

(iii) Specify the time limit (60 days after the date of the Carrier's request) for submitting the information; and

(iv) State the consequences of failure to respond within the time limit specified, as set out in paragraph (b)(2) of this section.

(d) *Carrier determinations.* The Carrier must provide written notice to the covered individual of its determination. If the Carrier affirms the initial denial, the notice must inform the covered individual of:

(1) The specific and detailed reasons for the denial;

(2) The covered individual's right to request a review by OPM; and

(3) The requirement that requests for OPM review must be received within 90 days after the date of the Carrier's denial notice and include a copy of the denial notice as well as documents to support the covered individual's position.

(e) *OPM review.* (1) If the covered individual seeks further review of the denied claim, the covered individual must make a request to OPM to review the Carrier's decision. Such a request to OPM must be made:

(i) Within 90 days after the date of the Carrier's notice to the covered individual that the denial was affirmed; or

(ii) If the Carrier fails to respond to the covered individual as provided in paragraph (b)(2) of this clause, within 120 days after the date of the covered individual's timely request for reconsideration by the Carrier; or

(iii) Within 120 days after the date the Carrier requests additional information from the covered individual, or the date the covered individual is notified that the Carrier is requesting additional information from a provider. OPM may extend the time limit for a covered individual's request for OPM review when the covered individual shows he or she was not notified of the time limit or was prevented by circumstances beyond his or her control from submitting the request for OPM review within the time limit.

(2) In reviewing a claim denied by the Carrier, OPM may:

(i) Request that the covered individual submit additional information;

(ii) Obtain an advisory opinion from an independent physician;

(iii) Obtain any other information as may in its judgment be required to make a determination; or

(iv) Make its decision based solely on the information the covered individual provided with his or her request for review.

(3) When OPM requests information from the Carrier, the Carrier must release the information within 30 days after the date of OPM's written request unless a different time limit is specified by OPM in its request.

(4) Within 90 days after receipt of the request for review, OPM will either:

(i) Give a written notice of its decision to the covered individual and the Carrier; or

(ii) Notify the individual of the status of the review. If OPM does not receive requested evidence within 15 days after expiration of the applicable time limit in paragraph (e)(3) of this clause, OPM may make its decision based solely on

information available to it at that time and give a written notice of its decision to the covered individual and to the Carrier.

(f) OPM, upon its own motion, may reopen its review if it receives evidence that was unavailable at the time of its original decision.

(g) *Court review.* (1) A suit to compel enrollment under § 890.102 of Title 5, Code of Federal Regulations, must be brought against the employing office that made the enrollment decision.

(2) A suit to review the legality of OPM's regulations under this part must be brought against the Office of Personnel Management.

(3) Federal Employees Health Benefits (FEHB) carriers resolve FEHB claims under authority of Federal statute (chapter 89, title 5, United States Code). A covered individual may seek judicial review of OPM's final action on the denial of a health benefits claim. A legal action to review final action by OPM involving such denial of health benefits must be brought against OPM and not against the Carrier or the Carrier's subcontractors. The recovery in such a suit shall be limited to a court order directing OPM to require the Carrier to pay the amount of benefits in dispute.

(4) An action under paragraph (3) of this clause to recover on a claim for health benefits:

(i) May not be brought prior to exhaustion of the administrative remedies provided in paragraphs (a) through (f) of this clause;

(ii) May not be brought later than December 31 of the 3rd year after the year in which the care or service was provided; and

(iii) Will be limited to the record that was before OPM when it rendered its decision affirming the Carrier's denial of benefits.

(End of Clause)

[FR Doc. 96-8372 Filed 4-4-96; 8:45 am]

BILLING CODE 6325-01-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 625

[Docket No. 951116270-5308-02; I.D. 031296B]

Summer Flounder Fishery; Adjustments to 1996 State Quotas

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

ACTION: Commercial quota adjustment.

