

TABLE 1.—1996 STATE COMMERCIAL QUOTAS—Continued

State	Share (%)	1996 quota (lb)	1996 quota (kg)
DE	0.01779	1,977	897
MD	2.03910	226,570	102,770
VA	21.31676	2,368,569	1,074,365
NC	27.44584	3,049,589	1,383,270

Recreational catch data for 1995 are not yet available. The Council and ASMFC will consider modifications to the recreational possession limit and recreational season after a review of that information.

Final Rule, Technical Amendment and Changes From Proposed Specifications to Final Specifications

This document modifies the language specified in § 625.20(a) established by the final rule for Amendment 7 to the FMP that set the harvest limit "cap" at 18.51 million lb (8,396 mt). The final rule, technical amendment contained in this action changes the harvest limit "cap" to be 18,518,830 lb (8,400 mt), making the "cap" consistent with Council intent as stated in the comment submitted by the Council and addressed below. The value of 8,400 mt is contained in Amendment 7 and that value is equivalent to 18,518,830 lb, which is 8,830 lb greater than the rounded off value of 18.51 million lb. As a result, the state allocations of commercial quota have been altered slightly relative to the proposed specifications.

Comments and Responses

One comment was received regarding the 1996 summer flounder specifications from the Council.

Comment: The Council checked the administrative record and acknowledged an error in the publication of the harvest limit "cap", as published in Amendment 7 to the FMP. The Council wishes to correct the specifications to reflect accurately their intent regarding the total harvest limit and subsequent specifications for the commercial and recreational fisheries. Specifically, the Council intended the total harvest limit to equal 18,518,830 lb (8,400 mt), rather than 18.51 million lb which actually equals 8,396 mt. The value of 18,518,830 lb would result in an allocation of 11,111,298 lb (5,040,000 kg) to the commercial sector, and 7,407,532 lb (3,360,000 kg) to the recreational sector.

Response: NMFS agrees. The administrative record shows that, for the purpose of reading ease, the numbers for pounds were rounded during

publication. However, this rounding resulted in a loss of the original intent of the Council. To modify the regulations to reflect more accurately the record, a technical amendment to the final rule for Amendment 7 is necessary. That action accompanies the publication of these final specifications.

Classification

This action is authorized by 50 CFR part 625 and complies with the National Environmental Policy Act.

These final specifications are exempt from review under E.O. 12866.

For the technical regulatory change, NMFS finds good cause to waive prior notice and opportunity for public comment under 5 U.S.C. 553(b)(B). The technical change corrects the regulation's codification of the quota cap in Amendment 7 to reflect accurately the language adopted by the Council. As such, NMFS finds that prior notice and comment are unnecessary. Further, there is no requirement to delay the effective date of this technical change as it is not a substantive rule.

List of Subjects in 50 CFR Part 625

Fisheries, Reporting and recordkeeping requirements.

Dated: December 28, 1995.

Gary Matlock,
Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 625 is amended as follows:

PART 625—SUMMER FLOUNDER FISHERY

1. The authority citation for part 625 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 625.20, paragraph (a) introductory text is revised to read as follows:

§ 625.20 Catch quotas and other restrictions.

(a) *Annual review.* The Summer Flounder Monitoring Committee will review the following data on or before August 15 of each year to determine the allowable levels of fishing and other restrictions necessary to achieve a

fishing mortality rate (F) of 0.53 in 1993 through 1995, 0.41 in 1996, 0.30 in 1997, and 0.23 in 1998 and thereafter, provided the allowable levels of fishing in 1996 and 1997 may not exceed 18,518,830 lb (8,400 mt), unless such fishing levels have an associated F of 0.23:

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[FR Doc. 95-31584 Filed 12-29-95; 12:22 pm]

BILLING CODE 3510-22-P

50 CFR Part 625

[I.D. 122895A]

Summer Flounder Fishery; Commercial Quota Transfer

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration, (NOAA), Commerce.

ACTION: Notification of commercial quota transfer.

SUMMARY: NMFS announces that the State of New Jersey is transferring 138,000 lb (62,596 kg) of commercial summer flounder quota to the Commonwealth of Massachusetts. NMFS adjusted the quotas and announces the revised commercial quota for each state involved.

EFFECTIVE DATE: December 31, 1995.

FOR FURTHER INFORMATION CONTACT: Regina L. Spallone, Fishery Policy Analyst, (508) 281-9221.

SUPPLEMENTARY INFORMATION: Regulations implementing Amendment 2 to the Fishery Management Plan for the Summer Flounder Fishery are found at 50 CFR part 625. The regulations require annual specification of a commercial quota that is apportioned among the coastal states from North Carolina through Maine. The process to set the annual commercial quota and the percent allocated to each state is described in § 625.20.

The commercial quota for summer flounder for the 1995 calendar year was set equal to 14,690,407 lb (6,663,569 kg), and the allocations to each state were published February 16, 1995 (60 FR 8958). At that time, New Jersey was

allocated a quota of 2,456,969 lb (1,114,462 kg), and Massachusetts was allocated a quota of 1,001,953 lb (454,478 kg). The 1995 quotas for several states were adjusted for overages occurring in 1994, as required under § 625.20(d)(2), on May 26, 1994 (60 FR 27906). The Commonwealth of Massachusetts' quota after the adjustment for overages was 984,246 lb (446,446 kg). Since New Jersey's quota was not exceeded in 1994, its 1995 quota was unaffected by this adjustment.

