

indicated that it must count all of the cars manufactured by that entity worldwide, and not merely those imported into the U.S.

Importers who are controlled by larger "parent" manufacturers have, by virtue of the relationship with the "parent," access to technological and material resources that provide them with the ability to manufacture more fuel efficient vehicles. The fact that the "parent" may choose not to import and market cars in the United States does not have any bearing on the availability of these resources.

In regard to Lotus' application for an alternative standard for MY 1997, the agency notes that Lotus submitted materials indicating that its 1997 model year began before Lotus was acquired by Proton. Lotus contends that because its 1997 model year began before it was acquired by Proton, that Proton's October 1996 acquisition of Lotus should not preclude the availability of an alternative standard for MY 1997.

The agency disagrees with this view. Section 32902(d) states that "An exemption for a model year applies only if the manufacturer manufactures (whether in the United States or not) fewer than 10,000 passenger automobiles in the model year." This sentence follows the section's first sentence, which discusses general eligibility for exemptions. Read together, the two sentences make it clear that manufacturers are only eligible for exemption if they manufacture fewer than 10,000 automobiles in the model year 2 years before the model year in question and that if an exemption is granted, that exemption applies only if the manufacturer manufactures (whether in the United States or not) fewer than 10,000 automobiles in that model year.

Proton acquired Lotus during the 1997 model year. The combined worldwide production of Lotus and Proton will exceed 10,000 vehicles in MY 1997 and Lotus would be ineligible for an exemption even in the event that one had previously been granted. As the agency has not yet granted such an exemption, it will not do so now. Similarly, as Lotus and its parent, Proton, will manufacture more than 10,000 vehicles annually in the 1998 model year, the agency is denying Lotus' request for that year.

Regulatory Impact Analyses

NHTSA has analyzed this decision and determined that neither Executive Order 12866 nor the Department of Transportation's regulatory policies and procedures apply. Under Executive Order 12866, the decision would not

establish a "rule," which is defined in the Executive Order as "an agency statement of general applicability and future effect." The decision is not generally applicable, since it would apply only to Lotus Cars Ltd., as discussed in this notice. Under DOT regulatory policies and procedures, the decision is not a "significant regulation." If the Executive Order and the Departmental policies and procedures were applicable, the agency would have determined that this decision is neither major nor significant. The principal impact of this decision is that the exempted company will not be required to pay civil penalties if its maximum feasible average fuel economy were achieved, and purchasers of those vehicles would not have to bear the burden of those civil penalties in the form of higher prices. Since this decision sets an alternative standard at the level determined to be the maximum feasible levels for Lotus for MYs 1994 and 1995, no fuel would be saved by establishing a higher alternative standard. NHTSA finds in the Section on "The Need of the United States to Conserve Energy" that because of the small size of the Lotus fleet, that incremental usage of gasoline by Lotus Cars Ltd.'s customers would not affect the United States's need to conserve gasoline. There are not any impacts for the public at large.

The agency has also considered the environmental implications of this decision in accordance with the Environmental Policy Act and determined that it does not significantly affect the human environment. Regardless of the fuel economy of the exempted vehicles, they must pass the emissions standards which measure the amount of emissions per mile traveled. Thus, the quality of the air is not affected by the alternative standards. Further, since the exempted passenger automobiles cannot achieve better fuel economy than is proposed herein, the decision does not affect the amount of fuel used.

Since the Regulatory Flexibility Act may apply to a decision exempting a manufacturer from a generally applicable standard, I certify that this decision will not have a significant economic impact on a substantial number of small entities. This decision does not impose any burdens on Lotus. It relieves the company from having to pay civil penalties for noncompliance with the generally applicable standard for MY 1994 and 1995. Since the price of 1994 and 1995 Lotus automobiles will not be affected by this decision, the purchasers will not be affected.

List of Subjects in 49 CFR Part 531

Energy conservation, Gasoline, Imports, Motor vehicles.

In consideration of the foregoing, 49 CFR part 531 is amended to read as follows:

PART 531—[AMENDED]

1. The authority citation for part 531 continues to read as follows:

Authority: 49 U.S.C. 32902, delegation of authority at 49 CFR 1.50.

2. In § 531.5, the introductory text of paragraph (b) is republished for the convenience of the reader and paragraph (b)(6) is amended to read as follows:

§ 531.5 Fuel economy standards.

