

and continuing for 7 days per week until September 30. The daily bag limit would be the first halibut taken, per person, of 32 inches (81.3 cm) or greater in length.

NMFS requests public comments on the Council's recommended modifications to the Plan and the proposed changes to the sport fishing regulations. The Area 2A TAC will be set by the IPHC at its annual meeting on January 10–13, 2000, in Lynnwood, WA. NMFS requests comments on the proposed changes to the Plan by January 7, 2000. NMFS requests comments on the proposed changes to the sport fishing regulations by February 11, 2000, after the IPHC annual meeting, so that the public will have the opportunity to consider the final Area 2A TAC before submitting comments on the proposed sport fishing regulations. The States of Washington and Oregon will conduct public workshops shortly after the IPHC meeting to obtain input on the sport season dates. After the Area 2A TAC is known, and after NMFS reviews public comments and comments from the States, NMFS will issue final rules for the Area 2A Pacific halibut sport fishery concurrent with the IPHC regulations for the 2000 Pacific halibut fisheries.

Classification

NMFS has prepared a draft EA/RIR on the proposed changes to the Plan. Copies of the "Draft Environmental Assessment and Regulatory Impact Review of Changes to the Catch Sharing Plan for Pacific Halibut in Area 2A" are available from NMFS (see **ADDRESSES**). Comments on the EA/RIR are requested by January 19, 2000.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that the changes to the Plan would not have a significant economic impact on a substantial number of small entities as follows:

The proposed action to move the borderline between the Washington sport fishery Puget Sound and North Coast subareas is expected to result in either no change or in a positive change in halibut fishing opportunity for individual halibut anglers. This proposed change will reclassify halibut landings made in the area from the Sekiu River west to Neah Bay as North Coast subarea landings, rather than as Puget Sound subarea landings. Sport fishing for halibut in this western Strait of Juan de Fuca area is more similar in character (fast-paced, high landings) to the North Coast fishery than to the rest of the Puget Sound fishery. For halibut anglers who remain in the Puget Sound subarea fishery, the overall season length may increase as a result of reduced

competition with their more aggressive western straits counterparts. For halibut anglers in the new, larger North Coast subarea, the quota has been increased to account for the addition of new waters and anglers, so season length is not expected to be affected by the proposed changes.

The proposed action to bring the Plan into compliance with the court-ordered allocation of halibut between treaty and non-treaty fisheries would result in the reallocation of approximately 3.3% of the Area 2A TAC. For allocations between non-treaty fisheries, the Council has recommended retaining the current allocation scheme. Thus, the effect of the reduction in the non-treaty allocation will be proportionately shared by all non-treaty fisheries, with the deepest cuts in halibut poundage occurring in the largest fisheries. For most fisheries, the change in available halibut poundage will not be noticeable. However, for the directed commercial fishery, for the Washington North Coast subarea sport fishery, and for the Oregon North Central Coast subarea sport fishery, the change in halibut poundage may have some effect on fishery durations.

Although the directed commercial fishery for halibut is one of the larger non-treaty halibut fisheries by weight, the duration and average halibut harvest per licensed vessel is primarily affected by the number of participants in the fishery. Over the 1997 through 1999 period, the average amount of halibut taken per licensed vessel has increased, because the number of licensed vessels has decreased while the overall commercial quota has remained fairly constant. Although the overall amount of halibut available to the directed commercial fishery would decrease under the allocation shift from non-treaty to treaty fisheries, the change is not enough to have a greater effect on the average amount of halibut taken per licensed participant than the effect of the number of participants in the fishery on the average amount of halibut taken per licensed vessel.

In the non-treaty sport fisheries, the Washington North Coast subarea and Oregon North Central Coast subarea take the largest halibut allocations, and will likely be most affected by the allocation shift from non-treaty to treaty fisheries. In the Washington North Coast subarea, assuming a catch rate similar to 1999 of 1,766 lb (0.8 mt) per day, the season could be reduced from 50 to 47 fishing days as a result of the approximately 4,700 lb (2.1 mt) shift in allocation from non-treaty to treaty fisheries. For this particular subarea, the effects of the allocation shift may be mitigated by the proposed changes to Washington sport fishery subarea management that shift the borderline and quota between the Puget Sound and North Coast subareas.

