

DRAFT

Amendment 2

to the

MONKFISH FISHERY MANAGEMENT PLAN

**Including a Draft Supplemental Environmental Impact Statement (DSEIS),
Preliminary Regulatory Economic Evaluation, and
Stock Assessment and Fishery Evaluation (SAFE) Report for the 2002 Fishing Year**

**Prepared by the
New England Fishery Management Council
Mid-Atlantic Fishery Management Council
National Marine Fisheries Service**

DSEIS Submitted by NEMFC: 3/19/04 (revised 4/16/04)

COVER SHEET

RESPONSIBLE AGENCIES:

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U.S. Department of Commerce
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PROPOSED ACTIONS:

Adoption, approval, and implementation of Amendment 2 to the Monkfish Fishery Management Plan.

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FINAL

ABSTRACT:

The New England Fishery Management Council and the NOAA Assistant Administrator for Fisheries propose to adopt, approve, and implement Amendment 2 to the Monkfish Fishery Management Plan (FMP) pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (the Act). The DSEIS presents the details of a management program designed to ensure compliance with the Act. It proposes measures to address a wide range of management issues, to resolve problems in the fishery that have arisen as a result of the implementation of the original FMP in 1999, and to minimize bycatch and adverse fishery impacts on essential fish habitat, to the extent practicable, while achieving optimum yield from the fishery during the stock rebuilding program.

DATE BY WHICH COMMENTS MUST BE RECEIVED: _____

TABLE OF ACRONYMS

A	Adult life stage
A13	Amendment 13 to the Multispecies FMP
ALWTRP	Atlantic Large Whale Take Reduction Plan
APA	Administrative Procedures Act
ASMFC	Atlantic States Marine Fisheries Commission
CA I	Closed Area I under the Multispecies FMP
CA II	Closed Area II under the Multispecies FMP
DAM	Dynamic Area Management
DAS	days-at-sea
DMF	Division of Marine Fisheries (Massachusetts)
DMR	Department of Marine Resources (Maine)
DSEIS	Draft Supplemental Environmental Impact Statement
E	Egg life stage
EA	Environmental Assessment
EEZ	exclusive economic zone
EFH	essential fish habitat
EIS	Environmental Impact Statement
EPA	Environmental Protection Agency
ESA	Endangered Species Act
FMP	fishery management plan
FW	Framework
FW 13	Framework 13 to the Scallop FMP
FY	fishing year
GB	Georges Bank
GOM	Gulf of Maine
GRT	gross registered tons/tonnage
HAPC	habitat area of particular concern
HCA	Habitat Closed Area
HPTRP	Harbor Porpoise Take Reduction Plan
IFQ	individual fishing quota
IWC	International Whaling Commission
J	Juvenile life stage
LOA	letter of authorization
MA	Mid-Atlantic
MAFMC	Mid-Atlantic Fishery Management Council
MMC	Monkfish Monitoring Committee
MMPA	Marine Mammal Protection Act
MPA	marine protected area
MSFCMA	Magnuson-Stevens Fishery Conservation and Management Act
MSMC	Multispecies Monitoring Committee
MSY	maximum sustainable yield
NAAA	Northwest Atlantic Analysis Area
NEFMC	New England Fishery Management Council
NEFSC	Northeast Fisheries Science Center
NEPA	National Environmental Policy Act
NERO	Northeast Regional Office

NFMA	Northern Fishery Management Area
NLCA	Nantucket Lightship Closed Area
NMFS	National Marine Fisheries Service
NOAA	National Oceanic and Atmospheric Administration
OY	optimum yield
PBR	Potential Biological Removal
PRA	Paperwork Reduction Act
PREE	Preliminary Regulatory Economic Evaluation
RFA	Regulatory Flexibility Act
RMA	Regulated Mesh Area
RPA	Reasonable and Prudent Alternatives
SAFE	Stock Assessment and Fishery Evaluation
SARC	Stock Assessment Review Committee
SAW	Stock Assessment Workshop
SBNMS	Stellwagen Bank National Marine Sanctuary
SEIS	Supplemental Environmental Impact Statement
SFA	Sustainable Fisheries Act
SFMA	Southern Fishery Management Area
SIA	Social Impact Assessment
SMAST	U. Mass. Dartmouth School of Marine Science and Technology
SNE	southern New England
SNE/MA	southern New England-Mid-Atlantic
SSB	spawning stock biomass
TAC	total allowable catch
TED	turtle excluder device
USCG	United States Coast Guard
USFWS	United States Fish and Wildlife Service
USGS	United States Geological Survey
VMS	vessel monitoring system
VPA	virtual population analysis
VTR	vessel trip report
YPR	yield per recruit

