

may continue in service for seven calendar days from the date the sanders are first discovered inoperative or until its next periodic inspection under § 229.23, which ever occurs first; and

(2) A locomotive being used in switching service at locations equipped with a sand delivery system shall be handled in accordance with the requirements contained in § 229.9.

(d) A locomotive being handled under the provisions contained in paragraph (b) and (c)(1) of this section shall be tagged in accordance with § 229.9(a).

Issued in Washington, DC, on October 16, 2007.

**Joseph H. Boardman,**

*Federal Railroad Administrator.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

RIN 0648-XD25

#### Fisheries of the Northeastern United States; Atlantic Surfclam and Ocean Quahog Fisheries; Suspension of Minimum Atlantic Surfclam Size Limit for Fishing Year 2008

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

**ACTION:** Temporary rule; suspension of the Atlantic surfclam minimum size limit.

**SUMMARY:** NMFS suspends the minimum size limit of 4.75 inches (120 mm) for Atlantic surfclams for the 2008 fishing year. This action is taken under the authority of the implementing regulations for this fishery, which allow for the annual suspension of the minimum size limit based upon set criteria. The intended effect is to relieve the industry from a regulatory burden that is not necessary, as the majority of surfclams harvested are larger than the minimum size limit.

**DATES:** Effective January 1, 2008, through December 31, 2008.

**ADDRESSES:** Written inquiries may be sent to Patricia A. Kurkul, Regional Administrator, National Marine Fisheries Service, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930-2298.

**FOR FURTHER INFORMATION CONTACT:** Brian R. Hooker, Fishery Policy Analyst, (978) 281-9220; fax (978) 281-9135.

**SUPPLEMENTARY INFORMATION:** Section 648.72(c) of the regulations implementing the Fishery Management Plan (FMP) for the Atlantic Surfclam and Ocean Quahog Fisheries allows the Administrator, Northeast Region, NMFS (Regional Administrator) to suspend annually, by publication of a notification in the **Federal Register**, the minimum size limit for Atlantic surfclams. This action may be taken unless discard, catch, and biological sampling data indicate that 30 percent of the Atlantic surfclam resource is smaller than 4.75 inches (120 mm) and the overall reduced size is not attributable to harvest from beds where growth of the individual clams has been

reduced because of density-dependent factors.

At its June 2007 meeting, the Mid-Atlantic Fishery Management Council voted to recommend that the Regional Administrator suspend the minimum size limit for the 2008, 2009, and 2010 fishing years. In accordance with the provisions of the FMP, the Regional Administrator will publish the suspension of the surfclam minimum size if the proportion of undersized surfclams is under 30 percent of the total surfclam landings for each fishing year.

Commercial surfclam data for 2007 were analyzed to determine the percentage of surfclams that were smaller than the minimum size requirement. The analysis indicated that 8.99-percent of the overall commercial landings were composed of surfclams that were less than 4.75 inches (120 mm). Based on these data, the Regional Administrator adopts the Council's recommendation and suspends the minimum size limit for Atlantic surfclams from January 1 through December 31, 2008.

#### Classification

This action is authorized by 50 CFR part 648 and is exempt from review under Executive Order 12866.

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

Dated: October 12, 2007.

**Emily H. Menashes,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

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