

**Atlantic Surfclam and Ocean Quahog
2017 and 2018 Specifications Supplemental Information Report (SIR)
and
Regulatory Flexibility Analysis (RFA)**

August 2016

**Mid-Atlantic Fishery Management Council
in cooperation with the
National Marine Fisheries Service**

Mid-Atlantic Fishery Management Council

800 North State Street, Suite 201
Dover, DE 19901
(302) 674-2331 tel.
(302) 674-5399 fax

Greater Atlantic Region Fisheries Office

National Marine Fisheries Service
55 Great Republic Drive
Gloucester, MA 01930-2276
(978) 281-9300 tel.
(978) 281-9207 fax

1.0 EXECUTIVE SUMMARY

This Supplemental Information Report (SIR) was prepared by the Mid-Atlantic Fishery Management Council (Council) in consultation with the National Marine Fisheries Service (NMFS). The purpose of this SIR is to determine if the proposed modifications to the 2017 and 2018 surfclam and ocean quahog specifications will require a supplement to the Environmental Assessment (EA) that was prepared for the 2014-2016 Specifications (MAFMC 2013), as required by the National Environmental Policy Act (NEPA). After considering the proposed action and new information in section 5.0, and supporting analyses in section 6.0, NMFS has determined that a supplement to the 2014-2016 Specifications (MAFMC 2013) is unnecessary.

2.0 LIST OF ACRONYMS AND CONVERSIONS

Frequently Used Acronyms

ABC	Annual Biological Catch
ACL	Annual Catch Limit
ACT	Annual Catch Target
BU	Bushels
CEQ	Council on Environmental Quality
CFR	Code of Federal Regulations
EA	Environmental Assessment
EEZ	Exclusive Economic Zones
EO	Executive Order
FR	Federal Register
FMP	Fishery Management Plan
ITQ	Individual Transferrable Quota
MAFMC	Mid-Atlantic Fishery Management Council (Council)
MT	Metric Tons
NEPA	National Environmental Policy Act
NMFS	National Marine Fisheries Service
OFL	Overfishing Limit
OY	Optimal Yield
RFA	Regulatory Flexibility Analysis
SSC	Scientific and Statistical Committee
US	United States

Conversions

1 metric ton (mt) = 2,204.622 pounds (lb)

1 Maine bushel = 11 lb

1 Atlantic surfclam bushel = 17 lb

1 ocean quahog bushel = 10 lb

3.0 TABLE OF CONTENTS

1.0 EXECUTIVE SUMMARYII

2.0 LIST OF ACRONYMS AND CONVERSIONS.....II

3.0 TABLE OF CONTENTS3

4.0 PURPOSE OF THIS SUPPLEMENTAL INFORMATION REPORT (SIR)4

5.0 THE PROPOSED ACTION.....4

 5.1 NEW ACTION AND ANY CHANGES FROM THE ORIGINAL ACTION 4

 5.2 BACKGROUND OF ORIGINAL ACTION 6

 5.3 NEW INFORMATION AND CIRCUMSTANCES..... 6

6.0 NEPA COMPLIANCE AND SUPPORTING ANALYSIS.....9

7.0 CONCLUSION10

8.0 RELATIONSHIP TO APPLICABLE LAWS10

 8.1 MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT ACT (MSA) NATIONAL STANDARDS .. 10

 8.2 NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)..... 11

 8.3 ENDANGERED SPECIES ACT..... 11

 8.4 MARINE MAMMAL PROTECTION ACT 11

 8.5 COASTAL ZONE MANAGEMENT ACT 11

 8.6 ADMINISTRATIVE PROCEDURE ACT 12

 8.7 SECTION 515 (INFORMATION QUALITY ACT) 12

 8.8 PAPERWORK REDUCTION ACT 13

 8.9 IMPACTS OF THE PLAN RELATIVE TO FEDERALISM/EO 13132..... 13

 8.10 ENVIRONMENTAL JUSTICE/EO 12898 13

 8.11 REGULATORY FLEXIBILITY ANALYSIS 14

 8.12 REGULATORY PLANNING AND REVIEW/EO 12866..... 18

9.0 LITERATURE CITED18

10.0 LIST OF AGENCIES AND PERSONS CONSULTED19

LIST OF TABLES

Table 1. Proposed 2017 and 2018 surfclam and ocean quahog catch and landings limits (mt meat weights). For ocean quahogs the total combined Maine and Non-Maine ACTs and commercial quotas are given here for comparison. The values given in italics are identical to the 2014-2016 implemented measures. 5

Table 2. Federal Atlantic surfclam quotas and landings: 1998 - 2016. 7

Table 3. Federal ocean quahog quotas and landings: 1998 - 2016. 8

Table 4. Vessels participating in the 2015 surfclam and non-Maine ocean quahog fisheries. 15

Table 5. Small entities average revenues and surfclam and ocean quahog (SC/OQ) revenues (2014-2016). 16

Table 6. Small entities average revenues and surfclam and ocean quahog (SC/OQ) revenues (2014-2016). 16

4.0 PURPOSE OF THIS SUPPLEMENTAL INFORMATION REPORT (SIR)

The purpose of this SIR is to determine if the proposed modifications to the 2017 and 2018 surfclam and ocean quahog specifications will require a supplement to the Environmental Assessment (EA) that was prepared for the 2014-2016 Specifications (MAFMC 2013), as required by the National Environmental Policy Act (NEPA).

