Monkfish Fishery Management Plan Amendment 6 - Catch Shares Discussion and Scoping Document

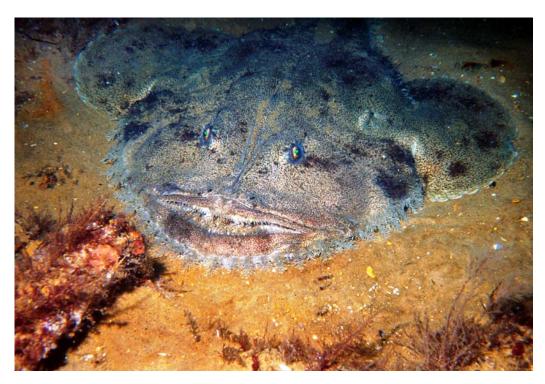


Photo: Mark Dixon, NOAA NOS

January – February, 2011

NOTICE: The location of January 31 hearing in Riverhead has changed. See inside cover for new location.

Hearing Schedule

Date Time Location

Wednesday, December 15, 2010	4:30 p.m.	Hilton Virginia Beach Oceanfront Hotel 3001 Atlantic Avenue, Virginia Beach, VA 23451 Telephone: (757) 213–3000		
Tuesday, January 4, 2011	3:00 p.m.	Annisquam River Marine Fisheries Station 30 Emerson Avenue, Gloucester, MA 01930 Telephone: (978) 282-0308		
Monday, January 10, 2011	3:00 p.m.	Holiday Inn 1127 Route 132, Hyannis, MA 02601 Telephone: (508) 775-1153		
Tuesday, January 11, 2011	9:00 a.m.	Fairfield Inn & Suites 185 Macarthur Drive, New Bedford, MA 02740 Telephone: (774) 634-2000		
Tuesday, January 11, 2011	4:00 p.m.	Hilton Garden Inn One Thurber Street, Warwick, RI 02886 Telephone: (401) 734-9600		
Wednesday, January 19, 2011	4:00 p.m.	Clarion Hotel 1230 Congress Street, Portland, ME 04101 Telephone: (207) 774-5611		
Monday, January 31, 2011	1:00 p.m.	New Location: Cornell Cooperative Extension 423 Griffing Avenue, 2 nd fl., Riverhead, NY 11901 Telephone: (631) 727-7850 x326		
Tuesday, February 1, 2011	9:00 a.m.	Holiday Inn 151 Route 72 East, Manahawkin, NJ 08050 Telephone: (609) 481-6100		
Wednesday, February 2, 2011	9:00 a.m.	Clarion Fontaineblue Hotel 101st Street on the Ocean, Ocean City, MD 21842 Telephone: (800) 638-2100		
Wednesday, February 9, 2011	4:30 p.m.	Hilton New Bern Riverfront 100 Middle Street, New Bern, NC 28560 Telephone: (252) 638-3585		

Purpose of this Document:

The purpose of this document is to inform the public of the New England and Mid-Atlantic Fishery Management Councils' (NEFMC and MAFMC) intent to consider catch shares management in the monkfish fishery, and to elicit early comment from stakeholders. The document will define and explain the different types of catch share programs, the elements and requirements of a catch share program, and various alternative approaches for public consideration. The Councils strongly encourage the public to voice their opinions, comments and concerns on catch share management generally, and on specific elements or programs, in order to assist the Councils in the development of alternatives for formal consideration. The public is also invited to ask questions that the Councils may answer in the course of plan development.

Why are the Councils considering Catch Shares?

Members of both Councils consider catch share management as a way to improve the economic performance of a fishery, by increasing flexibility, maintaining total catch within set limits, achieving optimum yield, promoting safety, and reducing the regulatory burden on vessel operators. Furthermore, nearly 3/4ths of the monkfish limited-access permit holders also hold permits in the Northeast Multispecies Fishery, where a catch share program (sectors) has already been implemented. Some of those permit holders have requested that the NEFMC consider catch shares in the monkfish fishery to coordinate the management and improve performance of both fisheries.

NOAA's National Catch Share Policy supports the Councils efforts to explore catch shares management approaches wherever appropriate in fishery management plans.

The NOAA Policy says:

To achieve long-term ecological and economic sustainability of the Nation's fishery resources and fishing communities, NOAA encourages the consideration and adoption of catch shares wherever appropriate in fishery management and ecosystem plans and amendments and will support the design, implementation, and monitoring of catch share programs.