In the Oregon North Central Coast subarea, assuming a catch rate for the all-depth fishery similar to 1999 of 19,270 lb (8.7 mt) per day, the season could be reduced from 7 to 6 fishing days as a result of the approximately 7,000 lb (3.2 mt) shift in allocation from non-treaty to treaty fisheries. The reduction in the quota available to the Oregon all-depth fishery could alternatively result in an inseason quota shift from the nearshore sport fisheries to the all-depth sport fisheries.

The proposed actions to bring the Plan into compliance with the court-ordered allocation of halibut between treaty and non-treaty fisheries, and the restructuring of the Washington sport fisheries in the Puget Sound and North Coast subareas will not affect sport fishing opportunity for bottomfish, salmon, and other species that account for a much greater proportion of the sport fishing opportunity in Washington and Oregon. In addition to these two changes to the Plan, the Council has recommended changes to: (1) the inseason management structure for the Washington South Coast subarea "hot spot," and (2) the subarea quota structuring for the Oregon North Central and South Central fisheries inside 30 fathoms. These additional proposed changes to the Plan have far less effect on small entities than either of the proposed changes discussed above, and are expected to result in either no impact at all, or a modest increase in fishery and regulatory convenience. Consequently, changes to the Plan are not expected to have a significant economic effect on a substantial number of small entities. The proposed sport management measures for 2000 merely implement the Plan at the appropriate level of TAC; their impacts are within the scope of the impacts analyzed for the Plan.

Therefore, a regulatory flexibility analysis was not prepared.

This action has been determined to be not significant for purposes of E.O. 12866.

Dated: December 28, 1999.

Penelope D. Dalton,

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

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 991228355–9355–01; I.D. 110999C]

RIN 0648–AM50

Fisheries of the Northeastern United States; Proposed 2000 Fishing Quotas for Atlantic Surf Clams, Ocean Quahogs, and Maine Mahogany Quahogs

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

ACTION: Proposed 2000 fishing quotas for Atlantic surf clams, ocean quahogs, and Maine mahogany quahogs; request for comments.

SUMMARY: NMFS issues proposed quotas for the Atlantic surf clam, ocean quahog, and Maine mahogany quahog fisheries

for 2000. Regulations governing these fisheries require NMFS to propose for public comment specifications for the 2000 fishing year. The intent of this action is to propose allowable harvest levels of Atlantic surf clams and ocean quahogs from the exclusive economic zone and an allowable harvest level of Maine mahogany quahogs from the waters north of 43°50'N. lat. in 2000.

DATES: Comments must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5:00 p.m., eastern standard time, on February 2, 2000.

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: Patricia A. Kurkul, Regional Administrator, Northeast Region, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930-2298. The EA/RIR/IRFA is accessible via the Internet at <http://www.nero.gov/ro/doc/nr.htm>.

Written comments on the proposed specifications should be sent to: Patricia A. Kurkul, Regional Administrator, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930-2298. Mark on the outside of the envelope, "Comments—2000 Clam and Quahog Specifications." Comments may also be sent via facsimile (fax) to (978)281-9371. Comments will not be accepted if submitted via e-mail or the Internet.

FOR FURTHER INFORMATION CONTACT: Myles Raizin, Fishery Policy Analyst, 978-281-9104.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Atlantic Surf Clam and Ocean Quahog Fisheries (FMP) directs NMFS, in consultation with the Mid-Atlantic Fishery Management Council (Council), to specify quotas for surf clams 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 fishing to continue at that level for at least 10 years for surf clams and 30 years for ocean quahogs. While staying within this constraint, the Council policy is to also consider the economic benefits of the quotas. Regulations implementing Amendment 10 to the FMP published on May 19, 1998 (63 FR 27481), added Maine mahogany quahogs to the management unit and provides that a small artisanal fishery for that species in the waters north of 43°50' N. lat. will have 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 hL to 35,240 hL). As specified in Amendment 10, the Maine mahogany quahog quota is in addition to the quota specified for the ocean quahog fishery. The fishing quotas must be in compliance with overfishing definitions for each species. The overfishing definition for ocean quahogs is based on a control rule, which requires biomass target = 1/2 virgin biomass or 2 billion lb (907,200 mt) of meats (200 million bu), fishing mortality rate (F) target = $F_{0.1} = 0.02$, biomass threshold = 1/2 biomass target or 1 billion lb (453,600 mt) of meats (100 million bu), and fishing mortality