In making this determination, the Council and National Marine Fisheries Service (NMFS) relied on the Council on Environmental Quality (CEQ) NEPA regulations and other applicable case law.

The CEQ's regulations 40 Code of Federal Regulations (CFR) § 1502.09(c) state that "agencies shall prepare supplements to either draft or final environmental impact statements if: (i) the agency makes substantial changes in the proposed action that are relevant to environmental concerns; or (ii) there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts." In addition, the CEQ's "significance" criteria at 40 CFR §1508.27 which are used to determine whether any new circumstances or information are "significant," were considered.

5.0 THE PROPOSED ACTION

5.1 New Action and Any Changes from the Original Action

The proposed action (Table 1) would specify catch and landings limits, and suspend the minimum Atlantic surfclam shell length requirement, in the Atlantic surfclam and ocean quahog fisheries for 2017 and 2018. The measures proposed are expected to prevent overfishing and ensure the sustainability of these resources, and are consistent with the best scientific information available to support decision making. Background reports from the Council, Scientific and Statistical Committee (SSC), and its Surfclam and Ocean Quahog Advisory Panel can be found at <http://www.mafmc.org>.

For 2017 and 2018, the SSC recommended¹ surfclam annual acceptable biological catches (ABCs) of 44,469 mt and 45,524 mt, respectively; these are different than the ABCs recommended for 2014-2016 (Table 1). They also recommended overfishing limits (OFLs), the maximum amount of catch that can be removed from the stock without causing overfishing, of 69,925 mt and 70,102 mt for 2017 and 2018. The Council recommended 2017 and 2018 surfclam ACLs be set equal to the ABCs, and specified ACTs and commercial quotas that were identical to the measures implemented and previously analyzed in the 2014-2016 Specifications EA (MAFMC 2013). The Council's advisory panel noted that a maximum optimum yield of 26,218 mt (3.4 million bushels) was reasonable in terms of fishery production.

¹ May 2016 SSC report available at:

http://static1.squarespace.com/static/511cdc7fe4b00307a2628ac6/t/577bb7bc579fb30e7f447de8/1467725770369/02_May+2016+SSC+Report.revised.pdf.

Table 1. Proposed 2017 and 2018 surfclam and ocean quahog catch and landings limits (mt meat weights). For ocean quahogs the total combined Maine and Non-Maine ACTs and commercial quotas are given here for comparison. The values given in italics are identical to the 2014-2016 implemented measures.

Year	Proposed	Resource	ABC	ACL	ACT	Commercial Quota
2017	New Action	Surfclam	44,469 mt ²	44,469 mt ²	<i>29,364 mt</i>	<i>26,218 mt</i>
		Ocean quahog	<i>26,100 mt</i>	<i>26,100 mt</i>	<i>26,035 mt</i>	<i>24,795 mt³</i>
2018	New Action	Surfclam	45,524 mt ²	45,524 mt ²	<i>29,364 mt</i>	<i>26,218 mt</i>
		Ocean quahog	<i>26,100 mt</i>	<i>26,100 mt</i>	<i>26,035 mt</i>	<i>24,795 mt³</i>

Because processing demand has been very stable, and the industry has indicated that they prefer to have commercial quotas set lower than the ABC (which equals the ACL), the Council recommended the commercial quota be set at 26,218 mt for 2017 and 2018. The quota has been set at these levels since 2004 and has not be landed in any of those years. Therefore, as long as the commercial quota is less than the ABC=ACL, the landings behavior in this fishery is not impacted by the level of catch associated with the ABC=ACL.

The Council’s SSC recommended the same ocean quahog annual ABC for 2017 and 2018 as was recommended for 2014-2016. No OFLs could be specified because the SSC had concerns about the scientific uncertainty associated with the stock assessment and biological reference points; it categorized the most recent stock assessment as “OFL cannot be specified given current state of knowledge,” and a constant catch approach was instead used to set the ABC. For 2017 and 2018, the Council recommended ocean quahog ACLs be set equal to the ABCs, and specified ACTs and commercial quotas that were identical to the measures implemented and previously analyzed in the 2014-2016 Specifications EA (MAFMC 2013). The Council’s advisory panel noted that a maximum optimum yield of 27,216 mt (6 million bushels) was reasonable in terms of fishery production.

The commercial quotas proposed for 2017 and 2018 are identical to the commercial quotas specified for 2014-2016 for both surfclams and ocean quahogs. The commercial quotas have been set by the Council at this same level since 2004 because the industry has indicated it is their preferred levels because of processor and market demand for these species. Because changes in

² In 2014, 2015, and 2016, the ABC=ACL was specified as 60,313 mt, 51,804 mt, and 48,197 mt, respectively, and the OFL was specified as 81,150 mt, 75,178 mt, and 71,512 mt, respectively. These are the only difference between the proposed new action catch limits and those under the original action. See May 2013 SSC report for more details: <http://static1.squarespace.com/static/511cdc7fe4b00307a2628ac6/t/51c1bedbe4b01e46e939c8c8/1371651803801/May+2013+SSC+Report.V2.pdf>.

