

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

- two management areas (see Figure 1)
- target TACs
- effort limitations (DAS)
- trip limits
- bycatch allowances
- minimum fish sizes and minimum mesh size
- gear restrictions
- spawning season closures
- a framework adjustment process
- permitting and reporting requirements
- other measures for administration and enforcement.

The original FMP contained a four-year phase in of management measures to reduce fishing effort and rebuild the stocks within ten years or less. Year 1 of the plan began May 1, 1999 the scheduled start of the fishing year, even though the FMP was not implemented until six months into the fishing year. An analysis by NMFS in 2000, however, concluded that even if the Year 1 measures had been implemented on May 1, 1999, the quota for the SFMA would have been exceeded. Consequently, the Council made no adjustment to the default regulations for Year 2 or Year 3. These regulations allocated 40 DAS for directed fishing for monkfish and imposed a trip limit by permit category and gear type. For vessels fishing in the NFMA, other than scallop dredge vessels, the regulations imposed no trip limit during Years 2 and 3, regardless of whether a vessel is on a monkfish or multispecies-only DAS.

For Year 4, starting May 1, 2002, the FMP regulations included default measures that eliminated the directed fishery (zero DAS) and reduced bycatch trip limits, unless modified during the Year 3 review and adjustment process. The default measures were postponed by Framework 1/NMFS Emergency Rule in 2002, and removed from the FMP by Framework 2 in 2003, see discussion below.