threshold of $F_{25\%} = 0.042$. The current biomass is estimated to be 3 billion lb (1,360,800 mt) of meats (300 million bu) or 3/4 virgin biomass and current F is estimated to be 0.021. NMFS approved the overfishing definition for ocean quahogs contained in Amendment 12 to the FMP, but disapproved the proposed overfishing definition for surf clams because it was based only on surf clams from the Northern New Jersey area and did not take into account the broad range of the resource. Therefore, the Council used the existing overfishing definition for surf clams, which is a fishing mortality rate of $F_{20\%} = 0.180$ in establishing the 2000 specifications. Current F for surf clams is estimated to be 0.0180 for the entire fishery and 0.041 for the Northern New Jersey Area, where the heaviest exploitation occurs. The Council has been advised that an FMP amendment is required to revise overfishing definitions consistent with the requirements of the Sustainable Fisheries Act.

In proposing these quotas, the Council considered the available stock assessments, data reported by harvesters and processors, and other relevant information concerning exploitable biomass and spawning biomass, fishing mortality rates, stock recruitment, projected effort and catches, and areas closed to fishing. This information was presented in a written report prepared by the Council staff. The proposed quotas for the 2000 Atlantic surf clam, ocean quahog, and Maine mahogany quahog fisheries are shown here. All three quotas would be unchanged from the 1999 level.

PROPOSED 2000 SURF CLAM/OCEAN QUAHOG QUOTAS

Fishery	2000 final quotas (bu)	2000 final quotas (hL)
Surf clam ¹	2,565,000	1,366,000
Ocean quahog ²	4,500,000	2,396,000
Maine mahogany quahog ²	100,000	35,240

¹ 1 bushel = 1.88 cubic ft. = 53.24 liters

² 1 bushel = 1.2445 cubic ft. = 35.24 liters

Surf Clams

The Council recommended a 2000 quota of 2.565 million bu (1.366 million hL) for surf clams, a level unchanged since 1995. This level of quota was estimated as corresponding to the F that would be required to harvest the annual surplus production for Northern New Jersey. The vast majority of the catch (greater than 80 percent) is currently derived from the Northern New Jersey area, which contains about 36 percent of

the coast-wide resource. Sufficient recruitment is evident and the age structure of the population is such that this level of quota will not harm the long-term sustainability of the resource. The F in 1997 associated with a quota of 2.565 million bu (1.366 million hL) was approximately 0.04 for the Northern New Jersey area.

The proposed quota takes into account analysis of surf clam abundance that was part of the 26th Northeast Regional Stock Assessment Workshop

(SAW 26). SAW 26 utilized data from the 1997 surf clam survey, which included work to estimate dredge efficiency. Although SAW 26 showed a significant increase in surf clam biomass, the Council chose not to recommend a quota increase for 2000 because of three major factors: (1) The vast majority of the catch (greater than 80 percent) continues to be derived from the Northern New Jersey area, and the net productivity of that area appears to be at an equilibrium with the current

catches; (2) the 1998 Federal surf clam landings were 8 percent less than the 1998 quota and preliminary data for 1999 also indicate that landings will be below the 1999 quota level; and (3) SAW 26 utilized a host of new techniques and methodologies, key among them being a new dredge efficiency estimate that resulted in a sharp increase in the estimate of surf clam biomass. The differences in methodology relative to prior work result in this assessment effectively representing a single point estimate in time; hence, it is prudent to take a risk-averse approach to setting the annual quota until more data from different years are available using the new dredge efficiency estimate. A new clam survey of the continental shelf between Cape Hatteras and Georges Bank was conducted in the summer of 1999, and a stock assessment is to be developed and reviewed at the NMFS-sponsored Stock Assessment Review Committee in December 1999. Therefore, the Council decided to maintain current quotas until these additional data are available to corroborate SAW 26 results.

