfish DAS, a Category F vessel may fish under the regulations applicable to the monkfish incidental catch (Category E) permit, specified under paragraph §648.94(c). When fishing on a NE multispecies DAS in the NFMA, a Category F vessel that also possesses a NE multispecies limited access permit is subject to the possession limits applicable to vessels issued an incidental catch permit as described in §648.94(c)(1)(i).

(3) Limited access Category C or D vessels that apply for and are issued a Category F permit remain subject to the provisions specific to Category C and D vessels, unless otherwise specified under this subpart F.

(b) *Declaration.* To fish in the Offshore Fishery Program, a vessel must obtain a monkfish limited access Category F permit and fish under this permit for the entire fishing year, subject

to the conditions and restrictions specified under this part. The owner of a vessel, or authorized representative, may change the vessel's limited access monkfish permit category within 45 days of the effective date of the vessel's permit, provided the vessel has not fished under the monkfish DAS program during that fishing year. If such a request is not received within 45 days, the vessel owner may not request a change in permit category and the vessel's permit category will remain unchanged for the duration of the fishing year.

(c) *Offshore Fishery Program Area.* The Offshore Fishery Program Area is bounded on the south by 38°00' N. lat., and on the north, west, and east by the area coordinates specified in §648.23(a).

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

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

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

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

(4) A vessel issued a Category F permit must have installed on board an operational VMS unit that meets the minimum performance criteria specified in §§648.9 and 648.10 during the entire season established under paragraph (d) of this section. Unless otherwise required to maintain an operational VMS unit under the VMS notification requirements specified at §648.10(b)(1), a vessel issued a Category F permit may turn off its VMS unit outside of this season.

(5) A vessel issued a Category F permit that is fishing on a monkfish DAS is subject to the minimum mesh size