

Federalism assessment is not required. This proposed rule will not have substantial direct effects on the State, in the relationship between the Federal Government and the State, or on the distribution of power and responsibilities among the various levels of government. We coordinated with the State of Florida to the extent possible on the development of this proposed rule.

#### *Civil Justice Reform*

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this proposed rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

#### *Paperwork Reduction Act*

This proposed regulation does not contain collections of information that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* The proposed regulation will not impose new recordkeeping or reporting requirements on State or local governments, individuals, and businesses, or organizations.

#### *National Environmental Policy Act*

We have analyzed this proposed rule in accordance with the criteria of the National Environmental Policy Act (NEPA) and have determined that this action is categorically excluded from review under NEPA (516 DM 2, Appendix 1.10). An environmental assessment was prepared for the establishment of all 13 manatee refuges designated in November, 2002, including these refuges. Since the first action was not implemented, Federal signage has not yet been installed for these two refuges, and removal of Federal refuge designation will leave comparable state requirements in place, little or no change in the environment has occurred that will be reversed as a result of the removal of Federal refuge designation. Thus, no environmental assessment or environmental impact statement for the removal of Federal refuge designation is required.

#### *Government-to-Government Relationship With Tribes*

In accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951), Executive Order 13175, and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with federally recognized Tribes on a

Government-to-Government basis. We have evaluated possible effects on federally recognized Indian tribes and have determined that there are no effects.

#### *Energy Supply, Distribution or Use (Executive Order 13211)*

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. Because comparable State requirements will remain in effect, this rule is not anticipated to result in any change in activities and, therefore, it is not expected to significantly affect energy supplies, distribution, and use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

#### *References Cited*

A complete list of all references cited in this proposed rule is available upon request from the Jacksonville Field Office (*see ADDRESSES* section).

#### *Author*

The primary author of this document is Jim Valade (*see ADDRESSES* section).

#### *Authority*

The authority to establish manatee protection areas is provided by the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), as amended.

#### *List of Subjects in 50 CFR Part 17*

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

#### *Proposed Regulation Promulgation*

Accordingly, we propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as follows:

#### **PART 17—[AMENDED]**

1. The authority citation for part 17 continues to read as follows:

**Authority:** 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. Amend § 17.108 as follows:

a. Remove paragraphs (c)(5), including the map "Pansy Bayou Manatee Refuge," and (c)(11), including the map "Cocoa Beach Manatee Refuge."

b. Redesignate paragraphs (c)(6) through (c)(10) as paragraphs (c)(5) through (c)(9), respectively.

c. Redesignate paragraphs (c)(12) through (c)(14) as paragraphs (c)(10) through (c)(12), respectively.

d. Revise newly redesignated paragraphs (c)(10)(i)–(ix) by removing the words "paragraph (12)(x)" each time they appear and adding the words "paragraph (c)(10)(x)" in their place.

e. Revise newly redesignated paragraphs (c)(11)(i)–(iv) by removing the words "paragraph (13)(v)" each time they appear and adding the words "paragraph (c)(11)(v)" in their place.

f. Revise newly redesignated paragraphs (c)(12)(i)–(xi) by removing the words "paragraph (14)(xii)" each time they appear and adding the words "paragraph (c)(12)(xii)" in their place.

Dated: October 10, 2003.

**Craig Manson,**

*Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 03–26668 Filed 10–21–03; 8:45 am]

**BILLING CODE 4310–55–P**

## **DEPARTMENT OF COMMERCE**

### **National Oceanic and Atmospheric Administration**

#### **50 CFR Part 648**

[Docket No. 031015257–3257–01; I.D. 092503C]

**RIN 0648–AQ79**

### **Fisheries of the Northeastern United States; Proposed 2004 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:** Proposed rule - 2004 fishing quotas for Atlantic surfclams, ocean quahogs, and Maine mahogany ocean quahogs; request for comments.