³ 24,795 mt is split into a Maine (Mahogany) commercial quota of 499 mt and a Non-Maine commercial quota of 24,296 mt.

fishery effort and operations are driven by changes in the commercial quota, the change in specification of the ABC and ACL, are not expected to result in changes to the biological, social, or economic environment.

In addition, the Council recommended the minimum shell length requirement (i.e., size limit) of 4.75 inches (12.065 cm) for surfclams be suspended in 2017-2018, resulting in no minimum shell length requirements for the fishery during that time. These are the same measures implemented and previously analyzed in the 2014-2016 Specifications EA (MAFMC 2013).

The Council did not recommend changes to any other regulations in place for these fisheries; therefore, any other fishery management measures in place would remain unchanged for the 2017 and 2018 fishing years. Comprehensive descriptions of the regulations for surfclams and ocean quahogs as detailed in the CFR are available through the website for the Greater Atlantic Regional Fisheries Office (GARFO) of NMFS: <http://www.greateratlantic.fisheries.noaa.gov/regs/>

5.2 Background of Original Action

The original action, the 2014-2016 Specifications EA (MAFMC 2013) for Atlantic surfclam and ocean quahog (MAFMC 2013), was developed in 2013 to ensure catch and landings limits were in place for the 2014-2016 fishing years. The Council's comprehensive system of catch limits, coupled with accountability measures (used since 2012), considers both scientific and management uncertainty, and is designed to ensure commercial catch does not exceed the ACL, which is equal to the ABC. Any differences between the original action and the proposed action are discussed above in section 5.1 and Table 1.

5.3 New Information and Circumstances

Based on the most recent stock assessment for Atlantic surfclams (SAW 56; NEFSC 2013a,b) the stock in the US exclusive economic zone (EEZ) is not overfished and overfishing is not occurring in 2011, the last year for which model estimates of stock biomass and fishing mortality (F) are available. An updated stock assessment was conducted in July 2016 (SAW 61), and although final reports are not yet available, the preliminary information suggests stock status (overfished; overfishing) is unlikely to change. Based on the most recent stock assessment update for ocean quahogs (Chute et al. 2013), the stock in the US EEZ is not overfished and overfishing is not occurring in 2011, the last year for which model estimates of stock biomass and fishing mortality are available. An updated quahog stock assessment is scheduled for peer-review in February 2017.

For 2016, an Atlantic Surfclam Information Document⁴ and an Ocean Quahog Information Document⁵ were developed and utilized updated fishery data provided by NMFS Northeast

⁴http://static1.squarespace.com/static/511cdc7fe4b00307a2628ac6/t/572cffb01bbee07454d13b21/1462566835810/2_Surfclam+AP+Info+Doc.pdf.

⁵http://static1.squarespace.com/static/511cdc7fe4b00307a2628ac6/t/572d003d45bf212993cefd53/1462566975892/2_Ocean+Quahog+AP+Info+Doc.pdf.

Fishery Science Center (NEFSC; Dan Hennen Pers. Comm., NEFSC 2016) This information suggests that for both surfclams and ocean quahogs, the landings (Table 2 and 3) have been extremely stable over the last decade, and are well below the commercial quotas. Prices in these fisheries have also remained stable recently, as have the numbers of vessels participating in the fishery (see section 8.11.3 for details).

Table 2. Federal Atlantic surfclam quotas and landings: 1998 - 2016.

Year	EEZ Landings (mt meats)	EEZ Landings^a ('000 bu)	EEZ Quota ('000 bu)	% Harvested
1998	18,234	2,365	2,565	92%
1999	19,577	2,539	2,565	99%
2000	19,788	2,566	2,565	100%
2001	22,017	2,855	2,850	100%
2002	24,006	3,113	3,135	99%
2003	24,994	3,241	3,250	100%
2004	24,197	3,138	3,400	92%
2005	21,163	2,744	3,400	81%
2006	23,573	3,057	3,400	90%
2007	24,915	3,231	3,400	95%
2008	22,510	2,919	3,400	86%
2009	20,065	2,602	3,400	77%
2010	17,984	2,332	3,400	69%
2011^b	18,839	2,443	3,400	72%
2012^b	18,054	2,341	3,400	69%
2013^b	18,551	2,406	3,400	71%
2014^c	18,227	2,364	3,400	70%
2015^c	17,362 ^d	2,252 ^d	3,400	66% ^d
2016^c	NA	NA	3,400	NA

^a 1 surfclam bushel is approximately 17 lb. ^b The Scientific and Statistical Committee (SSC) recommended an overfishing limit (OFL) for 2010, 2011, 2012, and 2013 of 129,300 mt, 114,00 mt, 102,300 mt, and 93,400 mt, respectively, and an acceptable biological catch (ABC) of 96,600 mt (2011-2013). ^c For 2014-2016, the SSC recommended an OFL of 81,150 mt, 75,178 mt, 71,512 mt, respectively, and an acceptable biological catch (ABC) of 60,313 mt, 51,804 mt, and 48,197 mt, respectively. ^d Preliminary, incomplete 2015 data. Source: NMFS clam vessel logbook reports. Dan Hennen Pers. Comm., NEFSC 2016.

