J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: October 19, 2001.

Bruce C. Morehead,

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

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 011004242–1242–01; I.D. 092401F]

RIN 0648–AP09

Fisheries of the Northeastern United States; Proposed 2002 Fishing Quotas for Atlantic Surfclams, Ocean Quahogs, and Maine Mahogany Ocean Quahogs

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

ACTION: Proposed 2002 fishing quotas for Atlantic surfclams, ocean quahogs, and Maine mahogany ocean quahogs; request for comments.

SUMMARY: NMFS proposes quotas for the Atlantic surfclam, ocean quahog, and Maine mahogany ocean quahog fisheries for 2002. Regulations governing these fisheries require NMFS to propose for public comment specifications for the 2002 fishing year. The intent of this action is to propose allowable harvest levels of Atlantic surfclams 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 2002.

DATES: Comments must be received no later than 5 p.m., eastern standard time, on November 23, 2001.

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: Daniel Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19904–6790. A copy of 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: Patricia A. Kurkul, Regional Administrator, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298. Mark on the outside of the envelope, ''Comments--2002 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.

FOR FURTHER INFORMATION CONTACT: Walter Gardiner, Fishery Management Specialist, 978–281–9326.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Atlantic Surfclam and Ocean Quahog Fisheries (FMP) requires NMFS, in consultation with the Mid-Atlantic Fishery Management Council (Council), to specify quotas for surfclams 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 sustainable fishing to continue at that level for at least 10 years for surfclams and 30 years for ocean quahogs. While staying within this constraint, the Council must also consider the economic impacts of the quotas. Regulations implementing Amendment 10 to the FMP published on May 19, 1998 (63 FR 27481), added Maine mahogany ocean quahogs to the management unit and provides that a small artisanal fishery for ocean quahogs in the waters north of 43°50′ N. lat. will have an annual quota within a range of 17,000 to 100,000 Maine bushels (bu) (5,991 to 35,240 hectoliters (hL)), with an initial amount of 100,000 Maine bu (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 quotas recommended by the Council must be in compliance with overfishing definitions for each species. The overfishing definition for ocean quahogs is based on a control rule, which specifies a biomass target of one half of the virgin biomass, or 2 billion lb (907,200 mt) of meats (200 million bu); a target fishing mortality rate (F) of $F_{0.1}$ = 0.02; a minimum biomass threshold of one half of the biomass target, or 1 billion lb (453,600 mt) of meats (100 million bu); and a maximum fishing mortality threshold of F = 0.042. The current biomass of ocean quahog is estimated to be about 3.3 billion lb (1.6 million mt) of meats (330 million bu), or about 80 percent of the virgin biomass, and currently F is estimated to be 0.02. Thus, the stock is not overfished and overfishing is not occurring. NMFS approved the overfishing definition for ocean quahogs in Amendment 12 to the FMP, but disapproved the proposed overfishing definition for surfclams because it was based only on surfclams 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 surfclams, which the Council reviewed and approved at their March 2000 meeting.

The definition approved by the Council for surfclams has a biomass target of one half of the current biomass as a proxy for F_{MSY} (1.4 billion lb, or 640,000 mt, or 82.4 million bu); a minimum biomass threshold of one-half of the proxy for B_{MSY} (700,000 million lb or 320,000 mt); and a maximum fishing mortality rate threshold of F_{MSY}, where the current best proxy for F_{MSY} is the natural mortality rate of M =(0.15). The fishing mortality target is always to be set less than the F threshold and is to be the F associated with the Council-selected quota (approximately 0.03 for 2002). This new overfishing definition for surfclams will be submitted to the Secretary of Commerce for approval in Amendment 13 to the FMP, which the Council is currently developing. If the Secretary were to approve these standards, the surfclam resource will not be overfished and overfishing will not be occurring.

In proposing the 2002 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 2002 Atlantic surfclam, ocean quahog, and Maine mahogany ocean quahog fisheries are shown in the following table. The Council's recommended quotas for 2002 would maintain the status quo levels of 2001 for both the ocean quahog and Maine mahogany ocean quahog, but the surfclam quota would be increased by 10 percent, from 2.85 million bu to 3.135 million bu (1.518 million hL to 1.669 million hL).

