

not significant under the meaning of Executive Order 12866.

List of Subjects in 50 CFR Part 635

Fisheries, Fishing, Fishing vessels, Foreign relations, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Statistics, Treaties.

Dated: January 30, 2001

William T. Hogarth,
Acting Assistant Administrator for Fisheries,
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 635 is amended as follows:

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

1. The authority citation for part 635 continues to read as follows:

Authority: 16 U.S.C. 971 *et seq.*; 16 U.S.C. 1801 *et seq.*

2. In § 635.2, the definitions of “Charleston Bump closed area” and “East Florida Coast closed area” are revised to read as follows:

§ 635.2 Definitions.

* * * * *

Charleston Bump closed area means the Atlantic Ocean area seaward of the inner boundary of the U.S. EEZ from a point intersecting the inner boundary of the U.S. EEZ at 34°00' N. lat. near Wilmington Beach, NC, and proceeding due east to connect by straight lines the following coordinates in the order stated: 34°00' N. lat., 76°00' W. long.; 31°00' N. lat., 76°00' W. long.; then proceeding due west to intersect the inner boundary of the U.S. EEZ at 31°00' N. lat. near Jekyll Island, GA.

* * * * *

East Florida Coast closed area means the Atlantic Ocean area seaward of the inner boundary of the U.S. EEZ from a point intersecting the inner boundary of the U.S. EEZ at 31°00' N. lat. near Jekyll Island, GA, and proceeding due east to connect by straight lines the following coordinates in the order stated: 31°00' N. lat., 78°00' W. long.; 28°17' N. lat., 79°12' W. long.; then proceeding along the outer boundary of the EEZ to the intersection of the EEZ with 24°00' N. lat.; then proceeding due west to the following coordinates: 24°00' N. lat., 81°47' W. long.; then proceeding due north to intersect the inner boundary of the U.S. EEZ at 81°47' W. long. near Key West, FL.

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3. In § 635.21, paragraphs (c)(2)(ii) and (iii) are revised to read as follows:

§ 635.21 Gear operation and deployment restrictions.

* * * * *

(c) * * *

(2) * * *

(ii) In the Charleston Bump closed area from March 1 through April 30, 2001, and from February 1 through April 30 each calendar year thereafter;

(iii) In the East Florida Coast closed area at any time beginning at 12:01 a.m. on March 1, 2001; and

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4. In § 635.22, the first sentence of paragraph (c) is revised to read as follows:

§ 635.22 Recreational retention limits.

* * * * *

(c) *Sharks.* One shark from either the large coastal, small coastal or pelagic group may be retained per vessel per trip, subject to the size limits described in § 635.20(e), and, in addition, one Atlantic sharpnose shark may be retained per person per trip. * * *

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5. In § 635.27, paragraph (b)(1)(iii) is revised to read as follows:

§ 635.27 Quotas.

* * * * *

(b) * * *

(1) * * *

(iii) *Pelagic sharks.* The annual commercial quotas for pelagic sharks are 92 mt dw for porbeagle sharks, 273 mt dw for blue sharks, and 488 mt dw for pelagic sharks other than porbeagle or blue sharks (unless otherwise specified in the **Federal Register** as provided in paragraph (b)(1)(iv) of this section). These quotas are divided between two semiannual periods, January 1 through June 30, and July 1 through December 31. The quotas for each semiannual period are as follows:

(A) Porbeagle shark—46 mt dw.

(B) Blue sharks—136.5 mt dw.

(C) Pelagic sharks, other than porbeagle or blue sharks—244 mt dw.

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[FR Doc. 01-2957 Filed 1-31-01; 3:33 pm]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 991228355-0370-04; I.D. 101200F]

RIN 0648-AM50

Fisheries of the Northeastern United States; 2001 Fishing Quotas for Atlantic Surf Clams, Ocean Quahogs, and Maine Mahogany Ocean Quahogs

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

ACTION: Final rule; 2001 fishing quotas for Atlantic surf clams, ocean quahogs, and Maine mahogany ocean quahogs.