What is a "Catch Share"?

NOAA defines a "Catch Share" as a generic term for a fishery management program that allocates a specific portion of a total fishery catch to individuals, communities, or cooperatives (including sectors). In general, quota shares can be allocated to an **individual or group** and can be **area-based or catch based.**

The term "Catch Share" includes Limited Access Privilege (LAP) Program, a statutory term used in the language of Magnuson-Stevens Fishery Management and Conservation Act (MSA). Here, the term is used to describe a "federally issued permit to harvest a unit of fish expressed as a portion of the total allowable catch that may be held by a group or by an individual." LAP permits may not be issued for more than 10 years with a formal detailed review occurring 5 years after implementation and every 7 years thereafter as written in the statute. The Act also maintains that a LAP does not confer any compensation if it is revoked or limited at any time.

Most importantly, catch shares are <u>not a property right</u> but rather a <u>harvesting</u> <u>privilege</u>.

Types of Catch Share Programs

Individual Allocation Systems:

Individual Fishing Quota (IFQ), Individual Transferable Quota (ITQ), and Individual Vessel Quota (IVQ): Quota shares are allocated to individuals, businesses, or vessels and may or may not be transferable. Examples: Alaska Halibut and Sablefish IFQ, Mid-Atlantic/New England surfclam and ocean quahog ITQ, and British Columbia Groundfish IVQ.

Group Allocation Systems:

Community Quota or Community Development Quota (CDQ): Quota shares are allocated to a specific community where at least a portion of the revenue from shares is fed back into community-based institutions. Examples include: Community License Banks and Community Fishing Associations.

Harvest cooperatives (including Sectors): Quota shares are allocated to formally organized groups of fishermen or entities. The allocation is then apportioned or sub-allocated amongst members according to detailed governing documents. The fishery must be able to establish and sustain these quota-holding entities.

Other:

Area-based fishing rights: A system where an area or specific geographic location is allocated to an individual or group or individuals. Examples include Baja Mexico Spiny Lobster and Chilean shellfish.

Non-vessel Allocations: A quota share is allocated to a company, such as a processor or dealer, who is responsible for management of quota; quota may or may not be transferable between enterprises. This system has been used in Canada.

Regional Fishing Association (RFA): Voluntary participants hold quota shares yet do not all necessarily reside in same community but in the same region. They may include commercial fishermen, recreational

fishermen, processors, fishery supported businesses, or fishing community members. These participants cannot receive initial allocation and must develop a RFA operations plan and by-laws as well as abide by other Council developed criteria laid out by MSA.

General Allocation Approaches

There are several steps involved in determining an appropriate allocation scheme. In the US, the regional fisheries management councils have largely presided over these processes in addition to involvement by fisheries managers and industry. In some international cases an independent third party has been convened and charged with developing allocation formulas as well as facilitation of the initial allocation process.

Eligibility

Prior to the development of an allocation formula, the Council must define the terms of eligibility. These requirements can be determined using a combination of variables. Federal law requires consideration of nine separate eligibility criteria when determining eligible recipients of harvest share allocations, including: current and historical participation and harvest, investment in or dependency on the fishery, small vessel owner/operators, fishing communities, captains, and crew.

Initial Allocation

The MSA specifies general guidance on initial allocation through "consideration of the basic cultural and social framework of the fishery" by encouraging policies that sustain participation of small owner-operator vessels and fishing communities as well as addressing concerns regarding consolidation.

Ongoing Allocation Issues

Other specifications include measures to:

- Assist, when necessary and appropriate, entry-level and small vessel owneroperators, captains, crew, and fishing communities through set-aside harvesting privileges.
- Ensure that LAP holders do not acquire excessive share of the total LAP program (as determined by the Council) by establishing maximum share caps or other established limitations.
- Authorize limited access harvest privileges to persons who substantially participate in the fishery.

Once eligibility requirements are determined, allocation formulas can begin to take shape. Options include:

• <u>Historical participation</u>: Historical landings have been the most common criteria for determining allocation. This process involves deciding on a particular time period to calculate a participant's

- landings as a proportion of the total landings by the other eligible participants, or, in the case of the monkfish fishery, could be the initial permit qualification period (2/28/1991-2/27/1995)
- <u>Level of Investment</u>: This criterion can be based on indicators such as vessel length, size, or
 combined value of other capital investments. This option is important for new entrants or where
 landings data are unreliable or do not exist.
- **Equal allocations**: Shares are divided equally amongst all eligible participants. This process is relatively simple and works best in situations where the participant pool is fairly homogenous.
- A combination of variables such as historical landings, vessel size, equal allocation or gear type.