Due to the current market conditions as noted by the fishing industry, there is little incentive to increase surfclam or ocean quahog landings from current levels. The quota has been set at these same levels since 2004 and has not be landed in any of those years. Therefore, as long as the commercial quota is less than the ABC=ACL, the landings behavior in this fishery is not impacted by the level of catch associated with the ABC=ACL. As such, increases or decreases in these catch limits are not expected to impact current fishing levels, which are substantially lower than the quota.

Table 3. Federal ocean quahog quotas and landings: 1998 - 2016.

Year	EEZ Landings (mt meats)	EEZ Landings^a ('000 bu)	EEZ Quota ('000 bu)	% Harvested
1998	17,897	3,946	4,000	99%
1999	17,381	3,832	4,500	85%
2000	14,723	3,246	4,500	72%
2001	17,069	3,763	4,500	84%
2002	17,947	3,957	4,500	88%
2003	18,815	4,148	4,500	92%
2004	17,655	3,892	5,000	78%
2005	13,635	3,006	5,333	56%
2006	14,273	3,147	5,333	59%
2007	15,564	3,431	5,333	64%
2008	15,727	3,467	5,333	65%
2009	15,710	3,463	5,333	65%
2010	16,289	3,591	5,333	67%
2011^b	14,332	3,160	5,333	59%
2012^b	15,864	3,497	5,333	66%
2013^b	14,721	3,245	5,333	61%
2014^c	14,498	3,196	5,333	60%
2015^c	13,491 ^d	2,974 ^d	5,333	56% ^d
2016^c	NA	NA	5,333	NA

^a 1 ocean quahog bushel is approximately 10 lb. ^b The Scientific and Statistical Committee (SSC) recommended an overfishing limit (OFL) for 2011-2013 = 34,800 mt, and an acceptable biological catch (ABC) = 26,100 mt. ^c For 2014-2016, the SSC did not recommend an OFL. They recommended a constant ABC of 26,100 mt, for 2014-2016. ^d Preliminary 2015 data. Source: NMFS clam vessel logbook reports. Dan Hennen Pers. Comm., NEFSC 2016.

6.0 NEPA COMPLIANCE AND SUPPORTING ANALYSIS

CEQ regulations indicate that a supplemental NEPA analysis must be prepared if a new proposed action is substantially different from a previously completed but related action. However, not every change to a proposed action, including the presence of new information, necessitates the development of a new or supplemental NEPA analysis. NMFS provided guidance to Councils on the use of “non-NEPA documents.” The guidance refers to the following two standards to help NMFS staff determine whether a new or supplemental NEPA document is necessary or if a non-NEPA document (SIR) may be used to demonstrate that an original NEPA document sufficiently considered and analyzed the proposed actions and its effects. At this time, it appears that a SIR would be appropriate given the information discussed below. Should this information change or new information become available during the development of the action, this recommendation may no longer be appropriate.

1. Were substantial change(s) made to the proposed action that is/are relevant to environmental concerns? Is the proposed action a minor variation of the alternatives in the previous EA?

No and Yes, respectively. The changes to the surfclam ABC and ACL are not expected to raise environmental concerns and are considered minor variations of the action analyzed in the previous EA. The commercial quotas for both surfclam and ocean quahog for 2017 and 2018 are identical to the commercial quotas specified for 2014-2016, and the same implemented in this fishery since 2004. The suspension of the surfclam minimum shell length requirement would simply be a continuation of measures already in place. Because changes in fishery effort and operations are driven by changes in the commercial quota, the changes in specification of the surfclam ABC=ACL, are not expected to result in changes to the biological, social, or economic environment. In fact, the commercial quota has not been landed in recent years and landings are not expected to increase given the current market demand in the surfclam and ocean quahog fisheries.

2. Are there significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts?

No. The fishery information that has been examined in the 2014-2016 Specifications EA (MAFMC 2013) that evaluated the impacts of the proposed action on the Valued Ecosystem Components (managed resources, non-target/bycatch species, endangered and protected species, habitat, and the socioeconomic environment). There is very little change in the specifications, and no change in the quotas, beyond what has been previously analyzed.

3. Should any new information or change to the action have been known and/or included at the time the previous EA was drafted?

No. The fishery conditions have been relatively stable. No new information on the affected environment would be expected to change the impact assessment of the proposed action.

4. Are data or other analyses required in order to characterize the impacts of the proposed action?

No. The impacts of the proposed action are the same as in the previous action (MAFMC 2013).

5. Has the public had an opportunity to comment on the prior NEPA document on impacts similar to the proposed action and alternatives?

Yes. The 2014-2016 Specifications EA (MAFMC 2013) was developed through a multi-stage process that was open to review by affected members of the public. The public had the opportunity to review and comment on the implemented action for 2014-2016 and other alternatives, which are identical to the proposed action, during the SSC meetings held on May 15-16, 2013 and May 25-26, 2016 in Baltimore, MD, and during the Council meeting held on June 11-13, 2013 in Tinton Falls, NJ and June 13-16, 2016 in Newark, DE. In addition, the public had further opportunity to comment during rulemaking when NMFS published a request for comments notice in the Federal Register (FR). The surfclam minimum shell length requirement is suspended annually and published in the FR with a notice for public comment each year.