SUMMARY: NMFS issues final quotas for the Atlantic surf clam, ocean quahog, and Maine mahogany ocean quahog fisheries for 2001. The intent of this action is to specify allowable harvest levels of Atlantic surf clams and ocean quahogs from the exclusive economic zone and an allowable harvest level of Maine mahogany ocean quahogs from the waters north of 43°50'N. lat. in 2001.

DATES: Effective from February 5, 2001, through December 31, 2001.

ADDRESSES: Send comments on any ambiguity or unnecessary complexity arising from the language used in this final rule to Patricia A. Kurkul, Regional Administrator, Northeast Region, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930-2298. Copies of supporting documents, including the Environmental Assessment, Regulatory Impact Review, Final Regulatory Flexibility Analysis (EA/RIR/FRFA), and the Essential Fish Habitat Assessment, are available from the Regional Administrator, Northeast Region. The EA/RIR/FRFA is accessible via the Internet at <http://www.nero.gov/ro/doc/nr.htm>.

FOR FURTHER INFORMATION CONTACT: Jennifer L. Anderson, Fishery Management Specialist, 978-281-9226.

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 for 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 (63 FR 27481, May 19, 1998) added Maine mahogany ocean quahogs to the management unit and provide that a small artisanal fishery for ocean quahogs in the waters north of 43° 50' N. lat. will have an annual quota with an initial amount of 100,000 Maine bushels (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 to the FMP, the Maine mahogany ocean quahog quota is in addition to the quota specified for the ocean quahog fishery.

Detailed background information regarding the development of these quotas was provided in the preamble to the proposed rule published at 65 FR 66960, November 8, 2000, and is not repeated here. The comment period for that rule ended on December 8, 2000. No comments were received, and the final quotas for 2001, which are unchanged from those in the proposed rule, are shown in the table below. The 2001 quotas for both ocean quahogs and Maine mahogany quahogs are the same as the 2000 quotas. However, the 2001 surf clam quota is 11 percent higher than the 2000 quota.

PROPOSED 2001 SURF CLAM/ OCEAN QUAHOG QUOTAS

Fishery	2001 final quotas (bu)	2001 final quotas (hL)
¹ Surf clam	2,850,000	1,518,000
¹ Ocean quahog	4,500,000	2,396,000
² Maine mahogany quahog	100,000	35,240

¹ 1 bushel = 1.88 cubic ft. = 53.24 liters

² 1 bushel = 1.2445 cubic ft. = 35.24 liters

Classification

NMFS prepared a FRFA for this action. A copy of the FRFA is available from NMFS (see **ADDRESSES**). A summary of the FRFA follows:

A description of the reasons why action by the agency is being taken and the objectives of this final rule are explained in the preamble to this rule and are not repeated here. 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 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 rule.

There were no public comments submitted in response to the initial regulatory flexibility analysis (IRFA). No changes were made from the proposed rule.

In 1999, a total of 45 vessels reported harvesting surf clams or ocean quahogs from Federal waters under an individual transferable quota (ITQ) system. In the small artisanal fishery for ocean quahogs in Maine, 38 vessels reported harvests. All of these vessels are small entities.

Nine to 12 processors participated in the surf clam and ocean quahog fisheries. However, five firms are responsible for the vast majority of purchases in the exvessel market and sale of processed clam products in appropriate wholesale markets. In 2000, surf clam allocation holders totaled 106, while 65 firms or individuals held ocean quahog allocation.

The alternatives implemented by this final rule are expected to minimize economic impacts on small entities while achieving the conservation goals and objectives of the FMP because two of the quotas are the same as last year's quotas, one represents an 11-percent increase over last year, and all fall within OY..