Potential Challenges and Questions:

- Issues pertaining to equity and the redistribution of opportunity
- Will shares be auctioned or granted?
- Will there be a transition period?
- Should there be different qualifying periods for different regions?
- What kind of appeals process will be used to handle issues involving allocation?
- What will the program duration be? Under MSA a LAP may not be issued for more than ten years. A renewal process is required prior to the end of this ten year period.
- How might past regulations affect historical landings values and ultimately access to allocation for participants in the fishery? Should adjustments for these be made?

Additional Issues and Considerations:

- Adaptive management quota set asides: Allow for flexibility and future growth of the fishery sometimes referred to as "share holdbacks." Example: The Pacific Groundfish Trawl Individual Fishing Quota Program for fishing year 2011, includes an Adaptive Management Trust, that retains 10% of shares with the objective to promote public trust purposes, including assisting skippers and crew in acquiring shares.
- Ownership caps: A maximum limit placed on individual harvesters defined as a proportion of the total commercial quota for a fishery. Mechanisms for verification of compliance should be included in the ownership cap rules.
- The development of transparent and real-time trading platforms, either publicly or privately run, that allow shareholders a space to connect and trade.
 - Examples: New Zealand Quota Management System uses a privately run program,
 FishServe to manage trading. In the Gulf of Mexico Snapper-Grouper IFQ, NMFS keeps records of, monitors, and approves all trades.
- "Use it or lose it" provision: This rule encourages commercial quota to be harvested each year, discouraging participants from not harvesting their shares.
- "Carry Forward" provisions: This option enables participants to carry forward all or a portion of un-harvested allocation into the next fishing year.
- Quota transfer mechanisms should specify whether such transfers are leased (for one or more
 years) or sold. For transfers that extend beyond one year, those transfers should be expressed
 as a percentage of the total quota, rather than as a specific poundage, since quota shares will
 vary as the total fleet quota is adjusted in response to stock status or other considerations.

Ongoing Program Elements

A catch share program needs certain elements to be successful, most important of which is to track catch (both landings and discards) at vessel level in near real time.

Reporting:

Reporting mechanisms already exist that can be used to provide the necessary data to track quota usage. A group allocation system requires an additional reporting mechanism to track quota use at the group level.

- Logbooks: A paper or electronic log of catch location, catch composition, trip duration, discards, and gears used; reliability of data relies on motivations of vessel skippers that fill them out.
- Dealer Reports: Weekly reports provided by the dealer that records the vessel, landings location, species, and amount off-loaded; timeliness and data accuracy are largely dependent on the dealer.
- Group Reports: Weekly reports provided by the group (such as a sector) that tracks landings, discards, stock area, and any quota trading.

Monitoring:

Monitoring is the process of verifying the reports listed above. Various monitoring systems combine to assure the accuracy of the data being reported from different sources. The nature and level of monitoring depends on the specific characteristics of the fishery.

- Vessel Monitoring Systems: A system that uses satellite signals to record a vessels location, speed, and direction in a NOAA central database. Provides independent and timely data but does not account for catch, effort, and discard data.
- o **Dockside Monitoring:** An independent verification of dealer reports; requires the coordination of buyer, vessel skipper, monitors, hails, and off-loads.
- At-sea observers: Independent, trained observers who record data pertaining to fishing activity
 which may include fish locations, catch and discard estimates, compliance with fishing
 regulations, biological data and samples from catch.
- Electronic Monitoring: The use of cameras, GPS, or video units to monitor adherence to fisheries regulations such as gear restrictions, closed areas, and discards; used as an alternative to, or in combination with at-sea observers.

Quota Trading Mechanisms:

A catch share system that allows the trading of quota among participants would benefit from a clear, transparent, and efficient mechanism for quota transactions.

Enforcement:

The design of a catch share system must include clear provisions for any new enforcement implications it creates, including the interaction between catch monitoring, quota transfers and enforcement.

Referendum Provision:

Under MSA, the NEFMC is subject to a referendum provision prior to the approval and implementation of any Individual Fishing Quota (IFQ) system. This provision does not include a sector allocation program.

General IFQ Referendum Process

Prior to submitting a referendum initiation request to NMFS, the IFQ program in question must be fully developed.