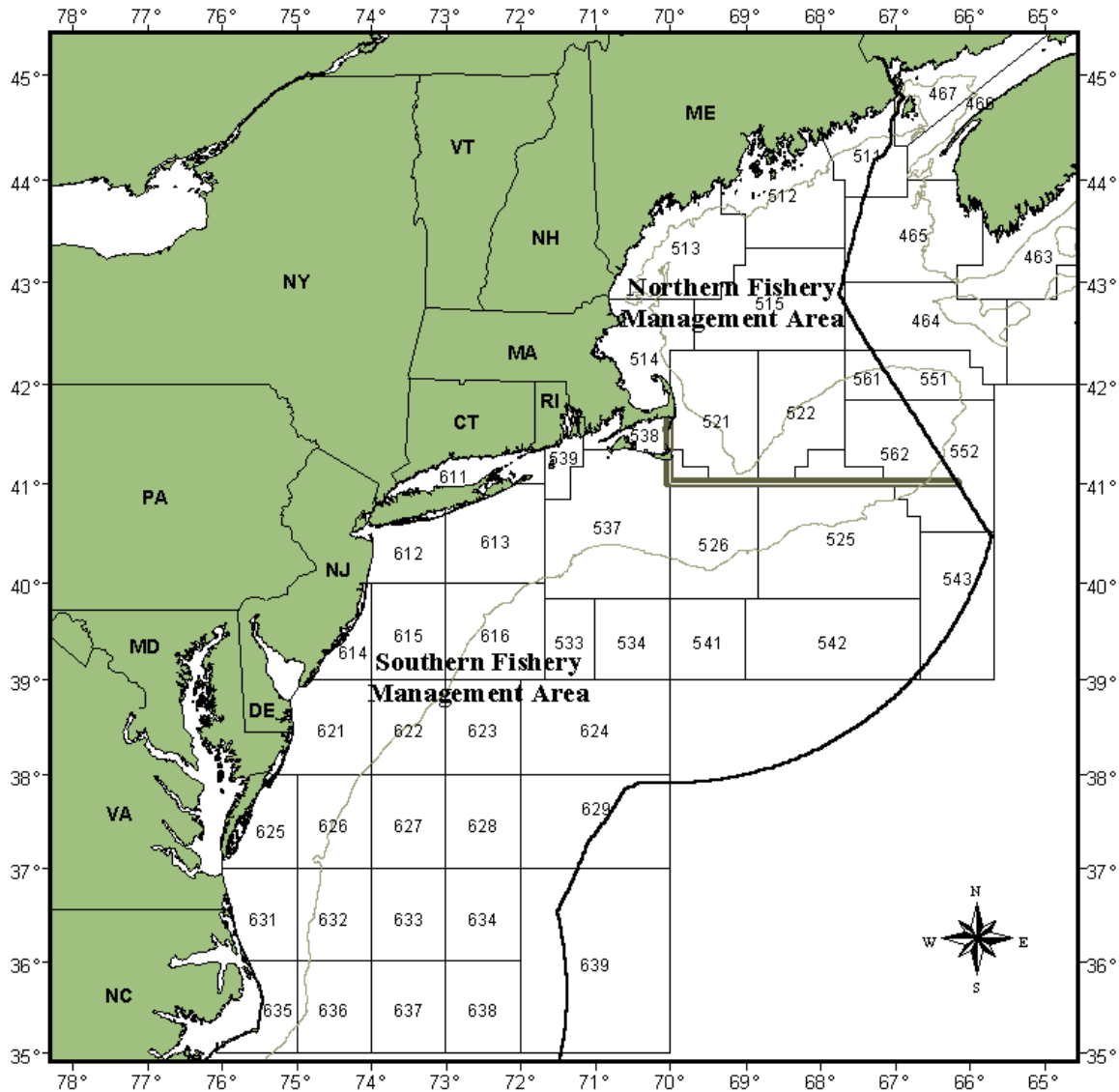


Figure 1 Monkfish fishery management areas map, showing 3-digit statistical areas.

2.3 Amendment 1

Amendment 1 was part of an omnibus amendment for multispecies, sea scallops, Atlantic salmon and monkfish FMPs submitted by the Council to comply with the Essential Fish Habitat (EFH) requirements of the Magnuson-Stevens Act (MSA). NMFS approved Amendment 1 on April 22, 1999.

2.4 Magnuson-Stevens Act Provisions on Essential Fish Habitat

The 1996 amendments to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) required the National Marine Fisheries Service (NMFS) and regional Fishery Management Councils (Councils) to describe and identify essential fish habitat (EFH) within fishery management plans, minimize to the extent practicable adverse effects on EFH caused by fishing, and identify other actions to encourage the conservation and enhancement of EFH. EFH is defined in the Magnuson-Stevens Act as *“those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity.”*

As required by the Magnuson-Stevens Act, NMFS developed guidelines at 50 CFR part 600, Subpart J, to assist the Councils in the description and identification of EFH and in the consideration of actions to ensure the conservation and enhancement of EFH. Section 600.815(a)(9) recommends that Councils identify habitat areas of particular concern (HAPCs) within EFH to provide greater focus for conservation and enhancement efforts. HAPCs are subsets of EFH that are especially important ecologically, sensitive to human-induced environmental degradation, stressed by development activities, and/or rare. This EIS does not include the consideration of new descriptions and identifications of EFH and new HAPCs, as the Councils will take that action in the Council's upcoming Omnibus Habitat Amendment. The NEFMC published a Notice of Intent (69 *Federal Register* 8367, February 24, 2004) and expects to complete the amendment in 2005 (see Section 2.5.2.2 below). For the purposes of this Plan Amendment, the existing and approved EFH designations and HAPCs from the Amendment 1 to the Monkfish FMP of 1998 will continue. The EFH regulations include guidelines for identifying adverse impacts from both fishing and non-fishing activities and considering the practicability of actions for minimizing adverse effects on EFH from fishing.

2.5 Fishing Years 2 and 3

2.5.1 Stock Assessments

2.5.1.1 SAW 31

The 31st Stock Assessment Workshop (SAW 31), July 2000, provided the Councils with an assessment of monkfish through calendar year 1999, prior to the implementation of the FMP. SAW 31 concluded that both stocks were overfished and that overfishing was occurring, and advised that fishing mortality should be reduced. SAW 31 could not reliably estimate fishing mortality, however, and did not provide projections of stock dynamics under various assumptions of fishing mortality. The SAW also recommended that both fishing mortality rate and biomass status determination criteria in the FMP be reevaluated for consistency with NMFS' National Standards Guidelines, and for attainability with respect to the control rules implied by the FMP.

