

**FOR FURTHER INFORMATION CONTACT:** Leo Yon, Office of Defects Investigation, NHTSA (phone: 202-366-5226).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On July 10, 2002, NHTSA published a final rule implementing the early warning reporting (EWR) provisions of the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act, 49 U.S.C. 30166(m). 67 FR 45822. The agency has adopted a number of amendments to that rule. As of October 1, 2003, 49 CFR 579.28(b) Due date of reports read as follows:

Except as provided in paragraph (n) of this section, each manufacturer of motor vehicles and motor vehicle equipment shall submit each report that is required by this subpart not later than 30 days after the last day of the reporting period. Notwithstanding the prior sentence, the due date for reports covering the third and fourth calendar quarter of 2003 and the first calendar quarter of 2004 shall be 60 days after the last day of the reporting period. Except as provided in § 579.27(b), if a manufacturer has not received any of the categories of information or documents during a quarter for which it is required to report pursuant to §§ 579.21 through 579.26, the manufacturer's report must indicate that no relevant information or documents were received during that quarter. If the due date for any report is a Saturday, Sunday or a Federal holiday, the report shall be due on the next business day.

A September 28, 2004 notice amended the first two sentences of § 579.28(b) by extending the due date by which quarterly reports are to be submitted to the agency from 30 days to 60 days following the end of a calendar quarter and changing the date by which copies of non-dealer field reports were to be submitted from 30 days after the quarterly reports were due to 15 days after those reports are due. 69 FR 57867. After publishing the September 28th notice, we learned that we had inadvertently deleted the last two sentences of section 579.28(b). We had not intended to delete this language.

Today's amendment corrects this error by re-inserting the last 2 sentences of § 579.28(b). In particular, the language is:

Except as provided in § 579.27(b), if a manufacturer has not received any of the categories of information or documents during a quarter for which it is required to report pursuant to §§ 579.21 through 579.26, the manufacturer's report must indicate that no relevant information or documents were received during that quarter. If the due date for any report is a Saturday, Sunday or a Federal holiday, the report shall be due on the next business day.

**List of Subjects in 49 CFR Part 579**

Imports, Motor vehicle safety, Motor vehicles, Reporting and recordkeeping requirements.

■ Accordingly, 49 CFR Part 579 is corrected by making the following correcting amendment.

**PART 579—REPORTING OF INFORMATION AND COMMUNICATIONS ABOUT POTENTIAL DEFECTS**

■ 1. The authority citation for part 579 continues to read as follows:

**Authority:** Sec. 3, Pub. L. 106-414, 114 Stat. 1800 (49 U.S.C. 30102-103, 30112, 30117-121, 30166-167); delegation of authority at 49 CFR 1.50.

**Subpart C—Reporting of Early Warning Information**

■ 2. In § 579.28, revise paragraph (b) to read as follows:

**§ 579.28 Due date of reports and other miscellaneous provisions.**

\* \* \* \* \*

(b) *Due date of reports.* Except as provided in subsection (n) of this section, each manufacturer of motor vehicles and motor vehicle equipment shall submit each report that is required by this subpart not later than 60 days after the last day of the reporting period. Except as provided in § 579.27(b), if a manufacturer has not received any of the categories of information or documents during a quarter for which it is required to report pursuant to §§ 579.21 through 579.26, the manufacturer's report must indicate that no relevant information or documents were received during that quarter. If the due date for any report is a Saturday, Sunday or a Federal holiday, the report shall be due on the next business day.

\* \* \* \* \*

Issued on: January 3, 2005.

**Kenneth N. Weinstein,**

*Associate Administrator for Enforcement.*  
[FR Doc. 05-532 Filed 1-11-05; 8:45 am]

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 648**

[Docket No. 041108311-5001-02; I.D. 110204B]

RIN 0648-AR52

**Fisheries of the Northeastern United States; Final 2005, 2006, and 2007 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.

**SUMMARY:** NMFS is required to specify annual catch quotas for the Atlantic surfclam and ocean quahog fisheries. NMFS issues this rule to set final 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 Atlantic waters north of 43°50' N. lat. for the 2005, 2006, and 2007 fishing years.

**DATES:** Effective January 1, 2005.

**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.

The Final Regulatory Flexibility Analysis (FRFA) consists of the IRFA, and public comments and responses, and the summary of impacts and alternatives contained in the Classification section of the preamble of this final rule. Copies of the small entity compliance guide are available from Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930-2298. A copy of the EA/RIR/IRFA is accessible via the Internet at <http://www.nero.noaa.gov/nero/regs/com.html>.