To initiate a referendum, the chairman of the NEFMC must send a letter requesting a referendum initiation to the Secretary of Commerce. The letter must include detailed recommendations by the Councils on voter eligibility and vote weighting. Included in these recommendations is determination of a qualifying period for establishing participation in the fishery. Note that since the NEFMC will be submitting the amendment, albeit jointly with the MAFMC, the referendum requirement would apply throughout the range of the fishery.

NMFS is ultimately responsible for verifying whether additional participants meet eligibility criteria and if the submitted referendum can be administered and executed in a fair and equitable manner, in a reasonable time, and without subjecting industry members, the Council, or NMFS to administrative burdens, costs or other requirements that would be considered onerous. If an IFQ program does not receive adequate votes for approval, it may be revised and resubmitted.

NMFS also has the responsibility to circulate specific referendum procedural requirements, voter eligibility requirements, and any vote weighting criteria through appropriate rulemaking complete with a public comment period.

Finally, upon implementation of the referendum through a final rule, NMFS provides eligible voters referendum ballots and disseminates the schedule, procedures, and eligibility requirements for the referendum process and the proposed IFQ program. Eligible voters are given 30 days to submit their votes and NMFS has 90 days from that date to publish the results.

Key Points from Code of Federal Regulations: MSA Provisions

- An NEFMC referendum is considered approved when more than a **2/3 majority** of submitted valid ballots vote in favor of the proposed IFQ program.
- The provision states that the term "individual fishing quota" does **not** include a sector allocation program.
- Voter eligibility in New England involves income-dependent criteria that extend voting privileges to crew members and any other fishery participant that derives a significant

- percentage of their total income from the fishery under the proposed IFQ ("significant" is not defined in the regulations, so it is up to the NEFMC to make that determination).
- In order to establish voter eligibility, criteria must be supported by available written records.

Example: Gulf of Mexico Commercial Grouper and Tilefish Referendum

In August 2008, the Gulf of Mexico Fishery Management Council (GMFMC) initiated a request to NMFS for a referendum on a commercial grouper and tilefish IFQ program in the Gulf. The GMFMC had elected to propose implementing an IFQ program under Amendment 29 of the Reef Fish Fishery Management Plan. This was the first and only referendum to date implemented by a regional council under the MSA IFQ referendum provision. Only two regional councils, New England and the Gulf of Mexico, are bound by this provision.

Eligibility

Deemed fair and equitable, the GMFMC's preferred criteria for voter eligibility were accepted by NMFS and used to implement the referendum. Votes were granted to those that met the following criteria:

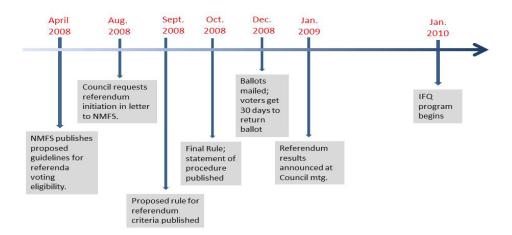
 For qualifying years 1999 through 2004 (with allowance for dropping one year), commercial reef fish permit holders, with valid or renewable permits (up to one year following expiration) with a combined average annual grouper and tilefish landings from logbooks during the qualifying years of at least 8,000 pounds (per permit).

Under this preferred alternative, the qualifying voter pool included 333 total permits comprising 30.8% of the eligible permit pool and 89% of the average landings for the qualifying period. The GMFMC determined that the other options were not consistent with provisions of MSA that require referendum participation be restricted to eligible permit holders who "substantially fished" species included in the proposed IFQ. [NOTE: This is a major departure from the New England referendum provision that requires eligibility to include "income-dependent" criteria. As a result, voters in New England referenda may include crew members and any other fishery participant that derives a significant percentage of their total income from the proposed IFQ fishery.]

When considering other alternatives, the GMFMC found that lowering the average annual landings (in lbs.) resulted in a large increase in participants and minimal increase in landings, indicating that this group of fishermen includes a significant proportion of fishermen who do not substantially fish in the fishery.

The Council used the same qualifying period for referendum eligibility as that used in the initial quota allocation for the proposed IFQ. All votes were given equal weight as to not grant a minority of permit holders too much power in the swaying the vote.

