

§ 295.23 Reporting requirements.

The Contractor shall submit to the Director, Office of Financial Approvals, Maritime Administration, 400 Seventh St., SW., Washington, DC 20590, one of the following reports, including management footnotes where necessary to make a fair financial presentation:

(a) *Form MA-172*. Not later than 120 days after the close of the Contractor's semiannual accounting period, a Form MA-172 on a semiannual basis, in accordance with 46 CFR 232.6; or

(b) *Financial Statement*. Not later than 120 days after the close of the Contractor's annual accounting period, an audited annual financial statement in accordance with 46 CFR 232.6 and the most recent vessel operating cost data submitted as part of its Emergency Preparedness Agreement.

(Approved by the Office of Management and Budget under Control Number 2133-0525.)

Subpart D—Payment and Billing Procedures**§ 295.30 Payment.**

(a) *Amount payable*. A MSP Operating Agreement shall provide, subject to the availability of appropriations and to the extent the agreement is in effect, for each Agreement Vessel, an annual payment of \$2,100,000 for each fiscal year. This amount shall be paid in equal monthly installments at the end of each month. The annual amount payable shall not be reduced except as provided in paragraph (b) of this section and § 295.31(a)(3).

(b) *Reductions in amount payable*. (1) The annual amount otherwise payable under a MSP Operating Agreement shall be reduced on a pro rata basis for each day less than 320 in a fiscal year that an Agreement Vessel is not operated exclusively in the U.S.-foreign trade or in mixed foreign and domestic trade allowed under a registry endorsement issued under 46 U.S.C. 12105. Days during which the vessel is drydocked or undergoing survey, inspection, or repair shall be considered to be days during which the vessel is operated, provided the total of such days within a fiscal year does not exceed 30 days, unless prior to the expiration of a vessel's 30 day period, approval is obtained from MARAD for an extension of the 30 day provision.

(2) There shall be no payment for any day that a MSP Agreement Vessel is engaged in transporting more than 7,500 tons (using the U.S. English standard of short tons, which converts to 6,696.75 long tons, or 6,803.85 metric tons) of civilian bulk preference cargoes

pursuant to section 901(a), 901(b), or 901b of the Act, provided that it is bulk cargo.

§ 295.31 Criteria for payment

(a) *Submission of voucher*. For contractors operating under more than one MSP Operating Agreement, the contractor may submit a single monthly voucher applicable to all its agreements. Each voucher submission shall include a certification that the vessel(s) for which payment is requested were operated in accordance with § 295.21(d) and applicable MSP Operating Agreements with MARAD, and consideration shall be given to reductions in amounts payable as set forth in § 295.30. All submissions shall be forwarded to the Director, Office of Accounting, MAR-330 Room 7325, Maritime Administration, 400 Seventh Street, SW., Washington, DC 20590. Payments shall be paid and processed under the terms and conditions of the Prompt Payment Act, 31 U.S.C. 3901.

(1) Payments shall be made per vessel, in equal monthly installments, of \$175,000.

(2) To the extent that reductions under § 295.30(b) are known, such reductions shall be applied at the time of the current billing. The daily reduction amounts shall be based on the annual amounts in 295.30(a) of this part divided by 365 days (366 days in leap years) and rounded to the nearest cent. Daily reduction amounts shall be applied as follows:

FY 1997—\$5,753.42
 FY 1998—\$5,753.42
 FY 1999—\$5,753.42
 FY 2000—\$5,737.70
 FY 2001—\$5,753.42
 FY 2002—\$5,753.42
 FY 2003—\$5,753.42
 FY 2004—\$5,737.70
 FY 2005—\$5,753.42

(3) In the event a monthly payment is for a period less than a complete month, that month's payment shall be calculated by multiplying the appropriate daily rate in § 295.31(a)(2) by the actual number of days the Eligible Vessel operated in accordance with § 295.21.

(4) MARAD may require, for good cause, that a portion of the funds payable under this section be withheld if the provisions of § 295.21(d) have not been met.

(5) Amounts owed to MARAD for reductions applicable to a prior billing period shall be electronically transferred using MARAD's prescribed format, or a check may be forwarded to the Maritime Administration, P.O. Box 845133, Dallas, Texas 75284-5133, or the amount owed can be credited to

MARAD by offsetting amounts payable in future billing periods.

