

List of Subjects in 47 CFR Part 73

Television.

Federal Communications Commission.

Magalie Roman Salas,*Secretary.*

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DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 648**

[Docket No. 99128355-0305-03; I.D. 101200F]

RIN 0648-AM50

Fisheries of the Northeastern United States; Proposed 2001 Fishing Quotas for Atlantic Surf Clams, Ocean Quahogs, and Maine Mahogany Ocean Quahogs

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

ACTION: Proposed 2001 fishing quotas for Atlantic surf clams, ocean quahogs, and Maine mahogany ocean quahogs; request for comments.

SUMMARY: NMFS issues proposed quotas for the Atlantic surf clam, ocean quahog, and Maine mahogany ocean quahog fisheries for 2001. Regulations governing these fisheries require NMFS to propose for public comment specifications for the 2001 fishing year. The intent of this action is to propose allowable harvest levels of Atlantic surf clams and ocean quahogs from the exclusive economic zone and an allowable harvest level of Maine mahogany ocean quahogs from the waters north of 43°50'N. lat. in 2001.

DATES: Comments must be received no later than 5 p.m., eastern standard time, on December 8, 2000.

ADDRESSES: Copies of supporting documents, including the Environmental Assessment, Regulatory Impact Review, Initial Regulatory Flexibility Analysis (EA/RIR/IRFA), and the Essential Fish Habitat Assessment, are available from Patricia A. Kurkul, Regional Administrator, Northeast Region, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930-2298. The EA/RIR/IRFA is accessible via the Internet at <http://www.nero.gov/ro/doc/nr.htm>.

Written comments on the proposed specifications should be sent to the Regional Administrator. Mark on the

outside of the envelope, "Comments—2001 Clam and Quahog Specifications." Comments may also be sent via facsimile (fax) to (978)281-9371. Comments will not be accepted if submitted via e-mail or the Internet.

Send comments on any ambiguity or unnecessary complexity arising from the language used in this proposed rule to Patricia A. Kurkul, Regional Administrator.

FOR FURTHER INFORMATION CONTACT:

Jennifer L. Anderson, Fishery Management Specialist, 978-281-9226.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan (FMP) for the Atlantic Surf Clam and Ocean Quahog Fisheries directs NMFS, in consultation with the Mid-Atlantic Fishery Management Council (Council), to specify quotas for surf clams and ocean quahogs on an annual basis from a range that represents the optimum yield (OY) for each fishery. It is the policy of the Council that the levels selected allow fishing to continue at that level for at least 10 years for surf clams and for 30 years for ocean quahogs. While staying within this constraint, the Council policy is to also consider the economic benefits of the quotas. Regulations implementing Amendment 10 to the FMP (63 FR 27481, May 19, 1998) added Maine mahogany ocean quahogs to the management unit and provide that a small artisanal fishery for ocean quahogs in the waters north of 43°50' N. lat. will have an annual quota with an initial amount of 100,000 Maine bushels (bu) (35,240 hectoliters (hL)) within a range of 17,000 to 100,000 Maine bu (5,991 hL to 35,240 hL). As specified in Amendment 10, the Maine mahogany ocean quahog quota is in addition to the quota specified for the ocean quahog fishery.

The fishing quotas must be in compliance with overfishing definitions for each species. The overfishing definition for ocean quahogs is based on a control rule, which requires a biomass target of $\frac{1}{2}$ virgin biomass or 2 billion lb (907,200 mt) of meats (200 million bu); a fishing mortality rate (F) target of $F_{0.1} = 0.02$; a biomass threshold of $\frac{1}{2}$ biomass target, or 1 billion lb (453,600 mt) of meats (100 million bu); and a fishing mortality threshold of $F_{25\%} = 0.042$. The current biomass is estimated to be around 3.3 billion lb (1.6 million mt) of meats (330 million bu), or about 80 percent of the virgin biomass, and current F is estimated to be 0.02. NMFS approved the overfishing definition for ocean quahogs contained in Amendment 12 to the FMP, but disapproved the proposed overfishing definition for surf clams because it was

based only on surf clams from the Northern New Jersey area and did not take into account the entire range of the resource. The December 1999 Stock Assessment Review Committee (SARC) proposed an overfishing definition for surf clams, which the Council reviewed and approved at its March 2000 meeting. The Council-approved definition has a biomass target of $\frac{1}{2}$ of current biomass as a proxy for FMSY (1.4 billion lb, or 640 thousand mt, or 82.4 million bu); a biomass threshold of $\frac{1}{2}$ of the proxy for BMSY (700 thousand lb or 320 thousand mt); a fishing mortality threshold of FMSY, where the current best proxy for FMSY is the natural mortality rate (M) (0.15), and requires that the F target will always be set less than the F threshold and that it will be the F associated with the Council-selected quota (approximately 0.03 for 2001). This new overfishing definition for surf clams will be submitted to the Secretary for approval in Amendment 13, which the Council anticipates will be completed in early 2001.

