

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

[I.D. 101603C]

**Fisheries of the Northeastern United States; Atlantic Surfclam and Ocean Quahog Fishery; Suspension of Minimum Surfclam Size for 2004**

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

**ACTION:** Notice of suspension of surfclam minimum size limit.

**SUMMARY:** NMFS suspends the minimum size limit of 4.75 inches (12.07 cm) for Atlantic surfclams for the 2004 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, 2004, through December 31, 2004.

**FOR FURTHER INFORMATION CONTACT:** Heather L. Sagar, Fishery Management Specialist, 978-281-9341.

**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 survey data indicate that 30 percent of the Atlantic surfclam resource is smaller than 4.75 inches (12.07 cm) 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 2003, meeting, the Mid-Atlantic Fishery Management Council (Council) voted to recommend that the Regional Administrator suspend the minimum size limit. Commercial surfclam shell length data for 2003 were analyzed to determine the percentage of surfclams landed that were smaller than the minimum size requirement. The analysis indicated that 1.2 percent of the samples taken overall were composed of

surfclams that were less than 4.75 inches (12.07 cm). Based on these data, the Regional Administrator adopts the Council's recommendation and suspends the minimum size limit for Atlantic surfclams from January 1, 2004, through December 31, 2004.

**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 27, 2003.

**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. 030912231-3266-02; I.D. 090403A]

**RIN 0648-AR43**

**Fisheries of the Northeastern United States; Summer Flounder, Scup, and Black Sea Bass Fisheries; Framework Adjustment 3**

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

**ACTION:** Final rule; notification of scup Winter II quota adjustment and possession limit adjustment for 2003.

**SUMMARY:** NMFS issues this final rule to implement measures contained in Framework Adjustment 3 (Framework 3) to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP) to allow the rollover of unused commercial scup quota from the Winter I period to the Winter II period, and to change the regulations regarding the scup commercial quota counting procedures. NMFS also adjusts the 2003 Winter II commercial scup quota and possession limit.

**DATES:** This rule is effective November 1, 2003, except for § 648.120(b)(4) and § 648.120(d)(5) which are effective April 1, 2004.

**ADDRESSES:** Copies of the Framework 3 document, including the Regulatory Impact Review (RIR), the Initial Regulatory Flexibility Analysis (IRFA), and the Environmental Assessment, and other supporting documents for the

framework adjustment are available from Daniel Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South Street, Dover, DE 19901-6790. The Framework 3 document is also accessible via the Internet at <http://www.mafmc.org>. The Final Regulatory Flexibility Analysis (FRFA) consists of the IRFA, public comments and responses contained in this final rule, and the summary of impacts and alternatives contained in this final rule. Copies of the small entity compliance guide are available from Patricia A. Kurkul, Regional Administrator, Northeast Region, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930-2298.

**FOR FURTHER INFORMATION CONTACT:**

Sarah McLaughlin, Fishery Policy Analyst, (978) 281-9279, fax (978) 281-9135, e-mail [sarah.mclaughlin@noaa.gov](mailto:sarah.mclaughlin@noaa.gov).

**SUPPLEMENTARY INFORMATION:** This final rule implements measures contained in Framework 3 to the FMP. Details concerning the justification for and development of Framework 3 and the implementing regulations were provided in the preamble to the proposed rule (68 FR 55283, September 24, 2003) and are not repeated here.

The summer flounder, scup, and black sea bass fisheries are managed cooperatively by the Atlantic States Marine Fisheries Commission (Commission) and the Mid-Atlantic Fishery Management Council (Council), in consultation with the New England and South Atlantic Fishery Management Councils. The management unit for scup (*Stenotomus chrysops*), specified in the FMP, is defined as U.S. waters of the Atlantic Ocean from 35°13.3' N. lat. (the latitude of Cape Hatteras Lighthouse, Buxton, NC) northward to the U.S./Canada border. The FMP and its implementing regulations found at 50 CFR part 648, subparts A, G (summer flounder), H (scup), and I (black sea bass), describe the process for specifying annual commercial scup measures that apply in the Exclusive Economic Zone (EEZ). The states manage these fisheries within 3 miles of their coast, under the Commission's Interstate Summer Flounder, Scup, and Black Sea Bass FMP. The Federal regulations govern vessels fishing in the EEZ, as well as vessels possessing a Federal fisheries permit, regardless of where they fish.

The commercial scup fishery is managed under a system that allocates the annual quota to three periods: Winter I, January-April (45.11 percent); Summer, May-October (38.95 percent); and Winter II, November-December