The Council continues to assume that none of the Georges Bank resource (approximately one quarter of the total resource) will be available during the next 10 years for harvesting because of paralytic shellfish poisoning. This area has been closed to the harvest of clams and other shellfish since 1989, and the Council and NMFS have no reason to believe that it will reopen in the near future.

Ocean Quahogs

The Council recommended a 2000 quota of 4.5 million bu (2.396 million hL) for ocean quahogs. This quota would be identical to that adopted for 1999, but an increase of 13 percent from the 1998 quota level. The FMP specifies that the quota level must comply with the ocean quahog overfishing definition.

The 1997 quota yielded an F of approximately 0.02 compared to the F threshold of 0.04 contained in the overfishing definition. The specific F associated with the 2000 quota will be calculated when the new assessment is complete, but is expected to be close to the F in 1997, because a similar proportion of the biomass remains unexploited compared to 1997.

The Atlantic surf clam and ocean quahog quotas are specified in standard bushels of 53.24 liters per bushel, while the Maine mahogany quahog quota is specified in "Maine" bushels of 35.24 liters per bushel. Because Maine mahogany quahogs are the same species as ocean quahogs, both fisheries are combined and share the same ocean

quahog overfishing definition. When the two quota amounts are added, the total allowable harvest is still lower than the level that would result in overfishing for the entire stock, as previously defined in the ocean quahog overfishing definition.

The Council proposed a 2000 ocean quahog quota based on the analysis of abundance for that species found in the 27th Northeast Regional Stock Assessment Workshop (SAW 27) concluded in 1998. Similar to surf clams, SAW 27 included work to estimate dredge efficiency and showed a significant increase in the estimate of ocean quahog biomass. Although 30 percent of the resource is located on Georges Bank, SAW 27 did not question whether Georges Bank would ever be reopened. However, SAW 27 showed that using the entire resource, with a harvest level of only 4 million bu (2.130 million hL), would produce a supply-year harvest equivalent to 76 years. This estimate is significantly longer than the period specified in the Council's policy of at least 30 years. The resource is of sufficient size overall that the proportion of ocean quahogs that exists on Georges Bank is not necessary to meet the Council's 30-year supply policy.

Although SAW 27 showed that the ocean quahog quota could have been increased beyond the 1999 quota level, the Council did not recommend any change for 2000 because of four major factors: (1) The 1998 quota was not constraining to industry; (2) most industry members supported the 4.5 million bushel (2.396 million hL) harvest level; (3) repeated concern was expressed by industry over the continued lack of apparent ocean quahog recruitment south of Georges Bank; and (4) as with surf clams, although SAW 27 utilized new methodologies and a new dredge efficiency estimate to derive a sharp increase in ocean quahog biomass, this assessment represents only one point in time. As with surf clams, the Council decided to take no further action on the quota until the additional data are available.

The Council recommended that the Maine mahogany quahog quota remain unchanged from the 1999 quota level at 100,000 Maine bu (35,240 hL) for 2000. Because management measures for this fishery have only been in place since May 19, 1998, data from the federally managed fishery is just beginning to be compiled. There has been no attempt yet to develop and conduct a scientific survey of the extent of the resource. From the information currently available, maintaining the quota at its

current level for another year will not constrain the fishery or endanger the resource, because the total quota was not harvested and catch-per-unit-of-effort has not changed substantially.

Classification

This action is authorized by 50 CFR part 648 and has been determined to be not significant for purposes of E.O. 12866.

The Council prepared an Initial Regulatory Flexibility Analysis in section 5.0 of the RIR that describes the economic impacts this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section of the preamble and in the SUMMARY section of the preamble. A summary of that analysis follows:

Vessels

In 1998, a total of 47 vessels reported harvesting surf clams or ocean quahogs from Federal waters under an Individual Transferable Quota (ITQ) system. Average 1998 gross income for surf clam harvests was \$650,919 per vessel, and \$685,573 per vessel for ocean quahog harvests. In the small artisanal fishery for ocean quahogs in Maine, 39 vessels reported harvests in the clam logbooks, with an average value of \$48,629 per boat. All of these vessels readily fall within the definition of a small business. The Council recommends no change in the 2000 quotas for surf clams, ocean quahogs, or mahogany quahogs from their present 1999 quotas of 2.656, 4.500, and 0.100 million bushels, respectively. Since 1998 harvest levels of 2.365, 3.897, 0.082 million bushels, for surf clams, ocean quahogs, and mahogany quahogs, respectively, are below the 2000 proposed quotas and the Council assumes no changes in fishing effort or yield-to-effort will take place in 1999, the Council believes that the 2000 proposed quotas will yield a surplus quota available to vessels participating in all three fisheries. In the case of a surplus quota, vessels would not be constrained from harvesting additional product, thus, increasing revenues. This assumes that the demand for these shellfish is price elastic and vessels would equally share in increases or decreases to total revenues earned by the fishery.