2.5.1.2 SAW 34/Cooperative Survey

The 34th Stock Assessment Workshop (SAW 34), January 2002, provided the Councils with an updated monkfish assessment through calendar year 2000, and incorporated data collected during the Cooperative Goosefish Survey, February – May 2001 to estimate fishing mortality rates. SAW 34 concluded that both northern and southern stocks were overfished, and overfishing was occurring in 2000. Despite the additional data collected during the cooperative survey, SAW 34 did not provide a point estimate for either fishing mortality or biomass, nor did it provide projections of stock size under various assumptions of fishing mortality. SAW 34 provided a range of estimates of fishing mortality (F), however, and advised that fishing mortality rates need to be reduced 20-40 percent to reach proposed fishing mortality rate threshold (F_{max}, the rate of fishing that maximizes yield per recruit), and that discards should be reduced. The SAW recommended that the proxy fishing mortality reference points in the FMP be changed to one based on yield-per-recruit analysis, such as F_{max}.

2.5.2 Court Decisions directly or indirectly affecting this FMP

2.5.2.1 Trip limit differential lawsuit (*Hall v. Evans*)

In 2001, a Rhode Island Federal Magistrate Judge issued recommendations to the Federal District Court Judge on motions for summary judgment in a suit brought by several southern New England and New Jersey gillnetters challenging the differential trip limits in the FMP for vessels fishing under a monkfish DAS (*Hall v. Evans*, C.A. No. 99-549L). The Federal District Court Judge agreed with most of the conclusions and opinions of the Magistrate Judge and ruled that based on the justification provided in the FMP, the differential trip limit violated National Standards Two, Four and Five of the Magnuson-Stevens Act. The judge vacated the 300 pound-per-day gillnet trip limit and set a 1,500 pound trip limit “for all monk fishermen...until such time as the Secretary [of Commerce] establishes a fair and equitable gear differential or otherwise revises the catch limit”. The judge later clarified the order that the trip limits apply by permit category. The effect of this order was that the trip limit on non-trawl (i.e. gillnet) vessels was raised from 300 lbs./DAS to 1,000 or 1,500 lbs./DAS, depending on permit category, the trip limits in effect for FY2001. In general, this court order has resulted in trip limits for the SFMA that are equivalent across gear types.

2.5.2.2 EFH lawsuit (*AOC v. Daley*)

Pursuant to the Magnuson-Stevens Act and the EFH regulations, the Councils submitted FMP amendments and associated Environmental Assessments (EAs), as required under the National Environmental Policy Act (NEPA), to NMFS for Secretarial review. NMFS approved or partially approved all the EFH fishery management plan amendments in accordance with section 304(a) of the Magnuson-Stevens Act. Subsequently, a coalition of seven environmental groups and two fishermen’s associations filed a lawsuit challenging NMFS’ approval of certain EFH amendments prepared by the Gulf of Mexico, Caribbean, New England, North Pacific, and Pacific Fishery Management Councils (*American Oceans Campaign et. al. v. Daley et al.*, C.A. No. 99-982(GK)). The suit specifically contested the adequacy of the evaluations of fishing gear impacts on EFH in the fishery management plan amendments, and the analyses of environmental impacts in the EAs.

The U.S. District Court for the District of Columbia found that the agency’s decisions on the subject EFH amendments were in accordance with the Magnuson-Stevens Act, but found that the EAs for the Councils’ amendments were inadequate and in violation of NEPA. The court determined that the EAs prepared for the EFH provisions of the fishery management plans did not fully consider all relevant alternatives. The court specifically criticized several of the EAs for evaluating only two options for the EFH amendments: either approval of the amendment or status quo. Additionally, the decision noted that the descriptions and analyses of the environmental impacts of the proposed actions and alternatives were vague or not fully explained. The court ordered NMFS to complete a new and thorough NEPA analysis for each EFH amendment named in the suit. This Environmental Impact Statement (EIS) responds, in part, to the court’s directive to NMFS to complete new NEPA analyses for the Monkfish FMP. Although the plaintiffs’ complaint focused on whether NMFS had adequately evaluated the effects of fishing on EFH, NMFS decided to complete new EISs to evaluate all of the EFH components of the applicable fishery management plans. Accordingly, this EIS reevaluates the impacts of amending the Monkfish FMP to include the EFH provisions required by the Magnuson-Stevens Act.

