



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
55 Great Republic Drive
Gloucester, MA 01930-2276

October 23, 2008

Small Entity Compliance Guide

Dear Atlantic Surfclam and/or Ocean Quahog (SC/OQ) Permit Holder:

This letter is to inform you of the final 2009 quotas for surfclams, ocean quahogs, and Maine ocean quahogs, and to remind you that the final rule implementing Framework Adjustment 1 (FW 1) to the Atlantic Surfclam and Ocean Quahog Fishery Management Plan (FMP), which published on September 11, 2007, required the use of a vessel monitoring system (VMS) for Atlantic surfclam and ocean quahog individual transferable quota (ITQ) fishing vessels beginning on **January 1, 2008**. The VMS requirement for the Federal limited access Maine mahogany quahog vessels becomes effective **January 1, 2009**. A permit holder letter was sent on September 21, 2007, to all vessel owners that held an Atlantic surfclam and/or ocean quahog permit explaining the new VMS requirements in the fishery, and a reminder letter was sent on June 27, 2008. In addition, this letter also reminds all SC/OQ permit holders of the continued area closures due to environmental degradation and the toxin that causes paralytic shellfish poisoning (PSP).

FINAL 2009 SURFCLAM/OCEAN QUAHOG QUOTAS

The 2009 (January 1 through December 31, 2009) quotas for surfclams, ocean quahogs, and Maine ocean quahogs will remain unchanged from the previous year. That is, the 2008 quota of 3.4 million bushels for Atlantic surfclams, 5.333 million bushels for ocean quahogs, and 100,000 Maine bushels for Maine ocean quahogs will remain in effect for 2009. In addition, the minimum size limit for surfclams has been suspended for the 2009 fishing year (October 8, 2008, 73 FR 58898). Below is a summary of the 2009 fishing year quotas:

Species	2009
Surfclams ¹	3.400
Ocean Quahogs ¹	5.333
Maine Ocean Quahogs ²	100,000

* Numerical values in table are in millions of bushels except for Maine ocean quahogs

¹ 1 bushel = 1.88 cubic ft = 53.24 liters

² 1 bushel = 1.2445 cubic ft = 35.24 liters

These quotas were published in the Federal Register on January 4, 2008 (73 FR 850) and were evaluated in an annual quota recommendation paper prepared by the Mid-Atlantic Fishery Management Council (Council) and presented at its June 2008 meeting. The Council recommended that the status quo quota specifications remain in place. This letter does not contain all the regulatory provisions that pertain to these fisheries, and so, has no legal force or effect. A copy of the final quota specifications can be obtained through the



NOAA Fisheries Northeast Regional Office's Web Site <http://www.nero.noaa.gov/sfd/clams/>. Please visit this web site for up-to-date information on regulations, quota reports, maps of closure areas, and ITQ allocation information.

MAINE MAHOGANY QUAHOG LIMITED ACCESS VESSELS

FW 1 delayed, until **January 1, 2009**, the VMS requirement for the Federal limited access Maine mahogany quahog permitted vessels. Vessels fishing under the ITQ program in the Maine mahogany quahog zone are not eligible for this delayed implementation. Although the VMS requirement will become effective beginning on January 1, 2009, Maine mahogany quahog permitted vessel owners will not be required to install a VMS unit until they fish for, land, take, possess, or transfer ocean quahogs under a limited access Maine mahogany quahog permit. After this occurs, the vessel owner must comply with the VMS requirement for an operational unit as long as the permit is issued to the vessel. For information on turning off, or powering down your VMS unit, please see the "power-down rules" below.

POWER-DOWN RULES

A vessel owner issued a surfclam or ocean quahog permit may power down the VMS unit if such a vessel will be out of the water for more than 72 consecutive hours, or if the vessel does not participate in any fisheries for a minimum period of 30 consecutive days. To receive permission to power down, the vessel owner must apply for and obtain a Letter of Exemption from the Regional Administrator, as discussed below. All vessels that have an operational VMS unit on board are subject to the most restrictive VMS requirement and power-down rules that apply. Thus, please note that a surfclam or ocean quahog vessel holding another permit with VMS requirements, such as a scallop permit, may not be allowed to power down except when the vessel will be out of the water for more than 72 consecutive hours.

The "VMS Power Down Exemption Request" form is available from the Northeast Regional Office, or on the internet at <http://www.nero.noaa.gov/>. This form must be sent to the Office of Law Enforcement (OLE), 55 Great Republic Drive, Gloucester, MA 01930, or faxed to (978) 281-9317, and the request must contain the following information:

- Location of the vessel during the exemption period for which an exemption is sought;
- The exact time period for which the exemption is sought, i.e., the times/dates the VMS signal will be turned off and turned on again; and
- If requesting an exemption because the vessel will be out of the water for more than 72 consecutive hours, sufficient information to determine that the vessel will be out of the water for that time period.