The Council analyzed 4 ocean quahog quota alternatives, in addition to the preferred, for including 4,000, 4,250, 4,750, and 6,000 million bushels. The minimum allowable quota specified in the current OY range is 4.0 million

bushels of ocean quahogs. Adoption of this quota would represent a 12% decrease from the current 4.5 million bushel quota, and, assuming the entire quota is harvested, a 2.6-percent increase in harvest from the 1998 harvest level of 3.897 million bushels. This alternative would take the most conservative approach to managing the fishery that is currently available to the Council. Adopting the maximum allowable quota of 6.000 million bushels for ocean quahogs would represent a 33-percent increase in allowable harvest and a 54% increase in landings from 1998 assuming all the quota is taken. The industry does not have a market available to absorb such a massive increase in landings and may not have the vessel capacity necessary to harvest a quota this large. (Two of the most productive ocean quahog vessels sank in January 1999, and have not been replaced). Since all alternatives would yield increases, the same result as in the case of preferred alternative, namely increased revenues, would be likely to occur.

The Council identified 4 surf clam quota alternatives in addition to the preferred alternative including 1.850, 2.365, 2.700, 3.400. The minimum allowable quota specified in the current OY range is 1.850 million bushels of surf clams. Adoption of this quota would represent a 28-percent decrease from the current 2.565 million bushel quota, and a 22-percent decrease from the 1998 harvest level of 2.365 million bushels. Assuming that demand is price elastic, a reduction in quota of this magnitude would have a substantially negative impact on overall exvessel revenues. Adoption of the 2.365 million

bushel quota would most likely have no impact on small entities since it is identical to 1998 base year landings of 2.365 million bushels. Adopting the maximum allowable quota of 3.40 million bushels for surf clams would allow for a 33-percent increase in harvest. Other alternatives could yield increases in revenues, but are not likely, because the quota has not been reached over the last few years. In summation, the Council determined that the only alternative that would negatively impact revenues to vessels is the 1.850-million-bushel alternative for surf clams. All other alternatives including the preferred, would have a positive impact on revenues.

The quota for mahogany quahogs is specified at 100,000 bushels and the FMP specifies that adjustments to the quota would require a stock assessment of the mahogany quahog resource. Since none has been done, the Council did not look at alternative quotas for this fishery. However, in general, any quota the Council would have specified below the 1998 landing level of 72,466 bushels would most likely cause a decrease in revenues to individual vessels while a quota greater than that level could cause an increase. However, this is unlikely, given recent landings values for this fishery.

Processors

Nine to twelve processors participate in the surf clam and ocean quahog fisheries. However, 3 firms are responsible for the vast majority of purchases in the exvessel market and sale of processed clam products in appropriate wholesale markets. Impacts to surf clams and ocean quahog processors would most likely mirror the

impacts of the various quotas to vessels as discussed here. 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 elastic and revenues would increase or decrease with changes in price.

Allocation Holders

In 1999, surf clam allocation holders totaled 107 while 64 firms or individuals held ocean quahog allocation. If the recommended quotas are accepted, i.e., no change from 1999, it is likely that impacts to allocation holders or buyers will be minimal. Theoretically, increases in quota would most likely benefit those who must purchase quota through lower prices (values) and negatively impact sellers of quota because it would reduce in value. Decreases in quota would most likely have an opposite effect.

Reporting and Recordkeeping Requirements

This proposed rule would not impose any new reporting, recordkeeping, or other compliance requirements. Therefore, the costs of compliance would remain unchanged.

The RIR/IRFA is available from NMFS (see **ADDRESSES**).

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

Dated: December 28, 1999.

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