2.5.2.3 Multispecies Framework 33 lawsuit (*CLF v. Evans*)

In December 2001, the Conservation Law Foundation and other organizations successfully filed suit against NMFS alleging that the rebuilding plans the NMFS implemented were not consistent with the Multispecies Amendment 9 overfishing definitions (*Conservation Law Foundation, et al. v. Evans, et al.*). Additionally, they charged that there had been a consistent failure in management plans to assess bycatch reporting and establish measures to minimize bycatch and bycatch mortality (when bycatch is unavoidable). After a long series of negotiations among various parties, the court adopted interim measures and instructed NMFS to submit a management plan to comply with the law. In response, the NEFMC has developed Multispecies Amendment 13 to address stock rebuilding issues, greatly reduce fishing effort and capacity in the multispecies fishery, and implement additional measures to specifically address habitat protection. Since most of the monkfish permit holders also hold multispecies limited access permits, the measures adopted through Amendment 13 will affect the monkfish fishery managed under this FMP.

2.6 Framework Adjustment 1/Emergency Interim Rule

The regulations implementing the FMP required the Councils to conduct a review of the status of the fishery during Year 3 of the rebuilding plan, FY2001, and make adjustments, as needed, to insure that rebuilding to stock biomass targets by 2009 remain on schedule. Based on the Year 3 review and the results of a new stock assessment (SAW 34, January 2002), the Councils determined that additional work was necessary to thoroughly evaluate stock status, biological reference points and the rebuilding program. To that end, submitted Framework 1, delaying for one year the default measures while the Councils prepared Amendment 2. In Framework 1, the Councils concluded that, based on the best available scientific information, fishing mortality rates had been reduced sufficiently to end overfishing under the fishing mortality threshold reference point recommended by the Stock Assessment Review Committee (SARC 34), and observed that stock biomass was stable (in the SFMA) or increasing (in the NFMA).

NMFS disapproved Framework 1 because it did not comply with the fishing mortality rate threshold specified in the original plan (which had been invalidated by SAW 31 and SAW 34), but implemented a revision to the overfishing definition based on the recommendations of SAW 34 through an emergency interim rule (*67 Federal Register* 35928, May 22, 2002). NMFS also implemented in the emergency rule the management measures recommended by the Councils in Framework 1. In so doing, NMFS concurred with the Councils' determination that the measures in Framework 1 would end overfishing in 2002, based on the revised fishing mortality threshold recommended by SARC 34. The measures in Framework 1/emergency rule also include a revision to the trip limit to account for a federal court decision in vacating the gear-based trip limit differential in the original plan. NMFS extended the emergency interim rule through April 30, 2003 (*67 FR* 67568, Nov. 6, 2002) to allow the Councils time to complete Amendment 2. Upon expiration of the emergency interim rule, the default measures in the original FMP would take effect on May 1, 2003 unless the Councils implemented alternative rules, either through Amendment 2 or another framework adjustment.

2.7 Framework Adjustment 2

In June 2002, NMFS informed the Councils that even if they met the November 2002 submission target for Amendment 2, the agency could not guarantee that the measures would be

implemented by the start of FY2003. As a result, and to forestall the default measures taking effect, the Councils agreed to put aside work on Amendment 2 and focus on Framework 2, to put in place management measures appropriate to the rebuilding plan and updated scientific information on stock status.

The Councils submitted Framework 2 in January 2003, and the rule became effective on May 1, the start of FY2003 (68 *Federal Register* 22325, April 28, 2003). The framework modified the overfishing definition reference points as recommended by SAW 34, and established an index-and landings-based method for setting annual harvest targets (TACs) to achieve optimum yield and biomass rebuilding goals. The framework implemented a streamlined process for adjusting trip limits and days-at-sea allocations to achieve the annual TACs. Framework 2 also eliminated the default measures established in the original FMP.

