

## Fishery Conservation and Management

## § 648.92

gear, and methods of fishing requirements, unless otherwise exempted or prohibited:

(a) *Northern Fishery Management Area (NFMA)—Area definition.* The NFMA (copies of a chart depicting the area are available from the Regional Administrator upon request) is that area defined by a line beginning 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 maritime boundary, then in a northerly direction along the U.S.-Canada maritime boundary until it intersects the Maine shoreline, and then following the coastline in a southerly direction until it intersects with point A.

(b) *Southern Fishery Management Area (SFMA)—Area definition.* The SFMA (copies of a chart depicting the area are available from the Regional Administrator upon request) is that area defined by a line beginning at point A, then in a southerly direction to 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 maritime boundary, then in a northwesterly direction along the U.S.-Canada maritime boundary to 41° N. latitude, and then westward to 70° W. longitude, and finally north to the shoreline at Cape Cod, MA (point A).

(c) *Gear restrictions—(1) Minimum mesh size—*(i) *Trawl nets while on a monkfish DAS.* Except as provided in paragraph (c)(1)(ii) of this section, the minimum mesh size for any trawl net, including beam trawl nets, used by a vessel fishing under a monkfish DAS is 10-inch (25.4-cm) square or 12-inch (30.5-cm) diamond mesh throughout the codend for at least 45 continuous meshes forward of the terminus of the net. The minimum mesh size for the remainder of the trawl net is the regulated mesh size specified under § 648.80(a)(3), (a)(4), (b)(2)(i), or (c)(2)(i) of the Northeast multispecies regulations, depending upon and consistent with the NE multispecies regulated mesh area being fished.

(ii) *Trawl nets while on a monkfish and NE multispecies DAS.* For vessels issued a Category C or D limited access monkfish permit and fishing with trawl

gear under both a monkfish and NE multispecies DAS, the minimum mesh size is that allowed under regulations governing mesh size at § 648.80(a)(3), (a)(4), (b)(2)(i), or (c)(2)(i), depending upon, and consistent with, the NE multispecies regulated mesh area being fished.

(iii) *Gillnets while on a monkfish DAS.* The minimum mesh size for any gillnets used by a vessel fishing under a monkfish DAS is 10-inches (25.4 cm) diamond mesh.

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

(2) *Other gear restrictions.* (i) A vessel may not fish with dredges or have dredges on board while fishing under a monkfish DAS.

(ii) All other non-conforming gear must be stowed as specified in § 648.23(b).

(iii) The mesh size restrictions in paragraph (c)(1) of this section do not apply to nets or pieces of nets smaller than 3 ft (0.9 m) x 3 ft (0.9 m), (9 ft<sup>2</sup> (0.81 m<sup>2</sup>)).

[64 FR 54747, Oct. 7, 1999, as amended at 65 FR 37917, June 19, 2000; 67 FR 50323, Aug. 1, 2002]

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

(a) *General.* A vessel issued a limited access monkfish permit may not fish for, possess, retain, or land monkfish, except during a DAS as allocated under and in accordance with the applicable DAS program described in this section, except as otherwise provided in this part.

(1) *End-of-year carry-over.* With the exception of vessels that held a Confirmation of Permit History as described in § 648.4(a)(1)(i)(J) for the entire fishing year preceding the carry-over year, limited access vessels that have unused DAS on the last day of April of any year may carry over a maximum of 10 unused DAS into the next fishing year. Any DAS that have been forfeited due to an enforcement proceeding will be deducted from all

other unused DAS in determining how many DAS may be carried over.

(2) [Reserved]

(b) *Monkfish DAS program—permit categories and allocations*—(1) *Limited access monkfish permit holders*. For fishing years 1999, 2000, and 2001, all limited access monkfish permit holders shall be allocated 40 monkfish DAS for each fishing year. Multispecies and scallop limited access permit holders who also qualify for a limited access monkfish permit shall be allocated up to 40 monkfish DAS for each fishing year, depending on whether they have sufficient multispecies and/or scallop DAS to use concurrently with their monkfish DAS, as required by paragraph (b)(2) of this section. For fishing years 2002 and thereafter, no monkfish DAS will be allocated to any limited access monkfish permit holder.

(2) *Category C and D limited access monkfish permit holders*. Each monkfish DAS used by a limited access multispecies or scallop vessel holding a Category C or D limited access monkfish permit shall also be counted as a multispecies or scallop DAS, as applicable, except when, beginning August 1, 2002, a Category C or D vessel that has an allocation of multispecies DAS under § 648.82(1) that is less than 40 (the number of monkfish DAS) for the fishing year May 1 through April 30, may fish under Category A or B provisions, as applicable, for the number of DAS that equal the difference between 40 and the number of allocated multispecies DAS. For such vessels, when the total allocation of multispecies DAS have been used, a monkfish DAS may be used without concurrent use of a multispecies DAS. (For example, if a monkfish Category D vessel's multispecies DAS allocation is 30, and the vessel fished 30 monkfish DAS, 30 multispecies DAS would also be used. However, after all 30 multispecies DAS are used the vessel may utilize its remaining 10 monkfish DAS to fish on monkfish, without a multispecies DAS being used, provided that the vessel fishes under the regulations pertaining to a Category B vessel and does not retain any regulated multispecies.)

