

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

[Docket No. 991228355-0140-02; I.D. 110999C]

RIN 0648-AM50

Fisheries of the Northeastern United States; Final 2000 Fishing Quotas for Atlantic Surf Clams, Ocean Quahogs, and Maine Mahogany Quahogs

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

ACTION: Final 2000 fishing quotas for Atlantic surf clams, ocean quahogs, and Maine mahogany quahogs.

SUMMARY: NMFS issues these final quotas for the Atlantic surf clam, ocean quahog, and Maine mahogany quahog fisheries for the 2000 fisheries. This action is necessary to comply with the regulations governing these fisheries that require NMFS to publish annual

quotas for each species for each fishing year. The intent of this action is to specify allowable harvest levels of Atlantic surf clams and ocean quahogs from the exclusive economic zone and an allowable harvest level of Maine mahogany quahogs from the waters north of 43°50'N. latitude for the fishing year 2000.

DATES: Effective May 22, 2000 through December 31, 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>.

FOR FURTHER INFORMATION CONTACT: Myles Raizin, Fishery Policy Analyst, 978-281-9104, Myles.A.Raizin@noaa.gov.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the

Atlantic Surf Clam and Ocean Quahog Fisheries (FMP) directs the Assistant Administrator for Fisheries, 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 30 years for ocean quahogs. While staying within this constraint, the Council policy is to also consider the economic benefits of the quotas. As specified in Amendment 10 to the FMP, the Maine mahogany quahog quota is in addition to the quota specified for the ocean quahog fishery.

Detailed background information regarding the development of these quotas was provided in the proposed rule published on January 4, 2000, (65 FR 275), and is not repeated here. The comment period for that rule ended on February 2, 2000. No comments were received, and the final quot as, unchanged from those in the proposed rule, are shown below.

FINAL 2000 SURF CLAM/OCEAN QUAHOG QUOTAS FOR JANUARY 1, 2000, THROUGH DECEMBER 31, 2000

Fishery	2000 final quotas (bu)	2000 final quotas (hL)
¹ Surf clam	2,565,000	1,366,000
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

Classification

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

Because this rule only establishes year-long quotas to be used for the sole purpose of closing the fishery when the quotas are reached and does not establish any requirements for which a regulated entity must come into compliance, it is unnecessary to delay for 30 days the effective date of this rule. Therefore, the Assistant Administrator for Fisheries, NOAA, under 5 U.S.C. 553(d)(5), finds good cause not to delay the effective date of this rule.

NMFS completed a final regulatory flexibility analysis (FRFA) that contains the items specified in 5 U.S.C. 604(a). The FRFA is as follows:

Final Regulatory Flexibility Analysis for Atlantic Surf Clam, Ocean Quahog, and Maine Mahogany Quahog 2000 Specifications**Need for, and Objectives of, the Rule**

This rule is needed to establish allowable harvest levels of Atlantic surf clams and ocean quahogs from the exclusive economic zone and an allowable harvest level of Maine mahogany quahogs from the waters north of 43°50'N. lat. in 2000. The intent of this action is to comply with the regulations governing these fisheries that require the National Marine Fisheries Service to publish annual quotas for each species for each fishing year to conserve and manage the resource in compliance with the regulations, fishery management plan, and Magnuson-Stevens Fishery Conservation and Management Act.

Public Comments

There were no public comments submitted in response to the initial

regulatory flexibility analysis (IRFA). No changes were made to the proposed rule.

Number of Small Entities

In 1998, a total of 47 vessels reported harvesting surf clams or ocean quahogs from Federal waters under an Individual Transferable Quota (ITQ) system. Average 1998 gross income for surf clam harvests was \$65,919 per vessel, and \$685,573 per vessel for ocean quahog harvests. In the small artisanal fishery for Maine mahogany quahogs in Maine, 39 vessels reported harvests in the clam logbooks, with an average value of \$48,629 per boat. All of these vessels readily fall within the definition of a small business. From 9 to 12 processors participate in the surf clam and ocean quahog fisheries. However, 3 firms are responsible for the vast majority of purchases in the ex-vessel market and sale of processed clam products in appropriate wholesale markets. In 1999, surf clam allocation holders totaled 107

while 64 firms or individuals held ocean quahog allocation.

