

Commercial Quota

The final 1995 coastwide commercial quota is changed from the amount (11.6 million lb; 5.3 million kg) contained in the proposed specifications. In order to comply with a court order issued on December 19, 1994, by the U.S. District Court for the Eastern District of Virginia, NMFS announces that an additional

3.05 million lb (1.4 million kg) are added to the commercial quota. The resulting 1995 coastwide commercial quota is 14.7 million lb (6.7 million kg).

The commercial coastwide quota is allocated among the states based on historic catch shares specified in the regulations. Table 1 presents the 1995 commercial quota (14,690,407 lb;

6,663,569 kg) apportioned among the states according to the percentage shares specified in § 625.20(d)(1). These state allocations do not reflect the adjustments required under § 625.20, if 1994 landings exceed the quota for any state. A notification of allocation adjustment will be published in the **Federal Register** if such an adjustment is necessary.

TABLE 1.—1995 STATE COMMERCIAL QUOTAS

State	Share (per- cent)	1995 quota	
		(lb)	(kg)
ME	0.04756	6,987	3,169
NH	0.00046	67	30
MA	6.82046	1,001,953	454,478
RI	15.68298	2,303,894	1,045,029
CT	2.25708	331,574	150,399
NY	7.64699	1,123,374	509,554
NJ	16.72499	2,456,969	1,114,462
DE	0.01779	2,614	1,186
MD	2.03910	299,551	135,874
VA	21.31676	3,131,519	1,420,433
NC	27.44584	4,031,905	1,828,841

Recreational catch data for 1994 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.

Comments and Responses

Twenty-nine comments were received concerning the proposed 1995 specifications from individuals, owners and employees of fishing businesses, Congressional representatives, the Council and industry organizations. One comment submitted by a fishing business was presented as a statement on behalf of 100 individuals associated with the business. The Council expressed concern that the recommended total catch may be too high. Twenty-eight of the commenters opposed the proposed commercial quota level, though their suggested alternatives varied. A few commenters suggested a less restrictive minimum-mesh requirement.

Comment: The Council notes the concern expressed by NMFS in the proposed rule that the recommended quota may not reasonably assure that the target fishing mortality rate will be achieved in 1995. The Council acknowledges that the recommended quota may be too high and states that the court order may negatively impact the likelihood of attaining the mortality target. The Council is also concerned that, if the fishery exceeds the target in 1995, it will reduce the allowable catch in 1996, when the target mortality rate

is lowered by the FMP. The Council urges NMFS to take appropriate action to ensure that the mortality target is met in 1995.

Response: NMFS acknowledges that the 1995 catch limit may not assure attainment of the target fishing mortality rate. However, under the terms of the court order, NMFS must judge the Council's recommended quota independent of the court-ordered addition. The Council's recommended quota has a 50 percent probability of achieving the target fishing mortality rate, but the FMP does not provide a basis for setting the catch limit to achieve any particular level of probability of meeting or exceeding the target fishing mortality rate. NMFS will take whatever appropriate actions remain to contain mortality in the summer flounder fishery (e.g., work closely with the states to monitor landings accurately and enforce closures after quotas are attained).

Comment: Twenty-eight of the commenters believe that the proposed commercial quota level is too low, for a variety of reasons. They propose alternate commercial quotas that range from the 1993 quota level of 12.35 million lb (5.6 million kg) to 20 million lb (9.1 million kg). Many believe that there will be harmful economic impacts if the commercial quota is reduced from the 1994 level. Several believe that summer flounder stock abundance is underestimated and that NMFS is being overly cautious at the expense of the industry. The commenters give various

examples to demonstrate that stock abundance is underestimated, including that more large fish are being landed than in the past, state quotas are filled quickly, and the most recent North Carolina trawl survey indicates a good 1994 year class.

Response: The quota has been raised for the reason noted above. NMFS strongly believes that the stock abundance estimate produced by the most recent assessment represents the best available scientific information on the stock as a whole. However, NMFS expects that the initial signs of stock rebuilding (e.g., more larger fish, increased abundance) may first be observed by harvesters. NMFS commits substantial resources toward collecting and compiling such observations from harvesters through biological sampling, interviews with captains, vessel logbooks and other methods. Once compiled throughout the range of the resource, quantifiable data on increased fish sizes and indicators of abundance are considered in the stock assessment. The observations that industry members make in 1994 will begin to be evaluated by scientists in 1995. It is important that all observations are brought together during the stock assessment process.

NMFS, the Council and the ASMFC are committed to building upon indications of positive change, such as those observed by the commenters, to the point where a healthy stock is reestablished. For example, while the results of the North Carolina trawl survey were not available in time to be