

D R A F T
AMENDMENT #4 TO THE
FISHERY MANAGEMENT PLAN
FOR
SURF CLAMS AND OCEAN QUAHOGS

March 19, 1984

Prepared by the
New England Fishery Management Council
and the
National Marine Fisheries Service
in Cooperation with the
Mid-Atlantic Fishery Management Council

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I. INTRODUCTION

This document amends the Surf Clam/Ocean Quahog Fishery Management Plan by increasing the New England area surf clam fishery maximum annual quota from 100,000 bushels to 200,000 bushels based on improved assessment information. The amendment is consistent with the exploitation strategy employed in the Mid-Atlantic resource area. The amendment also specifies the management measures to be implemented by the Regional Director in consultation with the New England Council to control the harvest rate so that it remains in line with the temporal distribution of the traditional New England fishery harvests. The sole reason for controlling the rate of harvest is to avoid an extended closure of the fishery such as the one which occurred in 1983.

The Surf Clam/Ocean Quahog Fishery Management Plan was approved by NOAA on November 21, 1977. Amendment 1 was approved by NOAA on October 1, 1979. Amendment 2 was approved by NOAA on January 1, 1980, and removed the New England resource area from under the existing Mid-Atlantic limited entry program. Amendment 3 was approved by NOAA on November 13, 1981, and authorized the Regional Director to implement a management program tailored to the New England fishery once fifty percent of the quota was harvested.

The original and current objectives of the Surf Clam/Ocean Quahog Fishery Management Plan are:

1. Rebuild the surf clam populations to allow eventual harvest

approaching the 50 million pound level, which is the estimate of maximum sustainable yield over the range of the resource, based on the average yearly catch from 1960 to 1976.

2. Minimize short-term economic dislocations to the extent possible consistent with objective 1.
3. Prevent the harvest of ocean quahogs from exceeding maximum sustainable yield and direct the fishery toward achieving Optimum Yield.
4. Provide the greatest degrees of freedom and flexibility to all harvesters of these resources consistent with the attainment of the other objectives of this plan.
5. Optimize yield per recruit.
6. Increase understanding of the conditions of the stocks and fishery.

This amendment to the Surf Clam Fishery Management Plan is designed to allow some progress in the direction of achieving objectives 3, 4 and 6, and is consistent with the remaining objectives.

II. PURPOSE OF AND NEED FOR ACTION

The purpose of this amendment is to increase the New England area surf clam fishery maximum quota from 100,000 bushels to 200,000 bushels and to implement management measures in an attempt to control the harvest rate so that it remains in line with traditional New England fishery practices and to avoid an extended closure of the fishery such as the one which occurred in 1983.

Amendment 3 to the Surf Clam/Ocean Quahog Fishery Management Plan allowed for an annual surf clam quota of 25,000 to 100,000 bushels in the New England area. Amendment 3 also provides that when fifty percent of the New England quota has been caught, the Regional Director, on review of available information and public comment, will determine whether the total catch of surf clams during the remainder of the year will exceed the annual quota. If the Regional Director determines that the quota probably will be exceeded, the Secretary of Commerce may reduce the number of days per week, or establish authorized periods, during which fishing for surf clams is permitted, or he may take no action until the quota is achieved.

In 1983, the New England quota for surf clams was 100,000 bushels. By April 1, 1983, fifty percent of the quota was harvested; and the Regional Director, acting under the authority of Amendment 3 and in consultation with the New England Council, reduced fishing time to 12 hours per week in an attempt to control fishery harvests. According to logbook records and the

reports of statistical port samplers of the National Marine Fisheries Service, the harvest of surf clams from the New England area reached 114,000 bushels on June 1, 1983. Therefore, the Regional Director determined that the 100,000 bushel quota for the New England area for the year 1983 had been exceeded; and the fishery was closed on July 1, 1983, for the remainder of the year.

On July 21, 1983, the New England Fishery Management Council sent a letter to Secretary of Commerce Malcolm Baldrige requesting Secretarial action to address an economic and social emergency in the New England surf clam fishery, pursuant to Section 305(e)(1) and (e)(2)(B) of the Magnuson Fishery Conservation and Management Act. The emergency stemmed from the closure of the surf clam fishery on July 1, 1983, and the prospect of a closure for the remainder of the year. The emergency action requested was to re-open and keep open the New England surf clam fishery. The basis for the New England Council's request for emergency action was that there was no biological justification for the specified New England area quota level in the FMP; the resource was underutilized; and the Council saw no legitimate policy reasons to justify the obvious negative economic impact on harvesters and processors. The best scientific information available, as interpreted by the New England Fishery Management Council, indicates that recruitment to the New England area surf clam resource is not primarily dependent on stock size. The letter to the Secretary pointed out that fishing mortality is currently considerably lower than optimal in relation to yield per recruit. In addition, the irregular bottom topography, shallow depths and swift tidal currents render a significant portion of the New England resource area inaccessible to commercial dredging operations, thus preserving ample resource for spawning

potential.

After receiving a letter from Secretary Baldrige on September 6, 1983, denying implementation of emergency action to re-open the New England surf clam fishery in the FCZ, the New England Council began to investigate methods for avoiding an extended closure of the fishery in 1984.

During the months of July, August and September of 1983, four major New England surf clam processing facilities were contacted in an attempt to ascertain the degree of their dependence on the New England surf clam fishery (see Appendix A for detailed description). These four companies are Soffran Brothers of Ipswich, Massachusetts; Blount Seafood Corporation of Warren, Rhode Island; Galilean Seafoods of Pt. Judith, Rhode Island; and Harbourside Shellfish of Exeter, Rhode Island. Soffran Brothers and Blount Seafoods have been involved in surf clam processing since 1933 and 1946 respectively.

Representatives of all four surf clam processing companies stressed the importance of New England raw product because of superior yield, lower trucking costs, general convenience and ultimate greater profit margin. These representatives concluded that an impeded supply of New England product would adversely affect the participation of New England processors in this fishery.

In addition to the New England processors, there are also several fishing vessels that are dependent on being able to fish year round for surf clams in the New England area. It is important to note that for vessels rigged for hydraulic wet dredging, few alternative fisheries are available without major

renovations to the vessel and gear. Estimates of the catch of surf clams from the FCZ by New England fishermen in 1982 and for the first 6 months of 1983 with severe time restrictions are 28,504 and 28,969 respectively. These numbers were obtained through a combination of logbook data and personal interviews of New England Council staff with fishermen participating in the fishery.

The following recently-obtained assessment information provides the justification for changing the New England area maximum surf clam annual quota from 100,000 bushels to 200,000 bushels.