Cost of Compliance

No additional costs of compliance, including those associated with recordkeeping and reporting, would result from the implementation of the selected or alternative quotas.

Minimizing Significant Economic Impact on Small Entities

A review of the impacts identified by the regulatory flexibility analysis indicates that the impacts associated with the preferred alternative will not have significant economic impacts on small entities.

NMFS considered four alternatives to the selected 2000 surf clam quota. The selected quota and all alternatives fall within the range of OY established by the FMP. The selected quota (4.5 million bu (2.387 million hL)) is the same quota as was adopted for 1999, is 8 percent greater than the actual harvest in 1998 and so provides no restraint on the fishery, and may decrease ex-vessel prices due to a lessened demand in the fishery. There is a moderate risk that some allocation holders might not be able to market their share of the surf clam allocation. This risk is considered acceptable in order to provide a quota large enough to allow for some increase in demand for the product, while not setting it so high as to force some allocation holders out of business. There were two alternatives with quotas smaller than the one selected. The alternative with the smallest quota represents the minimum OY provided under the FMP (1.85 million bu (0.985 million hL)), a 22-percent decrease from the 1998 actual harvest. This quota was not selected because, at this quota level, the price per bushel would increase, however, overall revenues would fall

because it is not likely the increased price would compensate for the reduction in amount of sales. The alternative with the same quota as the harvest level in 1998 actual harvest (2.365 million bu (1.259 million hL)) was not selected because it provided no opportunity for an increase in demand of surf clams, even though prices to fishermen for surf clams would likely be higher due to the restriction on the fishery. The alternatives with quotas larger than the selected quota (2.70 million bu (1.437 million hL) and 3.4 million bu (1.810 million hL)) representing a 14-percent increase from the 1998 actual catch and the maximum allowable quota allowed by the FMP would very likely depress ex-vessel prices. This would increase the risk of business failure for allocation holders not associated with a processor, as vertically integrated companies are expected to buy product from vessels using allocations they control before buying product outside the company.

NMFS considered four alternatives to the selected 2000 ocean quahog quota. The selected quota and all alternatives fall within the range of OY established by the FMP. The selected quota (4.5 million bu (2.396 million hL)), the same quota as was adopted for 1999, is 16 percent greater than the actual harvest in 1998 and so provides no restraint on the fishery. There is no expected change in ex-vessel prices in the fishery as a result of the quota. There were two alternatives with quotas smaller than the one selected. The alternative with the smallest quota represents the minimum OY provided under the FMP (4.0 million bu (2.130 million hL)), a 3-percent increase from the 1998 actual harvest. The next smaller quota alternative represents a 6-percent decrease from the 1999 quota, but a 9-percent increase from the actual harvest

in 1998. Pending the outcome of additional assessments on the status of the resource to determine if reductions in the quota were indicated, and that none of these quotas was constraining to the current fishery, these alternatives were not selected. Two alternatives above the selected quota were also considered, 6.0 million bu (3.194 million hL), the maximum OY allowed by the FMP, and 4.75 million bu (2.529 million hL), a 6-percent increase from the 1999 quota and a 22-percent increase from the actual harvest in 1998. Both of these alternatives were not selected because of concerns that upcoming stock assessments might recommend reduced quotas and that the fishery would most likely not be able to utilize such an increase in the quota, anyway.

NMFS maintained the quota for the Maine mahogany quahog fishery at the 1999 level of 100,000 Maine bu (35,240 hL). Landings in 1998 totaled less than 75,000 Maine bu (26,430 hL) and 1999 landings were also expected to be less than the quota. Setting the quota at this level does not appear to either constrain the fishery or endanger the resource. Pending a survey of the resource in the Gulf of Maine, decreasing the quota in the face of steady catches under the quota would constrain the fishery to no purpose and increasing the quota when it could not likely be taken and without a scientific basis to do so is not justified.

A copy of the IRFA is available from the Northeast Regional Office (see ADDRESSES).

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

Dated: May 16, 2000.

Andrew A. Rosenberg,
Deputy Assistant Administrator for Fisheries,
National Marine Fisheries Service.

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