7.0 CONCLUSION

After considering the proposed action and new information in section 5.0, and supporting analyses in section 6.0, NMFS has determined that a supplement to the 2014-2016 Specifications EA (MAFMC 2013) is unnecessary. The proposed surfclam and ocean quahog specifications for 2017 and 2018 would implement identical commercial quotas when compared to 2014-2016 and continue to suspend the minimum surfclam minimum shell length in the fishery. Continuing the same measures for the fishery is not expected to substantially change the risk of overfishing, or change landings patterns, prices/revenues, or fishery behavior. No new information or circumstances exist that have a bearing on environmental concerns that are significantly different from when the original Finding of No Significant Impact was signed on November 26, 2013. The 2014-2016 Specifications EA (MAFMC 2013) remains valid to support the proposed action.

8.0 RELATIONSHIP TO APPLICABLE LAWS

8.1 Magnuson-Stevens Fishery Conservation and Management Act (MSA) National Standards

Section 301 of the MSA requires that FMPs contain conservation and management measures that are consistent with the ten National Standards. The most recent FMP amendments address how the management actions implemented comply with the National Standards. First and foremost, the Council continues to meet the obligations of National Standard 1 by adopting and implementing conservation and management measures that will continue to prevent overfishing, while achieving, on a continuing basis, the optimum yield for Atlantic surfclam and ocean quahog and the U.S. fishing industry. To achieve OY, both scientific and management uncertainty need to be addressed when establishing catch limits that are less than the OFL; therefore, the Council has developed recommendations that do not exceed the ABC recommendations of the SSC which have been developed to explicitly address scientific uncertainty. In addition, the Council has considered relevant sources of management uncertainty and other social, economic, and ecological factors,

which resulted in recommendations for annual catch targets for both managed resources. The Council uses the best scientific information available (National Standard 2) and manages both species throughout their range (National Standard 3). These management measures do not discriminate among residents of different states (National Standard 4), they do not have economic allocation as their sole purpose (National Standard 5), the measures account for variations in these fisheries (National Standard 6), they avoid unnecessary duplication (National Standard 7), they take into account the fishing communities (National Standard 8) and they promote safety at sea (National Standard 10). Finally, actions taken are consistent with National Standard 9, which addresses bycatch in fisheries. The Council has implemented many regulations that have indirectly acted to reduce fishing gear impacts on EFH. By continuing to meet the National Standards requirements of the MSA through future FMP amendments, framework actions, and the annual specification setting process, the Council will insure that cumulative impacts of these actions will remain positive overall for the ports and communities that depend on these fisheries, the Nation as a whole, and certainly for the resources.

8.2 National Environmental Policy Act (NEPA)

The Council has preliminarily determined that the 2014-2016 Specifications EA (MAFMC 2013) remain valid for this action. Thus, there is no need to supplement these analyses and their Findings of No Significant Impact.

8.3 Endangered Species Act

Sections 6.3 and 7.0 in the 2014-16 Specifications EA (MAFMC 2013) should be referenced for an assessment of the impacts of the proposed action on endangered species and protected resources. The proposed action is not expected to alter fishing methods, effort, or activities; the measures proposed for 2017 and 2018 are nearly identical to those implemented in prior years. Therefore, this action is not expected to affect endangered or threatened species or critical habitat in any manner not considered in previous consultations on the fisheries.

8.4 Marine Mammal Protection Act

Sections 6.3 and 7.0 in the 2014-16 Specifications EA (MAFMC 2013) should be referenced for an assessment of the impacts of the proposed action on marine mammals. The proposed action is not expected to alter fishing methods, effort, or activities; the measures proposed for 2017 and 2018 are nearly identical to those implemented in prior years. Therefore, this action is not expected to affect marine mammals or critical habitat in any manner not considered in previous consultations on the fisheries.

8.5 Coastal Zone Management Act

The Coastal Zone Management Act (CZMA) of 1972, as amended, provides measures for ensuring stability of productive fishery habitat while striving to balance development pressures with social, economic, cultural, and other impacts on the coastal zone. It is recognized that responsible management of both coastal zones and fish stocks must involve mutually supportive goals. The Council has developed this SIR and will submit it to NMFS; NMFS must determine whether this

action is consistent to the maximum extent practicable with the CZM programs for each state (Maine through North Carolina).

8.6 Administrative Procedure Act

Section 553 of the APA establishes procedural requirements applicable to informal rulemaking by Federal agencies. The purpose of these requirements is to ensure public access to the Federal rulemaking process, and to give the public adequate notice and opportunity for comment. At this time, the Council is not requesting any abridgement of the rulemaking process for this action.

8.7 Section 515 (Information Quality Act)

Utility of Information Product

This action proposes catch and landings limits in 2017 and 2018 for the surfclam and ocean quahog fisheries and continued suspension of the surfclam minimum shell length requirement. This document includes: A description of the proposed action and rationale for selection, and any changes to the implementing regulations of the FMP (if applicable). As such, this document enables the implementing agency (NMFS) to make a decision on implementation of annual specifications (i.e., management measures), and this document serves as a supporting document.

The action was developed to be consistent with the FMP, MSA, and other applicable laws, through a multi-stage process that was open to review by affected members of the public. The public had the opportunity to review and comment on the proposed action during a number of public meetings. In addition, the public will have further opportunity to comment on these measures once NMFS publishes a request for comments notice in the FR.