NMFS considered four alternatives to the selected 2001 surf clam quota. The selected surf clam quota of 2.85 million bu (1.518 million hL) represents an 11-percent increase over the 2000 quota of 2.565 million bu (1.366 million hL). This alternative was selected because it would provide a quota large enough to allow for some increase in demand for the product, while not setting it so high as to force some allocation holders out of business. There were two alternatives with quotas smaller than the one selected. The alternative with the least quota allocation represents the minimum OY provided under the FMP (1.85 million bu (0.985 million hL)), a 28-percent decrease from the 1999 quota. This quota was not selected because, at this quota level, although the price per bushel would likely increase, the overall revenues may decrease because it is not likely that the increased price would compensate for the reduction in amount of sales. The 2.365-million bu (1.259-million hL) quota alternative, the quota alternative adopted in 1998, and the 1999 status quo alternative (2.565 million bu (1.366 million hL)), were not selected because they provided no opportunity for an increase in demand of surf clams. The 3.4-million bu (1.810-million hL) alternative quota represents a 33-percent

increase from the 1999 quota and is the maximum quota allowed by the FMP. This alternative was rejected because it would very likely depress exvessel prices and increase the risk of business failure for allocation holders not associated with a processor, as vertically integrated companies are expected to buy product from vessels using allocations they control before buying product outside the company.

NMFS considered four alternatives to the selected 2001 ocean quahog quota. The selected quota (4.5 million bu (2.396 million hL)) was chosen because it is the same quota as was adopted for 1999 and 2000, it does not restrain the fishery, and it is not likely to change exvessel prices in the fishery. There were two alternatives with quotas smaller than the one selected. The alternative with the least quota allocation (4.0 million bu (2.130 million hL)), represents the minimum OY provided under the FMP, and is a 12-percent decrease from the 1999 quota. The other quota alternative (4.250 million bu (2.263 million hL)) represents a 6-percent decrease from the 1999 quota. Given that both of these alternatives could potentially be constraining to the fishery, these alternatives were not selected. Two alternatives above the selected quota were also considered, 6.0 million bu (3.194 million hL), the maximum OY allowed by the FMP, and 4.75 million bu (2.529 million hL), a 6-percent increase from the 1999 quota. These alternatives were not selected because of a concern that upcoming stock assessments may recommend reduced quotas and that the fishery would most likely not be able to utilize such an increase in the quota.

NMFS considered two alternatives to the selected 2001 Maine mahogany quahog quota of 100,000 Maine bu (35,240 hL). The selected quota and all alternatives fall within the range of OY established by the FMP. A quota of 100,000 Maine bu was chosen because it represents the highest quota possible under the FMP in the absence of a scientific assessment of the resource indicating the quota could be set at a higher level. Two alternatives smaller than the selected quota were considered, including quotas of 50,000 Maine bu (17,624 hL) and 72,466 Maine bu (25,543 hL). However, these alternatives were not selected because decreasing the quota would unnecessarily constrain the fishery.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

Because this rule only establishes year-long quotas to be used for the sole

purpose of closing the fishery when the quotas are reached and does not establish any requirements for which a regulatory entity must come into compliance, it is unnecessary to delay for 30 days the effective date of this rule. Therefore, the Assistant Administrator for Fisheries, NOAA, under 5 U.S.C. 553(d)(5), finds good cause not to delay the effective date of this final rule.

The President has directed Federal agencies to use plain language in their communications with the public, including regulations. To comply with this directive, we seek public comment on any ambiguity or unnecessary complexity arising from the language used in this final rule. Such comments should be sent to the Regional Administrator (see **ADDRESSES**).

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

Dated: January 19, 2001.

Penelope D. Dalton,

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

[FR Doc. 01-2197 Filed 2-2-01; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 697

[Docket No. 000412106-0363-03; I.D. 032200A]

RIN 0648-AO02

Atlantic Coastal Fisheries Cooperative Management Act Provisions; Horseshoe Crab Fishery; Closed Area

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to prohibit fishing for horseshoe crabs and limit possession of them in an area in the exclusive economic zone (EEZ) encompassing a 30-nautical mile (nm) radius (in a shape roughly equivalent to a rectangle) seaward from the midpoint of the territorial sea line at the mouth of Delaware Bay. The intent of this final rule is to provide protection for the Atlantic coast stock of horseshoe crab and to promote the effectiveness of the Atlantic States Marine Fisheries Commission's (Commission) Interstate Fishery Management Plan (ISFMP) for horseshoe crab.

DATES: Effective March 7, 2001.