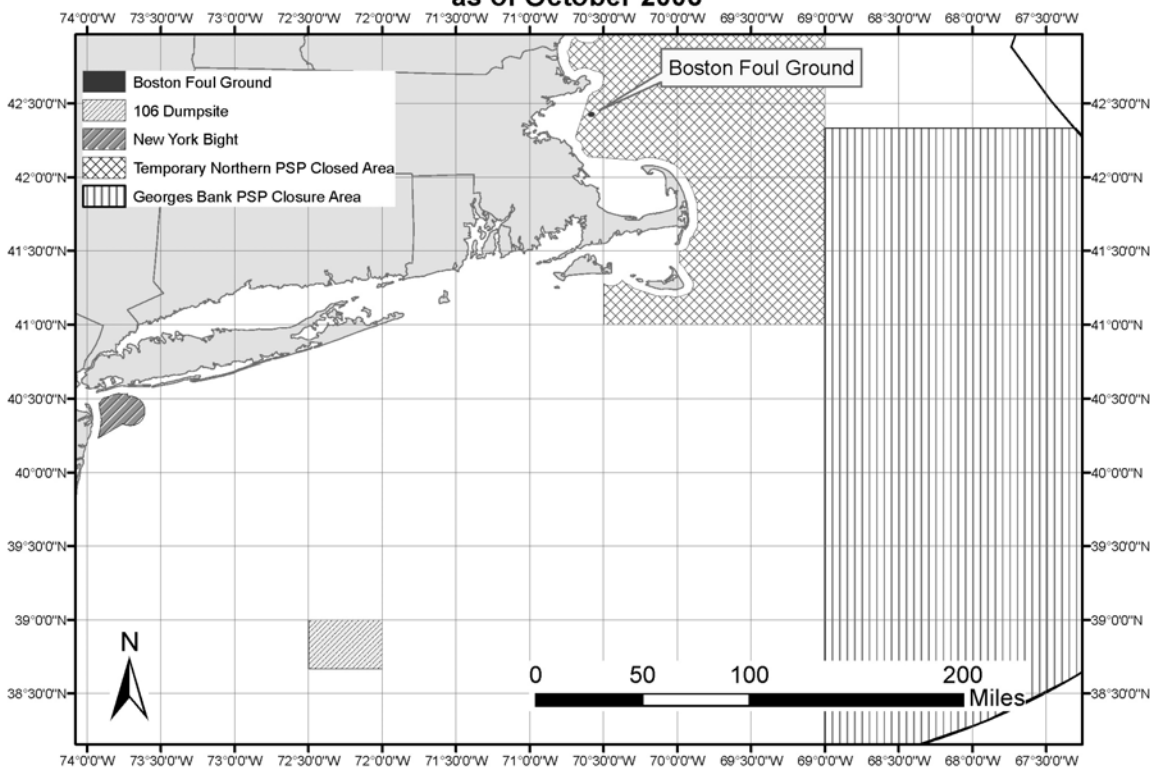
Upon receipt of the written request, the Regional Administrator may issue a Letter of Exemption if it is determined that the vessel owner has provided sufficient information and, in the case where a vessel may also hold a permit that utilizes days-at-sea (DAS), that the exemption will not jeopardize accurate monitoring of the vessel's DAS. The Letter of Exemption must be on board the vessel at all times and **the VMS cannot be turned off until the letter has been received**. Therefore, a vessel owner requesting a Letter of Exemption must provide the Regional Administrator ample time to review the request and respond. The dates of exemption may be revised if requested by the vessel owner in writing and approved by the Regional Administrator.

ATLANTIC SURFLCLAM AND OCEAN QUAHOG AREA CLOSURES DUE TO ENVIRONMENTAL DEGRADATION / PSP

The areas described below, and shown on Figure 1, continue to be closed to SC/OQ fishing due to environmental degradation, or the presence of the toxin that causes PSP. Vessels may not fish within the two temporary PSP closed areas without possessing on board a Letter of Authorization (LOA) from the Regional Administrator authorizing the collection of shellfish for biological sampling. Figure 1 is provided for informational purposes only. Please refer to the Northeast Fishing Regulations found at 50 CFR part 648 for specific area closure information, specifically §§ 648.73 and 648.14.

- *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.
- *New York Bight.* The polluted area and waste disposal site known as the “New York Bight” and located at 40°25'04" N. lat., 73°42'38" W. long., and with a radius of 6 nm in every direction from that point, extending further northwestward, westward and southwestward between a line from a point on the arc at 40°31'00" N. lat., 73°43'38" W. long., directly northward toward Atlantic Beach Light in New York to the limit of the state territorial waters of New York; and a line from the point on the arc at 40°19'48" N. lat., 73°45'42" W. long., to a point at the limit of the state territorial waters of New Jersey at 40°14'00" N. lat., 73°55'42" W. long.
- *106 Dumpsite.* The toxic industrial site known as the “106 Dumpsite” and located between 38°40'00" and 39°00'00" N. lat., and between 72°00'00" and 72°30'00" W. long.
- *Georges Bank.* The PSP contaminated area, which is located in Georges Bank, and is located east of 69° W. long, and south of 42°20' N. lat.
- *The Temporary Northern PSP Closed Area.* The area of the U.S. Exclusive Economic Zone bound by the following coordinates in the order stated: (i) 43°00'N. lat., 71°00'W. long.; (ii) 43°00'N. lat., 69°00'W. long.; (iii) 41°00'N. lat., 69°00'W. long.; (iv) 41°00'N. lat., 70°30'W. long.; (v) 41°39'N. lat., 70°30'W. long.; (vi) 41°39'N. lat., 71°00'W. long.; and then ending at the first point.

**Figure 1 – Atlantic Surfclam & Ocean Quahog
Closed Areas Due to Environmental Degradation
as of October 2008**



We remind surfclam and ocean quahog fishermen that it is important to stay informed of how to identify and react to discarded military munitions encountered while fishing. For more information regarding unexploded ordinance please visit www.denix.osd.mil/uxosafety.

If you have any questions regarding the 2009 fishing year quotas, the VMS requirement for the surfclam and ocean quahog fishery, or the current SC/OQ closed areas, please call the Sustainable Fisheries Division at 978-281-9315. For questions regarding VMS requirements and usage, you may also contact the Northeast VMS Team within the Office of Law Enforcement at (978) 281-9213.

Sincerely,

Patricia A. Kurkul
Regional Administrator