* * * * *

(b) The following manufacturers shall comply with the standards indicated below for the specified model years:

* * * * *

(6) Lotus Cars Ltd.

Model year	Average fuel economy standard (miles per gallon)
1994	24.2
1995	23.3

Issued on: July 3, 1997.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 970318057-7158-02; I.D. 022097C]

RIN 0648-AJ42

Fisheries of the Northeastern United States; Fishery Management Plan for the Summer Flounder, Scup, and Black Sea Bass Fisheries (FMP); Recreational Measures for the 1997 Summer Flounder Fishery

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

ACTION: Final rule and correction.

SUMMARY: NMFS issues this rule to amend the regulations implementing the

Fishery Management Plan for the Summer Flounder, Scup, and Black Sea Bass Fisheries (FMP) in order to implement management measures for the 1997 summer flounder recreational fishery. The measures include no closed season, a possession limit of ten fish per person, and a minimum fish size of 14.5 inches (36.8 cm). The intent of this rule is to comply with implementing regulations for the fishery that require NMFS to publish measures for the current fishing year that will prevent overfishing of the resource. This rule also makes minor technical changes to 50 CFR part 648 that are unrelated to implementing these management measures.

DATES: Effective July 8, 1997.

ADDRESSES: Copies of the Environmental Assessment and supporting documents used by the Monitoring Committee are available from: Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 S. New Street, Dover, DE 19901-6790.

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

SUPPLEMENTARY INFORMATION: The FMP was developed jointly by the Mid-Atlantic Fishery Management Council (Council) and the Atlantic States Marine Fisheries Commission (Commission), in consultation with the New England and South Atlantic Fishery Management Councils. Implementing regulations for the fishery are found at 50 CFR part 648.

Section 648.100 outlines the process for determining annual commercial and recreational catch quotas and other restrictions for the summer flounder fishery. Pursuant to § 648.100, the Administrator, Northeast Region, NMFS, implements measures for the fishing year to ensure achievement of the fishing mortality rate specified in the FMP. This document announces the following measures pertaining to the recreational fishery, which are unchanged from the proposed measures that were published in the **Federal Register** on April 8, 1997 (62 FR 16753): (1) No closed season, (2) a possession limit of ten fish per person, and (3) a minimum fish size of 14.5 inches (36.8 cm).

Comments and Responses

One comment from North Carolina concerning the proposed measures was received during the public comment period, which ended May 8, 1997.

Comment: North Carolina does not support the 14.5 inch (36.8 cm) minimum fish size for three reasons: It is incompatible with the size

requirements in its summer flounder commercial fishery and its southern flounder fishery; the larger size limit discriminates against southern states, where the size limit has more of an impact than the bag limit; and the increase of 0.5 inch (1.3 cm) in minimum size creates enforcement problems.

Response: NMFS disagrees that the size limit for the commercial and recreational fishery must be the same. Management measures such as bag limits and fish sizes are established to achieve a harvest limit for a segment of the fishery. Since each segment (commercial and recreational) has differing harvest limits, different management measures were found to be appropriate for each.

The comment states that the size limit has a greater impact than the bag limit for the southern states. NMFS agrees with this statement. The size limit should have a greater impact (in reaching the required reduction in harvest) than the bag limit in the northern states as well. The Council and Commission, in making their recommendation to NMFS, noted that, due to the projected overage of the harvest limit in 1996, some reductions in recreational catch are necessary to reach the 1997 harvest limit, which is the same as the 1996 limit. Since the recreational sector was not constrained by the bag limit in 1996, the Council and Commission decided to meet the reduction by increasing the size limit. The bag limit has been increased to prevent a decrease in participation in the recreational fishery.

The comment letter indicates that an enforcement officer could not easily issue a citation for a fish between 14.0 (35.6 cm) and 14.5 inches (36.8 cm). NMFS does not believe that an enforcement officer would have any difficulty in making such a measurement.

Changes from the Proposed Rule

This rule also makes minor technical changes to 50 CFR part 648, Fisheries of the Northeastern United States, that are unrelated to implementing the above management measures. These technical changes were not included in the proposed rule. These revisions merely correct omissions and errors that occurred in making earlier revisions to the consolidated Northeast fisheries regulations.