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1.0 INTRODUCTION

1.1 Executive Summary

This document presents the New England and Mid-Atlantic Fishery Management Councils' (Councils') goals and objectives for modifying the jointly managed Monkfish Fishery Management Plan (FMP), the alternatives under consideration to achieve those goals and objectives, and the analysis of expected impacts of each alternative. As discussed in Section 2.0, Background and History, the amendment is necessary to address a number of issues that arose out of the implementation of the original FMP, including displacement of some vessels from their established monkfish fisheries and permit qualification for vessels in the southern end of the range of the fishery; to address deficiencies in meeting Magnuson-Stevens Act requirements, particularly as identified in several court decisions pertaining to protection of essential fish habitat and reducing bycatch; and to reduce scientific uncertainty about the biology and population dynamics of monkfish and the optimal gear configurations for minimizing bycatch, protected species interactions and habitat effects. The amendment, along with its associated analyses, is also necessary to update the environmental impact statement for the FMP that was originally prepared in 1998.

To address those needs, the Councils adopted a set of specific Goals and Objectives for the amendment, as detailed in Section 3.0. In summary, those goals are:

- I.** Prevent overfishing or rebuild overfished stocks as necessary.
- II.** Address problems created by the implementation of the FMP.
- III.** Promote improved data collection and research on monkfish
- IV.** Comply with CEQ (Council on Environmental Quality) Guidelines to update Environmental Documents
- V.** Address deficiencies in meeting Magnuson Act requirements
- VI.** Address protected resources/fishery interactions, and
- VII.** Reduce FMP complexity where possible.

Starting with a public scoping process in December 2001, the Councils, and the NEFMC's Monkfish Oversight Committee, developed through a series of public meetings, a range of alternatives designed to address the stated goals and objectives. These alternatives are detailed in Section 4.1, and summarized, along with the impacts and issues of each alternative, in Appendix I. The Councils are seeking public comment on the range of alternatives and the analysis of impacts detailed in this document, and will review those comments and select from the range of alternatives, including the no action alternative if appropriate, those measures to be implemented by the May 1 start of the 2005 fishing year.

The alternatives include possible changes to the way monkfish days at sea (DAS) must be used by vessels with a limited access permit in monkfish and either multispecies or scallop fisheries. Permit category C and D vessels (those with limited access scallop or multispecies permits) are currently required to use either a scallop or multispecies DAS when on a monkfish DAS. The Councils are considering an alternative that would provide those vessels the option to use their DAS separately.

Within the separated DAS alternative are a number of options on how to configure the DAS program (allocate individual or fleet DAS, allow DAS leasing or transferability, and implement as an area-based or annual declaration of separated DAS program). While allowing vessels to separate their DAS usage could potentially increase overall fishing effort, with potential negative effects on target and non-target species, protected resources and habitat, other measures under consideration or already in effect would offset many of those effects. For example, the Councils propose a trawl gear configuration, including increased minimum mesh size, that would likely have a significant positive effect in reducing the bycatch of groundfish, small monkfish and other incidentally caught species. The trawl design is also intended to greatly minimize the effect of the monkfish fishery on essential fish habitat, particularly complex or “hard” bottom seafloor. Although the trawl design was developed cooperatively between industry and gear technicians, and incorporates many elements already in use by commercial fishermen, the complete configuration has not yet been scientifically demonstrated to achieve its purpose. The Councils are seeking specific comment on this gear design, and have proposed specific experimental fisheries with incentives (DAS set aside for research) to verify the net’s efficacy, as well as to conduct a wide range of scientific research that would advance the management of the monkfish fishery (including minimizing the effect of the fishery on habitat and protected species, and addressing other bycatch issues).

As for the impact of potentially increased effort on the rebuilding of the monkfish resource, the program established in Framework 2 (68 *Federal Register* 22325, April 28, 2003) sets annual harvest targets and associated trip limits and DAS allocations based on the observed status of each stock relative to annual biomass rebuilding targets. Thus, if monkfish fishing effort were to increase (as a result of the separation of DAS usage requirements) to a level that jeopardizes the rebuilding program, measures are already in place that would adjust trip limits and/or allocated DAS.