Timeline: Gulf of Mexico Commercial Grouper and Tilefish IFQ Referendum Process



Questions for your consideration

General Questions

- 1) How well is the management program for monkfish working?
 - a. What are the problems or opportunities for improvement within the current system?
 - b. What are some potential means of solving these problems and/or suggestions for improvement?
- 2) If you support moving to a catch share management system to solve some of these problems:
 - a. What are your goals and objectives?
 - b. What do you see as the benefits and potential costs to both you and to the fishery as a whole?
 - c. What type of catch share program would work best for the monkfish fishery in your
- 3) If you do not support moving to a catch share management system, why not, and what are your specific concerns?

Catch Share Program Specific Questions

If you support the development of a catch share program for the monkfish fishery, please consider the following questions concerning how such a program should be designed:

- 4) How should the cost of various program elements (catch monitoring, quota transfer mechanisms, program management and enforcement, etc.) be covered? The MSA places a 3% cap on cost recovery for IFQ programs, but this does not apply to non-LAP programs, such as sectors.
- 5) Who should be eligible to hold allocation (e.g., vessel owners, crew, banks, dealers/processors, NGOs, investors, community entities, states, etc.)?

- 6) How do you think the initial allocation should be made? Recent landings history (e.g., 2003-2007)? Permit category? Equal shares? Hybrid formula? Should allocations be permanent (would only apply to non-LAP catch shares)?
- 7) How should fishing communities be considered in the development of a catch share management program, if at all?
- 8) Should there be limits on accumulation or transferability of quota? If so, what limits, and how could they be monitored and enforced? How can transfer and ownership of allocation be made transparent?
- 9) Should a process be established for new entrants to fishery? For example, establishment of an allocation set-aside/reserve.
- 10) How should the Council decide what a "significant percentage" of total income means in terms of crew members that participate in the monkfish fishery for the purpose of referendum voter eligibility?
- 11) What questions do you have that the Councils should answer in the course of developing a catch share management system for the monkfish fishery?

Commenting:

Public input may be submitted at one of the scoping hearings to be held throughout the region early in the plan development process, or by mail, fax or email to:

- E-mail address: monkfisha6@noaa.gov;
- Mail: Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope "Scoping Comments on Monkfish Amendment 6;"
- Fax to Patricia A. Kurkul, 978–281–9135, marked "Scoping Comments on Monkfish Amendment 6".

NMFS will immediately forward all comments to the Councils upon receipt.

Key References:

National Marine Fisheries Service (NMFS), "What Is a Catch Share?" (2009), www.nmfs.noaa.gov/sfa/domes fish/catchshare.

National Oceanic and Atmospheric Administration (NOAA), "NOAA Catch Share Policy" (2010); http://www.nmfs.noaa.gov/sfa/domes_fish/catchshare/docs/noaa_cs_policy.pdf

Bonzon, K., McIlwain, K., Strauss, C.K. and Van Leuvan, T. (2010). *Catch Share Design Manual: A Guide for Managers and Fishermen*. Environmental Defense Fund.

Ecotrust Canada and Ecotrust, "A Cautionary Tale About ITQs in B.C. Fisheries," Vancouver, B.C., Canada (2009),

http://ecotrust.ca/fisheries/cautionarytale.

L. G. Anderson and M. C. Holliday (eds.), *The Design and Use of Limited Access Privilege Programs*, NOAA Technical Memorandum NMFS-F/SPO-86, November 2007.

The Pew Environment Group (2009), *Design Matters: Making Catch Shares Work*. The Pew Charitable Trusts.

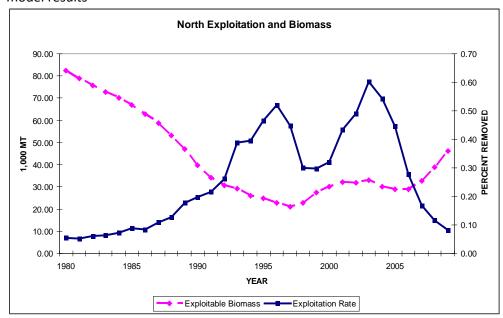
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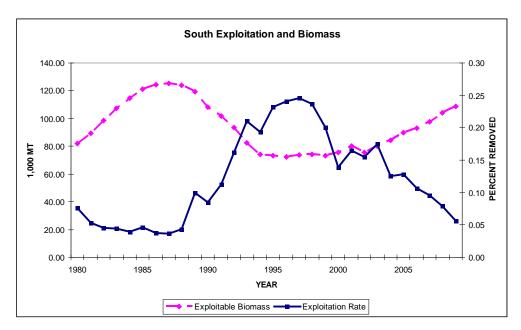
The Councils would like to thank the staff of the Gulf of Maine Research Institute (GMRI), and particularly Michelle Loquine, for their substantial assistance in the preparation of this document.