Biological Justification

Recognizing the limited knowledge base for surf clams inhabiting the New England region, the Northeast Fisheries Center initiated intensive resource sampling as a part of annual surveys in the Mid-Atlantic area. Prior to 1981 some sampling in the Southern New England FCZ had taken place on an ad hoc basis during several survey cruises.

Resource survey information as well as commercial sampling during 1983 formed the basis for the first formal assessment of the productivity potential of the Southern New England resource (Woods Hole Lab. Ref. 83-20, "An Assessment of the Surf Clam Resource in FCZ Waters Off Southern New England - Spring 1983", by S. A. Murawski and F. M. Serchuk). Taken in toto, these data present a relatively clear picture of the distribution, size and age composition, relative abundance, and growth characteristics of Southern New

England surf clams. The data also allow comparison with similar information for other surf clam assessment areas in the Mid-Atlantic.

In general, surf clams in Southern New England waters are confined to depths less than 30 fathoms (55 meters). Thus, FCZ surf clams in the Southern New England region are most abundant in the vicinity of Nantucket Shoals, as this area comprises most of the shallow depths beyond three miles from the coast. Few surf clams were found to occur in FCZ waters off Rhode Island and west of Martha's Vineyard, Massachusetts, as these areas were generally too deep. Clam densities were greatest in waters 5-15 fathoms deep. They were less dense in 15-30 fathom regions surveyed on Nantucket Shoals.

A relative abundance index for surf clams in the Southern New England region was computed from survey catch data and compared with other clam assessment areas in the Mid-Atlantic Bight. The Southern New England region accounts for approximately 23 percent of the area surveyed for clams. An estimated 5 percent of the total surf clam numbers and 10 percent of the total clam resource in weight occurred in the Southern New England region. A portion of the Southern New England clam resource occurs in waters too shallow for normal survey operations (less than 5 fathoms). To account for the non-surveyed portion of the resource, clam densities of adjacent areas were extrapolated for the non-surveyed area. However, when the non-surveyed portion was included, the proportion of total resource weight occurring in Southern New England increased only slightly (from 10 to 12.7 percent).

Length frequency sampling data for the Southern New England surf clam

resource indicates that the population is dominated by clams 13-17 cm shell length (5 1/8 to 6 3/4 inches). In contrast, current clam resources in the Mid-Atlantic region are comprised primarily of 11-13 cm (4 to 5 1/8 inches) clams. Analyses of growth rates also indicate that Southern New England clams grow slightly faster than their Mid-Atlantic counterparts.

An assessment of potential yields from the Southern New England surf clam resource was not performed as a part of the document. However, in response to questions from the Mid-Atlantic Council, the following yield projections were made. An estimate of the total annual harvest from the Southern New England resource can be derived from resource survey data, assuming that management strategies in the two regions (Southern New England and Mid-Atlantic) are similar. In the Mid-Atlantic region current annual harvests (40 million pounds of meats or 2.35 million bushels) represent a relatively small proportion of the total standing stock (probably around 10 percent harvest rate per year). If a similar harvest strategy was adopted for the Southern New England region, then the annual quota should reflect the fact that about 10 percent of the total FCZ resource in weight occurs there. If 40 million pounds is derived from 90 percent of the available resource (in the Mid-Atlantic regions), then approximately 4.4 million pounds would be derived from the Southern New England area:

$$\frac{40 \times 10^6}{90\%} = \frac{x}{10\%}$$

$$x = 4.4 \times 10^6 \text{ lbs.}$$

The standard conversion for meat weight to bushels is 17 lbs/bushel for the Mid-Atlantic region. However, as reported in the assessment document, Southern New England surf clams yield substantially more meat than do similar sized clams in the Mid-Atlantic region (9 to 38 percent more, depending on clam size). Thus, assuming a greater meat weight/bushel conversion for the Southern New England resource yields an annual landings figure of about 200,000 bushels, if management strategies (harvest to biomass ratio) are equivalent in the two areas.

III. ANALYSIS OF ALTERNATIVE MEASURES AND THEIR IMPACTS

For the specific purpose of providing for continued fishing throughout the fishing year under a quota regime, this amendment considers 3 realistic program alternatives. These alternatives have been discussed numerous times at the Oversight Committee and Council levels of both the New England and Mid-Atlantic Councils. These alternatives have been defined according to the use of various measures, including a size limit and effort controls based on fishing time or trip or landing limits, to achieve quota distribution. This amendment is being developed under the premise that the current plan requires quotas for each of the resource areas and that reexamination of the basis for quota management must await a thorough review within the constraints of a formal FMP amendment. Each of the measures under consideration can be characterized separately, and also according to how it would affect the fishery in the particular combinations which are being considered as alternative management programs. An independent review of the measures follows.

Size Limit

A minimum size, if incorporated into the management program for New England, may be appropriate in New England for the following reasons. A minimum size limit of 5-1/2 inches, with tolerances, has been applied to the Mid-Atlantic fishery for three years. The size limit is intended to enhance yield per recruit and encourage a supply of large surf clams for the highest market value uses. Biological evidence suggests that a size limit of 4-3/4

inches would optimize production from the resource. The size limit can be an effective conservation measure. Should significant discarding be required, these undersized clams, once harvested, contribute to fishing mortality even though they are not landed. Although a minimum size carries with it the potential for significant discard mortality, that mortality can be mitigated by an effective closed area program for undersized clams.

Effort Restriction Based on Fishing Time

Current regulations in the Mid-Atlantic fishery require restricting the number of allowable working hours per week so that quotas will not be exceeded. In New England fishing time restrictions are optional although the fishery must close when the quota is caught. Under fishing time restrictions, differences among operators and vessel capability can lead to differences in total harvest, thus allowing for some incentives. However, restricting fishing time creates incentives to increase harvesting capacity to maximize potential revenues. Since fishing time is an indirect linkage between total removals, which managers seek to control, and the operative management term, control of the fishery within quotas is complicated. Enforcement of fishing time must be done, if at all, by continual monitoring of at-sea activity. This is costly and frequently frustrated. In New England, where long steaming times and unpredictable weather are common, controlling fishing time leads, as it did in 1983, to an untenable operating climate. Operators with only 12 hours fishing time per week, which may be unusable because of weather, are unable to prosecute a stable or economically viable fishery. Another dimension which must be considered in the New England fishery, which makes

fishing time restrictions particularly troublesome, is the exploratory nature of the fishery. Unlike the Mid-Atlantic resource area, the location and extent of surf clam populations are still not well known; and this requires fishermen to spend considerable time searching.