Among the other alternatives under consideration in this amendment are modifications to some of the incidental catch limits for vessels in other fisheries that would reduce the amount of monkfish being discarded (bycatch) while not significantly altering the overall level of mortality attributable to those other fisheries. Another bycatch reduction component of this amendment is the alternatives being considered for changing or eliminating the monkfish minimum fish size regulation.

The Councils are proposing to restore the offshore monkfish fishery that was displaced by the original FMP regulations that set trip limits and DAS usage requirements in such a way that some vessels could not profitably prosecute that fishery. This program would require an annual declaration and would allow participating vessels to fish at a higher trip limit than other monkfish vessels, on a proportionally reduced number of DAS. Enrolled vessels would be required to use an electronic vessel monitoring system (VMS) during the October – April period when the offshore fishery is open. The Council expect that this program would have a positive effect on those communities from where the offshore vessels operate, and would relieve some of the fishing pressure on inshore stock components, reducing bycatch and habitat effects in those areas.

Since the offshore fisheries take place along the edge of the continental shelf and canyon areas where deep-sea corals exist, the Councils are proposing to close some areas where corals have been observed or are expected to occur in a manner that minimizes the economic impact on the fishery. While coral habitats are not part of the strict essential fish habitat (EFH) designation for any managed species, protecting coral habitats may have indirect benefits for species with EFH in adjacent areas. Furthermore, the Councils are taking precautionary steps to protect these vulnerable areas from potential fishing that could occur in those areas as the offshore monkfish fishery becomes established, and deepwater fishing technology advances enable vessels to extend their activity into the canyon areas.

The Councils are also proposing to modify the limited access permit qualification criteria for vessels at the southern end of the range of the fishery (off North Carolina and Virginia) that did not qualify under the original FMP, for reasons outlined in Section 4.1.6.2. Depending on which of four alternatives is chosen, between 2 and 7 vessels could qualify for a permit. The impact of this action on the resource or the fishery is not likely to be significant, especially considering small number of affected vessels, the area restrictions placed on those newly qualifying vessels, the limited season of the fishery in that area, and the measures in place to protect sea turtles from entanglement. Admitting these vessels into the limited access program could have a modestly positive effect on the communities where those vessels operate as a result of the potential additional revenue and diversification that would result.

The Councils are considering a range of alternatives to meet the goal and mandate to minimize, to the extent practicable, the effect of the fishery on EFH. The gear effects evaluation and adverse impacts determination (see Appendix II) has concluded that trawl gear (but not gillnets) used in the monkfish fishery, has an adverse impact on the EFH of some other species, however, gears used in the monkfish fishery and other fisheries have a low impact on monkfish EFH. In addition to the aforementioned coral area closures and monkfish trawl configuration alternatives, the Councils are assessing the effect of other measures in this amendment, measures in the current FMP (the no action alternative), and actions proposed in recent amendments to the Multispecies and Sea Scallop FMPs, Amendments 13 and 10, respectively, for their efficacy in minimizing the effect of the monkfish fishery on EFH of other species. Since the majority of vessels in the monkfish fishery are also involved in either the scallop or multispecies fisheries, the EFH protection measures in those amendments will directly effect how the monkfish fishery interacts with the EFH for those species.

The Councils are also considering several administrative measures in this amendment, including:

- an exemption from the management program for vessels fishing for monkfish outside the EEZ, in the NAFO Regulated Area, consistent with the existing multispecies FMP exemption
- a clarification of the vessel upgrading baseline for vessels with limited access permits in other federal fisheries, eliminating the dual baseline situation, and
- changing the start of the fishing year from May 1 to one of three alternative dates, and methods for prorating DAS allocations during any transition period, if a change is adopted.

These measures will not significantly affect the target or non-target species under management, nor will they have any significant effect on habitat

Two main issues identified in the scoping process remain unresolved by this amendment, the restrictiveness of current regulations to protect sea turtle interactions on gillnet vessels off the North Carolina/Virginia coast, and completion of the mandatory five-year review of the elements in the FMP pertaining to EFH requirements of the Magnuson-Stevens Act, such as EFH designation and consideration of Habitat Areas of Particular Concern (HAPCs). The Councils considered including in this amendment alternative approaches to the sea turtle protection measures implemented by NMFS under the authority of the Endangered Species Act, but the needed analysis was not completed in time to be used to develop appropriate management measures for this document. The Councils may take action in the future under the framework adjustment process. With regard to the EFH issues, the New England Council is initiating an omnibus amendment to all its FMPs (Amendment 3 to the Monkfish FMP) that will address those and other habitat issues.