**SUMMARY:** NMFS proposes quotas for the Atlantic surfclam, ocean quahog, and Maine mahogany ocean quahog fisheries for 2004. Regulations governing these fisheries require NMFS to publish the proposed specifications for the 2004 fishing year and seek public comment on such proposed measures. The intent of this action is to propose 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. in 2004.

**DATES:** Comments must be received no later than 5 p.m., eastern standard time, on November 21, 2003.

**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. A copy of 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—2004 Clam and Quahog Specifications." Comments may also be sent via facsimile (fax) to (978) 281-9135. Comments will not be accepted if submitted via e-mail or the Internet.

**FOR FURTHER INFORMATION CONTACT:** Susan W. Chinn, Fishery Management Specialist, 978-281-9218, [susan.chinn@noaa.gov](mailto:susan.chinn@noaa.gov).

**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 quotas for surfclams 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 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, published on May 19, 1998 (63 FR 27481), added Maine mahogany 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 hL to 35,240 hL). As specified in Amendment 10, the Maine mahogany ocean 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. 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 2004 Atlantic surfclam, ocean quahog, and Maine mahogany ocean quahog fisheries are shown here. The status quo level of 2003 for the Maine mahogany ocean quahog is proposed to be maintained for 2004, but the surfclam quota would be increased by 4.6 percent (from 3.25 to 3.4 million bu) and the ocean quahog quota would be increased by 11.1 percent (from 4.5 to 5.0 million bu).

#### PROPOSED 2004 SURFLAM/OCEAN QUAHOG QUOTAS

Fishery	2004 final quotas (bu)	2004 final quotas (hL)
<sup>1</sup> Surfclam .....	3,400,000	1,810,000
<sup>1</sup> Ocean quahog	5,000,000	2,662,000
<sup>2</sup> Maine mahogany ocean quahog .....	100,000	35,240

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

<sup>2</sup> 1 bushel = 1.2445 cubic ft. = 35.24 liters

#### Surfclams

The Council's recommended 2004 quota of 3.4 million bu (1.81 million hL) for surfclams is the fourth change in the quota since 1995. In 1999, the Council expressed its intention to increase the surfclam quota to OY over a period of 5 years, (OY = 3.4 million bu (1.81 million hL)). The most recent assessment for surfclams, Stock Assessment Workshop 30 (SAW 30), indicated that the resource is at a high level of biomass, is under-exploited, and can safely sustain increased harvests, but cautioned that it may be advantageous to avoid localized depletion. Industry reports that the current demand for clam products is very strong, with processors describing an inability to fill all orders due to a lack of clams. However, information reported by industry in their vessel trip reports has shown a steady reduction in the landings per unit of effort, an important indicator that the annual quota is approaching the OY for the resource. Federal landings of surfclams increased by 8 percent in 2002 to a total of 3.11 million bu (1.656 million hL). The majority of the surfclam catch

continues to be derived from one area (northern NJ). Based on the information and advice from the most recent assessment for surfclams, the Council recommends an increase of 4.6 percent from the 2003 level of 3.25 million bu (1.730 million hL), which would result in a 2004 quota of 3.4 million bu (1.810 million hL), the maximum allowable quota under the current FMP.

#### Ocean Quahogs

The Council has recommended a 2004 quota of 5.0 million bu (2.662 million hL) for ocean quahogs. This represents an increase of 11.1 percent, but would be the first increase in the quota in 5 years. Although ocean quahog landings had been on a declining trend from the 4.9-million bu (2.609 million hL) peak in 1992, quahog landings have increased consecutively by 17 percent and by 5 percent for the past 2 fishing years (from fishing year 2000 to 2001, and from fishing year 2001 to 2002, respectively) to a total of 3.87 million bu (2.061 million hL), or 86 percent of the annual quota in fishing year 2002. Another encouraging development has been the increase in average landings per unit of effort in 2002. Considering these positive indicators for the status of the ocean quahog stock, the Council recommends increasing the ocean quahog quota for 2004 by 11.1 percent, to 5.0 million bu (2.662 million hL). The best scientific information currently available suggests that an increase in the quahog quota to 5.0 million bu (2.662 million hL) would be sustainable. Such an increase in the quahog quota would also help offset the impact on industry of the expected reduction of the NJ state surfclam quota to prevent localized depletion of the surfclam resource in state waters.

