

Federal mandates on State, local, and tribal governments. Title II of the Act requires each Federal agency to prepare a written statement that assesses the effect of any Federal mandate found in a rulemaking action that may result in an expenditure of \$100 million or more (adjusted annually for inflation) in any one year by State, local and tribal governments, in the aggregate, or by the private sector. Such a mandate is identified as a "significant regulatory action." The Act does not apply to a regulatory action in which no notice of proposed rulemaking is published, as is the case in this proceeding. Accordingly, TSA has not prepared a statement under the Act.

#### Environmental Analysis

TSA has reviewed this action for purposes of the National Environmental Review Policy Act of 1969 (42 U.S.C. 4321-4347) and has determined that this action will not have a significant effect on the human environment.

#### Energy Impact

The energy impact of this rule has been assessed in accordance with the Energy Policy and Conservation Act (EPCA), Pub. L. 94-163, as amended (42 U.S.C. 6362) and FAA Order 1053.1. It has been determined that this rule is not a major regulatory action under the provisions of the EPCA.

#### List of Subjects in 49 CFR Part 1544

Air carriers, Aircraft, Aviation safety, Freight forwarders, Reporting and recordkeeping requirements, Security measures.

#### The Amendment

For the reasons stated in the preamble, the Transportation Security Administration amends 49 CFR chapter XII part 1544 as follows:

#### PART 1544—AIRCRAFT OPERATOR SECURITY: AIR CARRIERS AND COMMERCIAL OPERATORS

1. The authority citation for part 1544 continues to read as follows:

**Authority:** 49 U.S.C. 114, 5103, 40119, 44901-44905, 44907, 44913-44914, 44916-44918, 44932, 44935-44936, 44942, 46105.

2. Section 1544.101(f) is revised to read as follows:

#### § 1544.101 Adoption and implementation.

\* \* \* \* \*

(f) *Private charter program.* In addition to paragraph (d) of this section, if applicable, each aircraft operator must carry out §§ 1544.201, 1544.207, 1544.209, 1544.211, 1544.215, 1544.217,

1544.219, 1544.225, 1544.229, 1544.230, 1544.233, 1544.235, 1544.303, and 1544.305, and subpart E of this part and—

(1) Must adopt and carry out a security program that meets the applicable requirements of § 1544.103 for each private charter passenger operation in which—

(i) The passengers are enplaned from or deplaned into a sterile area; or

(ii) The aircraft has a maximum certificated takeoff weight greater than 45,500 kg (100,309.3 pounds), or a passenger-seating configuration of 61 or more, and is not a government charter under paragraph (2) of the definition of private charter in § 1540.5 of this chapter.

(2) The Under Secretary may authorize alternate procedures under paragraph (f)(1) of this section as appropriate.

\* \* \* \* \*

Issued in Washington, DC., on December 26, 2002.

**Stephen J. McHale,**

*Deputy Administrator.*

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#### DEPARTMENT OF COMMERCE

#### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 021017238-2314-02; I.D. 092602I]

**RIN 0648-AQ31**

#### Fisheries of the Northeastern United States; 2003 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:** Final rule; 2003 fishing quotas for Atlantic surfclams, ocean quahogs, and Maine mahogany ocean quahogs.

**SUMMARY:** NMFS issues final quotas for the Atlantic surfclam, ocean quahog, and Maine mahogany ocean quahog fisheries for 2003. These regulations specify 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 2003.

**DATES:** Effective from January 1, 2003, through December 31, 2003.

**ADDRESSES:** Copies of supporting documents, including the Environmental Assessment, Regulatory Impact Review, Final Regulatory Flexibility Analysis (EA/RIR/FRFA), 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.

**FOR FURTHER INFORMATION CONTACT:** Douglas W. Christel, Fishery Management Specialist, 978-281-9141.

**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. 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 provide 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 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.

Detailed background information regarding the development of these quotas for 2003 was provided in the preamble to the proposed rule published in the **Federal Register** at 67 FR 65938, October 29, 2002, and is not repeated here. The comment period for that rule ended on November 27, 2002. No comments were received during the comment period, and the final quotas for 2003, which are unchanged from those in the proposed rule, are shown in the table below. The 2003 quotas for both ocean quahogs and Maine mahogany quahogs are the same as the 2002 quotas. However, the 2003 surfclam quota is 4 percent higher than the 2002 quotas.

## FINAL 2003 SURFCLAM/OCEAN QUAHOG QUOTAS

Fishery	2003 final quotas (bu)	2003 final quotas (hL)
<sup>1</sup> Surfclam	3,250,000	1,730,000
<sup>1</sup> Ocean quahog	4,500,000	2,396,000
<sup>2</sup> Maine mahogany quahog	100,000	35,240

<sup>1</sup> 1 bushel = 1.88 cubic ft = 53.24 L

<sup>2</sup> 1 bushel = 1.2445 cubic ft = 35.24 L

### Classification

This final rule has been determined to be not significant for purposes of Executive Order 12866.