SUMMARY: NMFS announces adjustments to the commercial quota for the 1996 summer flounder fishery. This action complies with regulations implementing the Fishery Management Plan for the Summer Flounder Fishery (FMP), which require that annual quota

overages landed in any state be deducted from that state's quota for the following year. The public is advised that a quota adjustment has been made and is informed of the revised state quotas. The Director, Northeast Region, NMFS (Regional Director), has also determined that there is no Federal summer flounder quota available for those coastal states that did not receive a portion of the annual commercial summer flounder quota. Vessels issued a Federal moratorium permit for the summer flounder fishery may not land summer flounder in these states.

EFFECTIVE DATE: April 4, 1996, through December 31, 1996.

FOR FURTHER INFORMATION CONTACT: David Gouveia, 508-281-9280.

SUPPLEMENTARY INFORMATION:

Regulations implementing Amendment 2 to the FMP are found at 50 CFR part 625 (December 4, 1992, 57 FR 57358). 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 § 625.20. Amendment 7 to the FMP (November 24, 1995, 60 FR 57955) revised the fishing mortality rate reduction schedule for summer flounder, and the revised schedule was the basis for establishing the 1996 quota. The commercial summer flounder quota for the 1996 calendar year, adopted to ensure achievement of the appropriate fishing mortality rate of 0.41 for 1996, is set to equal 11,111,298 lb (5.0 million kg) (January 4, 1996, 61 FR 291). The notification of a commercial quota transfer from the State of North Carolina to the Commonwealth of Virginia was published on March 13, 1996 (61 FR 10286). This quota transfer is reflected in Table 1.

Section 625.20(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 will be deducted from that state's annual quota for the following year. Based on dealer reports and other available information, NMFS has determined that the States of Massachusetts, Rhode Island, New York, Delaware, and Virginia have exceeded their 1995 quotas. The remaining States of Maine, New Hampshire, Connecticut, New Jersey, Maryland, and North Carolina did not exceed their 1995 quotas. A complete summary of quota adjustments for 1996 is in Table 1.

TABLE 1.—ADJUSTED 1996 COMMERCIAL QUOTA FOR THE SUMMER FLOUNDER FISHERY

	1995 Quota (lb)	1995 Landings (lb)	1995 Overage (lb)	Initial 1996 quota (lb)	Adjusted 1996 quota	
					(lb)	(kg)
ME	6,987	5,318	.....	5,284	5,284	2,397
NH	67	.....	.....	51	51	23
MA	1,122,246	1,127,995	5,749	757,841	752,092	341,143
RI	2,243,224	2,365,465	122,241	1,742,583	1,620,342	734,975
CT	331,574	306,404	.....	250,791	250,791	113,757
NY	1,243,374	1,248,078	4,704	849,680	844,976	383,275
NJ	2,306,198	2,298,303	.....	1,858,363	1,858,363	842,939
DE	2,614	3,072	458	1,977	1,519	689
MD	199,551	136,167	.....	226,570	226,570	102,770
VA	3,182,177	3,355,838	173,661	2,374,342	2,200,681	998,212
NC	3,974,018	3,967,291	.....	3,043,816	3,043,816	1,380,652

This notification also announces the Regional Director's determination that no quota is available for those coastal states that did not receive a distribution from the annual commercial summer flounder quota. The Regional Director's determination triggers the summer flounder moratorium permit condition that owners of federally permitted vessels agree not to land summer flounder in any state that did not receive any part of the annual commercial summer flounder quota. The purpose of this condition is to aid in maintaining the integrity of the overall quota, which is set to achieve a specific mortality reduction goal, as state quotas are filled.

Historically, measurable landings of summer flounder have occurred only in

those coastal states from North Carolina northward to Maine. These are the states that have received distributions from the annual commercial summer flounder quota. Recent reports, however, indicate that harvesters intend to land summer flounder in other states, such as South Carolina, in response to the closures of Virginia and North Carolina to landings of summer flounder. States other than those specified in Table 1 do not have any available summer flounder quota, because they did not receive a share of the annual commercial quota. Therefore, vessels with a Federal summer flounder moratorium permit may not land summer flounder in these states.

This notification serves to trigger the permit condition that prevents vessels

that are issued a Federal summer flounder moratorium permit from landing summer flounder in any state that has no commercial summer flounder quota.

Classification

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

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

Dated: March 27, 1996.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 96-7994 Filed 4-4-96; 8:45 am]

BILLING CODE 3510-22-W