Effort Restriction Based on Landing Limits

Trip or weekly landing limits provide a more enforceable, more direct linkage between fishing activity and the fishery quotas. They can be enforced through dockside inspection, which is far less costly and more available. Trip limits place an upper bound on fishery performance to the extent of the size of the limit and the number of trips. But good operators with good boats can make more trips, and hence perform better than those who don't make as many trips. Weekly limits are similar to trip limits; they are not as easy to enforce since landings must be monitored over a period of time rather than at a point. However, weekly limits may allow operators to be profitable over a longer time period than trip limits if the trip limits are small. Trip limits are now used to regulate some State waters surf clam fisheries in New England. Weekly limits are used to regulate the New Jersey surf clam fishery. Operators and managers in both areas appear to be satisfied with the results. Trip or weekly landing limits are more compatible than fishing time restrictions given the exploratory nature of the fishery in New England.

Quota Distribution

Quotas are now used for the New England and Mid-Atlantic surf clam

fisheries, and for other fisheries, to control total fishery removals. As an ultimate control of fishing mortality, they have some value. Changes in resource abundance can be reflected if, as is now the case, quotas are adjustable within ranges defined for the fisheries. Distribution of the quota over the fishing year can also serve the goal of avoiding lengthy closures and thus effectively addresses the problem of the New England fishery in the 1984 fishing year. Quotas are usually administered and enforced through some form of effort restriction, such as fishing time, trip limits, or vessel allocations. The ultimate tool for achieving a quota is to close the fishery once it is reached.

SUMMARY OF ALTERNATIVES

This table summarizes the alternative measures included in programs described below for management of the New England area surf clam fishery. Following Council and public review, it may be appropriate to select a final alternative which differs or combines a different series of measures than those specified below.

<u>Measures</u>	<u>Alternative</u>		
	<u>1</u>	<u>2</u>	<u>3</u>
Size Limit	X	X	X
Quota Distribution (Quarterly, Bimonthly and Monthly)	X	X	X

Effort Controls

Fishing Time Restrictions	X
Trip or Weekly Landing Limits	X

ALTERNATIVE MANAGEMENT PROGRAMS

Each of the programs described below contains combinations of the measures already described. In addition, it is understood that each of these program alternatives includes the permitting and logbook reporting requirements already established by the Surf Clam FMP. The conservation and environmental, economic, and management effects of those measures when integrated in a program are described.

1. Size Limit and Quota Distribution

Conservation and Environmental Impacts

This alternative management program provides, if correctly administered, sufficient control mechanisms to prevent the fishery from exceeding the annual quota. The size limit will enhance yield per recruit and allow small clams the opportunity to spawn a number of times prior to becoming of legal size.

Economic Impacts

The principal economic impact of the existing management program was felt severely in 1983 when the fishery was closed for six months. Extended

closures such as the one which occurred in 1983 are clearly unacceptable to local operators and processors. Only operators who can move to other fisheries or other areas can operate under such a regime. Surf clam vessels are not readily adaptable to other fisheries, and the limited entry program in the Mid-Atlantic allows only historical participants the opportunity to shift areas.

The addition of a minimum size limit to the management program is not likely to constrain the fishery given the current size distribution of the resource in the New England area. Distributing the annual quota across quarters, two-month periods or monthly would reduce the length of the closures to some period of time within the selected distribution mode.

Management Impacts

Managers are no happier imposing lengthy closures than fishermen are in being closed. Closures increase the risk of political intervention to reopen the fishery, thus voiding credibility and conservation objectives. Closures also increase the probability that operators will violate the program to maintain some income flow, increasing the cost of enforcement. Although any of the identified selected mode of quota distributions will reduce the length of closures compared to 1983, distributing the quota alone could still result in numerous, relatively shorter closures which are costly to industry and to the government.

2. Size Limit, Quota Distribution and Time Restrictions

Conservation and Environmental Impacts

This alternative management program provides, if correctly administered, sufficient control mechanisms to prevent the fishery from exceeding the annual quota. The size limit will enhance yield per recruit and allow small clams the opportunity to spawn a number of times prior to becoming of legal size.

Economic Impacts

The addition of fishing time effort restrictions to any selected quota distribution period would not necessarily decrease the number or length of necessary closures. There are practical limitations to the use of fishing time restrictions stemming from the need to allow for an economic trip for vessels, and this problem is made more difficult by the existence of vessels within the fishery with dramatically different performance capabilities. Experience from the 1983 New England fishery demonstrates that even a severe time restriction such as 12 hours per week is not effective in constraining the harvest given a relatively small annual quota and performance capabilities of some vessels. Fishing time has the further drawback of impacting more severely on weather-dependent vessels.

Management Impacts

The possibility of numerous closures results in the potential for continuing unnecessary high costs to government and industry. Further, a very

high level of monitoring, data collection and projection analysis would be necessary to implement an equitable fishing time restriction program.

3. Size Limit, Bimonthly Quota Distribution and Trip or Weekly Landing Limits (PREFERRED ALTERNATIVE)

Conservation and Environmental Impacts

This alternative management program provides, if correctly administered, sufficient control mechanisms to prevent the fishery from exceeding the annual quota. The size limit will enhance yield per recruit and allow small clams the opportunity to spawn a number of times prior to becoming of legal size.

Economic Impacts

Trip or weekly limits can be fixed at a level to ensure that operators can be profitable while spreading catch out over time. Operators gain flexibility to take trips as weather permits, and to take as many trips as they can. If, as is proposed, a minimum trip or weekly limit is established at the level where performance is no longer profitable, the management program can ensure that operators do not suffer through periods of de-facto closure, where the costs of operation cannot be defrayed by the expected returns. Like other alternatives, economic performance is limited by the total quota. However, within the management framework this alternative best recognizes the variations in weather, steaming time, exploration time and vessel characteristics which distinguish the New England fishery from its

Mid-Atlantic counterpart.

Bimonthly quota guidelines are selected because they offer an acceptable balance between the need for an adequate amount of time to analyze incoming data on the prosecution of the fishery and to prepare supporting administrative documentation for management adjustments. At the same time this bimonthly period is short enough to control the fishery and avoid extended or numerous closures.

Management Impacts

This is a relatively complex program. However, it is consistent with local State management programs, and allows dockside enforcement. It would cost the government less to administer than other options. It offers greater prospects for controlling harvest within quotas and maintaining a fishery throughout the year than any other alternative.

IV. SPECIFICATION AND ANALYSIS OF THE MANAGEMENT PROGRAM

The preferred alternative includes the following provisions:

- A size limit consistent with that imposed in the Mid-Atlantic.
- Trip limits and/or weekly catch limits, if necessary, to achieve bimonthly harvest guidelines.
- An increase in the annual quota.