2.8 Take Reduction Plans and Other Actions to Minimize Interactions with Protected Species

2.8.1 Harbor Porpoise TRP

NMFS published the rule implementing the Harbor Porpoise Take Reduction Plan (HPTRP) on December 1, 1998. The HPTRP includes measures for gear modifications and area closures, based on area, time of year, and gillnet mesh size. In general, the Gulf of Maine component of the HPTRP includes time and area closures, some of which are complete closures; others are closures to gillnet fishing unless pingers (acoustic deterrent devices) are used in the prescribed manner. The Mid-Atlantic component includes time and area closures in which gillnet fishing is prohibited regardless of the gear specifications. Under the HPTRP, monkfish gillnets are required to comply with the requirements for large-mesh gillnets (defined as 7-18 inch mesh under the HPTRP). These include mandatory use of tie-downs and a net cap of 80 nets. The net cap is particularly relevant since the current FMP for monkfish has a net cap of 160 nets. Fishermen are required to comply with the most restrictive of all measures that apply to them. Therefore, monkfish gillnetters fishing in the Mid-Atlantic (as defined under the HPTRP) can only fish up to 80 nets (nets may be up to 300' long).

2.8.2 Atlantic Large Whale Take Reduction Plan (ALWTRP)

The ALWTRP contains a series of regulatory measures designed to reduce the likelihood of fishing gear entanglements of right, humpback, fin, and minke whales in the North Atlantic. The main tools of the plan include a combination of broad gear modifications and time/area closures (which are being supplemented by progressive gear research), expanded disentanglement efforts, extensive outreach efforts in key areas, and an expanded right whale surveillance program to supplement the Mandatory Ship Reporting System.

Key regulatory changes implemented in 2002 included: 1) new gear modifications; 2) implementation of a Dynamic Area Management system (DAM) of short-term closures to protect unexpected concentrations of right whales in the Gulf of Maine; and 3) establishment of a Seasonal Area Management system (SAM) of additional gear modifications to protect known seasonal concentrations of right whales in the southern Gulf of Maine and Georges Bank.

The most recent change to the ALWTRP, which became effective on September 25, 2003, allows lobster trap and anchored gillnet gear in a DAM zone once a closure is triggered, but specifies additional gear modifications designed to reduce the risk of entanglements of Northern right whales. A DAM zone may be identified and a closure triggered within defined areas north of 40° N. latitude.

2.8.3 NMFS Rule to Conserve Sea Turtles

NMFS published a final rule (67 *FR* 71895, December 3, 2002), effective January 2, 2003, that enacted a series of seasonal closures to the use of large mesh gillnets in the EEZ off the coast of Virginia and North Carolina. The purpose of the closures is to reduce the impact of the monkfish fishery on endangered and threatened species of sea turtles. This final rule followed several temporary actions taken by NMFS since 2000 in response to sea turtle strandings.

Federal waters between Oregon Inlet and the North Carolina/South Carolina border are closed year round, while three other areas to the north (up to Chincoteague, VA) are closed from March 16, April 1, and April 16, respectively, to January 14 each year.

2.9 Other Regulatory Actions affecting the Fishery

The majority of vessels fishing for monkfish, either as an incidental catch or a directed fishery, are also involved in a number of other fisheries in the region where regulatory action may directly or indirectly affect their operations. This section briefly summarizes actions undertaken or under consideration in three of those fisheries, Northeast Multispecies Sea Scallops and Skates.