In § 648.12, paragraphs (a) through (c) are added, as they were inadvertently deleted during the publication of the final rule implementing management measures for the black sea bass fishery.

In § 648.14, paragraph (a)(103) was omitted during the consolidation of the regulations of the Fisheries of the Northeastern United States and is added.

In § 648.14, paragraph (c)(1), an error was made in the reference to § 648.86(c) and is corrected. Also in paragraph (c), paragraphs (11), (12), (13), (15), (18) and (19), the references to § 648.82(j) are incorrect, because this final rule redesignate § 648.82(j) to (k). These references are corrected to reflect that redesignation.

In § 648.52, paragraph (a), a spelling error is corrected.

In § 648.73, paragraphs (a)(2) and (3), errors were made in the notation of coordinates and are corrected.

In § 648.82, a second paragraph (j) was added, inadvertently overwriting an original paragraph (j). Paragraph (j) is redesignated as (k) and the original (j) is added. In paragraph (k), references to (j) are revised to reflect its redesignation.

In § 648.86, paragraph (b) and (d) are duplicates. Paragraph (b) is deleted and paragraphs (c) and (d) are redesignated as (b) and (c).

Classification

This rule implements management measures for the recreational summer flounder fishery that will enhance the effectiveness of the FMP.

The measures contained in this rule have already been implemented by the applicable states under the Atlantic Coastal Fishery Cooperative Management Act. Consequently, Federal permit holders are already subject to the measures. Since all affected entities are already subject to the measures, it is unnecessary under 5 U.S.C. 553(d)(3) to delay the effective date of this rule for 30 days. Accordingly, since the fishery has already started, the rule is being made effective upon the date of filing for public inspection at the Office of the Federal Register.

This action is authorized by 50 CFR part 648.

This final rule has been determined to be not significant for purposes of E.O. 12866.

When this rule was proposed, the Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this action would not have a significant economic impact on a substantial number of small entities, such as the charter boats and head boats that participate in the recreational fishery. The reasons were published in the proposed rule and are not repeated here. No comments were received concerning

this determination. As a result, no regulatory flexibility analysis was prepared.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: July 3, 1997.

David L. Evans,

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

For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

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

2. In § 648.12, paragraphs (a) through (c) are added to read as follows:

§ 648.12 Experimental fishing.

(a) The Regional Administrator may not grant such an exemption unless he/she determines that the purpose, design, and administration of the exemption is consistent with the management objectives of the respective FMP, the provisions of the Magnuson-Stevens Act, and other applicable law, and that granting the exemption will not:

- (1) Have a detrimental effect on the respective resources and fishery;
- (2) Cause any quota to be exceeded; or
- (3) Create significant enforcement problems.

(b) Each vessel participating in any exempted experimental fishing activity is subject to all provisions of the respective FMP, except those necessarily relating to the purpose and nature of the exemption. The exemption will be specified in a letter issued by the Regional Administrator to each vessel participating in the exempted activity. This letter must be carried on board the vessel seeking the benefit of such exemption.

(c) Experimental fishing for surf clams or ocean quahogs will not require an allocation permit.

3. In § 648.14, paragraph (a)(103) is added, and paragraphs (c)(1), (11), (12), (13), (15), (18), and (19) are revised to read as follows:

§ 648.14 Prohibitions.

(a) * * *

(103) Sell, barter, trade or transfer, or attempt to sell, barter, trade or otherwise transfer, other than transport, any multispecies, unless the dealer or transferee has a dealer permit issued under § 648.6.

(c) * * *

(1) Fish for, possess at any time during a trip, or land per trip more than the possession limit of regulated species specified in § 648.86(c) after using up the vessel's annual DAS allocation or when not participating in the DAS program pursuant to § 648.82, unless otherwise exempted under § 648.82(b)(3) or § 648.89.

(11) If the vessel has been issued a limited access multispecies permit and fishes under a multispecies DAS, fail to comply with gillnet requirements and restrictions specified in § 648.82(k).

(12) If the vessel has been issued a limited access Day gillnet category designation, fail to comply with the restriction and requirements specified in § 648.82(k)(1).

(13) If the vessel has been issued a Day gillnet category designation, fail to remove gillnet gear from the water as described in § 648.82(g) and § 648.82(k)(1)(iv).

(15) Produce, or cause to be produced, gillnet tags under § 648.82(k)(1) without the written confirmation from the Regional Administrator described in § 648.82(k)(1)(ii).