PROPOSED 2002 SURFCLAM/OCEAN QUAHOG QUOTAS

Fishery	2002 final quotas (bu)	2002 final quotas (hL)
[1]Surfclam	3,135,000	1,669,000
[1]Ocean quahog	4,500,000	2,396,000

PROPOSED 2002 SURFCLAM/OCEAN QUAHOG QUOTAS—Continued

Fishery	2002 final quotas (bu)	2002 final quotas (hL)
[2]Maine mahog-any 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

Surfclams

The Council's recommended 2002 quota of 3.135 million bu (1.669 million hL) for surfclams is the second change in the quota since 1995. The most recent biological assessments (from both the 1997 and 1999 surveys) indicate that the surfclam resource is healthy, composed of many age classes, and can safely sustain increased harvests. Sufficient recruitment is also evident; thus, this level of quota will not harm the long-term sustainability of the resource. The F in 1999 (the last time it was measured at a peer-reviewed SARC) associated with a quota of 2.565 million bu (1.366 million hL) was approximately 0.02 ($F=_{0.2}$); this slight quota increase proposed for 2002 could increase the F in 2002 to, at most, $F=_{0.3}$, which is consistent with the Council-adopted control rule.

Ocean Quahogs

The Council recommended a 2002 quota of 4.5 million bu (2.396 million hL) for ocean quahogs. This quota would be identical to that adopted for the past 3 years, but represents an increase of 13 percent from the 1998 quota level.

The 1999 quota yielded an F (the last time it was measured at a peer-reviewed SARC) of approximately 0.02 ($F=_{0.02}$), compared to the F threshold of 0.04 ($F=_{0.04}$) contained in the overfishing definition. The F associated with the 2002 quota is expected to be close to the F in 1999, because a similar proportion of the biomass remains unexploited compared to 1999.

The Atlantic surfclam and ocean quahog quotas are specified in standard bushels of 53.24 L. per bushel, while the Maine mahogany ocean quahog quota is specified in ''Maine'' bushels of 35.24 L. per bu. Because Maine mahogany ocean quahogs are the same species as ocean quahogs, they are managed under the ocean quahog overfishing definition. When the two quota amounts (ocean quahog and Maine mahogany quahog) are added, the total allowable harvest is still lower than the level that would result in overfishing for the entire stock.

The Council proposed a 2002 ocean quahog quota based on the analysis of abundance for that species found in the 31st Northeast Regional Stock Assessment Workshop (SAW 31), which concluded in August 2000. Although SAW 31 showed that the ocean quahog quota could have been increased beyond the 2001 quota level, the Council did not recommend any change for 2002 because of four major factors: (1) The 2000 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 industry over the continued lack of apparent ocean quahog recruitment south of Georges Bank; and (4) unless prices or technology change 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 unexploited beds.

The Council recommended that the Maine mahogany ocean quahog quota remain unchanged from the 2001 quota level at 100,000 Maine bu (35,240 hL) for 2002. No additional information on the impacts of the mahogany quahog quota is available at this time that would allow a more in-depth analysis of the stock and, therefore, allow the quota to be increased beyond the current maximum level of 100,000 Maine bu (35,240 hL). A scientific survey and assessment of the extent of the resource is currently under way by the State of Maine and will be fully analyzed in the development of Amendment 13 to the FMP, which is expected to be submitted by the Council in 2002. From the information currently available, maintaining the quota at its current level for another year will not seriously constrain the fishery or endanger the resource.

Classification

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

This rule does not contain policies with Federalism implications as that term is defined in Executive Order 13132; therefore, preparation of a Federalism assessment is not necessary.

The Council prepared an IRFA in section 9.0 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, the objectives and the legal basis for this action are contained at the beginning of the **SUPPLEMENTARY INFORMATION** section. This action does not duplicate, overlap, or conflict with any other Federal rules. A summary of the IRFA follows:

Vessels

In 2000, a total of 48 vessels reported harvesting surfclams or ocean quahogs from Federal waters under an Individual Transferable Quota (ITQ) system. Average 2000 gross income from surfclam harvests was $702,317 per vessel, and $470,854 per vessel from ocean quahog harvests. In the small artisanal fishery for ocean quahogs in Maine, 34 vessels reported harvests in the clam logbooks, with an average value of $97,223 per vessel. All of these vessels fall within the definition of a small entity. The Council recommends no change in the 2002 quotas for ocean quahogs or Maine mahogany ocean quahogs from their 2001 quotas, and a 10-percent increase in the surfclam quota. Since 2000 harvest levels of 2.561 and 3.161 million bu (1.364 million hL to 1.683 million hL) for surfclams and ocean quahogs, respectively, were below the 2002 proposed quotas, and the Council assumes no changes in fishing effort or yield-to-effort will take place in 2001, the Council believes that the proposed 2002 quotas will yield a surplus quota available to vessels participating in these fisheries. In the case of a surplus quota, vessels would not be constrained from harvesting additional product, thus, allowing them to increase their revenues.