The Council seeks public comment on this document both as to the appropriateness of the alternatives under consideration, and as to the adequacy of the analyses of the impacts of the alternatives.

1.2 Document Organization

This document incorporates information required to meet the requirements of FMP amendments under the Magnuson-Stevens Act in a format that integrates the requirements of National Oceanic and Atmospheric Administration (NOAA, the parent agency to NMFS) guidelines for Supplemental Environmental Impact Statements (SEIS) to meet the mandates of the National Environmental Policy Act (NEPA). The document also contains sections explicit to a number of other federal laws and executive orders, in many cases referencing other sections of the SEIS. In some cases, such as the requirements of the Paperwork Reduction Act and Coastal Zone Management Act, sections will not be completed until the Councils identify recommended action from the range of alternatives under consideration in this Draft SEIS and prepare the final submission documents. Thus, the document is divided into the following sections:

1. Cover sheet
2. Table of Contents
3. Introduction and Summary (Section 1.0)
4. Background, Purpose and Need (Section 2.0)
5. Goals and Objectives (Section 3.0)
6. Alternatives under consideration, and those considered and rejected (Section 4.0)
7. Affected Environment (Section 5.0)
8. Environmental Consequences (Section 6.0)
9. Magnuson-Stevens Act Consistency (Section 7.0)
10. Consistency with Other Applicable Law (Section 8.0)
11. Appendices

Information contained in the Affected Environment section of the Draft SEIS also serves as the Council's annual Stock Assessment and Fishery Evaluation (SAFE) Report for the 2002 fishing

year, ending April 30, 2003. Appendix I contains a summary table of the alternatives under consideration, including a synopsis of the main elements of each alternative and the issues and impacts associated with each decision. The table also identifies the goals and objectives from Section 3.2 that each preferred alternative addresses. Appendix II contains a summary of the Habitat Considerations – Gear Effects, incorporating information from the NMFS, NEFMC and MAFMC-sponsored Gear Effects Workshop that evaluated the effects of fishing gears used in the Northeast Region.

2.0 BACKGROUND, PURPOSE AND NEED

2.1 History of the Fishery

Until relatively recently, monkfish (goosefish or angler) was an incidental catch in groundfish and sea scallop fisheries but had little or no commercial value. In the 1960's reported landings averaged less than a million pounds and revenues from monkfish were a few hundred thousand dollars a year. During the 1970's, however, a ten-fold increase in the price of tails lead to a 17-fold increase in trips reporting landings, and in landings themselves, as gillnet and sea scallop fishermen joined trawlers in reporting landings. Further growth in the demand for tails by Europe and livers by Japan and other Asian countries (South Korea in particular) fueled growth of U.S. dockside markets into the 1990s.

In the early 1990's, fishermen and fish dealers expressed their concern about the fishery to the New England and Mid-Atlantic Fishery Management Councils. They cited the increasing proportion of small fish being targeted and, as the directed trawl fishery expanded into areas not previously fished by groundfish vessels, the growing frequency of gear conflicts between monkfish and other fisheries vessels, particularly the offshore lobster fishery.

2.2 FMP Development and Implementation

In response to those industry concerns, and scientific evidence that the stocks were under increasing pressure, such as declining survey indices and decreasing proportion of large fish in the commercial catch, the Councils jointly initiated efforts to develop an FMP with the publication in 1993 of a notice initiating the scoping process to gather public comment on issues and potential management strategies (58 *Federal Register* 7879, February 10, 1993). The Councils viewed the situation against a backdrop of rapidly rising prices for monkfish tails and livers, as well as the development of restrictive management programs in many of the region's fisheries that could potentially cause vessels to shift into the unrestricted and profitable monkfish fishery, further exacerbating the stock decline.

To discourage speculative entry into the fishery as they developed the FMP, which included a potential limited entry program, and to promote awareness of potential permit eligibility criteria, the Council published a control date on February 17, 1995 (60 *Federal Register* 10574, February 27, 1995). The Councils held public hearings took place in 1997 and again in 1998 as the plan was being finalized. The Councils submitted the FMP to NMFS on September 17, 1998. NMFS published the proposed rule on February 16, 1999 and the final rule on October 7, with an effectiveness date for implementation of November 8, 1999. The FMP contains the following measures:

- multi-level limited access program