In proposing these quotas, the Council considered the available stock assessments, data reported by harvesters and processors, and other relevant information concerning exploitable biomass and spawning biomass, fishing mortality rates, stock recruitment, projected effort and catches, and areas closed to fishing. This information was presented in a written report prepared by the Council staff. The proposed quotas for the 2001 Atlantic surf clam, ocean quahog, and Maine mahogany ocean quahog fisheries are shown in the following table. The status quo levels for 2000 for both the regular ocean quahog and the Maine mahogany ocean quahog will be maintained, but the surf clam quota will be increased by 11 percent, from 2.565 million bu to 2.85 million bu (1.366 million hL to 1.518 million hL).

PROPOSED 2001 SURF CLAM/OCEAN QUAHOG QUOTAS

Fishery	2001 final quotas (bu)	2001 final quotas (hL)
¹ Surf clam	2,850,000	1,518,000
¹ Ocean quahog	4,500,000	2,396,000
² Maine mahogany quahog	100,000	35,240

¹ 1 bushel = 1.88 cubic ft. = 53.24 liters

² 1 bushel = 1.2445 cubic ft. = 35.24 liters

Surf Clams

The Council recommended a 2001 quota of 2.850 million bu (1.518 million

hL) for surf clams, an 11-percent increase over the 2000 quota and the first change since 1995. This level of quota is reflective of the quota levels that existed during the first 5 years of the Individual Transferable Quota (ITQ) system (1990 to 1994). The most recent biological assessments (from the 1997 and 1999 surveys) indicate the resource is healthy, composed of many age classes, and can safely sustain increased harvests. However, the assessments noted that the majority of the surf clam catch is derived from one area (Northern New Jersey) and cautioned that careful consideration should be given to implementing a stock-wide quota increase in order to avoid localized depletion of the surf clam stock. In addressing this concern, the Council has recommended only a slight increase of the surf clam quota. Due to recent evidence of sufficient recruitment, it is felt that this level of quota will not harm the long-term sustainability of the resource. In 1999, the F associated with a quota of 2.565 million bu (1.366 million hL) was approximately 0.02; this slight quota increase may increase the F to at most 0.03.

The proposed quota takes into account analysis of surf clam abundance that was part of the 30th Northeast Regional Stock Assessment Workshop (SAW 30). SAW 30 utilized data from the 1999 surf clam survey, which included work to estimate dredge efficiency. Results from the 1999 survey and assessment corroborate those of the 1997 survey and assessment and provided the Council the opportunity to safely increase the quota.

The Council continues to assume that none of the surf clams on Georges Bank (approximately one quarter of the total resource) will be available in the near future for harvesting because of paralytic shellfish poisoning. This area has been closed to the harvest of clams and other shellfish since 1989, and the Council and NMFS have no reason to believe that it will reopen in the near future.

Ocean Quahogs

The Council recommended a 2001 quota of 4.5 million bu (2.396 million hL) for ocean quahogs. This quota would be identical to that adopted for the past 2 years, but an increase of 13 percent from the 1998 quota level. The FMP specifies that the quota level must comply with the ocean quahog overfishing definition.

The 1999 quota yielded an F of approximately 0.02, compared with the F threshold of 0.04 contained in the overfishing definition. The specific F associated with the 2001 quota is

expected to be close to the F in 1999 because a similar proportion of the biomass remains unexploited.

The Atlantic surf clam and ocean quahog quotas are specified in standard bushels of 53.24 liters per bushel, while the Maine mahogany ocean quahog quota is specified in "Main" bushels of 35.24 liters per bushel. Because Maine mahogany ocean quahogs are the same species as ocean quahogs, both fisheries are combined and share the same ocean quahog overfishing definition. When the two quota amounts are added, the total allowable harvest is still lower than the level that would result in overfishing for the entire stock, as previously defined in the ocean quahog overfishing definition.