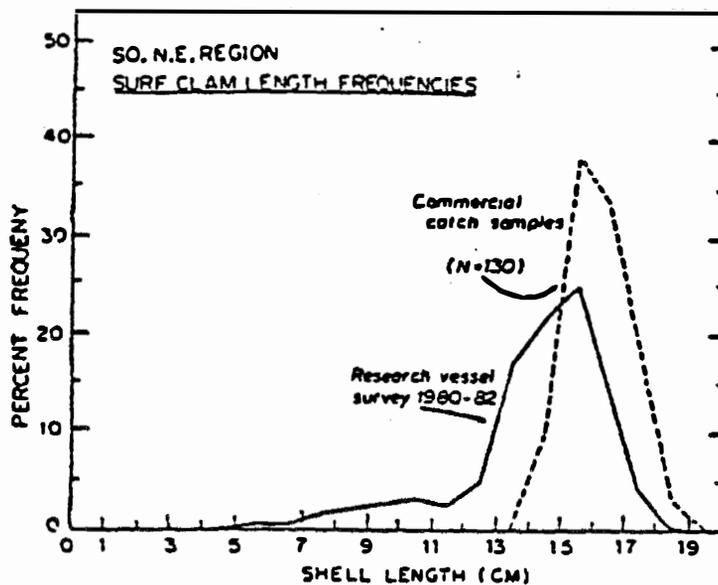
The permitting and logbook requirements are a part of the current management program for New England and will remain so. The additional or revised measures to be applied under the preferred alternative are the size limits, effort control through landings limits rather than fishing time restrictions, and the increase in the range of the annual quota, allowing for a greater quota for the area. In analysing and discussing the measures, we have been constrained by limited performance information. Although logbooks are required for the fishery and have produced valuable statistics, the number of reporting operators is such that presentation of detailed information could easily prejudice the business confidentiality of individual firms. We have attempted to discuss the potential impact of the management program recognizing this constraint.

The Size Limit

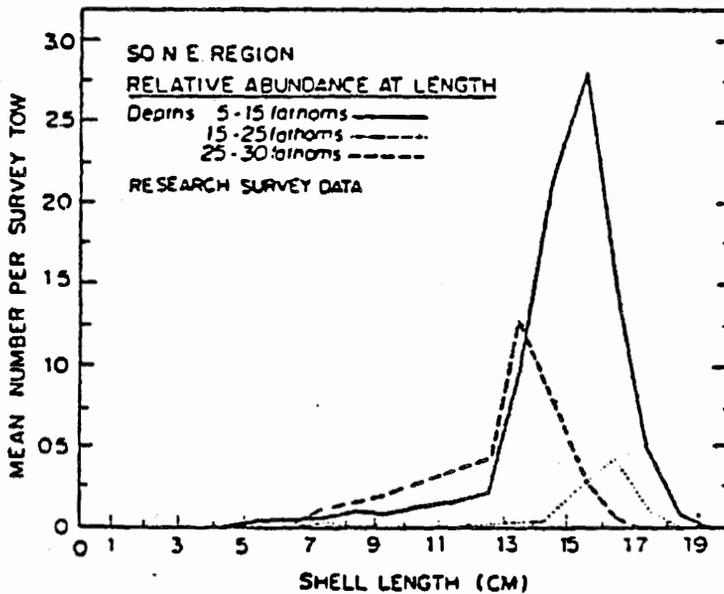
A minimum size limit will be imposed in the New England area, to be

consistent with the size limit applied to the fishery in the Mid-Atlantic area. That measure currently imposes a minimum size of 5-1/2 inches, with some tolerances specified in the regulatory text. Any change in the Mid-Atlantic area would automatically apply in the New England area.

In the Mid-Atlantic area, a minimum size limit of 5-1/2 inches, with tolerances, has been applied since mid-1981. The size limit enhances yield per recruit and encourages a supply of large surf clams. According to vessel operators and to resource surveys conducted in the New England area from 1980 to 1982, most of the surf clams which have been harvested and which are available for harvest are of sizes greater than the 5-1/2 inch minimum size. The surf clam resource in the area is dominated by large, relatively old surf clams. Very few surf clams smaller than 12 centimeters shell length were captured in any areas, indicating that recruitment in the past 5 to 6 years has been relatively poor. Over an extended period of time, as exploitation rates increase, and if recruitment of small clams occurs to replace the clams which are removed, we may expect a greater proportion of the resource to be below the minimum. It is impossible to predict when this will occur. If and when it does, the size limit will reduce the proportion of the resource available for legal harvest. If recruitment does not occur, the resource will eventually be depleted. Because of the size distribution of clams in the area, imposing the size limit in New England should have a negligible effect on landings in the present or immediate future. The measure will protect any small clams which might be produced, enhancing their yield and ensuring that they can spawn a number of times before they are harvested.



Shell length frequencies of surf clams sampled from the Southern New England Region, 1980-1982. Commercial samples were obtained in April 1983, research survey data are percent of stratified mean numbers per tow for cruises conducted during 1980-1982.



Relative abundance of surf clams in each 1 cm length group, for three depth zones in the Southern New England area, 1980-1982. Data are stratified mean numbers per tow for the three years combined, depth zones are 5-15, 15-25, and 25-30 fathoms.

The Revised Effort Control Program

The current provision which allows the Regional Director to reduce the number of allowable surf clam fishing days, or to restrict fishing time, is replaced by a four tier effort control program. The tiers are as follows:

4th. Fishery closure.

3rd. Weekly landing limits not less than 600 bushels/week.

2nd. Trip limits not less than 400 bushels/trip.

1st. No restrictions.

The reader will note that minimum trip and weekly limits are specified. These minimums have been established in recognition that closure of the fishery may be preferable to leaving the fishery technically open, but with harvest restrictions so stringent as to preclude economically viable fisheries. The New England Council has specified these minimums after consultation with New England area fishermen and examination of trip sizes in the Mid-Atlantic area. Mid-Atlantic operators averaged 483 bushels per trip in 1983.