ADDRESSES: Copies of supporting documents, including an Environmental Assessment/Regulatory Impact Review/Final Regulatory Flexibility Analysis (EA/RIR/FRFA), are available from Richard H. Schaefer, Chief, Staff Office for Intergovernmental and Recreational Fisheries, National Marine Fisheries Service, 8484 Georgia Avenue, Suite 425, Silver Spring, MD 20910. Send comments on any ambiguity or unnecessary complexity arising from the language used in this final rule to the Chief, Staff Office for Intergovernmental and Recreational Fisheries, National Marine Fisheries Service, 8484 Georgia Avenue, Suite 425, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Paul Perra, 301-427-2014.

SUPPLEMENTARY INFORMATION:

Background

The background and rationale for this final rule were contained in the preamble to the proposed rule, published in the **Federal Register** on October 16, 2000 (65 FR 61135), and are not repeated here. Additional background for this final rule is available and contained in a EA/RIR/FRFA prepared by NMFS. (see **ADDRESSES**).

This final rule prohibits fishing for horseshoe crabs in an area in the EEZ encompassing a 30-nm radius (in a shape roughly equivalent to a rectangle) seaward from the midpoint of the territorial sea line at the mouth of Delaware Bay (closed area); prohibits possessing horseshoe crabs on a vessel with a trawl or dredge while in the closed area; and requires fishermen to return to the water all horseshoe crabs caught in the closed area incidental to any fishing operations, including whelk fishing.

The closed area in the EEZ off Delaware Bay is bounded as follows: (1) on the north by a straight line connecting points 39°14.6'N. lat., 74°30.9'W. long. (3 nm off of Peck Beach, New Jersey) and 39°14.6'N. lat., 74°22.5'W. long.; (2) on the east by a straight line connecting points 39°14.6'N. lat., 74°22.5'W. long. and 38°22.0'N. lat., 74°22.5'W. long.; (3) on the south by a straight line connecting points 38°22.0'N. lat., 74°22.5'W. long. and 38°22.0'N. lat., 75°00.4'W. long. (3 nm off of Ocean City, MD); and (4) on the west by the outermost boundary of state waters.

Comments and Responses

Comments were received during three scoping meetings and during the 15-day comment period on the proposed rule.

Scoping meetings on the proposed regulations were held: on September 5, 2000, in Dover, DE; on September 6, 2000, in Cape May, NJ, and on September 7, 2000, in Salisbury, MD. During the scoping meetings, NMFS received 22 comments in favor of the proposed closed area and 14 against. During the 15-day comment period on the proposed rule, NMFS received 58 written comments from the public. In general terms, 54 of the commenters were in favor of the proposed rule, and 4 were opposed to its issuance.

Comments in favor were submitted by local and national conservation groups, various state agencies, some biomedical companies, and the general public. Comments in opposition to the proposed rule were submitted by organizations representing the fishing industry, by some biomedical companies, and by members of the public. In addition, several companies that use horseshoe crab blood for biomedical purposes and some of the conservation organizations requested a modification to the proposed rule that would allow horseshoe crabs to be harvested in the closed area for biomedical use.

All comments received during the comment period were considered. An additional 38 persons submitted comments within 7 days after the deadline for the comment period. These comments did not raise issues that were not raised by others during the proposed rule comment period or considered by NMFS during the rulemaking process. All but one of these late comments were in favor of the proposed rule. These comments were considered, but are neither identified nor responded to here. Comments received during the comment period are identified and responded to as follows:

Comment 1: Several commenters stated that the closed area needs a "sister" law enacted by the state to protect horseshoe crabs from overharvest on beaches.

Response: Harvesting on beaches is under the purview of each state which cooperatively manages horseshoe crabs with other states and the Federal government through implementation of the Commission's Fishery Management Plan for Horseshoe Crabs.

Comment 2: Twenty-three commenters stated that they wanted the immediate establishment of the proposed closed area.

Response: NMFS is establishing the closed area as expeditiously as possible.

Comment 3: A commenter was concerned that NMFS would not be able to enforce the requirement that all horseshoe crabs caught in the closed