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 4.000 million bu (2.129 million hL) of ocean quahogs. Adoption of a 4.000 million bu (2.129 million hL) quota would represent a 12-percent decrease from the current 4.500 million bu (2.396 million hL) quota and, assuming the entire quota is harvested, a 27-percent increase in harvest from the 2000 harvest level of 3.161 million bu (1.683 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 90-percent increase in landings from 2000, assuming that all of the quota is harvested. However, 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 (two of the most productive ocean quahog vessels sank in January 1999

and have not been replaced). Since all alternatives, including the preferred, would yield increases relative to the actual 2000 landings, increased revenues, would be likely to occur.

The Council identified four surfclam quota alternatives in addition to the preferred alternative of 3.135 million bu (1.669 million hL), including 1.850, 2.850, 3.000, and 3.400 million bu (0.985, 1.517, 1.597, 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 surfclams. Adoption of a 1.81 million bu (0.985 million hL) quota would represent a 35-percent decrease from the current 2.850-million bu (1.517-million hL) quota, and a 28-percent decrease from the 2000 harvest level of 2.561 million bu (1.364 million hL). A reduction in quota of this magnitude would have a substantially negative impact on overall exvessel revenues. Adoption of the 2.850 million bu (1.517 million hL) quota would most likely have a limited impact on small entities, since it is identical to the 2001 quota. Adopting the maximum allowable quota of 3.400 million bu (1.810 million hL) for surfclams would allow for a 19-percent increase in harvest. The Council considered a 5-percent increase in quota from the 2001 level to 3.000 million bu (1.597 million hL), but industry representatives asked for, and stated that they preferred, a 10-percent increase. The preferred alternative allows for the 10-percent increase of 2.850 million bu (1.517 million hL) to 3.135 million bu (1.669 million hL). 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 surfclams. Both the status quo quota alternative and the 5-percent increase could be constraining on industry. At best, the 5-percent increase would probably increase revenues by a small amount. The resource can support the 10-percent increase in landings and the industry believes it can harvest and process this additional product.

The quota for Maine mahogany ocean quahogs is specified at a maximum 100,000 Maine bu (35,240 hL). The FMP specifies that upward adjustments to the quota would require a scientific survey and stock assessment of the Maine mahogany ocean quahog resource. However, no survey or assessment has been conducted. The Council considered two alternative quotas for the Maine mahogany fishery, in addition to the preferred alternative of 100,000 Maine bu (35,240 hL), including 50,000 Maine bu and 72,466 bu (17,620 and 25,537 hL). Any quota the Council would have recommended below the 1999 landing level of 93,938 Maine bu (33,104 hL) would most likely have resulted in a decrease in revenues to individual vessels.

Processors

Nine to 12 processors currently participate in the surfclam and ocean quahog fisheries. However, five firms are responsible for the vast majority of purchases in the ex-vessel market and sale of processed clam products in wholesale markets. Impacts to surfclams and ocean quahog processors would most likely mirror the impacts of the various quota alternatives 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-dependent.

Allocation Holders

In 2001, there were 99 surfclam allocation holders, while 63 firms or individuals held an ocean quahog allocation. If the recommended quotas are accepted, i.e., no change from 2001 quotas on ocean quahogs or Maine mahogany ocean quahogs, and an increase of 10-percent for surfclams, it is likely that impacts to allocation holders or buyers will be minimal. Theoretically, increases in the quota would most likely benefit those who purchase quota (through lower prices (values)) and negatively impact sellers of quota because of reduction in value. Decreases in the quota would most likely have an opposite effect.

Reporting and Recordkeeping Requirements

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

The RIR/IRFA is available from the Council (see **ADDRESSES**).

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

Dated: October 18, 2001.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

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