The Atlantic surfclam and ocean quahog quotas are specified in standard bushels of 53.24 L per bushel, while the Maine mahogany ocean quahog quota is specified in "Maine" bushels of 35.24 L per bushel. Because Maine mahogany ocean 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 (ocean quahog and Maine mahogany quahog) are added, the total allowable harvest is still lower than the level that would result in overfishing for the entire stock.

The Council has recommended that the Maine mahogany ocean quahog quota for 2004 remain unchanged from the 2001, 2002, and 2003 quota level at 100,000 Maine bu (35,240 hL). No additional information is available at this time on the impacts of the Maine mahogany ocean quahog quota that

would allow a more in-depth analysis of the stock and, therefore, allow the quota to be increased beyond the current maximum level of 100,000 Maine bu (35,240 hL). An effort is currently underway within the State of Maine to initiate a scientific survey and assessment of the ocean quahog resource. From the best scientific information currently available, maintaining the quota at its current level for another year will not seriously constrain the fishery or endanger the resource.

### Classification

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

The Council prepared an IRFA in section 8.0 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, the objectives and the legal basis for this action are contained in the **SUPPLEMENTARY INFORMATION** section of this Proposed Rule. This action does not duplicate, overlap, or conflict with any other Federal rules. A summary of the IRFA follows:

### Vessels

In 2002, a total of 54 vessels reported harvesting surfclams or ocean quahogs from Federal waters under an Individual Transferable Quota (ITQ) system. Average 2002 gross income for surfclam harvests was \$740,500 per vessel, and \$668,990 per vessel for ocean quahog harvests. In the small artisanal fishery for ocean quahogs in ME, 35 vessels reported harvests in the clam logbooks, with an average value of \$135,511 per vessel. All of these vessels fall within the definition of a small entity. The Council recommends a 4.6-percent increase in the surfclam quota, an 11.1-percent increase in the ocean quahog quota, and no change in the 2004 quota for Maine mahogany ocean quahogs from their 2003 quotas. Since 2002 harvest levels of 3.133 and 3.871 million bu (1.668 and 2.061 million hL) for surfclams and ocean quahogs, respectively, were below the 2004 proposed quotas, the Council believes that the proposed 2004 quotas may yield a surplus quota available to vessels participating in all these fisheries. This is especially likely to occur in the ocean quahog fishery. In the case of a surplus quota, vessels would not be constrained from harvesting additional product, thus allowing them to increase their revenues.

The Council analyzed four ocean quahog quota alternatives in addition to

the preferred 5.000-million bu (2.662-million hL) option, including 4.000, 4.250, 4.500, and 6.000 million bu (2.129, 2.263, 2.396, and 3.195 million hL). The minimum allowable quota specified in the current OY range is 4.000 million bu (2.129 million hL) of ocean quahogs. Adoption of a 4.000-million bu (2.129-million hL) quota would represent a 12-percent decrease from the current 4.500-million bu (2.396-million hL) quota and, assuming the entire quota were harvested, a 3-percent increase in harvest from the 2002 harvest level of 3.871 million bu (2.061 million hL). 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. Adoption of the 4.250-million bu (2.263-million hL) quota would represent a 10-percent increase to the 2002 ocean quahog landings, but a 6-percent decrease from the 2003 quota level. Given the current biological status of the quahog resource, the Council does not believe that a quota reduction is warranted at this time. Adoption of the 4.500-million bu (2.396-million hL) quota would most likely have a limited impact on small entities, since it results in no change from status quo. The preferred alternative allows for an 11.1-percent increase in quota from 4.500 million bu (2.396 million hL) to 5.000 million bu (2.662 million hL), and a 29-percent increase to the 2002 ocean quahog landings. Adopting the maximum allowable quota of 6.000 million bu (3.195 million hL) for ocean quahogs would represent a 33-percent increase in allowable harvest and a 55-percent increase in landings from 2002, assuming all the quota were harvested. However, the industry does not have a market available to absorb such a large increase in landings and may not have the vessel capacity necessary to harvest a quota this large. Since all alternatives, including the preferred, would yield increases relative to the actual 2002 landings, increased revenues would be likely to occur, albeit at various percentage differences.