2.9.1 Multispecies FMP Amendment 13

On December 1, 2003 the NEFMC submitted Amendment 13 to the Multispecies FMP, and re-submitted a revised version on December 18. NMFS has published a proposed rule (69 *Federal Register* 4362, January 29, 2004), and Amendment 13 is scheduled to take effect on May 1, 2004, the start of the fishing year. The NEMFC is addressing a wide range of management issues in the amendment as summarized below:

- **Measures to achieve stock rebuilding**: measures designed to comply with Magnuson-Stevens Act requirements to rebuild overfished fisheries, and end overfishing where it is occurring. This includes management measures such as DAS reductions, gear restrictions, trip limits areas closures, TACs and other measures. It also includes measures that will affect the recreational fishery.
- **Measures to reduce capacity**: measures developed by the Council to control fishing capacity and potentially remove excess effort from the fishery.
- **Fishery program administration**: measures developed to address issues that are primarily administrative in nature, though some may have biological, social, or economic impacts. This section includes the DAS leasing alternatives.
- **Measures that minimize, to the extent practicable, adverse effects of fishing on habitat**
- **Other issues**: measures developed to alter restrictions on two exempted fisheries and one exempted gear.

Since approximately half of the monkfish permit holders also hold multispecies limited access permits, the measures adopted in Amendment 13 could have an impact on vessels engaged in the monkfish fishery, and on the monkfish resource (see Section 6.6.6.2).

2.9.2 Atlantic Sea Scallop FMP Amendment 10

On November 11, 2003, the NEFMC submitted a final Amendment 10 document to the Atlantic Sea Scallop FMP (including a Final SEIS), and re-submitted a revised version on December 19. The proposed rule (69 *Federal Register* 8915, February 26, 2004) comment period ended on March 29, 2004.

Amendment 10 will include implementation of a flexible boundary, adaptive area rotation system, beginning with a new closure off the Maryland coast. The rotation plan will continue the controlled access program for the Hudson Canyon Area and initiate mechanical rotation in parts of the Georges Bank closed areas, although access to the Georges Bank areas requires approval of a groundfish framework adjustment to address groundfish bycatch concerns. Other features of the area rotation system include new cooperative industry surveys, an expanded at-sea observer program and scallop-related research, all of which would be funded by scallop set-aside programs.

In addition to the rotational management program, Amendment 10 will implement an increase in twine top mesh from 8 to 10-inches and an increase in minimum dredge ring size from 3½ inches to 4-inches diameter. These changes will reduce bycatch and improve dredge efficiency while increasing the catch of larger sea scallops. It is expected that the larger ring will reduce bottom contact time per day and potentially reduce adverse effects on essential fish habitat. Amendment 10 also adopts a habitat closure, using portions of the groundfish closed areas, that would apply to vessels fishing with scallop gear until subsequent action is taken to replace or modify these areas, and prohibits limited access scallop vessels from fishing under general category vessel rules, except for scallop vessels fishing under a multispecies or monkfish day-at-sea.

2.9.3 Skate FMP

On August 19, 2003, NMFS published regulations implementing the Skate FMP submitted by the NEFMC (68 *Federal Register* 46963). The purpose of the FMP is to implement permanent management measures for the northeast skate fisheries to prevent overfishing of skate resource. These regulations include the following measures: A possession limit for skate wings; a bait-only exemption to the wing possession limit restrictions; a procedure for the development, revision, and/or review of management measures on an annual, biennial, and inter-annual basis, including a framework adjustment process; open access permitting requirements for fishing vessels, operators, and dealers; new species-level reporting requirements for skate vessels and dealers; new discard reporting requirements for Federal vessels; and prohibitions on possessing smooth skates in the Gulf of Maine (GOM) Regulated Mesh Area (RMA), and thorny skates and barndoor skates throughout the management unit.

2.10 Notice of Intent and Scoping

The Councils published a Notice of Intent to prepare an SEIS and formally initiate scoping on this amendment on December 10, 2001 (66 *FR* 63666). See Section 8.1.2 for information regarding the scoping process for this amendment, including scoping on the EFH components.

2.11 Summary of Current FMP Regulations

The following tables summarize the regulations in effect under the current FMP through Framework 2.

