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specified under paragraphs (c)(3) through (c)(8) of this section.

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(c) * * *

(1) * * *

(i) *NFMA*. Vessels issued a valid monkfish incidental catch (Category E) permit or a valid limited access Category C, D, F, G, or H permit, fishing under a NE multispecies DAS exclusively in the NFMA may land up to 300 lb (136 kg) tail weight or 996 lb (452 kg) whole weight of monkfish per DAS, or 25 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.

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(8) *Scallop vessels not fishing under a scallop DAS with dredge gear*—(i) *General provisions*. A vessel issued a valid monkfish incidental catch (Category E) permit or a valid limited access Category C, D, F, G, or H permit, and also possessing a valid General Category sea scallop permit or a limited access sea scallop vessel not fishing under a scallop DAS, while fishing exclusively with scallop dredge gear 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, unless otherwise specified in paragraph (c)(8)(ii) of this section.

(ii) *Limited access scallop vessels fishing in Sea Scallop Access Areas*. A vessel issued a valid monkfish incidental catch (Category E) permit or a valid limited access Category C, D, F, G, or H permit, and also possessing a limited access sea scallop permit while fishing exclusively with scallop dredge gear as specified in § 648.51(b), and fishing in one of the established Sea Scallop Access Areas specified under § 648.59, may possess, retain, and land up to 300 lb (136 kg) tail weight or 996 lb (452 kg) whole weight of monkfish per day or partial day fished within the boundaries of the Sea Scallop Access Area. Time within the applicable access area, for purposes of determining the incidental catch limit, will be determined through the vessel's VMS unit.

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§ 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.

(4) 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 § 648.94. 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)(9)(i).

(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

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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.

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

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

(2) The monkfish DAS allocation for vessels issued a Category F permit shall be equal to the trip limit applicable to the vessel's monkfish limited ac-

cess permit category divided by the fixed daily possession limit specified in paragraph (g)(1) of this section, and then multiplied by the DAS allocation for limited access monkfish vessels not issued Category F permits, specified under §648.92(b)(1). For example, if a vessel has a limited access monkfish Category C permit, and the applicable trip limit is 800 lb (363 kg) for this category, and the vessel has an annual allocation of 40 monkfish DAS, then the monkfish DAS allocated to that vessel when issued a Category F permit would be 20 monkfish DAS (800 lb divided by 1,600 lb, multiplied by 40 monkfish DAS equals 20 DAS). Any carryover monkfish DAS will be included in the calculation of monkfish DAS for Category F vessels.

(3) Vessels issued a Category F 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.

(4) The monkfish DAS allocation for vessels issued a Category F permit shall be equal to the trip limit applicable to the vessel's limited access monkfish permit category divided by the fixed daily possession limit specified in paragraph (g)(1) of this section, and then multiplied by the DAS allocation for limited access monkfish vessels fishing in the SFMA and not issued Category F permits, specified under §648.92(b)(10)(ii). For example, if a vessel has a limited access monkfish Category C permit, and the applicable trip limit is 550 lb (363 kg) for this category, and the vessel has an annual allocation of 12 monkfish DAS for the SFMA, then the monkfish DAS allocated to that vessel when issued a Category F permit would be 4.13 monkfish DAS (550 lb divided by 1,600 lb, multiplied by 12 monkfish DAS, equals 4.13 DAS).

(5) Vessels issued a Category F permit that are fishing under a NE multispecies DAS in the NFMA are subject to the incidental catch limit specified in paragraph (c)(9)(i) of this section.

(h) *DAS usage by NE multispecies or sea scallop limited access permit holders.* A vessel issued a Category F permit that also has been issued either a NE multispecies or sea scallop limited access permit, and is fishing on a monkfish

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DAS, is subject to the DAS usage requirements specified in § 648.92(b)(2).

[70 FR 21945, Apr. 28, 2005]

EFFECTIVE DATE NOTE: At 72 FR 20960, Apr. 27, 2007, § 648.95 was amended by suspending paragraphs (a)(2), (g)(2), and (g)(3), and adding paragraphs (a)(4), (g)(4), and (g)(5), effective May 1, 2007 through Oct. 27, 2007. At 72 FR 53942, Sept. 21, 2007, the expiration date was changed to Oct. 22, 2007.

§ 648.96 Monkfish annual adjustment process and framework specifications.

(a) *General.* The Monkfish Monitoring Committee (MFMC) shall meet on or before November 15 of each year to develop target TACs for the upcoming fishing year in accordance with paragraph (b)(1) of this section, and options for NEFMC and MAFMC consideration on any changes, adjustment, or additions to DAS allocations, trip limits, size limits, or other measures necessary to achieve the Monkfish FMP's goals and objectives. The MFMC shall review available data pertaining to discards and landings, DAS, and other measures of fishing effort; stock status and fishing mortality rates; enforcement of and compliance with management measures; and any other relevant information.

(b) *Annual Adjustment Procedures—(1) Setting annual target TACs.* (i) The MFMC shall submit to the Councils and Regional Administrator the target monkfish TACs for the upcoming fish-

ing year as soon as possible after the availability of the NMFS fall trawl survey indices, but no later than January 7, based on the control rule formula described in paragraph (b)(1)(ii) of this section. The Regional Administrator shall then promulgate any changes to existing management measures, pursuant to the methods specified in paragraphs (b)(2) and (3) of this section, resulting from the updated target TAC through rulemaking consistent with the Administrative Procedure Act. If the annual target TAC generated through the control rule formula described in paragraph (b)(1)(ii) of this section does not require any changes to existing management measures, then no action shall be required by the Regional Administrator. If the action is submitted after January 7, then the target TACs and associated management measures for the prior fishing year shall remain in place until new target TACs are implemented.

(ii) *Control rule method for setting annual target TACs.* The current 3-year running average of the NMFS fall trawl survey index of monkfish biomass shall be compared to the established annual biomass index target, and target annual TACs will be set in accordance with paragraphs (b)(1)(ii)(A) - (F) of this section. The annual biomass index targets established Framework Adjustment 2 to the FMP are provided in the following table (kg/tow).

	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
NFMA	1.33	1.49	1.66	1.83	2.00	2.16	2.33	2.50
SFMA	0.88	1.02	1.15	1.29	1.43	1.57	1.71	1.85

(A) Unless the provisions of paragraphs (b)(1)(ii)(C) or (D) of this section apply, if the current 3-year running average of the NMFS fall trawl survey biomass index is below the annual index target, the target TAC for the subsequent fishing year shall be set equivalent to the monkfish landings for the previous fishing year, minus the percentage difference between the 3-year average biomass index and the annual index target.

(B) If the 3-year running average of the NMFS fall trawl survey biomass

index is above the annual index target, and the current estimate of F is below $F_{\text{threshold}}=F_{\text{max}}$, the target TAC for the subsequent fishing year shall be set equivalent to the previous year's landings, plus one-half the percentage difference between the 3-year average biomass index and the annual index target, but not to exceed an amount calculated to generate an F in excess of $F_{\text{threshold}}$. If current F cannot be determined, the target TAC shall be set at not more than 20 percent above the previous year's landings.