A delay in the effective date of this rule would cause a disruption in the ordinary commerce of the surfclam and ocean quahog fisheries. Each individual transferable quota shareholder receives a portion of the overall quota for these two species. An allocation holder receives an amount of cage tags equivalent to his/her share of the overall quota. Fishing for surfclams and ocean quahogs begins on January 1, regardless of the publication of the annual quota. Historically, allocations have been transferred either permanently or temporarily to meet changing economic circumstances in the fishery right from the commencement of these fisheries. For example, vessel owners who enter into a supply contract with a processor may experience vessel breakdowns that thwart performance of their contractual obligations. In this situation, the vessel owner must be able to request that NMFS transfer temporarily part of his/her allocation to another harvester who is willing to fulfill the terms of the supply contract. Further, allocation holders, at times, pledge their allocation as security for a loan. This entails the permanent transfer of the individual allocation to the lending institution for the pendency of the loan. Without an effective quota, NMFS cannot make a partial or full transfer of such an allocation effective, either permanently or temporarily. This inability on the part of NMFS to make such transfers effective would have a negative economic impact on the surfclam and ocean quahog fisheries. Therefore, there is good cause under 5 U.S.C. 553(d)(3) to waive a portion of the 30-day delayed effectiveness period for the implementation of the 2003 surfclam, ocean quahog, and Maine mahogany quahog quotas.

### Regulatory Flexibility Act

NMFS and the Council prepared an FRFA for this action, which is available from the Council (see ADDRESSES) as required by section 604 of the Regulatory Flexibility Act (RFA). The

preamble to the proposed rule and specifications included a detailed summary of the analysis contained in the initial regulatory flexibility analysis (IRFA), which is not repeated here. A summary of the FRFA, focusing upon the impacts of the final measures, follows:

A description of the reasons why this action is being taken by the Agency and the objectives of this final rule are explained in the preambles of the proposed rule and this final rule. This action does not contain any collection-of-information, reporting, or recordkeeping requirements. It does not duplicate, overlap, or conflict with any other Federal rules. This action is taken under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and regulations at 50 CFR part 648. There are no new compliance costs associated with this final rule.

### Public Comments

There were no public comments received in response to the IRFA's analysis of the expected impacts of the proposed regulations on small entities.

### Minimizing Significant Economic Impact of Small Entities

These specifications establish a 4-percent increase in the surfclam quota and continue the ocean quahog and Maine mahogany quahog quota without change from the 2002 quotas. Since 2001 harvest levels of surf clams (2.855 million bu (1.520 million hL)) and ocean quahogs (3.691 million bu (1.965 million hL)) were substantially less than the 2003 quotas implemented by this action, NMFS and the Council believe that it is likely that the 2003 quotas will yield a surplus quota available to vessels participating in all these fisheries. This is especially likely to occur in the ocean quahog fishery. In the case of a surplus quota, vessels would not be constrained from harvesting additional product, thus allowing them to increase their revenues.

### Vessels

In 2001, a total of 51 vessels reported harvesting surfclams or ocean quahogs

from Federal waters under an ITQ system. Average 2001 gross income for surfclam harvests was \$753,682 per vessel, and \$678,885 per vessel for ocean quahog harvests. In the small artisanal fishery for ocean quahogs in Maine, 31 vessels reported harvests in the clam logbooks, with an average value of \$113,181 per vessel. All of these vessels fall within the definition of a small entity.

For ocean quahogs, the proposed 2003 quota is 4.500 million bu (2.396 million hL). The other alternatives considered included 4.000, 4.250, 4.750, and 6.000 million bu (2.129, 2.263, 2.529, and 3.195 million hL). Of these, 4.750 and 6.0 million bu. would have been less constraining on small entities than the selected alternative of 4.5 million bu. 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 63-percent increase in landings from 2001, assuming all the quota were harvested. However, the industry does not have a market available to absorb such a large increase in landings and may not have the vessel capacity necessary to harvest a quota this large. Because the alternative of 4.75 million bu is so much larger than the 2001 landing amount of 3.69 million bu for ocean quahogs, the Council felt that 4.5 million bu rather than 4.75 million bu is a high enough quota for 2003 to ensure that the fishery is not unnecessarily constrained. Therefore, the proposed quota provides ample opportunity for fishermen to gain increased revenues in the ocean quahog fishery in 2003.

