

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

[Docket No. 031015257-3308-02 ; I.D. 092804B]

**Fisheries of the Northeastern United States; Atlantic Surfclam and Ocean Quahog Fishery; Suspension of Minimum Surfclam Size for 2005**

**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 2005 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, 2005, through December 31, 2005.

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

**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 2004, meeting, the Mid-Atlantic Fishery Management Council (Council) voted to recommend that the Regional Administrator suspend the minimum size limit for the 2005, 2006, and 2007 fishing years. In accordance with the provisions of the FMP the Regional Administrator will publish the suspension of the surfclam minimum

size annually for fishing years 2005-2007 if the proportion of undersized surfclams is under 30 percent of the total surfclam landings for each fishing year. The Council will also continue to review these specifications annually and may modify these specifications, if necessary. Commercial surfclam shell length data for 2004 were analyzed to determine the percentage of surfclams landed that were smaller than the minimum size requirement. The analysis indicated that 0.7 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, 2005, through December 31, 2005.

**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: September 28, 2004.

**Alan D. Risenhoover,**

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

[FR Doc. 04-22342 Filed 10-4-04; 8:45 am]

**BILLING CODE 3510-22-S**