The Council proposed a 2001 ocean quahog quota based on the analysis of abundance for that species found in the draft report of the 31st Northeast Regional Stock Assessment Workshop (SAW 31), concluded in August 2000. Similar to surf clams, SAW 31 and the assessment from the 1997 survey (SAW 27) included work to estimate dredge efficiency and showed a significant increase in the estimate of ocean quahog biomass. Although 36 percent of the resource is located on Georges Bank, SAW 31 did not question whether Georges Bank would ever be reopened. The resource is of sufficient size overall that the proportion of ocean quahogs that exists on Georges Bank is not necessary to meet the Council's 30-year supply policy. It is estimated that, even when excluding the ocean quahog resource portion on Georges Bank, around 80 percent of the virgin biomass remains after 2 decades of harvesting these long-lived creatures.

Although SAW 31 showed that the ocean quahog quota could have been increased beyond the 2000 quota level, the Council did not recommend any change for 2001 because of four major factors: (1) The 1999 quota was not constraining to the industry; (2) nearly all industry members supported the 4.5-million bu (2.396-million hL) harvest level; (3) repeated concern was expressed by the industry over the continued lack of apparent ocean quahog recruitment south of Georges Bank; and (4) unless prices or technology changes significantly in the near future, it is unlikely that the ocean quahog fishery extractions in the past are sustainable because those extractions have been dependent on rich virgin beds.

The Council recommended that the Maine mahogany ocean quahog quota remain unchanged from the 2000 quota level at 100,000 Maine bu (35,240 hL) for 2001. There has been no attempt yet

to develop and conduct a scientific survey of the extent of the Maine resource. From the information currently available, maintaining the quota at its current maximum level for another year will not seriously constrain the fishery or endanger the resource. To increase the quota beyond the current maximum level of 100,000 bu (35,240 hL) will require a scientific survey and assessment led by the State of Maine.

Classification

This action is authorized by 50 CFR part 648 and has been determined to be not significant for purposes of E.O. 12866.

The Council prepared an Initial Regulatory Flexibility Analysis (IRFA) in section 5.0 of the RIR that describes the economic impacts this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of the **SUPPLEMENTARY INFORMATION** section. A summary of the IRFA follows:

In 1999, a total of 45 vessels reported harvesting surf clams or ocean quahogs from Federal waters under an ITQ system. Average 1999 gross income from surf clam harvests was \$646,701 per vessel. Average 1999 gross income from ocean quahog harvests was \$691,316 per vessel. In the small artisanal fishery for ocean quahogs in Maine, 38 vessels reported harvests in the clam logbooks, with an average value of \$68,097 per boat. All of these vessels are small entities. The Council recommends no change in the 2001 quotas for ocean quahogs or Maine mahogany ocean quahogs from their present 2000 quotas of 4.500 and 0.100 million bu (2.396 million hL and 35,240 hL), respectively. The Council recommends an 11-percent increase in the surf clam quota from 2.565 million bu to 2.85 million bu (1.366 million hL to 1.518 million hL).

Since the 1999 harvest level of 3.772 million bu (2.0 million hL) for ocean quahogs is below the 2001 proposed quota and the Council assumes that no changes in fishing effort or yield-to-effort will take place in 2000, the Council believes that the 2001 proposed quota will yield a surplus quota available to vessels participating in the ocean quahog fishery. In addition, the Maine mahogany quahog fishery 1999 harvest level of 0.094 million Maine bu (33,134 hL) is slightly below the 2001 proposed quota, and preliminary landings reports for 2000 suggest that the Maine fishery may reach the 0.100-million Maine bu (35,240 hL) quota level allocated to the fishery before the year ends. However, fishermen may

continue harvesting after the mahogany quahog is reached, provided they purchase allocation from the ITQ portion of the ocean quahog fishery.

In the case of the surf clam fishery, nearly 99 percent, or 2.538 million bu (1.351 million hL), of the 1999 allocation of 2.565-million bu (1.366-million hL) quota was harvested. Preliminary trends for 2000 suggest that the quota will likely be harvested this year as well. Due to the scarcity of dense ocean quahog beds inshore, the surf clam industry has been increasingly shifting its focus away from the harvesting of ocean quahogs and has begun harvesting an increased number of surf clams. Therefore, the Council believes that the market can now absorb the 2001 proposed quota increase of 11 percent.