Bimonthly harvest guidelines, based on the total annual quota and divided to reflect historical seasonal removals, are established as a percentage of the total allowable annual quota as follows:

1984 Values

January - February

8%

16,000

March - April	8%	16,000
May - June	28%	56,000
July - August	16%	32,000
September - October	28%	56,000
November - December	12%	<u>24,000</u>
	Total	200,000 Bushels

If these guidelines are exceeded for any bimonthly period or any portion of such a period, the Regional Director may adjust the measures within the tiers or move up the tiers to implement successively more restrictive measures as required. The Regional Director will consult with the New England Council before moving from one tier to the next, and must justify any skipping of tiers. At the consultation prior to moving from one tier to the next, the Regional Director and the New England Council will agree on a game plan to be used to adjust the trip or weekly limits within the tier. Consultation is expected before each stepwise movement. However, the Regional Director may move to the closure tier without consulting the New England Council if he must do so to prevent harvests exceeding the guidelines significantly or to keep the fishery from exceeding the annual quota. If the guidelines are not met or

if they are exceeded, the difference between the bimonthly harvest and the guidelines will be adjusted with respect to successive bimonthly amounts in proportion to the share of annual catch they represent. The New England Council will examine the bimonthly guidelines and may, at the end of the year, recommend modifications to them to better reflect landings patterns or trends in seasonal utilization of surf clams.

Rejection of fishing time as a means to control effort represents a departure from the management program used in the past in New England and still in use in the Mid-Atlantic. The New England Council has rejected the concept for the simple reason that it has not been effective as a means of slowing harvest to avoid lengthy closures in the New England area. In 1983, fishing time was restricted on April 1 to slow harvest after 50 percent of the annual quota was taken. Despite a reduction to 12 hours fishing time per week, harvest continued unabated, leading to a closure of the fishery effective July 1 and lasting for the next six months. The number of vessels, and their efficiency on the grounds, created a situation where catch rates could not be slowed even with highly restrictive fishing times.

Additional problems with fishing time include the difficulty of monitoring at sea activity for enforcement purposes. Fishing time must be enforced by vessel inspection or overflight. With small amounts of available time, and with so much of the New England fishery occurring near State waters, detection and confirmation of violations is difficult. Weather conditions in New England are subject to change rapidly. Vessels fishing in the area work out of ports which require steaming times of as much as 12 hours each way to the

grounds and back. Reduction of time to 12 hours increases the probability that fishermen will not be able to complete a trip because bad weather intervenes. And operators who must steam 24 hours round trip for only 12 hours of fishing are understandably frustrated.

The New England Council chose to replace fishing time with landing limits to avoid these problems. Landing limits can be enforced at the dock by inspection. Operators gain latitude in deciding when to fish, and how many trips to take. With the minimum trip or weekly values, fishermen can be assured that they can at least pay expenses out of their potential revenues. Trip or weekly limits also act as a direct translation between the quota, which is established in bushels, and a control mechanism, also stated in bushels. The indirect linkage between bushels and fishing time is avoided, increasing the certainty that management action will have its desired control effect.

Although the effort control mechanism of this plan differs from that previously imposed under the plan, the desired result is the same. The effort control measures are used to constrain harvest within a quota value. That quota would be the same regardless of the measures used to keep from exceeding it. Since nothing in this program restricts entry or fishing opportunity as among participants, the same users will ultimately have access to the same amount of resource. All that will change is the rate of harvest, and the seasonal distribution of catch over the course of the year. This amendment is intended to increase the probability of spreading catch throughout the fishing year. And the bimonthly guidelines have been established, and will be

adjusted, to make clams available at times and places when the industry has indicated demand will be greatest.

The Annual Quota Range

Quotas established for the New England area in previous iterations of the plan were based on intuition rather than rigorous survey data. This has been clearly stated and recognized; everyone involved knew that the limited survey information available in earlier years and a lack of significant fishing activity, made it impossible to assess the potential commercial yield from the fishery.

During 1982 and 1983 fishing activities increased substantially. Resource distribution and abundance was traced. Survey data was collected and analysed. As a result, the first assessment of the New England surf clam resource was produced during the summer of 1983 (Woods Hole Laboratory Reference 83-20). The survey concluded that about 10 percent of the total surf clam resource biomass is located in the New England area. Applying this percentage to the biomass in the Mid-Atlantic, and basing a quota on the same assumptions used to fix the quota in the Mid-Atlantic, yields a conclusion that the upper bound of the optimum yield range for the New England area may safely be established as 200,000 bushels. The resource in New England is markedly different from that in the Mid-Atlantic because the rough bottom topography, shallow depths and strong currents complicate fishing activity. And the resource is generally older, faster growing, and yields more meat for similar sized clams than in the Mid-Atlantic. Recruitment has been relatively

poor during the last five to six years.

The effect of doubling the allowable New England area quota should be significant to the operators who are confined to the area, in that it will significantly increase possible fishing opportunities. The economic effect of the increased quota on the surf clam industry is likely to be far less significant. Analyses performed in association with the plan show some relation between surf clam landings and unit prices. However, doubling the New England quota, if it is fully utilized, would only increase total industry clam landings by about four percent. Year to year changes in inshore territorial sea landings and ocean quahog harvests can be expected to have a far greater effect on the clam meat market than the increased New England area quota. The economic analyses associated with the plan project price and value effects for total fishery conservation zone landings up to 50 million pounds of meats. The New England quota, added to foreseeable allowable Mid-Atlantic quotas for the next several years, would not approach the upper bounds of the analysis.

Other Measures

All other measures will remain unchanged from those imposed under the current plan. The reader is referred to that document and its supporting analyses for a discussion of the effects of those measures.

V. CONSISTENCY WITH NATIONAL STANDARDS
AND OTHER MANAGEMENT INSTITUTIONS AND PROGRAMS

Section 301(a) of the Magnuson Fishery Conservation and Management Act requires that "any fishery management plan prepared, and any regulations promulgated to implement such plan ... shall be consistent with the following national standards for fishery conservation and management." The following is a discussion of the standards and the consistency of this amendment with them.

- (1) Conservation and management measures shall prevent overfishing while achieve, on a continuing basis, the optimum yield from each fishery.

The control measures presented within this amendment are fully capable of preventing the quota from being exceeded.

- (2) Conservation and management measures shall be based upon the best scientific information available.

The preferred alternative is based on new scientific information which has become available since 1981.

- (3) To the extent practicable, an individual stock of fish shall be managed as a unit throughout its range, and interrelated stocks of fish shall be managed as a unit or in close coordination.

The significant differences in the character of the fisheries, historical

developments, and practical impediments make it impossible to seriously consider combining the two divergent management programs within the time constraints and limited objectives of this amendment. The serious examination of coastwide surf clam management now being conducted by the Mid-Atlantic Council may suggest a different approach when that Council prepares its next comprehensive amendment to the plan.

(4) Conservation and management measures shall not discriminate between residents of different states. If it becomes necessary to allocate or assign fishing privileges among various United States fishermen, such allocation shall be (A) fair and equitable to all such fishermen; (B) reasonably calculated to promote conservation; and (C) carried out in such a manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.