The Council identified four surfclam quota alternatives in addition to the preferred alternative of 3.400 million bu (1.810 million hL), including 1.850, 3.135, 3.250, and 3.325 million bu (0.985, 1.669, 1.730 and 1.771 million hL). The minimum allowable quota specified in the current OY range is 1.850 million bu (0.985 million hL) of surfclams. Adoption of a 1.850-million bu (0.985-million hL) quota would represent a 43-percent decrease from

the current 3.250-million bu (1.517-million hL) quota, and a 41-percent decrease from the 2002 harvest level of 3.113 million bu (1.658 million hL). A reduction in quota of this magnitude would have a substantially negative impact on overall ex-vessel revenues. Adoption of the 3.135-million bu (1.669-million hL) quota would represent a 0.7-percent increase in the 2002 surfclam landings but a 4-percent decrease from the 2003 quota level. Given the current biological status of the surfclam resource, the Council does not believe that a quota reduction is warranted at this time. Adoption of the 3.250-million bu (1.730-million hL) quota would most likely have a limited impact on small entities, since it results in no change from status quo. Adoption of the 3.325-million bu (1.771-million hL) quota would represent a 7-percent increase to the 2002 surfclam landings and a 2-percent increase to the 2003 quota level. The preferred alternative allows for a 9-percent increase in the 2002 surfclam landings and a 4.6-percent increase in quota from 3.250 million bu (1.730 million hL) to the maximum allowable quota of 3.400 million bu (1.810 million hL). In summation, the Council determined that the only alternative that would significantly negatively impact revenues to vessels is the 1.850-million bu (0.985-million hL) alternative for surfclams. The 3.135-million bu (1.669-million hL) and status quo alternative would be restrictive and have a slight to moderate impact on revenues. The 3.325-million bu (1.771-million hL) and preferred alternatives would yield increases relative to the actual 2002 landings, so increased revenues would be likely to occur. The resource can support the 4.6-percent increase in landings and the industry believes it can utilize this additional product and thus have a beneficial impact for the Nation.

The quota for Maine mahogany ocean quahogs is specified at a maximum 100,000 bu (35,240 hL). The FMP specifies that upward adjustments to the quota would 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 bu (35,240 hL), including 50,000 bu and 84,700 bu (17,620 and 29,847 hL). Any quota the Council would have recommended below the 1999 landing level of 93,938 Maine bu (33,104 hL) would most likely

have resulted in a decrease in revenues to individual vessels.

### Processors

As of mid-2003, there were 9 processors that participated in the surfclam and ocean quahog fisheries, plus 10 companies that bought ocean quahogs directly from vessels from within the State of Maine. Of the nine processors, approximately six are responsible for the vast majority of purchases in the ex-vessel market and sale of processed clam products in appropriate wholesale markets. Impacts to surfclam and ocean quahog processors would most likely mirror the impacts of the various quotas to vessels as discussed above. 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-dependent.