FMP Element	NFMA	SFMA
Target TAC	Calculated annually based on two factors: 1) three year running average fall survey biomass index compared to annual biomass rebuilding target 2) previous year landings If F is known, TAC is set to not exceed F threshold.	Same as NFMA
DAS	40	40, or lower if trip limit is calculated to be less than 550/450 lbs. tails/DAS on Cat. A, C & B,D, respectively. For FY2004, vessels will have 28 DAS to fish in the SFMA.
Liver landings	Maximum of 25% of wt. of tails or 10% of wt. of whole MF	Same as NFMA
Minimum fish size	11" tail, 17" whole	14" tail, 21" whole
Minimum mesh size on MF DAS	Trawl: 10" sq/12" dia. codend; Gillnet: 10"	Same as NFMA
Area Declaration	Must declare into NFMA for minimum of 30 days to fish under less restrictive measures (trip limits, minimum fish size); to be adjusted to 7 days by technical amendment	
Exempted Fishery	Must fish on a Multispecies or Scallop DAS or in an Exempted Fishery (gillnet only)	Must fish on a Multispecies or Scallop DAS or in an Exempted Fishery
Trip limits and Incidental Catch limits see table below.		

Table 1 Summary of current FMP regulations

Permit Category	DAS Program	Area	Gear ¹	Trip/Incidental Catch Limit ² (tail weight per DAS)
A, B, C, or D	Monkfish	NFMA	All Gear	No trip limit
A or C	Monkfish	SFMA	All Gear	1,250 lb (FY2003, adjusted annually)
B or D	Monkfish	SFMA	All Gear	1,000 lb (FY2003, adjusted annually)
C or D	Multispecies	NFMA	All Gear	No trip limit
C or D	Multispecies	SFMA	Trawl	300 lb
C or D	Multispecies	SFMA	Non-trawl	50 lb
C or D	Scallop	NFMA & SFMA	Dredge or net exemption	300 lb
E (incidental)	Multispecies	NFMA	All Gear	400 lb, or 50% of total weight of fish on board, whichever is less
E (incidental)	Multispecies	SFMA	All Gear	50 lb
E (incidental)	Scallop	NFMA & SFMA	Dredge	300 lb
A, B, C, D, or E	No DAS	NFMA & SFMA	Large Mesh ³	Up to 5% of total weight of fish on board per trip ⁴
A, B, C, D, or E	No DAS	NFMA & SFMA	Small Mesh ⁵ or Handgear	50 lb of tail weight per trip
C, D, or E vessels that are <30 feet with a multispecies limited access permit	No DAS	NFMA & SFMA	All Gear	50 lb of tail weight per trip

¹Dredge gear is prohibited unless fishing under a Scallop DAS

²Or the whole-weight equivalent (tail weight x 3.32)

³Greater than or equal to the minimum NE multispecies mesh size for the Gulf of Maine, Georges Bank and Southern New England Regulated Mesh Areas, and minimum summer flounder mesh size for the Mid-Atlantic Regulated Mesh Area

⁴Can land whole monkfish or monkfish tails, but the weight of all monkfish on board is converted to tail weight.

⁵Less than the regulated mesh size as specified under footnote 3.

Table 2 Summary of current monkfish trip limits and incidental catch limits

2.12 Purpose and Need

The purpose of the amendment is to achieve the goals and objectives outlined in Section 3.2 below. The need for this action includes problems and issues that have arisen since, or as a result of the FMP implementation, as discussed below; court decisions and orders on elements of the

plan as outlined in Section 2.5.2, particularly EFH (*AOC v. Daley*); actions taken in other fisheries that affect the monkfish fishery, as detailed in Section 2.9; and federal guidelines on the periodic updating of environmental documents and the content of fishery management plans, in particular the Council on Environmental Quality's "Forty Most Asked Questions Concerning CEQ's NEPA Regulations" (question 32) .