**FOR FURTHER INFORMATION CONTACT:** Brian R. Hooker, Fishery Policy Analyst, 978-281-9220.

**SUPPLEMENTARY INFORMATION:** The Fishery Management Plan for the Atlantic Surfclam and Ocean Quahog Fisheries (FMP) requires that NMFS, in consultation with the Mid-Atlantic

Fishery Management Council (Council), specify annual quotas for surfclams and ocean quahogs 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. In addition to this constraint, the Council policy also considers the economic impacts of the quotas. Regulations implementing Amendment 10 to the FMP (63 FR 27481, May 19, 1998), added Maine ocean quahogs (locally known as mahogany quahogs) to the management unit and provided that a small artisanal fishery for ocean quahogs in the waters north of 43°50' N. lat. has an annual quota with an initial amount of 100,000 Maine bu (35,240 hectoliters (hL)) within a range of 17,000 to 100,000 Maine bu (5,991 to 35,240 hL). As specified in Amendment 10, the Maine mahogany ocean quahog quota is allocated separately from the quota specified for the ocean quahog

fishery. Regulations implementing Amendment 13 to the FMP (68 FR 69970, December 16, 2003) established the ability to set multi-year quotas. An evaluation, in the form of an annual quota recommendation paper, will be conducted by the Council every year to determine if the multi-year quota specifications remains appropriate. The fishing quotas must be in compliance with overfishing definitions for each species.

Detailed background information regarding the development of these quotas was provided in the preamble to the proposed rule (69 FR 67528, November 18, 2004), and is not repeated here. The comment period for the proposed rule ended December 20, 2004.

NMFS is also implementing clarifications to the Atlantic surfclam and ocean quahog regulations through this final rule. Amendments to §§ 648.70(a), and 648.71(a) and (a)(2), remove references to the dates on which the initial allocation of surfclams and ocean quahogs shall be determined, and

remove references to the dates on which the proposed and final rules for the annual specifications must be specified and published in the **Federal Register** by the Regional Administrator.

References to these dates are not necessary in regulatory text. Additionally, a latitudinal coordinate identifying the "Boston Foul Ground" in § 648.73(a)(1) is corrected through reinsertion of a digit that was inadvertently dropped in a previous rulemaking. These administrative revisions are minor, non-substantive changes and do not change operating practices in the fishery.

The final quotas for the 2005–2007 Atlantic surfclam, ocean quahog, and Maine mahogany ocean quahog fisheries, which are unchanged from the proposed rule, are shown in the table below. The status quo level of 2004 for Maine ocean quahog and surfclams is maintained for 2005–2007, but the ocean quahog quota is increased incrementally by 20 percent over the 3-year period.

FINAL 2005–2007 SURFCLAM/OCEAN QUAHOG QUOTAS<sup>1</sup>

	2005		2006		2007	
	bu	hL	bu	hL	bu	hL
<sup>2</sup> Surfclams	3.400	1.810	3.400	1.810	3.400	1.810
<sup>2</sup> Ocean Quahogs	5.333	2.840	5.666	3.016	6.000	3.194
<sup>3</sup> Maine Ocean Quahogs	100,000	35,240	100,000	35,240	100,000	35,240

<sup>1</sup>Numerical values in table are in millions except for Maine ocean quahogs

<sup>2</sup>1 bushel = 1.88 cubic ft = 53.24 liters

<sup>3</sup>1 bushel = 1.2445 cubic ft = 35.24 liters

## Comments and Responses

NOAA Fisheries received one comment on the proposed rule during the comment period. The commenter stated the following concerns: (1) There is no rationale for an increase in surfclam quota; and (2) the proposed rule would allow overfishing to continue.

This final rule would not increase the quota for surfclams. The status quo (which is the maximum allowed under the FMP) would remain in effect for the 3-year quota period. Based on the most recent stock assessments, neither the Atlantic surfclam nor the ocean quahog resource is overfished, nor is overfishing occurring. The recommended quotas are expected to allow sustainable fishing to continue for at least 10 years for surfclams and 30 years for ocean quahogs.

## 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 final rule would cause a disruption in the ordinary commerce of the surfclam and ocean quahog fisheries. Individual Transferable Quota (ITQ) shareholders each receive a portion of the overall annual quotas for the 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, 2005, regardless of the publication of the annual quota, as tags for the 2005 fishing year have already been issued by the vendor pursuant to § 648.75(b). 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, it is imperative that the vessel owner have the ability 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 in time for the start of the 2005 fishing year on January 1, 2005. Further, and of more immediate concern is that several banks currently hold a total 17 surfclam and 12 ocean quahog allocations. These allocations are held by the banks as security for loans made by the banks to fisherman in these two fisheries. This entails the permanent transfer of the individual allocation to the bank as collateral for the pendency of the loan. The banks request NMFS on an annual basis to transfer temporarily the cage tags associated with the allocation back to the borrower. This transfer enables the borrower to begin fishing at the

beginning of the fishing year in order to generate income with which to discharge the loan. Without a quota in effect, NMFS cannot make a transfer of part or the entirety of an allocation either permanently or temporarily. This inability on the part of NMFS to make such transfers effective would preclude the intended recipients of such transfers from fishing, thereby engendering 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 the 30-day delayed effectiveness period for the implementation of the 2005–2007 surfclam, ocean quahog, and Maine ocean quahog quotas.

