

**Subpart G—Management Measures for the Summer Flounder Fisheries**

**§ 648.100 Catch quotas and other restrictions.**

(a) *Annual review.* The Summer Flounder Monitoring Committee shall 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 0.30 in 1997, and the F that produces the maximum yield per recruit ( $F_{max}$ ) in 1998 and thereafter, provided the allowable levels of fishing in 1997 may not exceed 18,518,830 lb (8,400 mt), unless such fishing levels have an associated F of  $F_{max}$ : Commercial and recreational catch data; current estimates of fishing mortality; stock status; recent estimates of recruitment; virtual population analysis results; levels of noncompliance by fishermen or individual states; impact of size/mesh regulations; sea sampling and winter trawl survey data or, if sea sampling data are unavailable, length frequency information from the winter trawl survey and mesh selectivity analyses; impact of gear other than otter trawls on the mortality of summer flounder; and any other relevant information.

(b) *Recommended measures.* Based on this review, the Summer Flounder Monitoring Committee shall recommend to the Demersal Species Committee of the MAFMC and the Commission the following measures to assure that the F specified in paragraph (a) of this section will not be exceeded:

- (1) Commercial quota set from a range of 0 to the maximum allowed to achieve the specified F.
- (2) Commercial minimum fish size.
- (3) Minimum mesh size.
- (4) Recreational possession limit set from a range of 0 to 15 summer flounder to achieve the specified F.
- (5) Recreational minimum fish size.
- (6) Recreational season.
- (7) Restrictions on gear other than otter trawls.
- (8) Adjustments to the exempted area boundary and season specified in § 648.104(b)(1) by 30-minute intervals of latitude and longitude and 2-week intervals, respectively, based on data

specified in paragraph (a) of this section to prevent discarding of sublegal sized summer flounder in excess of 10 percent, by weight.

(c) *Annual fishing measures.* The Demersal Species Committee shall review the recommendations of the Summer Flounder Monitoring Committee. Based on these recommendations and any public comment, the Demersal Species Committee shall recommend to the MAFMC measures necessary to assure that the applicable specified F will not be exceeded. The MAFMC shall review these recommendations and, based on the recommendations and any public comment, recommend to the Regional Administrator measures necessary to assure that the applicable specified F will not be exceeded. The MAFMC's recommendations must include supporting documentation, as appropriate, concerning the environmental and economic impacts of the recommendations. The Regional Administrator shall review these recommendations and any recommendations of the Commission. After such review, the Regional Administrator will publish a proposed rule in the FEDERAL REGISTER by October 15 to implement a coastwide commercial quota and recreational harvest limit and additional management measures for the commercial fishery, and will publish a proposed rule in the FEDERAL REGISTER by February 15 to implement additional management measures for the recreational fishery, if he/she determines that such measures are necessary to assure that the applicable specified F will not be exceeded. After considering public comment, the Regional Administrator will publish a final rule in the FEDERAL REGISTER to implement the measures necessary to assure that the applicable specified F will not be exceeded.

(d) *Distribution of annual quota.* (1) The annual commercial quota will be distributed to the states, based upon the following percentages:

ANNUAL COMMERCIAL QUOTA SHARES	
State	Share (percent)
Maine .....	0.04756
New Hampshire .....	0.00046
Massachusetts .....	6.82046
Rhode Island .....	15.68298
Connecticut .....	2.25708

ANNUAL COMMERCIAL QUOTA SHARES—  
Continued

State	Share (percent)
New York .....	7.64699
New Jersey .....	16.72499
Delaware .....	0.01779
Maryland .....	2.03910
Virginia .....	21.31676
North Carolina .....	27.44584

(2) All summer flounder landed for sale in a state shall be applied against that state's annual commercial quota, regardless of where the summer flounder were harvested. Any overages of the commercial quota landed in any state will be deducted from that state's annual quota for the following year.

(e) *Quota transfers and combinations.* Any state implementing a state commercial quota for summer flounder may request approval from the Regional Administrator to transfer part or all of its annual quota to one or more states. Two or more states implementing a state commercial quota for summer flounder may request approval from the Regional Administrator to combine their quotas, or part of their quotas, into an overall regional quota. Requests for transfer or combination of commercial quotas for summer flounder must be made by individual or joint letter(s) signed by the principal state official with marine fishery management responsibility and expertise, or his/her previously named designee, for each state involved. The letter(s) must certify that all pertinent state requirements have been met and identify the states involved and the amount of quota to be transferred or combined.

(1) Within 10 working days following the receipt of the letter(s) from the states involved, the Regional Administrator shall notify the appropriate state officials of the disposition of the request. In evaluating requests to transfer a quota or combine quotas, the Regional Administrator shall consider whether:

(i) The transfer or combination would preclude the overall annual quota from being fully harvested.

(ii) The transfer addresses an unforeseen variation or contingency in the fishery.

(iii) The transfer is consistent with the objectives of the Summer Flounder FMP and Magnuson Act.

(2) The transfer of quota or the combination of quotas will be valid only for the calendar year for which the request was made and will be effective upon the filing by NMFS of a notice of the approval of the transfer or combination with the Office of the Federal Register.

(3) A state may not submit a request to transfer quota or combine quotas if a request to which it is party is pending before the Regional Administrator. A state may submit a new request when it receives notice that the Regional Administrator has disapproved the previous request or when notice of the approval of the transfer or combination has been filed at the Office of the Federal Register.

(4) If there is a quota overage among states involved in the combination of quotas at the end of the fishing year, the overage will be deducted from the following year's quota for each of the states involved in the combined quota. The deduction will be proportional, based on each state's relative share of the combined quota for the previous year. A transfer of quota or combination of quotas does not alter any state's percentage share of the overall quota specified in paragraph (d) of this section.

[61 FR 34968, July 3, 1996, as amended at 62 FR 14650, Mar. 27, 1997; 62 FR 66310, Dec. 18, 1997]

**§ 648.101 Closures.**

(a) *EEZ closure.* The Regional Administrator shall close the EEZ to fishing for summer flounder by commercial vessels for the remainder of the calendar year by publishing notification in the FEDERAL REGISTER if he/she determines that the inaction of one or more states will cause the applicable F specified in § 648.100(a) to be exceeded, or if the commercial fisheries in all states have been closed. The Regional Administrator may reopen the EEZ if earlier inaction by a state has been remedied by that state, or if commercial fisheries in one or more states have been reopened without causing the applicable specified F to be exceeded.