Description of the Monkfish Fishery

Stock Status

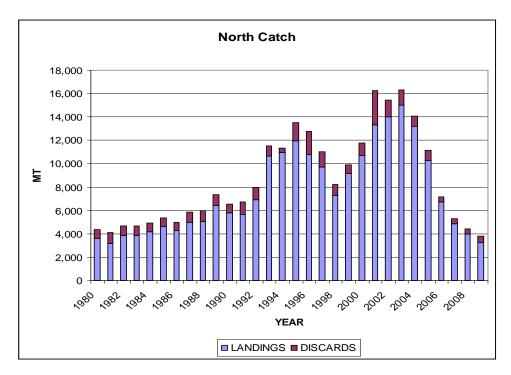
- Stock assessments in 2007 and 2010 concluded that both northern and southern stock components are not overfished and overfishing is not occurring
- Both stock components are above the biomass target associated with maximum sustainable yield
- Both assessments strongly emphasized the high degree of uncertainty in both the input data and the model results

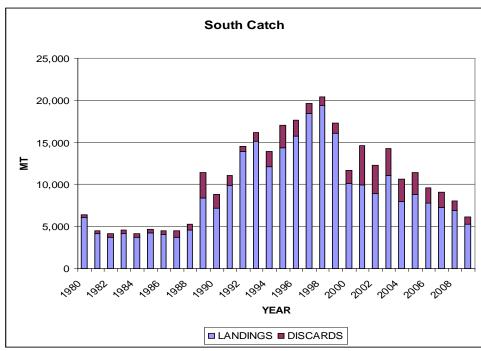


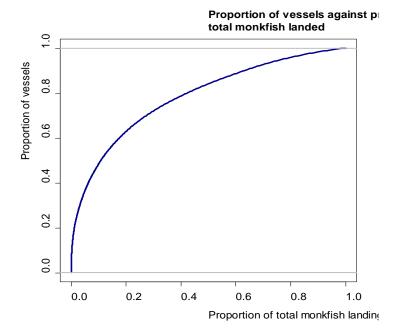


Catch and Landings

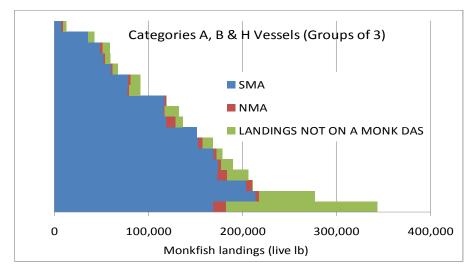
In the two decades prior to the implementation of the management plan in 1999, unregulated catch increased four-fold, but has since declined to sustainable levels





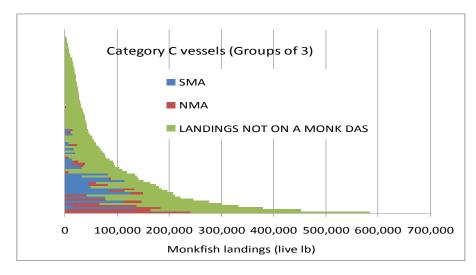


These three figures illustrate the landings by individual vessels by area when on a DAS and permit category. The data are grouped into three vessels per bar to protect confidentiality.

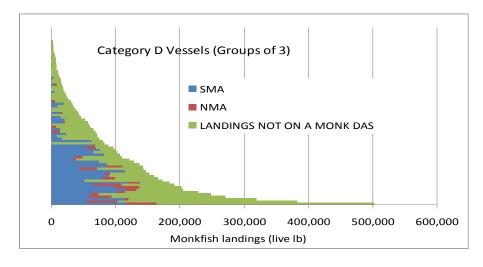


Most Category A, B and H vessels are landing monkfish on a DAS in the SMA, and those landings account for 86% of their total.

In contrast, most vessels in Categories C and D land most of their monkfish not on a DAS, accounting for 68% and 57% of their total landings, respectively.