Integrity of Information Product

The information product meets the standards for integrity under the following types of documents: Other/Discussion (e.g., Confidentiality of Statistics of the MSA; NOAA Administrative Order 216-100, Protection of Confidential Fisheries Statistics; 50 CFR 229.11, Confidentiality of information collected under the Marine Mammal Protection Act).

Objectivity of Information Product

The category of information product that applies here is “Natural Resource Plans.” This section (section 8.0) describes how this document was developed to be consistent with any applicable laws, including MSA with any of the applicable National Standards. The analyses used to develop the proposed action are based upon the best scientific information available and the most up to date information is used to develop the EA which evaluates the impacts of those measures (see 2014-2016 Specifications EA (MAFMC 2013)). The specialists who worked with these core data sets and population assessment models are familiar with the most recent analytical techniques and are familiar with the available data and information relevant to the surfclam and ocean quahog fisheries.

The review process for the proposed action involves the Council, NMFS-NEFSC, NMFS-GARFO, and NMFS headquarters. The NEFSC technical review is conducted by senior level scientists with specialties in fisheries ecology, population dynamics and biology, as well as economics and social anthropology. The Council review process involves public meetings at which affected stakeholders have the opportunity to comments on proposed management measures. Review by GARFO is conducted by those with expertise in fisheries management and policy, habitat conservation, protected resources, and compliance with the applicable law. Final approval of the proposed action and clearance of the rule is conducted by staff at NOAA Fisheries Headquarters, the Department of Commerce, and the U.S. Office of Management and Budget.

8.8 Paperwork Reduction Act

The Paperwork Reduction Act (PRA) concerns the collection of information. The intent of the PRA is to minimize the federal paperwork burden for individuals, small businesses, state and local governments, and other persons as well as to maximize the usefulness of information collected by the Federal government. There are no changes to the existing reporting requirements previously approved under this FMP for vessel permits, dealer reporting, or vessel logbooks. This action does not contain a collection-of-information requirement for purposes of the PRA.

8.9 Impacts of the Plan Relative to Federalism/EO 13132

This specifications document does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order (EO) 13132.

8.10 Environmental Justice/EO 12898

This EO provides that “each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations.” EO 12898 directs each Federal agency to analyze the environmental effects, including human health, economic, and social effects of Federal actions on minority populations, low-income populations, and Indian tribes, when such analysis is required by NEPA. Agencies are further directed to “identify potential effects and mitigation measures in consultation with affected communities, and improve the accessibility of meetings, crucial documents, and notices.”

The proposed actions are not expected to affect participation in the surfclam and ocean quahog fisheries. Since the proposed action represents no changes relative to the current levels of participation in these fisheries, no negative economic or social effects in the context of EO 12898 are anticipated as a result. Therefore, the proposed action is not expected to cause disproportionately high and adverse human health, environmental or economic effects on minority populations, low-income populations, or Indian tribes.

8.11 Regulatory Flexibility Analysis

The Regulatory Flexibility Act (RFA) requires the Federal rulemaker to examine the impacts of proposed and existing rules on small businesses, small organizations, and small governmental jurisdictions. In reviewing the potential impacts of proposed regulations, the agency must either certify that the rule “will not, if promulgated, have a significant economic impact on a substantial number of small entities.”

This document provides the factual basis supporting a certification that the proposed regulations will not have a “significant impact on a substantial number of small entities” and that an IRFA is not needed in this case. Certifying an action must include the following elements, and each element is subsequently elaborated upon below:

- A statement of basis and purpose of the rule
- A description and estimate of the number of small entities to which the rule applies
- Description and estimate of economic impacts on small entities, by entity size and industry
- An explanation of the criteria used to evaluate whether the rule would impose significant economic impacts
- An explanation of the criteria used to evaluate whether the rule would impose impacts on a substantial number of small entities
- A description of, and an explanation of the basis for, assumptions used

8.11.1 Basis and purpose of the rule

This action is taken under the authority of the MSA and regulations at 50 CFR part 648. A description of the objectives of this proposed action is found under section 5.0, and in section 4.0 of the 2014-2016 Specifications EA (MAFMC 2013).

There are only four regulatory actions contemplated in this document for 2017 and 2018: 1) Specifying a maximum commercial landings limit (quota) of 26,218 mt for Atlantic surfclams in federal waters; 2) Specifying a quota of 24,296 mt for ocean quahogs in federal waters outside the Maine (mahogany) ocean quahog zone; 3) Specifying a quota of 499 mt for ocean quahogs in the Maine ocean quahog zone; and 4) Making a determination as to whether the minimum shell length requirement of 4.75 inches for surfclams should continue to be suspended. The proposed actions are critical components of the management program developed for surfclams and ocean quahogs in federal waters, and the Maine (mahogany) ocean quahog zone.

8.11.2 Description and estimate of the number of small entities to which the rule applies

The category of small entities likely to be affected by the proposed actions is fishermen in the federal commercial Atlantic surfclam and ocean quahog fishery. The following discussion of impacts centers specifically on the effects of the proposed actions on the mentioned small business entities.