The Council analyzed four ocean quahog quota alternatives, in addition to the preferred 4.500-million bu (2.396-million hL) option, including 4.000, 4.250, 4.750, and 6.000 million bu (2.129, 2.263, 2.529, and 3.195 million hL). The minimum allowable quota specified in the current OY range is 4.0 million bu (2.129 million hL) of ocean quahogs. Adoption of this quota would represent a 12-percent decrease from the current 4.5-million bu (2.396-million hL) quota and, assuming the entire quota is harvested, a 6.1-percent increase in harvest from the 1999 harvest level of 3.770 million bu (2.0 million hL). This alternative would take the most conservative approach to managing the fishery that is currently available to the Council. Adopting the maximum allowable quota of 6.000 million bu (3.195 million hL) for ocean quahogs would represent a 33-percent increase in allowable harvest and a 59-percent increase in landings from 1999, assuming all the quota is taken. The industry does not have a market available to absorb such a massive increase in landings and may not have the vessel capacity necessary to harvest a quota this large. All of the alternatives, including the preferred alternative, would yield increased revenues relative to revenues from actual landings.

The Council identified four surf clam quota alternatives in addition to the preferred alternative of 2.850 million bu (1.518 million hL), including 1.850, 2.365, 2.565, and 3.400 million bu (0.985, 1.259, 1.366, and 1.810 million hL). The minimum allowable quota specified in the current OY range is 1.850 million bu (0.985 million hL) of

surf clams. Adoption of this quota would represent a 28-percent decrease from the current 2.565-million bu (1.366-million hL) quota, and a 27-percent decrease from the 1999 harvest level of 2.538 million bu (1.351 million hL). Assuming that demand is price elastic, a reduction in quota of this magnitude would have a substantially negative impact on overall exvessel revenues. Adoption of the 2.365-million bu (1.259-million hL) quota would most likely have a limited impact on small entities, since it is identical to 1998 base year landings of 2.365 million bu (1.259 million hL). Adopting the maximum allowable quota of 3.40 million bu (1.810 million hL) for surf clams would allow for a 33-percent increase in harvest. The preferred alternative allows for the 11-percent increase of 2.565 to 2.85 million bu (1.366 million hL to 1.518 million hL). In summation, the Council determined that the only alternative that would significantly negatively impact revenues to vessels is the 1.850-million bu (0.985-million hL) alternative for surf clams. The status quo quota and the slight reduction alternative would be restrictive and have a slight impact on revenues. The resource can support the 11-percent increase in landings proposed in the preferred alternative, and the industry believes it can utilize this additional product and thus have a beneficial impact for the Nation.

The FMP specifies that the maximum quota for Maine mahogany ocean quahogs is 100,000 Maine bu (35,240 hL) and that an increase of the quota would require a scientific survey and stock assessment of the Maine mahogany ocean quahog resource. An assessment has not been completed, and, therefore, the Council did not look at higher alternative quotas for this fishery. The Council staff analyzed two smaller Maine mahogany ocean quahog quota alternatives, in addition to the preferred 100,000-Maine bu (35,240-hL) option, including 50,000 Maine bu (17,624 hL) and 72,466 Maine bu (25,543 hL). Maine mahogany ocean quahog fishermen may supplement their quota by purchasing or renting ocean quahog quota from ITQ holders. Therefore, any quota below the 1999 landing level of 93,938 bu (33,112 hL) would most likely cause a decrease in revenues to individual vessels, while a quota greater than that level could cause an increase.

Nine to 12 processors participated in the surf clam and ocean quahog fisheries. However, five firms are responsible for the vast majority of purchases in the exvessel market and sale of processed clam products in appropriate wholesale markets. Impacts to surf clams and ocean quahog processors would most likely mirror the impacts of the various quotas to vessels as discussed above. Revenues earned by processors would be derived from the wholesale market for clam products, and, since a large number of substitute products (i.e., other food products) are available, the demand for processed clam products is likely to be price elastic and revenues, resulting in revenue increases or decreases with changes in price.

In 2000, surf clam allocation holders totaled 106, while 65 firms or individuals held ocean quahog allocation. If the recommended quotas are accepted (i.e., no change from 2000 quotas on ocean quahogs, Maine mahogany ocean quahogs, and a slight increase of 11 percent for surf clams), it is likely that impacts to allocation holders or buyers will be minimal. Theoretically, increases in quota would most likely benefit those who must purchase quota through lower prices (values) and negatively impact sellers of quota because the quota would be reduced in value. Decreases in quota would most likely have an opposite effect.

This proposed rule would not impose any new reporting, recordkeeping, or other compliance requirements. Therefore, the costs of compliance would remain unchanged.

The President has directed Federal agencies to use plain language in their communications with the public, including regulations. To comply with this directive, we seek public comment on any ambiguity or unnecessary complexity arising from the language used in this proposed rule. Such comments should be sent to Patricia A. Kurkul, the Regional Administrator (see ADDRESSES).

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

Dated: November 1, 2000.

William T. Hogarth,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

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