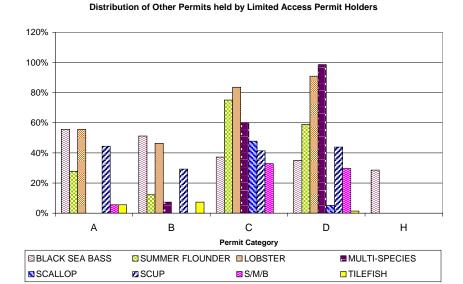


Most of the highest landings on a DAS by Category C vessels are from the NMA, while most landings by Category D vessels on a DAS are from the SMA.

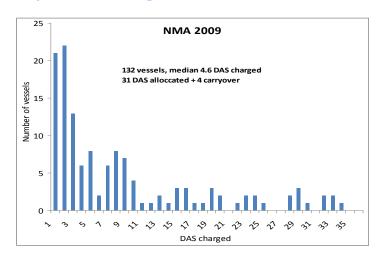


Permits

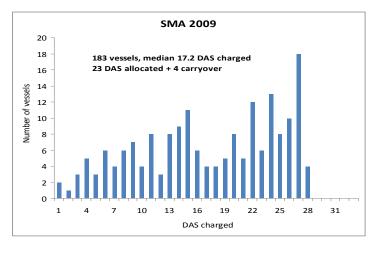
- There are approximately 760 limited access permits (Category A 2%, B 5%, C 45%, D 46%, H 1%) and 2100 -2200 open access permits (Category E, incidental catch)
- About a quarter of all limited access vessels, or half of Category C permit vessels also have limited access scallop permits
- About three fourths of all limited access vessels also hold limited access multispecies permits



Days at Sea Usage



Vessels in the Northern Management Area are using very few of their 31 allocated monkfish DAS + 4 carryover – half of the vessels used 6 DAS or less in 2008 and 2009



Vessels in the Southern Management Area are mostly using their DAS allocation of 23 +4 carryover DAS – half of those vessels used 22 DAS in 2008, and 17 DAS in 2009

Communities

Community dependence on monkfish has changed noticeably in the decade under the FMP regulations. While total revenues in nearly all the ports have declined, reflecting the decline in total landings, New Bedford and Boston remain the highest monkfish revenue ports. That overall decline, in combination with the changes in revenues from other species, has altered community dependence on monkfish, reflected in monkfish revenues as a percentage of total port revenues What is notable, however, is that some secondary ports, such as Chatham and several Long Island communities, actually saw an increase in monkfish revenues over this period, and an increase in community dependence on monkfish.

[NOTE: Figures accompanying this text will be added when completed]

HOMEPORT	revenu	kfish es as % evenues	Total monkfish revenues \$1,000	
	FY1999	FY2009	FY1999	FY2009
New Bedford, MA	11.1%	1.8%	\$6,948.7	\$2,848.9
Boston, MA	27.4%	14.2%	\$9,645.6	\$2,633.9
Long Beach/Barnegat Light, NJ	37.8%	8.2%	\$5,098.5	\$1,729.1
Gloucester, MA	13.4%	6.5%	\$2,565.6	\$1,593.8
Point Judith, RI	10.3%	6.6%	\$1,999.4	\$959.6
Portland, ME	23.4%	4.9%	\$2,297.0	\$895.8
Chatham, MA	4.9%	8.8%	\$462.4	\$615.8
Newport, RI	19.9%	6.2%	\$1,342.0	\$583.5
Montauk, NY	1.8%	4.4%	\$191.1	\$520.1
South Bristol, ME	23.7%	0.0%	\$236.6	\$244.9
Hampton Bays, NY	10.2%	10.8%	\$174.8	\$211.6
Scituate, MA	31.8%	5.5%	\$226.8	\$210.3
Point Pleasant, NJ	19.6%	2.9%	\$803.8	\$183.1
Westport, MA	49.6%	21.7%	\$836.4	\$180.5
Cape May, NJ	1.5%	0.2%	\$494.9	\$171.2
Port Clyde, ME	37.6%	4.6%	\$620.8	\$99.2
Plymouth, MA	7.8%	0.0%	\$483.9	\$42.7
Greenport, NY	1.1%	5.9%	\$17.0	\$31.5
Portsmouth, NH	31.0%	6.9%	\$821.4	\$31.3
Hampton, VA	1.2%	0.3%	\$102.9	\$18.4
Newport News, VA	1.0%	0.1%	\$293.5	\$14.5
Provincetown, MA	6.3%	0.6%	\$75.3	\$5.6
Ocean City, MD	12.2%	0.8%	\$5.3	\$2.2
Rockland, ME	7.6%	0.0%	\$5.5	\$0.0