The Small Business Administration (SBA) defines a small business in the commercial fishing industry as a firm with total annual receipts (gross revenues) not in excess of \$11.0 million. The

NMFS maintains current ownership records of surfclam and ocean quahog allocation holders. Allocation ownership is a matter of public record, and a list of the current owners of record may be found at: <https://www.greateratlantic.fisheries.noaa.gov/sustainable/species/clam/>

Table 4 lists the number of vessels active in harvesting surfclams and ocean quahogs in the non-Maine fisheries. Some of these vessels may not hold allocations. Depending on the regulations promulgated, the population affected by the regulation may change, i.e. if, for example, an area is closed, both holders and service providing vessels may be affected, while with a quota change, only holders may appropriately be affected and service providers impacted. In addition, 8 vessels participated in the Maine ocean quahog fishery in 2015. All of these Maine vessels readily fall within the definition of small businesses.

Table 4. Vessels participating in the 2015 surfclam and non-Maine ocean quahog fisheries.

Species Harvested	Number of vessels
Surfclam only	31
Ocean quahogs only	10
Both surfclam and ocean quahogs	6
Total	47

In 2015, there were 47 vessels that held a valid surfclam or ocean quahog permit and landed either surfclam or ocean quahog outside of Maine. While the surfclam and ocean quahog fishery is open access, many of the permitted vessels do not actively participate in the fishery. These potential participants likely do not own quota, likely do not have established marketing relationships with surfclam and ocean quahog processors, and likely do not own gear needed to harvest surfclam and ocean quahog. Therefore, while they are regulated entities, many of these entities are only potential participants and unlikely to experience any direct effects of the proposed regulations.

Some of the vessels with surfclam or ocean quahog permits may be considered to be part of the same firm, because they may have the same owners. When permit ownership data is considered, in 2015 there were 358 fishing firms that held at least 1 surfclam or ocean quahog permit. Using the \$11 million cutoff for firms, there are 348 entities that are small and 10 that are large. Table 5 describes the number of small entities, their average revenues, and their average surfclam and ocean quahog revenues in millions of dollars. On average, for these small entities, surfclams and ocean quahogs are responsible for a small fraction of landings.

Table 5. Small entities average revenues and surfclam and ocean quahog (SC/OQ) revenues (2014-2016).

Revenue (millions of dollars(M))	Count of Firms	Average Gross Receipts	Average SC/OQ Receipts
<2M	339	\$727,084	\$48,757
2-5M	9	\$2,317,856	\$546,289
5-11M	0	0	0
Total	348	-	-

In order to provide a more accurate count and description of the small directly regulated entities, landings data are used to select only firms that were active in either the surfclam and ocean quahog fishery. There are 29 active fishing firms, of which 26 are small entities and 3 are large entities.

Table 6 describes the number of small entities that are active in the surfclam and ocean quahog fishery, their average revenues, and their average surfclam and ocean quahog revenues. The active surfclam and ocean quahog fishery participants derive a large share of gross receipts from the surfclam and ocean quahog fishery.

Table 6. Small entities average revenues and surfclam and ocean quahog (SC/OQ) revenues (2014-2016).

Revenue (millions of dollars(M))	Count of Firms	Average Gross Receipts	Average SC/OQ Receipts
<2M	24	\$796,472	\$688,698
2-5M	C	C	C
5-11M	0	0	0
Total	26	-	-

8.11.3 Description and estimate of economic impacts on small entities

Fishery Description

A detailed description of the surfclam and ocean quahog fisheries is presented in section 6.0 of the 2014-2016 specification EA (MAFMC 2013) and section 2.3.3 of Amendment 13 (MAFMC 2003). Additional information on "Community Profiles for the Northeast US Fisheries" can be found at:

<http://www.nefsc.noaa.gov/read/socialsci/communityProfiles.html>

The Individual Transferrable Quota (ITQ) system implemented for these fisheries allows industry participants to benefit from a high degree of flexibility in their fishing operations, as government regulation is basically reduced to quota holders not exceeding their individual allowances.

The proposed action would establish annual commercial quotas in these fisheries which are necessary to maintain the harvest of surfclams and ocean quahogs at sustainable levels. The direct impacts of any quota adjustment for surfclams and non-Maine ocean quahogs would be felt by the

40 and 67 entities currently (2016) holding surfclam and ocean quahog ITQ allocations, respectively. The actual number of individuals or businesses holding these registered allocations may be smaller, since each holder may maintain multiple allocations for accounting, or liability purposes.

Total surfclam and ocean quahog revenues, landings, and prices per bushel were estimated for calendar year 2015 (the last year for which complete data is available). These estimates provide the basis for which the 2017 and 2018 proposed quotas and landings changes and their associated effect on revenues can be compared.

The surfclam fleet has landed 70 percent of the quota of 26,218 mt in the most recent 5 years (2001-2015; Table 2). The average ex-vessel price of surfclams reported by processors was \$12.61 in 2015, nearly identical to the \$12.66 per bushel seen in 2014. The total ex-vessel value of the 2015 federal harvest was approximately \$30 million, also nearly identical to the 2014 value. Because industry has indicated that there is not a substantial change in market demand expected and landings have been substantially lower than quota, landings in 2017 and 2018 are expected to be similar to recent years.

The ocean quahog fleet has landed 60 percent of the quota of 24,296 mt for the non-Maine fishery in the most recent 5 years (Table 3). The average ex-vessel price of non-Maine ocean quahogs reported by processors in 2015 was \$7.10 per bushel, a few cents higher than the 2014 price (\$7.02 per bushel). The total ex-vessel value of the 2015 federal harvest outside of Maine was approximately \$21 million, slightly lower than the \$22 million in 2014.