(18) If the vessel has been issued a Trip gillnet category designation, fail to comply with the restrictions and requirements specified in § 648.82(k)(2).

(19) Fail to comply with the exemption specifications as described in § 648.86(b)(2).

4. In § 648.52, paragraph (a) is revised to read as follows:

§ 648.52 Possession limits.

(a) Owners or operators of vessels with a limited access scallop permit that have declared out of the DAS program as specified in § 648.10, or that have used up their DAS allocations, and vessels possessing a General scallop permit, unless exempted under the state waters exemption program described under § 648.54, are prohibited from possessing or landing per trip more than 400 lb (181.44 kg) of shucked, or 50 bu (17.62 hl) of in-shell scallops with not more than one scallop trip allowable in any calendar day.

5. In § 648.73, paragraphs (a)(2) and (3) are revised to read as follows:

§ 648.73 Closed areas.

(a) * * *

(2) *New York Bight*. The polluted area and waste disposal site known as the "New York Bight" and located at

40°25'04" N. lat., 73°42'38" W. long., and with a radius of 6 nm in every direction from that point, extending further northwestward, westward and southwestward between a line from a point on the arc at 40°31'00" N. lat., 73°43'38" W. long., directly northward toward Atlantic Beach Light in New York to the limit of the state territorial waters of New York; and a line from the point on the arc at 40°19'48" N. lat., 73°45'42" W. long., to a point at the limit of the state territorial waters of New Jersey at 40°14'00" N. lat., 73°55'42" W. long.

(3) *106 Dumpsite*. The toxic industrial site known as the "106 Dumpsite" and located between 38°40'00" and 39°00'00" N. lat., and between 72°00'00" and 72°30'00" W. long.

6. In § 648.82, paragraph (j) added at 62 FR 15388 on April 1, 1997, is redesignated as (k), and newly designated (k)(1)(i) and (iv) are revised to read as follows.

§ 648.82 Effort-control program for limited access vessels.

* * * * *

(k) * * *

(1) * * *

(i) *Number and size of nets*. Vessels may not fish with, haul, possess, or deploy more than 80 roundfish gillnets or 160 flatfish gillnets. Vessels may fish any combination of roundfish and flatfish gillnets, up to 160 nets, provided that the number of roundfish and flatfish gillnets does not exceed the limitations specified in this subparagraph, and the nets are tagged in accordance with paragraph (k)(1)(ii) of this section. Nets may not be longer than 300 ft (91.44 m), or 50 fathoms, in length.

(iv) *Declaration of time out of the gillnet fishery*. (A) During each fishing year, vessels must declare, and take, a total of 120 days out of the multispecies gillnet fishery. Each period of time declared and taken must be a minimum of 7 consecutive days. At least 21 days of this time must be taken between June 1 and September 30 of each fishing year. The spawning season time out period required by § 648.82(g) will be credited toward the 120-days time out of the multispecies gillnet fishery. If a vessel owner has not declared and taken, any or all of the remaining periods of time required by the last possible date to meet these requirements, the vessel is prohibited from fishing for, possessing, or landing regulated multispecies harvested with gillnet gear, or from having gillnet gear on board the vessel that is not stowed in accordance with

§ 648.81(e)(4), while fishing under a multispecies DAS, from that date through the end of the period between June 1 and September 30, or through the end of the fishing year, as applicable.

(B) Vessels shall declare their periods of required time out following the notification procedures specified in § 648.10(f)(2).

(C) During each period of time declared out, a vessel is prohibited from fishing with non-exempted gillnet gear. However, the vessel may fish in an exempted fishery as described in § 648.80, or it may fish under a multispecies DAS provided it fishes with gear other than non-exempted gillnet gear.

* * * * *

7. In § 648.86 as published at 62 FR 15388 on April 1, 1997, instruction 12 is revised to read as follows:

"12. In § 648.86, paragraph (a)(1) is revised and paragraphs (c) and (d) are added to read as follows:"

8. In § 648.86, paragraph (b) is redesignated as (c) and present paragraph (c) is redesignated as (b); newly redesignated paragraph (b) is amended by revising paragraphs (b)(1)(i), (ii) introductory text, (iii), and (b)(2); and paragraph (d) is removed to read as follows:

§ 648.86 Possession restrictions.