For surfclams, the proposed 2003 quota is 3.250 million bu (1.730 million hL). Other alternatives analyzed included 1.850, 2.850, 3.135, and 3.400 million bu (0.985, 1.517, 1.669, and 1.810 million hL). Of these, only the maximum quota considered would have been less constraining than the selected action. Adopting the maximum allowable quota of 3.400 million bu (1.810 million hL) for surfclams would allow for an 8-percent increase in the surfclam quota. The Council did not recommend a quota increase of this

magnitude at this time, due to uncertainties in the stock assessment. The preferred alternative allows for a 4-percent increase, from 3.135 million bu (1.669 million hL) to 3.25 million bu (1.730 million hL). The resource can support the 4-percent increase in landings, and the industry believes it can utilize this additional product and thus have a beneficial impact for the Nation.

The proposed quota for Maine mahogany ocean quahogs is 100,000 Maine bu (35,240 hL), the maximum allowed under the FMP. 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 bu (35,240 hL), including 50,000 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

In 2001, 13 processors participated in the surfclam and ocean quahog fisheries, and 10 companies bought ocean quahogs directly from vessels from within the State of Maine. Of the 13 processors, approximately 5 are responsible for the vast majority of purchases in the ex-vessel market and sale of processed clam products in appropriate wholesale markets. Impacts to surfclam 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-dependant.

#### Allocation Holders

In 2002, there were 99 surfclam allocation holders totaled 99, while 63 firms or individuals held ocean quahog allocation. Under the 2003 quotas, (that is, no change from 2002 quotas on ocean quahogs, Maine mahogany ocean quahogs, and a slight increase of 4 percent for surfclams), it is likely that impacts to allocation holders or buyers will be minimal. Theoretically, increases in quota would most likely benefit those who purchase quota

(through lower prices, or values) and affect negatively sellers of quota because of reduction in value. Decreases in quota would most likely have an opposite effect.

#### Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Act of 1996 (SBREFA) states that for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as "small entity compliance guides." The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rule making process, a letter to permit holders that also serves as the small entity compliance guide (the guide) was prepared. Copies of this final rule are available from the Northeast regional Office, and the guide, that is, permit holder letter, will be sent to all holders of permits issued for mackerel, squid, and butterfish fisheries. The guide and this final rule will be available upon request (see ADDRESSES).

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

Dated: December 23, 2002.

**William T. Hogarth,**

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

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[Docket No. 021112272-2328-02; I.D. 110202D]

RIN 0648-AP88

#### Fisheries Off West Coast States and in the Western Pacific; Coastal Pelagic Species Fisheries; Annual Specifications

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

**ACTION:** Final rule.

**SUMMARY:** NMFS issues a regulation to implement the annual harvest guideline for Pacific sardine in the U.S. exclusive economic zone off the Pacific coast for the fishing season January 1, 2003, through December 31, 2003. This harvest guideline has been calculated

according to the regulations implementing the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP) and establishes allowable harvest levels for Pacific sardine off the Pacific coast.

**DATES:** Effective January 30, 2003, through December 31, 2003.

**ADDRESSES:** The report *Stock Assessment of Pacific Sardine with Management Recommendations for 2003* may be obtained from Rodney R. McInnis, Acting Administrator, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213.

**FOR FURTHER INFORMATION CONTACT:** James J. Morgan, Southwest Region, NMFS, 562-980-4036.

**SUPPLEMENTARY INFORMATION:** The FMP, which was implemented by publication of the final rule in the **Federal Register** on December 15, 1999 (64 FR 69888), divides management unit species into two categories: actively managed and monitored. Harvest guidelines for actively managed species (Pacific sardine and Pacific mackerel) are based on formulas applied to current biomass estimates. Biomass estimates are not calculated for species that are only monitored (jack mackerel, northern anchovy, and market squid).

At a public meeting each year, the biomass for each actively managed species is reviewed by the Pacific Fishery Management Council's (Council) Coastal Pelagic Species Management Team (Team). The biomass, harvest guideline, and status of the fisheries are then reviewed at a public meeting of the Council's CPS Advisory Subpanel (Subpanel). This information is also reviewed by the Council's Scientific and Statistical Committee (SSC). The Council reviews reports from the Team, Subpanel, and SSC, and then, after providing time for public comment, makes its recommendation to NMFS. The annual harvest guideline and season structure are published by NMFS in the **Federal Register** as soon as practicable before the beginning of the appropriate fishing season. The Pacific sardine season begins on January 1 and ends on December 31 of each year.

The Team meeting took place at the Southwest Regional Office in Long Beach, CA on October 8, 2002. A public meeting between the Team and the Subpanel was held at the same location that afternoon. The Council reviewed the report at its October-November meeting in Foster City, CA, where comments from its advisory bodies and the public were heard. A proposed rule was published in the **Federal Register**