The Maine ocean quahog fishery is currently prosecuted by a total of 8 small vessels. The annual quota of 499 mt (100,000 bushels) pertains to the Maine ocean quahog zone, and is not allocated to individual allocation holders as is the case outside of Maine. Once the Maine quota is harvested, fishing may only proceed if quota is leased from the ITQ fishery outside of Maine. In 2015, the Maine ocean quahog fleet harvested a total of 41,611 Maine bushels (substantially less than the allocation), a 66% decrease from the 121,373 bushels harvested in 2006, and an 11% decrease from the prior year (2014; 46,109 bushels). Average prices for Maine ocean quahogs have declined substantially over the past 10 years. In 2003, there were very few trips that sold for less than \$37.00 per Maine bushel, and the mean price was \$40.66. Prices have since been lower; apparently the result of aggressive price cutting as noted by industry. In 2015, the mean price was \$28.27 per Maine bushel. The value of the 2015 harvest reported by the purchasing dealers totaled \$1.22 million, a decrease of 10% from the prior year.

Because industry has indicated that there is not a substantial change in market demand for surfclams and ocean quahogs, and landings have been substantially lower than the quotas, landings in 2017 and 2018 are expected to be similar to recent years.

8.11.4 An explanation of the criteria used to evaluate whether the rule would impose significant economic impacts, and explanation of the criteria used to evaluate whether the rule would impose impacts on a substantial number of small entities

Impacts of Proposed Quota Action

Section 5.0 contains a full description of the commercial surfclam and ocean quahog quotas proposed for 2017 and 2018. The proposed surfclam quota for 2017-2018 is identical to the quota implemented in 2014-2016 (26,218 mt). The proposed non-Maine ocean quahog quota for 2017-2018 is identical to the quota implemented in 2014-2016 (24,296 mt). The proposed Maine ocean quahog quota of 499 mt is identical to the quota implemented in 2014-2016. The surfclam and ocean quahog landings limits proposed are consistent with the ABC recommendations of the SSC and therefore based on the best scientific information available and are intended to prevent overfishing for 2017 and 2018.

Because the proposed quotas are identical to those implemented 2014-2016, the proposed action would have no impact on the way the fishery operates or affect small entities. These measures are expected to provide similar fishing opportunities in 2017 and 2018 when compared to 2015 (proxy for base year 2016). As such, revenue changes are not expected in 2017 and 2018 when compared to landings and revenues in 2015. The quota for the Maine ocean quahog zone for 2017 and 2018 is expected to provide for the same fishing opportunity with 100,000 Maine bushels, when compared to 2015. Therefore, adoption of this alternative would have no impacts on entities participating in the fishery if landings are similar to those that occurred in 2015.

Impacts of Proposed Minimum Shell Length Action

Maintaining the suspension of the surfclam minimum shell length requirement in 2017 and 2018 would result in no change when compared to 2014-2016. The proposed action would have no impact on the way the fishery operates or affect small entities.

8.11.5 A description of, and an explanation of the basis for, assumptions

Any assumptions and the basis for conclusions are described above in sections 8.11.1 - 8.11.4.

8.12 Regulatory Planning and Review/EO 12866

This action is exempt from the procedures of E.O. 12866 because this action contains no implementing regulations.

9.0 LITERATURE CITED

Chute A, Hennen D, Russell R, Jacobson L. 2013. Stock Assessment Update for Ocean Quahogs (*Arctica islandica*) through 2011. NEFSC Ref Doc 13-17; 156 p. Available from: National Marine Fisheries Service, 166 Water Street, Woods Hole, MA 02543-1026, or online at <http://nefsc.noaa.gov/publications/>

Hennen, Dan. Personal Communication. February 25, 2016. NOAA Fisheries, Northeast Fisheries Science Center, 166 Water St., Woods Hole, MA 02543.

MAFMC. 2013. Atlantic Surfclam and Ocean Quahog Specifications for 2014-2016. Dover, DE. 94 p. + append.

Northeast Fisheries Science Center. 2013a. 56th Northeast Regional Stock Assessment Workshop (56th SAW) Assessment Summary Report. US Dept Commer, Northeast Fish Sci Cent Ref Doc. 13-04; 42 p. Available from: National Marine Fisheries Service, 166 Water Street, Woods Hole, MA 02543-1026, or online at <http://nefsc.noaa.gov/publications/>.

Northeast Fisheries Science Center. 2013b. 56th Northeast Regional Stock Assessment Workshop (56th SAW) Assessment Report. US Dept Commer, Northeast Fish Sci Cent Ref Doc. 13-10; 868 p. Available from: National Marine Fisheries Service, 166 Water Street, Woods Hole, MA 02543-1026, or online at <http://nefsc.noaa.gov/publications/>

10.0 LIST OF AGENCIES AND PERSONS CONSULTED

In preparing this document, the Council consulted with NMFS. To ensure compliance with NMFS formatting requirements, the advice of NMFS GARFO personnel was sought.

Copies of the supplemental information report, including the Regulatory Flexibility Analysis and other supporting documents, are available from:

**Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council,
Suite 201, 800 North State Street, Dover, DE 19901**