As noted, in addition to the issues raised in the lawsuits discussed above, the implementation of the FMP created several circumstances and situations which members of the public identified prior to and during the scoping process as problematic or unfair. In particular, the Councils received the following comments (summarized or paraphrased):

- During the course of development of the Monkfish FMP, a fishery for monkfish developed south of the border separating Virginia and North Carolina. A small number of North Carolina and Virginia vessels began participating in this fishery shortly after publication of the monkfish limited access permit control date (February 27, 1995). The monkfish season in this area runs from mid-March to June. These southern vessels did not possess other federal northeast fishery permits and, therefore, did not receive timely notices and other information about limited access proposals contained in the Monkfish FMP. In addition, the southern boundary of the fishery management unit initially proposed for monkfish was the border separating Virginia and North Carolina. Although this southern boundary was twice modified (the final boundary was extended southward to the North Carolina and South Carolina border) before public hearings, the Monkfish FMP public hearing document described the management unit, and hence the limited access proposal, as terminating at the Virginia and North Carolina border, not south of that line where much of the affected fishery takes place.
- NMFS disapproved the "running clock" provision that would have enabled vessels to exceed their per-day trip limit and then run out the commensurate DAS time while at the dock. This action, in combination with the requirement for Category C and D vessels to use a multispecies or scallop DAS when on a monkfish DAS, made offshore monkfish trawl trips unprofitable, especially in years when the trip limit was set relatively low. Members of the industry appealed to the Councils to restore the offshore fishery to a level of profitability within the requirements of the rebuilding program.
- Several individuals commented that the minimum fish size was contributing to discards, particularly on trips where vessels were using multispecies regulated mesh, rather than the larger mesh required on monkfish (but not multispecies) DAS
- Industry members requested the Council to implement the same exemptions for fishing outside the EEZ that already exist in the Multispecies FMP, so that vessels could investigate and promulgate a fishery in the NAFO Regulated Area.
- When the FMP was first implemented, numerous members of the affected public commented that the plan was extremely complicated and difficult to understand. Over the course of the next couple of years, however, the same individuals commented that the plan was more understandable than initially thought and that compliance at the vessel level was not so difficult once the operator learned the specific regulations that applied to his/her situation.

In April 2002, one conservation organization submitted comments on proposed Framework 1 expressing its concerns and issues with the Monkfish FMP. In responding to comments on the Emergency Interim rule, NMFS noted that those issues would be addressed in Amendment 2 which at that time was under development. In April 2003, as the Councils were finalizing the range of alternatives that would be considered in this DSEIS, the organization re-submitted those comments and asked that they be addressed in Amendment 2. Those comments focused on three areas: improving data collection and research, especially in regards to bycatch; minimizing bycatch in the directed and incidental catch fisheries; and minimizing impacts of the monkfish fishery on designated EFH. The Councils note that these issues have been identified in the amendment goals and objectives and form the basis for many of the management alternatives under consideration in this document.

3.0 GOALS AND OBJECTIVES

3.1 FMP Goals

The Councils adopted four management goals in the original FMP. These are:

1. To end and prevent overfishing; rebuilding and maintaining a healthy spawning stock.
2. To optimize yield and maximize economic benefits to the various fishing sectors.
3. To prevent increased fishing on immature fish.
4. To allow the traditional incidental catch of monkfish to occur.

These four goals were intended to ensure adequate spawning and the highest possible yields without radically altering the fisheries for other species, or causing extensive regulatory discards. In addition, they addressed the problem of the intensified fishing effort directed on small monkfish that occurred during the 1990's.

3.2 Goals for this Amendment

In addition to complying with the goals of the Magnuson Act, generally, and the Sustainable Fisheries Act (SFA) amendments, specifically, the goals of this amendment are:

- I.** Prevent overfishing or rebuild overfished stocks as necessary.
- II.** Address problems created by the implementation of the FMP.
Objectives:
 - 1) Reconsider the limited entry program for the monkfish fishery south of 38° N
 - 2) Address problems for deepwater fisheries resulting from the disapproval of the running clock in the original FMP
 - 3) Address the problem of multispecies or sea scallop permit holders having to use a multispecies or sea scallop day at sea (DAS) when using a monkfish DAS
 - 4) Establish appropriate exemptions for vessels fishing for monkfish outside of the EEZ (in the NAFO Regulated Area)
- 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
Objectives:
 - 1) Meet Magnuson Act requirements for Essential Fish Habitat