On August 30, 1995, the State of North Carolina transferred 7,229 lb (3,279 kg) of commercial quota to the State of New Jersey (60 FR 45107). As a result of that transfer, the revised quota for New Jersey was 2,464,198 lb (1,117,741 kg). On December 26, 1995, New Jersey transferred 20,000 lb (9,072 kg) of its commercial quota to the State of New York. As a result of that transfer, the revised quota for New Jersey was 2,444,198 lb (1,108,670 kg).

The final rule implementing Amendment 5 to the FMP was published December 17, 1993 (58 FR 65936), and allows two or more states, under mutual agreement and with the concurrence of the Director, Northeast Region, NMFS (Regional Director) to transfer or combine summer flounder commercial quota. The Regional Director is required to consider the criteria set forth in § 625.20(f)(1), in the evaluation of requests for quota transfers or combinations.

New Jersey has agreed to transfer 138,000 lb (62,596 kg) of its commercial quota to Massachusetts. The Regional Director has determined that the criteria set forth in § 625.20(f)(1) have been met, and publishes this notification of quota transfer. The revised quotas for the calendar year 1995 are: New Jersey, 2,306,198 lb (1,046,074 kg); and Massachusetts, 1,122,246 lb (509,042 kg).

This action does not alter any of the conclusions reached in the environmental impact statement prepared for Amendment 2 to the FMP regarding the effects of summer flounder fishing activity on the human environment. Amendment 2 established procedures for setting an annual coastwide commercial quota for summer flounder and a formula for determining commercial quotas for each state. The quota transfer provision was established by Amendment 5 to the FMP and the environmental assessment prepared for Amendment 5 found that the action had no significant impact on the environment. Under section 6.02b.3(b)(i)(aa) of NOAA Administrative Order 216-6, this action

is categorically excluded from the requirement to prepare additional environmental analyses. This is a routine administrative action that reallocates commercial quota within the scope of previously published environmental analyses.

Classification

This action is taken under 50 CFR part 625 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: December 28, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

[FR Doc. 95-31579 Filed 12-29-95; 11:10 am]

BILLING CODE 3510-22-P

50 CFR Part 652

[Docket No. 951017252-5307-02; I.D. 101695C]

Atlantic Surf Clam and Ocean Quahog Fisheries; 1996 Fishing Quotas

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final 1996 fishing quotas for surf clams and ocean quahogs.

SUMMARY: NMFS issues final quotas for the Atlantic surf clam and ocean quahog fisheries for 1996. These quotas are selected from a range defined as optimum yield (OY) for each fishery. The intent of this action is to establish allowable harvests of surf clams and ocean quahogs from the exclusive economic zone in 1996.

EFFECTIVE DATES: Effective January 1, 1996, through December 31, 1996.

ADDRESSES: Copies of the Mid-Atlantic Fishery Management Council's analysis and recommendations and environmental assessment are available from David R. Keifer, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19901-6790.

FOR FURTHER INFORMATION CONTACT: Myles Raizin (Resource Policy Analyst) 508-281-9104.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Atlantic Surf Clam and Ocean Quahog Fisheries (FMP) directs NMFS, acting on behalf of the Secretary of Commerce (Secretary) and in consultation with the Mid-Atlantic Fishery Management Council (Council), to specify quotas for surf clams and ocean quahogs on an

annual basis from a range defined by the FMP as the OY for each fishery. Further, the Council follows the policy that the quotas selected should allow fishing to continue at that level for at least 10 years for surf clams and 30 years for ocean quahogs. While staying within these constraints, the quotas are also to be set at a level that would meet the estimated annual demand.

For surf clams, the quota must fall within the OY range of 1.85 million bushels (mil. bu.) (652 thousand hectoliters (hL)) to 3.40 mil. bu. (1.2 mil. hL). For ocean quahogs, the quota must fall within the OY range of 4.00 mil. bu. (1.4 mil. hL) to 6.00 mil. bu. (2.1 mil. hL). These ranges are specified in 50 CFR 652.21 (a) and (b).

During its discussions of the 1996 quota recommendations, the Council began developing new overfishing definitions for both species managed under the FMP. Overfishing is presently defined for both species in terms of actual yield levels in excess of the specified quota levels. These definitions do not incorporate biological considerations to protect against overfishing. Although preferred alternatives for overfishing definitions have not yet been chosen for each species, NMFS believes that none of the alternatives being considered by the Council for each species, if adopted, would necessitate any revision of the 1996 quotas contained in this action.

This action establishes a surf clam quota of 2.565 mil. bu. (1.36 mil. hL) and an ocean quahog quota of 4.45 mil. bu. (2.36 mil. hL) for the 1996 fisheries. The 1996 surf clam quota is identical to the 1995 quota, and the 1996 ocean quahog quota represents a 9 percent reduction from the 1995 quota. These quotas established by NMFS on behalf of the Secretary are unchanged from the proposed quotas published in the Federal Register on October 23, 1995 (60 FR 54330).

FINAL 1996 SURF CLAM/OCEAN QUAHOG QUOTAS

Fishery	mil. bu.	mil. hL
Surf clam	2,565,000	1,362,000
Ocean quahog	4,450,000	2,363,000

Comments and Responses

Three comments were received during the public comment period. A consulting firm involved in the industry commented in support of the proposed quotas. The National Fisheries Institute and an attorney involved in the industry opposed the proposed quotas.

Comment: The consulting firm commented that the proposed 1996 surf