The management measures proposed by this amendment will apply equally to all fishermen, regardless of their situation. Although surf clams are managed differently in the New England and Mid-Atlantic areas because of the different character and demands of the respective resources for conservation, the measures do not discriminate between fishermen on the basis of State of origin. As an open access fishery, the New England area is open on an equal basis on equal terms to all who chose to fish there.

No allocation or assignment of fishing privileges is contemplated or proposed in this amendments.

(5) Conservation and management measures shall, where practicable, promote

efficiency in the utilization of fishery resources; except that no such measures shall have economic allocation as its sole purpose.

The shift from regulating fishing time to regulating landings will allow operators a better opportunity to plan their harvest strategies unhampered by the vagaries of weather and chance, and thus may reduce broken trips. A shift away from fishing time as a control measure may reduce the tendency in the fleet to increase harvesting capacity, which would be desirable since harvest is limited by the optimum yield which can easily be taken with existing surf clam vessel capacity. No economic allocation is included, intended or anticipated under this amendment.

(6) Conservation and management measures shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches.

This amendment has been undertaken because the measures imposed under the plan were inadequate to cope with the changing character and development of the New England area fishery. The New England Council has explicitly designed a four tier program which will operate in response to contingencies. By specifying the program and the process for its operation in advance, the New England Council serves notice on the fishing community of its general intent, while reserving the ability to adjust the management program within the bounds established to retain its vitality for its intended purpose. The flexible quota mechanism adopted as part of the plan in 1981 is an explicit recognition that potential yield from the fishery may fluctuate year to year, and the

mechanism can be used to mediate the demands of industry and conservation.

(7) Conservation and management measures shall, where practicable, minimize costs and avoid unnecessary duplication.

The preferred alternative has among its goals a reduction in the cost of plan enforcement by making the measures enforceable at the dock. No other aspect of the management burden is affected by this amendment.

VI.. REFERENCES

Murawski, S. A. and F. M. Serchuk. 1983. An Assessment of the Surf Clam Resource in FCZ Waters Off Southern New England - Spring 1983. National Marine Fisheries Service, Northeast Fisheries Center, Woods Hole Laboratory Reference Document No. 83-20.

APPENDIX A

NEW ENGLAND FISHERY MANAGEMENT COUNCIL

SUNTAUG OFFICE PARK, 5 BROADWAY (ROUTE 1)

SAUGUS, MASSACHUSETTS 01906

SAUGUS 617-231-0422

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M E M O R A N D U M

September 30, 1983

TO: Surf Clam/Ocean Quahog Oversight Committee
FROM: Staff
SUBJECT: New England Surf Clam Processing Facilities

SOFFRAN BROS.

We visited Soffran Brothers Clam Company in Ipswich on July 26 to assess their surf clam operation and to hear this processor's perspective on the closure of the New England FCZ clam area. Soffran Bros. processes surf clams exclusively.

Peter Soffran was friendly and amenable to discussing a number of issues. He gave us a guided tour of his plant which he believes to be one of the three smallest of the approximately 16 ocean quahog and surf clam processing plants he estimates exist on the East Coast.

Soffran Brothers has been in the surf clam business since 1933. After a two year closure between 1961 and 1963, Peter took over the plant. He made it clear to us that his overhead is very low because of a small management structure (three individuals including himself) and because of relatively small or no outstanding company debts. At one time this plant was affiliated with another Soffran facility in New Jersey which shucked clams before transferring the product to Ipswich. Two company owned clam boats provided the surf clams. One of these boats was destroyed; the other has since been sold but remains under contract to provide 'right of first refusal' to Soffran Bros.

On the issue of the origin of the clams processed by Soffran Bros., Soffran's comments somewhat confused us. He stated that he depended on mid-Atlantic suppliers to a much greater extent than New England suppliers, yet he also told us that over the last four to five years he has gotten some 50 percent of his clams from New England. He made it clear that he doesn't want to jeopardize his relationship with the mid-Atlantic suppliers when there can be no guarantee of the New England product.

There is an optimum number of clams on a daily basis which distributes and minimizes overhead costs. For example, for some of the processing operations sea clam shells and other waste must be disposed of on a daily basis. This represents a fixed cost from \$150.00 to \$200.00, regardless of whether the waste receptacle is full or only partially full. Also important is the size of the clams and the quality of the delivered product. In the case of surf

clams the quality of the product normally refers to the proportion of clams with broken shells and the extent to which the individual clams are broken. Badly fragmented shells take a long time to shuck and are troublesome for shuckers. With regard to the size of the clams, in hand shucking operations a clam under 5 1/2 inches is considered small and presents physical problems (i.e., back muscle spasms) for the individual shuckers.

Soffran explained to us that there are a number of factors which determine whether or not a surf clam processing operation can be successful over the long term. Foremost among these is the availability of raw product on a year-round basis.

PROCESSING AT SOFFRAN BROTHERS

When clams first arrive at the plant, they are transferred to a conveyor belt where they are then fed through a heated (150° F) water tank to remove a part of the viscera, which otherwise would slow down the shucking process. From this tank they automatically are transferred to another conveyor which moves the clams before numerous shucking stations. Shuckers separate the viscera from the meat (tongue and foot) and place the meat in tubs at their side or behind them. Once a tub is full it is weighed to determine the shucker's earnings. The clams are then moved to another line where the bellies are hand squeezed to separate guts from meat. At this point the clams are machine washed and then moved either to a mincing or stripping machine. At the end of these machines final packaging of the different product forms takes place, prior to placement in a quick freezing storage area.

BLOUNT SEAFOOD CORPORATION

On Tuesday, August 2, we toured Blount Seafood Corporation in Warren, R.I. Ted Blount walked us through his largely mechanized facility which produces a line including stuffed clams and scallops, conch meat, clam strips and minced meat and broth, quahog meat, and clam chowder. Clam shells are sold for use in oyster beds, or crushed for driveway surfaces, or used in prepared stuffed clams. The products are marketed under the Whitecap or Point Judith label. Blount is also under contract with Campbell's Soup Company to provide them with clam chowder product.

Blount has been processing clams steadily since 1946 for food and bait. When surf clams are plentiful and the price competitive, they use primarily surf clams. Since 1977 ocean quahogs have been a more available, less expensive source of raw product. However, the relative importance of surf clams to their business has consistently increased to a present usage level of 4,000 to 5,000 bushels of surf clams and 3,500 bushels of quahogs per week.

