

develop a draft lot-testing protocol to allow harvesting of ocean quahogs on Georges Bank. Under the protocol, harvested animals would be tested for the presence of PSP to ensure that contaminated product was not marketed. NMFS hosted a meeting in October 1995 to review the proposed protocol with representatives from industry and the coastal states. At the meeting several technical issues were identified that must be addressed in any final testing protocol. The attendees also noted that there were major impediments to use of the protocol, notably the costs of testing and disposal associated with contaminated product. Meeting attendees expressed no immediate interest in proceeding further with PSP testing.

The commenter also argued that a quota reduction was not necessary because PSP could disappear in the future and deepwater harvest technology could be developed in the future. In the absence of some indication that such events are likely to occur, this is not sufficient reason to overrule the judgement of the Council.

**Comment 8:** One commenter argued that the recommended ocean quahog quota level represents an arbitrary value. The commenter argued there is no biological rationale for the 4.0 million bushel level and that it was selected because it was the lowest quota allowed under the FMP.

**Response:** The Council's rationale for recommending a decrease in the ocean quahog quota involves only the conservation of the resource and preservation of the fishery. Council members and the S&S Committee expressed serious concern that given the biology of the species, its extreme longevity, its slow growth rate, and sporadic and poorly understood recruitment events, the current quota level may be very risky in the long term.

#### Classification

This action is authorized by 50 CFR part 648, complies with the National Environmental Policy Act, and is exempt from review under E.O. 12866.

The Council prepared an initial regulatory flexibility analysis as part of the regulatory impact review, which concluded that this action could have a significant economic impact on a substantial number of small entities. This determination was described in the proposed rule (62 FR 62543) and forwarded to the Chief Counsel for Advocacy of the Small Business Administration.

In sum, the FRFA finds that of the 56 vessels participating in the surf clam and ocean quahog fisheries in 1996, 20

fished exclusively for surf clams, 14 fished for both surf clams and ocean quahogs, and 22 fished exclusively for ocean quahogs. The 36 vessels that harvest ocean quahogs are considered, by definition, to be small entities and are all impacted by the reduction in the ocean quahog quota. While the impact of a 7.3 percent reduction in ocean quahog quota will be diluted somewhat for those vessels augmenting their incomes with surf clam harvests, a full 7.3 percent reduction in gross revenues is likely for the vessels fishing exclusively for ocean quahogs. Therefore, this action is likely to decrease the gross revenues of 61 percent of the vessels that harvest ocean quahogs (22 out of 36 vessels) by more than 5 percent. NMFS has established a threshold for "significant economic impact" on a substantial number of small entities under the Regulatory Flexibility Act as a reduction of gross revenues greater than 5 percent for 20 percent or more of the small entities. This action is, therefore, found to be significant.

NMFS is required to consider alternative actions that would minimize the negative economic impacts on small entities. Clearly, the economic impact would be minimized if the quota reduction was less than that enacted by this rule, however, NMFS has established the quota at the level recommended by the Council. The Council made its quota recommendation in response to several concerns, including its doubts that ocean quahogs on Georges Bank and in deepwater areas will become available for harvest. The Council and its S&S Committee also expressed concern that harvest must be reduced in light of the species' slow growth rate and poorly-understood recruitment. The Council's Environmental Assessment noted that it may take up to 20 years, depending upon environmental conditions, for ocean quahogs to reach a marketable size, and that there has been no recent recruitment event. NMFS has reviewed the concerns that led the Council to make its recommendation and NMFS concurs in that recommendation. NMFS finds that it is necessary to be very conservative in setting the 1998 quota to assure that overfishing does not occur.

Pursuant to 5 U.S.C. 553(d)(3), the Assistant Administrator for Fisheries, NOAA, finds for good cause that a delay in the effective date of the final fishing quotas for the 1998 fishing year for the Atlantic surf clams and ocean quahog fisheries is unnecessary because the quotas are not a requirement for which a regulated entity must come into compliance. The fishing quotas are year-

long quotas and are used for the sole purpose of closing the fishery when the amounts specified have been taken.

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

Dated: January 8, 1998.

**Rolland A. Schmitten,**

*Assistant Administrator for Fisheries,  
National Marine Fisheries Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 971015246-7293-02; I.D. 100897D]

RIN 0648-AK44

#### Fisheries of the Northeastern United States; Summer Flounder, Scup, and Black Sea Bass Fisheries; 1998 Final Specifications; Correction

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

**ACTION:** Correction to final rule.

**SUMMARY:** NMFS issued a final rule that implemented the final specifications for the 1998 summer flounder, scup, and black sea bass fisheries (62 FR 66304, December 18, 1997). Several errors were made in Table 4, which specified the 1998 black sea bass quarterly coastwide quotas and quarterly trip limits. This document revises Table 4 to the preamble of the above final rule. The dates for the final rule remain unchanged.

**DATES:** The amendments to §§ 648.14(u)(1), 648.100(a), 648.143(a), and § 648.144(a)(1)(i) were effective January 1, 1998. The final specifications for the 1998 summer flounder, scup, and black sea bass fisheries and notifications of commercial quota harvest were effective January 1, 1998, through December 31, 1998.

**FOR FURTHER INFORMATION CONTACT:** Regina L. Spallone, Fishery Policy Analyst, (978-281-9221).

**SUPPLEMENTARY INFORMATION:** The title of Table 4 needs to be clarified to indicate that the table specifies the allocations and trip limits for the commercial black sea bass fishery. In fact, 49 percent of the total harvest limit for black sea bass is allocated to the commercial sector as a quota, and 51 percent is allocated to the recreational sector as a coastwide harvest limit. The commercial quota is further allocated to

4 quarters based on the percentages specified in the regulations. The percent allocations and the trip limits specified in Table 4 are correct.

**Correction**

NMFS is correcting Table 4 published in the final rule document 97-33076

(December 18, 1997, 62 FR 66304), on page 66307 to read as follows:

TABLE 4.—1998 BLACK SEA BASS QUARTERLY COASTWIDE COMMERCIAL QUOTAS AND QUARTERLY TRIP LIMITS

Quarter	Percent (%)	Pounds	(kg) <sup>1</sup>	Trip limits	
				Lbs	(kg)
1. (Jan-Mar) .....	38.64	1,168,860	530,186	11,000	4,990
2. (Apr-Jun) .....	29.26	885,115	401,481	7,000	3,175
3. (Jul-Sep) .....	12.33	372,983	169,182	3,000	1,361
4. (Oct-Dec) .....	19.77	598,043	271,268	4,000	1,814
Total .....	100.00	3,025,000	1,372,117	.....	.....

<sup>1</sup> Kilograms are as converted from pounds and do not add to the converted total due to rounding.

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

Dated: January 8, 1998.

**Rolland A. Schmitten,**

*Assistant Administrator for Fisheries,  
National Marine Fisheries Service.*

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