A description of the reasons why this action is being taken by the Agency and the objectives of this final rule are continued 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 compliance costs associated with this final rule.

### Final Regulatory Flexibility Analysis

#### *Statement of Objective and Need*

A description of the reasons why this action is being taken, and the objectives of and legal basis for this final rule are explained in the preambles of the proposed and final rule and are not repeated here.

#### *Summary of Significant Issues Raised in Public Comments*

No significant issues, including ones relating to the IRFA or the economic effects of the proposed rule, were raised in the public comments. One comment was received and has been addressed in the preamble to the final rule.

#### *Description and Estimate of Number of Small Entities to Which this Rule Will Apply*

This action will impact approximately 138 small entities, 82 Atlantic surfclam allocation owners, and 56 ocean quahog allocation owners. In 2003, 50 vessels reported harvesting surfclams or ocean quahogs from Federal waters under the ITQ system. Thirty-five vessels in 2003 fished under Federal limited access Maine ocean quahog permits. All of these businesses are considered small entities under the standards described by the Small Business Administration

because they have annual returns that do not exceed \$3.5 million annually.

#### *Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements*

This rule does not impose any new reporting, recordkeeping, or other compliance requirements. Therefore, the costs of compliance are unchanged.

#### *Description of Minimization of Economic Impacts on Small Entities*

Economic impacts on small entities have been minimized within the constraints of the FMP. Specifically, the commercial quotas must meet the conservation objectives of the FMP, implemented in 50 CFR part 648 under the authority of the Magnuson-Stevens Act. This final rule establishes harvest levels for Atlantic surfclams that are the maximum allowable under the FMP for 2005–2007. Harvest levels for ocean quahogs will be the maximum allowable under the FMP by 2007.

The Council identified three surfclam quota alternatives in addition to the “no-action” alternative. The preferred alternative of 3.400 m bu (1.81 m hL) for 2005–2007, an alternative with a 45.6–percent decrease to 1.85 m bu (0.98 m hL), and an alternative with a 4.4–percent decrease to 3.25 m bu (1.73 m hL) were analyzed. The minimum allowable quota specified in the current OY range is 1.850 m bu (0.99 m hL) of surfclams. A 45.6–percent reduction in quota would have a substantially negative impact on overall ex-vessel revenues equaling a \$215,363–decrease per allocation. Adoption of the 4.4–percent decrease in quota would represent a \$20,781–reduction per allocation. However, given the current biological status of the surfclam resource, the Council does not believe that a quota reduction is warranted at this time. In summation, the Council determined that the 45.6–percent reduction would significantly negatively impact revenues and a smaller 4.4–percent reduction is not warranted as the stock is not overfished and overfishing is not occurring. The preferred alternative is the 2004 status quo, thus it will have no impact on revenues.

The Council analyzed four ocean quahog quota alternatives in addition to the “no-action” alternative. The preferred alternative of a 20–percent increase over 3 years, an alternative with a 20–percent (1.0 m bu (0.53 m hL)) decrease, an alternative with the 2004 status quo of 5.0 m bushels (2.66 m hL), and an alternative with a 20–percent (1.0 m bu (0.53 m hL)) increase in 1 year were analyzed. The minimum

allowable quota specified in the current OY range is 4.0 m bu (2.13 m hL) of ocean quahogs. Adoption of a 4.0 m bu (2.13 m hL) quota would represent a 20–percent decrease from the current quota. This alternative would take the most conservative approach to managing the fishery that is currently available to the Council, but would result in the fewest economic benefits available to the ocean quahog fishery. Given the current biological status of the quahog resource, the Council concluded that a quota reduction is not warranted. Adoption of the 2004 status quo quota will have no impact on revenues for small entities. A 20–percent increase in quota in the first year would move directly to the maximum quota allowed in the FMP and, if fully utilized, would equate to a \$102,180–increase per allocation. However, the Council was concerned that the industry does not currently have a market available to absorb a large increase in landings that quickly. Additionally, due to uncertainty in the recent stock assessment, the Council recommended a gradual increase, with annual reviews to confirm its appropriateness. Although two alternatives would allow for increased revenues, the Council recommended a gradual 20–percent increase over 3 years, rather than the 20–percent increase in the first year.