(b) [Reserved]

Subpart E—Appeals Procedures**§ 295.40 Administrative determinations.**

(a) *Policy*. A Contractor who disagrees with the findings, interpretations or decisions of the Contracting Officer with respect to the administration of this part may submit an appeal to the Maritime Administrator. Such appeals shall be made in writing to the Maritime Administrator, within 60 days following the date of the document notifying the Contractor of the administrative determination of the Contracting Officer. Such an appeal should be addressed to the Maritime Administrator, Att.: MSP Contract Appeals, Maritime Administration, 400 Seventh St., S.W. Washington, D.C. 20590.

(b) *Process*. The Maritime Administrator may require the person making the request to furnish additional information, or proof of factual allegations, and may order any proceeding appropriate in the circumstances. The decision of the Maritime Administrator shall be final.

By order of the Maritime Administrator.

Dated: July 10, 1997.

Joel C. Richard,

Secretary, Maritime Administration.

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DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 648**

[Docket No. 961210346-7035-02; I.D. 070397G]

Fisheries of the Northeastern United States; Summer Flounder Fishery; Adjustments to the 1997 State Quotas; Commercial Quota Harvested for North Carolina

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

ACTION: Commercial quota adjustment, notice of commercial quota harvest.

SUMMARY: NMFS issues this notification announcing adjustments to the commercial state quotas for the 1997 summer flounder fishery. This action complies with regulations implementing the Fishery Management Plan for the Summer Flounder, Scup, and Black Sea

Bass Fisheries (FMP), which require that landings in excess of a state's annual summer flounder commercial quota be deducted from that state's quota the following year. The public is advised that quota adjustments have been made, and is informed of the revised quotas for the affected states. As a consequence of this action, NMFS further announces that no commercial quota is available for landing summer flounder in North Carolina for the remainder of the 1997 calendar year.

DATES: Effective July 9, 1997, through December 31, 1997.

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

SUPPLEMENTARY INFORMATION: Regulations implementing summer flounder management measures are found at 50 CFR part 648, subparts A and G. The regulations require annual specification of a commercial quota that is apportioned among the Atlantic 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 § 648.100. The final specifications for the 1997 summer flounder fishery, adopted to ensure achievement of a fishing mortality rate of 0.3 for 1997, set a coastwide commercial quota equal to 11,111,298 lb (5.0 million kg) (March 7, 1997, 62 FR 10473).

Section 648.100(d)(2) provides that all landings for sale in a state shall be applied against that state's annual commercial quota. Any landings in excess of the state's quota must be deducted from that state's annual quota

for the following year. NMFS published all available 1996 landings data as part of the final specifications for 1997, and made associated adjustments to several states' 1997 quotas as a result of 1996 overages. Quota adjustments were made to the 1997 commercial quotas for the States of Maine, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Virginia, and North Carolina. At the time of publication of the final specifications, the remaining states of New Hampshire and Maryland did not appear to have exceeded their quotas.

When these data were presented to the principal state official with marine fishery management responsibility in each constituent state, data were noted as final, with the exception of Virginia inshore landings of summer flounder, which were preliminary. However, it was noted that if additional data were received that would alter the figures, an adjustment would be necessary. Since the final specifications were published, additional landings from 1996 have been reported by several states. These late reports came from either federally permitted dealers or state statistical agencies.

Weekly dealer reports must be received or postmarked, if mailed, within 3 days after the end of each reporting week. If a dealer is delinquent in submitting its reports, a permit will not be issued in the following year until all delinquent reports are received. Since dealers must renew permits annually, some dealers have recently submitted delinquent 1996 reports in order to comply with the regulations and receive a 1997 permit. NMFS

recognizes the problems that chronic late dealer reporting poses to accurate quota monitoring. As such, present compliance monitoring includes monthly checks of weekly dealer reports (for quota managed species) versus monthly dealer weighouts (for all species), to eliminate concerns of a dealer's continued chronic late or misreporting on weekly reports. If chronic problems are noted, dealers are referred to law enforcement for further action.

Additionally, some states have inshore fisheries that are not covered by the Federal reporting system. These landings data are collected by the respective state agencies and submitted to NMFS as they become available. As a result of these late and/or additional reports, in this case from the States of Maryland, Virginia, and North Carolina, additional 1996 landings data have recently become available. In the case of North Carolina, the state-collected data were not provided to NMFS until May 28, 1997. While other state data were received prior to that date, all of the adjustments are made in this notice.