PROCESSING AT BLOUNT SEAFOOD CORPORATION

The Blount Corporation employs less than 100 people. Clams are trucked in from New England or New York harvestors and automatically deposited from the 32 bushel cages to a conveyor belt where they are lightly washed and moved into a vat of 220° F water. It is at this stage where clam juice or concentrate are derived through a complex steam evaporation process. From here the clams are transferred to a shucking machine which simply shakes the cooked meat from the shell. It is then separated from the shell in a brine solution

which causes the lighter meat to float to a separate conveyor belt. Employees working on this conveyor belt separate any remaining shell fragments and viscera from the edible meat. Another conveyor belt carries the shells from the brine solution where inspectors remove any edible meat which may not have separated from the shells. Then the clams are washed and sent on for a final inspection before proceeding through an automated mincing or stripping machine. The product is blasted with pressurized CO2 to cool before packaging and freezing. The process from the initial immersion in heated water to CO2 cooling takes some 15 minutes.

Although Blount pays \$9.00 - \$9.50 per bushel for surf clams from New England harvestors and only \$7.00 - \$7.50 per bushel from mid-Atlantic harvestors, he emphasized that on the average he does better using New England product. The trucking cost from the mid-Atlantic averages about \$550.00 per load (around 416 or 448 bushels per load - although sometimes less) when shipped from New York or New Jersey to the Blount plant in Southern New England. This translates to a cost varying from \$1.23 to \$1.33 per bushel of clams. This additional cost of trucking clams in conjunction with a lesser yield of mid-Atlantic surf clams compels Blount to buy New England product whenever possible. He emphasized that he would definitely prefer New England product, even at a slightly higher cost, to mid-Atlantic product because of the higher meat yield.

There is another reason why New England clams are preferred, and we heard this both from Peter Soffran and Ted Blount. It revolves around problems they have experienced in the past with the trucking aspect itself which creates uncertainty and an element of financial risk. Mechanical breakdowns, unprofessional or inexperienced drivers, better offers for the product locally and other factors can interfere with timely delivery of the raw product which results in less productivity and higher cost at the plant.

GALILEAN SEAFOODS

Galilean Seafoods in Point Judith is capable of processing about 400 bushels of surf clams per day by hand shucking. The processing at Galilean is similar to that at Soffran Bros., the major difference being crowded working conditions. This small plant also processes a small amount of conches and ocean quahogs. With regard to the surf clams, both the minced meat and strips are marketed as fresh product.

John Brayton of Galilean Seafoods echoed Ted Blount's conviction that the New England product was preferable to the mid-Atlantic surf clams because of the superior yield, trucking costs, general convenience, and ultimate greater profit margin.

HARBOURSIDE SHELLFISH

On Friday, September 9, we visited Harbourside Shellfish in Exeter, Rhode Island, where Keith Jarvis gave us a complete tour of their processing facility from raw product to finished frozen product.

Harbourside is a growing concern which is in the process of upgrading their processing capability to include an automatic shucking machine. Their present shucking capability is approximately 200 to 250 bushels per day by hand, and they intend to increase that to 300 to 325 bushels per day with the new machine.

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Harbourside processes a diverse line of ocean quahog, surf clam and conch products including chowders, clam strips and stuffed clams. Some of the private labels they pack under are Taste O'Sea for O'Donnell-Usen, Old Salt, Ocean Freeze and Red Seafood, as well as others (approximately 10 or 12 in all).

On the issue of the closure of the New England FC2 surf clam fishery, we were informed that it has affected Harborside, especially in the scheduling of and amount of work available for their employees. According to Jarvis, Harbourside receives roughly 50 percent of their surf clams from the mid-Atlantic and 50 percent from New England. Almost all of their ocean quahogs are from New England.

CONCLUSIONS

Meeting with these processors, touring their facilities, and discussing issues of importance to the industry, we are led to the conclusion that an impeded supply of New England product will adversely affect the participation of New England processors in this fishery. Despite what may appear to be a better price for mid-Atlantic clams, New England processors prefer the New England surf clam when given a choice because they can make more money on it, and it is more convenient and less risky. However, it is also clear that a closure of the New England resource area will have less impact on these processors than it will on the harvestors, since they have the option of securing raw product from the mid-Atlantic.

AH/SL/RR.0001K

D R A F T
ENVIRONMENTAL ASSESSMENT
AND
REGULATORY IMPACT REVIEW/INITIAL REGULATORY FLEXIBILITY ANALYSIS
FOR
AMENDMENT #4 TO THE
FISHERY MANAGEMENT PLAN
FOR
SURF CLAMS AND OCEAN QUAHOGS

March 19, 1984

Prepared by the
New England Fishery Management Council
in Cooperation with the
Mid-Atlantic Fishery Management Council

Environmental Assessment

The proposed action consists of several measures, of which two are directly related to the surf clam resource. The amendment proposes to increase the optimum yield for the New England resource area from a range of 25,000-100,000 bushels of meat to a range of 25,000-200,000 bushels of meat. Such an increase in the potential annual yield from the New England resource area is completely consistent with the exploitation level already adopted for the Mid-Atlantic portion of the resource and represents a removal of up to 10 percent of the standing stock each year. In addition, the amendment proposes to extend the minimum size standard for harvested surf clams to the New England resource area. The measure, already in place for the Mid-Atlantic resource area, is expected to assure yield-per-recruit and spawning potential benefits for the New England resource in the future.

Neither the increase in OY nor the establishment of a minimum legal size is expected to have a significant negative impact on the New England surf clam resource, the habitat supporting that resource or the quality of the human environment. Thus it is concluded that the proposed amendment to the Surf Clam/Ocean Quahog FMP is non-significant relative to the criteria established by NOAA for compliance with NEPA.

Regulatory Impacts

This section has been prepared primarily to address the requirements of Executive Order 12291, and therefore focuses upon the regulatory impacts associated with the proposed action. It is concluded that implementation of the Surf Clam Amendment does not constitute a "major rule" as defined in Section 1 of the Executive Order, and is consistent with the general requirements in Section 2 of that document, as modified by the interim compliance procedures for E.O. 12291 issued by the Assistant Administrator for Fisheries, NOAA. This section also includes an assessment of economic impacts to assist the Assistant Administrator in evaluating the proposed management action in relation to the requirements of the Regulatory Flexibility Act.