The quota for Maine mahogany ocean quahogs is specified at the maximum allowable 100,000 Maine bu (35,240 hL). The FMP specifies that adjustments to the quota above 100,000 Maine bu (35,240 hL) 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 ocean quahog fishery, in addition to the preferred alternative of 100,000 Maine bushels (35,240 hL), including 50,000 Maine bu and 92,500 Maine bu (17,620 and 32,596 hL). Any quota below the 1999 landing level of 93,938 Maine bu (33,104 hL) would have resulted in a decrease in revenues to individual vessels.

#### *Small Entity Compliance Guide*

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 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 action a small entity is required to take to comply with a rule

or group of rules. As part of this rulemaking process, a small entity compliance guide was prepared. Copies of the guide will be sent to all holders of commercial Federal Atlantic surfclam, ocean quahog, and the limited access Maine ocean quahog fishery permits. The guide will also be available on the internet at <http://www.nero.noaa.gov>. Copies of the guide can also be obtained from the Regional Administrator (see ADDRESSES).

**List of Subjects in 50 CFR Part 648**

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: January 6, 2005.

**Rebecca Lent,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

■ For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

**PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES**

■ 1. The authority citation for part 648 continues to read as follows:

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

■ 2. In § 648.70, paragraph (a)(1) is revised to read as follows:

**§ 648.70 Annual individual allocations.**

(a) \* \* \*

(1) Each fishing year, the Regional Administrator shall determine the initial allocation of surfclams and ocean quahogs for the next fishing year for each allocation holder owning an allocation pursuant to paragraph (a)(2) of this section. For each species, the initial allocation for the next fishing year is calculated by multiplying the allocation percentage owned by each allocation owner as of the last day of the previous fishing year in which allocation owners are permitted to permanently transfer allocation

percentage pursuant to paragraph (b) of this section (i.e., October 15 of every year), by the quota specified by the Regional Administrator pursuant to § 648.71. The total number of bushels of allocation shall be divided by 32 to determine the appropriate number of cage tags to be issued or acquired under § 648.75. Amounts of allocation 0.5 or smaller created by this division shall be rounded downward to the nearest whole number, and amounts of allocation greater than 0.5 created by this division shall be rounded upward to the nearest whole number, so that allocations are specified in whole cages. These allocations shall be made in the form of an allocation permit specifying the allocation percentage and the allocation in bushels and cage tags for each species. An allocation permit is only valid for the entity for which it is issued. Such permits shall be issued on or before December 15, to allow allocation owners to purchase cage tags from a vendor specified by the Regional Administrator pursuant to § 648.75(b).

\* \* \* \* \*

■ 3. In § 648.71, paragraphs (a) introductory text and (a)(2) are revised as follows:

**§ 648.71 Catch quotas.**

(a) *Establishing quotas.* Beginning in 2005, the amount of surfclams or ocean quahogs that may be caught annually by fishing vessels subject to these regulations will be specified for a 3-year period by the Regional Administrator. The initial 3-year specification will be based on the most recent available survey and stock assessments for Atlantic surfclams and ocean quahogs. Subsequent 3-year specifications of the annual quotas will be accomplished in the third year of the quota period, unless the quotas are modified in the interim pursuant to § 648.71(b). The amount of surfclams available for

harvest annually must be specified within the range of 1.85 to 3.4 m bu (98.5 to 181 m L) per year. The amount of ocean quahogs available for harvest annually must be specified within the range of 4 to 6 m bu (213 to 319.4 m L).

\* \* \* \* \*

(2) *Public review.* Based on the recommendation of the MAFMC, the Regional Administrator shall publish proposed surfclam and ocean quahog quotas in the **Federal Register**. Comments on the proposed annual quotas may be submitted to the Regional Administrator within 30 days after publication. The Assistant Administrator shall consider all comments, determine the appropriate annual quotas, and publish the annual quotas in the **Federal Register** each year. The quota shall be set at that amount that is most consistent with the objectives of the Atlantic Surfclam and Ocean Quahog FMP. The Regional Administrator may set quotas at quantities different from the MAFMC's recommendations only if he/she can demonstrate that the MAFMC's recommendations violate the national standards of the Magnuson-Stevens Act and the objectives of the Atlantic Surfclam and Ocean Quahog FMP and other applicable law.

■ 4. In § 648.73, paragraph (a)(1) is revised as follows:

**§ 648.73 Closed areas.**

(a) \* \* \*

(1) *Boston Foul Ground.* The waste disposal site known as the "Boston Foul Ground" and located at 42°25'36" N. lat., 70°35'00" W. long., with a radius of 1 nautical mile in every direction from that point.

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[FR Doc. 05-626 Filed 1-11-05; 8:45 am]

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