Based on dealer reports and other available information, NMFS has determined that the States of Maine, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, and North Carolina exceeded their 1996 quotas. The remaining State of New Hampshire did not exceed its 1996 quota. The revised 1996 landings and resulting overages for all states are given in Table 1. The adjusted 1997 commercial quota for each state is given in Table 2.

TABLE 1.—REVISED 1996 STATE COMMERCIAL LANDINGS

State	Original 1996 landings ¹		Revised 1996 landings		Difference	
	lb	(kg) ²	lb	(kg)	lb	(kg)
ME	8,226	3,731	8,226	3,731	0	0
NH	0	0	0	0	0	0
MA	780,297	353,940	800,704	363,193	20,407	9,256
RI	1,663,520	754,560	1,766,482	801,263	102,962	46,703
CT	278,776	126,451	278,776	126,451	0	0
NY	927,763	420,826	940,313	426,519	12,550	5,693
NJ	2,345,460	1,063,883	2,369,134	1,074,621	23,674	10,738
DE	7,153	3,245	7,917	3,591	764	347
MD	225,051	102,081	264,886	120,150	39,835	18,069
VA	2,280,457	1,034,398	2,274,457	1,031,676	(6,000) ³	(2,722)
NC	3,688,217	1,672,947	4,227,052	1,917,359	538,835	244,411
Total	12,204,920	5,536,059	12,937,947	5,868,554	733,027	332,495

¹ Original 1996 landings data, as published March 7, 1997.

² Kilograms are as converted from pounds, and may not necessarily add due to rounding.

³ Parentheses indicate a negative number.

TABLE 2.—1997 READJUSTED STATE COMMERCIAL QUOTAS, AS ADJUSTED FOR REVISED 1996 OVERAGES

State	Adjusted 1997 quota ¹		Readjusted 1997 quota	
	lb	(Kg) ²	lb	(Kg)
ME	2,342	1,062	2,342	1,062
NH	51	23	51	23
MA	729,636	330,957	709,229	321,701
RI	1,699,405	770,837	1,596,443	724,134
CT	222,806	101,063	222,806	101,063
NY	766,893	347,857	754,343	342,164
NJ	1,371,266	621,996	1,347,592	611,257
DE	³ (4,898)	(2,222)	³ (5,662)	(2,568)
MD	226,570	102,770	186,735	84,702
VA	2,288,793	1,038,179	2,294,793	1,040,901
NC	1,812,440	882,109	1,273,605	577,698
Total	9,115,304	4,134,632	8,382,277	3,802,137

¹ Adjusted 1997 quotas, as published March 7, 1997.

² Kilograms are as converted from pounds, and may not necessarily add due to rounding.

³ Number in parentheses are negative.

Section 648.101(b) requires the Administrator, Northeast Region, NMFS, (Regional Administrator) to monitor state commercial quotas and to determine when a state commercial quota is harvested. NMFS is required to publish a notice in the **Federal Register** advising a state and notifying Federal vessel and dealer permit holders that, effective upon a specific date, the state's commercial quota has been harvested and no commercial quota is available for landing summer flounder in that state.

Since this adjustment reduces the adjusted 1997 North Carolina commercial quota allocation from 1,812,440 lb (882,109 kg), to 1,273,605 pounds (577,698 kg), and landings for 1997 to date in that State are in excess of the adjusted quota, this notice also

serves to announce that the summer flounder quota available to North Carolina has been harvested. As a result, no commercial quota is available for landing summer flounder in that State for the remainder of the 1997 calendar year.

The regulations at § 648.4(b) provide that Federal permit holders agree, as a condition of the permit, not to land summer flounder in any state that the Regional Administrator has determined no longer has commercial quota available. Therefore, effective 0001 hours July 9, 1997, until 2400 hours, December 31, 1997, landings of summer flounder in North Carolina by vessels holding commercial Federal fisheries permits are prohibited unless additional quota becomes available through a

transfer and is announced in the **Federal Register**. Federally permitted dealers are also advised that they may not purchase summer flounder from federally permitted vessels that land in North Carolina for the remainder of the calendar year, or until additional quota becomes available through a transfer.

Classification

This action is required by 50 CFR part 648 and is exempt from review under E.O. 12866.

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

Dated: July 9, 1997.

Gary C. Matlock,

*Director, Office of Sustainable Fisheries,
National Marine Fisheries Service.*

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