(3) *Accrual of DAS*. Same as § 648.53(e).

(4) *Good Samaritan credit*. Same as § 648.53(f).

(5) *Spawning season restrictions*. Beginning January 1, 2000, a vessel issued a valid Category A or B limited access monkfish permit under § 648.4(a)(9)(i)(A)(1) or (a)(9)(i)(A)(2) must declare and be out of the monkfish DAS program, as described in paragraph (b) of this section, for a continuous 20-day period between April 1 and June 30 of each calendar year using the notification requirements specified in § 648.10. If a vessel owner has not declared and been out for a continuous 20-day period between April 1 and June 30 of each calendar year on or before June 11 of each year, the vessel is prohibited from fishing for possessing or landing any monkfish during the period June 11 through June 30, inclusive.

(6) *Declaring monkfish DAS and blocks of time out*. A vessel's owner or authorized representative shall notify the Regional Administrator of a vessel's participation in the monkfish DAS program and declaration of its continuous 20-day period out of the monkfish DAS program, using the notification requirements specified in § 648.10.

(7) *Adjustments in annual monkfish DAS allocations*. Adjustments in annual monkfish DAS allocations, if required to meet fishing mortality goals, may be implemented pursuant to the framework adjustment procedures of § 648.96.

(8) *Gillnet restrictions*—

(i) *Number and size of nets*. (A) *Category A and B vessels*. A vessel issued a monkfish limited access Category A or B permit and fishing under a monkfish DAS may not fish with, haul, possess, or deploy more than 160 gillnets. Nets may not be longer than 300 ft (91.44 m), or 50 fathoms, in length.

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

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than 300 ft (91.4 m), or 50 fathoms, in length.

(ii) *Tagging requirements.* Beginning May 1, 2000, all gillnets fished, hauled, possessed, or deployed by a vessel fishing for monkfish under a monkfish DAS must have one monkfish 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 §648.4. A vessel operator must account for all net tags upon request by an authorized officer.

(iii) *Lost tags.* A vessel owner or operator must report lost, destroyed, or missing tag numbers by letter or fax to the Regional Administrator within 24 hours after tags have been discovered lost, destroyed, or missing.

(iv) *Replacement tags.* A vessel owner or operator seeking replacement of lost, destroyed, or missing tags must request replacement tags by letter or fax to the Regional Administrator. A check for the cost of the replacement tags must be received before the tags will be re-issued.

(v) *Method of counting DAS.* A vessel fishing with gillnet gear under a monkfish DAS will accrue 15 hours monkfish DAS for each trip greater than 3 hours but less than or equal to 15 hours. Such vessel will accrue actual monkfish DAS time at sea for trips less than or equal to 3 hours or greater than 15 hours. A vessel fishing with gillnet gear under only a monkfish DAS is not required to remove gillnet gear from the water upon returning to the dock and calling out of the DAS program, provided that the vessel complies with the requirements and conditions of paragraphs (b)(8)(i), (ii), (iii), (iv), and (v) of this section.

(9) *Limited access monkfish permit holders.* For fishing year 2002, all limited access monkfish permit holders shall be allocated 40 monkfish DAS. Multi-species and scallop limited access permit holders who also qualify for a limited access monkfish permit shall be allocated up to 40 monkfish DAS, depending on whether they have sufficient multispecies and/or scallop DAS to use concurrently with their monkfish DAS, as required by paragraph (b)(2) of this section.

[64 FR 54748, Oct. 7, 1999, as amended at 67 FR 50323, Aug. 1, 2002]

EFFECTIVE DATE NOTE: At 67 FR 35931, May 22, 2002, §648.92 was amended by suspending paragraph (b)(1) and by adding paragraph (b)(9), effective May 17, 2002, through Nov. 18, 2002.

**§ 648.93 Monkfish minimum fish sizes.**

(a) *Minimum fish sizes.* (1) All monkfish caught in or from the EEZ or by vessels issued a Federal monkfish permit must meet the following minimum fish size requirements (total length and tail length) unless such minimum fish sizes are adjusted pursuant to paragraph (b) of 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) *Adjustments—(1) Vessels fishing in the SFMA.* (i) Unless the Regional Administrator makes the determination specified in paragraph (b)(1)(ii), beginning on May 1, 2000, the minimum fish size limit for vessels fishing in the SFMA, or for vessels not declared into the NFMA, is 21 inches (53.3 cm) total length/14 inches (35.6 cm) tail length.

(ii) If, based on landings, projected landings, and other available data, the Regional Administrator determines that the SFMA monkfish catch for the period May 1, 1999, through April 30, 2000, is less than or equal to the Year 1 SFMA TAC, a notification will be published in the FEDERAL REGISTER specifying the minimum monkfish size limit