* * * * *

(b) * * *

(1) *Landing limit north of 42°00' North Latitude.* (i) Except as provided in paragraph (b)(2) of this section, a vessel fishing under a NE multispecies DAS may land up to 1,000 lb (453.6 kg) of cod per day, or any part of a day, for each of the first 4 days of a trip, and may land up to 1,500 lb (680.4 kg) of cod per day for each day, or any part of a day, in excess of 4 consecutive days. A day, for the purposes of this paragraph, means a 24-hour period. Vessels calling-out of the multispecies DAS program under § 648.10(c)(3) that have utilized "part of a day" (less than 24 hours) may land up to an additional 1,000 lb (453.6 kg) of cod for that "part of a day", however, such vessels may not end any subsequent trip with cod on board within the 24-hour period following the beginning of the "part of the day" utilized (e.g., a vessel that has called-in to the multispecies DAS program at 3 p.m. on a Monday and ends its trip the next day (Tuesday) at 4 p.m. (accruing a total of 25 hours) may legally land up to 2,000 lb (907.2 kg) of cod on such a trip, but the vessel may not end any subsequent trip with cod on board until after 3 p.m. on the following day (Wednesday)). Cod on board a

vessel subject to this landing limit must be separated from other species of fish and stored so as to be readily available for inspection.

(ii) A vessel subject to the cod landing limit restrictions described in paragraph (b)(1)(i) of this section may come into port with and offload cod in excess of the landing limit as determined by the number of DAS elapsed since the vessel called into the DAS program, provided that:

(A) * * *

(B) * * *

(iii) A vessel that has not exceeded the cod landing limit restrictions described in paragraph (b)(1)(i) of this section and that is offloading some or all of its catch without calling out of the multispecies DAS program under § 648.10(c)(3), is subject to the call-in requirement described in paragraph (b)(1)(ii)(B) of this section.

(2) *Exemption.* A vessel fishing under a NE multispecies DAS is exempt from the landing limit described in paragraph (b)(1) when fishing south of 42°00' N. lat., provided that it does not fish north of this exemption area for a minimum of 30 consecutive days (when fishing under the multispecies DAS program), and has on board an authorization letter issued by the Regional Administrator. Vessels exempt from the landing limit requirement may transit the GOM/GB Regulated Mesh Area north of the 42°00' N. lat., provided that their gear is stowed in accordance with one of the provisions of § 648.81(e).

9. In § 648.103, paragraph (b) is revised to read as follows:

§ 648.103 Minimum fish sizes.

* * * * *

(b) The minimum size for summer flounder is 14.5 inches (36.8 cm) TL for all vessels that do not qualify for a moratorium permit, and party and charter boats holding moratorium permits, but fishing with passengers for hire or carrying more than three crew members, if a charter boat, or more than five crew members, if a party boat.

* * * * *

10. In § 648.105, the first sentence of paragraph (a) is revised to read as follows:

§ 648.105 Possession restrictions.

(a) No person shall possess more than ten summer flounder in, or harvested from, the EEZ unless that person is the owner or operator of a fishing vessel issued a summer flounder moratorium

permit or is issued a summer flounder dealer permit. * * *

* * * * *

[FR Doc. 97-18117 Filed 7-8-97; 4:19 pm]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 961126334-7025-02; I.D. 070797A]

Fisheries of the Exclusive Economic Zone Off Alaska, Pacific Ocean Perch in the Eastern Regulatory Area of the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is closing directed fishing for Pacific ocean perch in the Eastern Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the Pacific ocean perch total allowable catch (TAC) in the Eastern Regulatory Area of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 7, 1997, until 2400 hrs, A.l.t., December 31, 1997.

FOR FURTHER INFORMATION CONTACT: Andrew Smoker, 907-586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the GOA exclusive economic zone is managed by NMFS according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at subpart H of 50 CFR part 600 and 50 CFR part 679.

The Pacific ocean perch TAC in the Eastern Regulatory Area of the Gulf of Alaska was established by the Final 1997 Harvest Specifications of Groundfish for the GOA (62 FR 8179, February 24, 1997) as 2,366 metric tons (mt), determined in accordance with § 679.20(c)(3)(ii).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the Pacific ocean perch TAC in the Eastern Regulatory Area will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 2,116 mt, and is