### Allocation Holders

In 2003, surfclam allocation holders totaled 102, while 63 firms or individuals held ocean quahog allocation. If the recommended quotas are accepted, i.e., a slight increase of 4.6 percent for surfclams, an 11.1-percent increase for ocean quahogs, and no change from the 2003 quota for Maine mahogany ocean quahogs, it is likely that impacts to allocation holders or buyers would be minimal. Theoretically, increases in quota would most likely benefit those who purchase quota (through lower prices (values)) and negatively impact sellers of quota because of reduction 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.

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

Dated: October 17, 2003.

**Rebecca Lent,**

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

[FR Doc. 03-26676 Filed 10-21-03; 8:45 am]

**BILLING CODE 3510-22-S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 031009255-3255-01; I.D. 092503A]

RIN 0648-AQ88

### Fisheries of the Exclusive Economic Zone Off Alaska; Revision to the Management of "Other Species" Community Development Quota

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** This proposed rule would modify the management of the "other species" Community Development Quota (CDQ) reserve by eliminating specific allocations of "other species" to individual CDQ managing organizations (CDQ groups) and instead allow NMFS to manage the "other species" CDQ reserve with the general limitations used to manage the catch of non-CDQ groundfish in the Bering Sea and Aleutian Islands management area (BSAI). This action also would eliminate the CDQ non-specific reserve and make other changes to improve the clarity and consistency of CDQ Program regulations. This action is necessary to improve NMFS' ability to effectively administer the CDQ Program. It is intended to further the goals and objectives of the North Pacific Fishery Management Council (Council) with respect to this program.

**DATES:** Comments must be received by November 6, 2003.

**ADDRESSES:** Comments may be sent to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Lori Durall, or delivered to room 420 of the Federal Building, 709 West 9th Street, Juneau, AK. Comments may also be sent via facsimile (fax) to 907-586-7557. Comments will not be accepted if submitted via e-mail or Internet. Copies of the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) prepared for this action may be obtained from the same address.

#### FOR FURTHER INFORMATION CONTACT:

Obren Davis, 907-586-7228 or [Obren.Davis@noaa.gov](mailto:Obren.Davis@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The groundfish fisheries in the exclusive

economic zone (EEZ) of the BSAI are managed under the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP). The Council prepared the FMP pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801, *et seq.* Regulations governing U.S. fisheries and implementing the FMP appear at 50 CFR parts 600 and 679.

### Management Background and Need for Action

The CDQ Program allocates groundfish, prohibited species, crab, and Pacific halibut to six CDQ groups representing 65 western Alaska communities. With limited exceptions, NMFS allocates 7.5 percent of each BSAI groundfish Total Allowable Catch (TAC) category to a CDQ reserve for that TAC category. Each CDQ reserve is further apportioned among the six CDQ groups. The purpose of the CDQ Program is to provide the means for starting or supporting commercial fisheries business activities that will result in ongoing, regionally based, fisheries-related economic benefits for residents of participating communities. CDQ groups use the proceeds derived from the harvest of CDQ allocations to fund a variety of fisheries-related projects and provide training and educational opportunities to residents of participating communities.

The CDQ Program began in 1992 with the allocation of 7.5 percent of the BSAI pollock TAC. Allocations of sablefish and halibut were added in 1995. The Council recommended expanding the CDQ Program in 1995 and NMFS implemented the multispecies CDQ Program in 1998, combining the existing pollock, halibut, and fixed gear sablefish CDQ fisheries with additional allocations of a variety of crab, groundfish, and prohibited species. The pollock CDQ allocation increased to 10 percent of the BSAI pollock TAC in 1999 under the American Fisheries Act (Public Law 105-277). Management of crab CDQ is delegated to the State of Alaska and will not be mentioned hereafter.

As part of its original design, the multispecies CDQ Program required a higher level of accountability of allocated species than any other Alaska groundfish fishery that NMFS was then managing. Other limited access programs in place at the time, including the existing CDQ fisheries and the fixed gear halibut and sablefish Individual Fishing Quota fisheries, were target fishery-based programs that did not