The conservation measures in the Surf Clam Amendment are a size limit, a bimonthly quota distribution, and trip or weekly landing limits. The overall quota is increased from 100,000 to 200,000 bushels; and assuming that the entire quota will again be caught, the amendment should result in a doubling of landings over the no-action scenario. Both Mid-Atlantic and New England fleet sectors are expected to benefit from the increase in the quota. The proposed measures should have the following effects:

1. The addition of a minimum size limit to the management program is not likely to constrain the fishery given the current size distribution of the resource in the New England area.
2. Bimonthly quota distribution and trip or weekly landing limits may

combine to result in a shifting of costs between user groups. However, these measures require only 12,000 out of 200,000 bushels to be taken under any kind of landing limit, because after each period of open fishing the unused quota can be re-allocated to the next period (and thereafter that portion does not come under any landing limit). There may also be a time-cost associated with waiting for the next period to start once landing limits have been imposed, but both these costs and the costs of the landing limits themselves should be balanced by the opportunity costs of the fleet sector that would have been shut out under no-action.

Henceforth, the proposed action should result in an increase in landings, which would reduce the total costs of goods and services to the national economy and foregone revenues to the industry; reduce prices relative to no-action; will not restrict entry into the fishery nor impose a limited entry system nor in any way directly limit the number of U.S. fishing vessels that may participate in the New England surf clam fishery; increase employment in both the harvesting and processing sectors; should not reduce the incentive to invest in innovative gear and equipment; may reduce the productivity of the fishery; and have no impact on exports of surf clams. Neither should the amendment increase administrative costs because data collection, fishing permits, and enforcement all exist under the current plan.

Impacts on Small Businesses

Based on the foregoing discussion, the Surf Clam Amendment will have a

significant positive economic impact on a substantial number of small businesses (surf clam vessels) that participate in the surf clam fishery in New England waters. All surf clam harvesters may be considered small businesses; i.e., no one vessel is dominant in the surf clam fishery. The affected processors in New England may also be considered as small businesses, but those found in the Mid-Atlantic may include both small and large businesses. There may be a redistribution of income among vessels and processors in the fishery. The potential redistribution cannot be estimated at the present time. Nevertheless, the Mid-Atlantic may land as much as they ever have from New England waters while New England vessels may land more, because of the doubling of the quota in the area.

BILLING CODE 3510-22

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 652

[Docket No.]

ATLANTIC SURF CLAM AND OCEAN QUAHOG FISHERIES

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule.

SUMMARY: NOAA issues a proposed rule to implement an amendment (Amendment) to the Fishery Management Plan for the Surf Clam and Ocean Quahog Fisheries. The Amendment revises the management measures applied to the New England Area surf clam fishery. The revisions are intended to promote more effective conservation in the area, to reflect increased knowledge about the stocks, and to provide a control mechanism to assure that the quota will not be exceeded while avoiding the possibility of an extended fishery closure.

DATE: Comments on the proposed rule must be received on or before (Insert date 30 days from filing with FEDERAL REGISTER).

ADDRESSES: Comments on the proposed rule, the Amendment, or supporting documents should be sent to Bruce Nicholls, Surf Clam Management Coordinator, National Marine Fisheries Service, State Fish Pier, Gloucester, Massachusetts 01930. Clearly mark "Comments on Surf Clam Amendment" on the envelope.

Copies of the Amendment, the Environmental Assessment supporting the Amendment, and the draft regulatory impact review/initial regulatory flexibility analysis are available from Douglas G. Marshall, Executive Director, New England Fishery Management Council, Suntaug Office Park, 5 Broadway (Route 1), Saugus, Massachusetts 01906.

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FOR FURTHER INFORMATION CONTACT: Bruce Nicholls, Surf Clam Management Coordinator, 617-281-3600, ext. 324.

SUPPLEMENTARY INFORMATION: The Amendment was prepared by the New England Fishery Management Council (Council) in consultation with the National Marine Fisheries Service at the request of the Mid-Atlantic Fishery Management Council. A notice of availability for the proposed Amendment was published in the FEDERAL REGISTER on (49 FR). Copies of the Amendment are available from the Council upon request at the address given above.

The purpose of the Amendment is to revise the New England Area surf clam management program to reflect the increased knowledge concerning the status of the resource by increasing the upper bound of the range of the annual quota to 200,000 bushels. It imposes a minimum surf clam size limit in the area consistent with the size imposed in the Mid-Atlantic Area. It also revises the effort control measure to make it more compatible with the particular regional characteristics of the fishery and more effective as a means to control harvest levels within established quotas without the requirement for a lengthy fishery closure.

The Amendment was undertaken primarily to reduce the likelihood of a repeat of the 1983 fishing season, when the fishery had to be reduced to 12 hours fishing time per week for two months and closed for six months. The Council believes the measures specified in the Amendment better reflect the current understanding of the resource and the fishery, and are more potent conservation measures. Further, these measures have been developed with the assistance of operators dependent upon the New England Area surf clam resource.

The new effort control program establishes a series of bimonthly harvest guidelines expressed as percentages of the annual quota. The Regional Director will monitor harvests, and if they are within the guidelines he will not impose effort restrictions. If harvest exceeds the guidelines, he will consult with the Council and impose successively more restrictive tiers of effort control measures, beginning with trip landing limits not less than 400 bushels per trip, and moving to weekly landings limits not less than 600 bushels per week. The minimum values for trip and landing limits are established to provide that the fishery will never reach a de-facto closure while technically open, and reflect minimum values thought to be necessary to achieve profitable trips or fishing weeks. The Regional Director may close the fishery without consultation with the Council if necessary to avoid exceeding the bimonthly guidelines.

Classification

Section 304(a)(1)(C)(11) of the Magnuson Act requires the Secretary to publish regulations proposed by a Council within 30 days of receipt of an amendment and proposed regulations. At this time, the Secretary has not determined that the Amendment these rules would implement is consistent with the National Standards, other provisions of the Magnuson Act, and other applicable law. The Secretary, in making that determination, will take into account the information, views, and comments received during the comment period.

The Council prepared an Environmental Assessment consistent with this Amendment; a notice of availability was published on (49 FR).

The NOAA Administrator determined that this proposed rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291. This determination is based on the draft regulatory impact review (RIR) prepared by the Council. A copy of this RIR may be obtained from the Council at the address listed above.

The review procedures of E.O. 12291 do not apply to this proposed rule under Section 8(a)(2) of that order. Deadlines imposed under the Magnuson Act require the Secretary to publish this proposed rule 30 days after its receipt. The proposed rule and the RIR are being reported to the Director of the Office of Management and Budget with an explanation of why it is not possible to follow review procedures of the order.

The Council prepared an initial regulatory flexibility analysis which concludes that this proposed rule, if adopted, would not have a significant effect on small entities. The rule would affect surf clam harvestors and is intended to increase the allowable harvest from the resource and specify measures to reduce the likelihood of lengthy fishery closures. A copy of this analysis may be obtained from the Council at the address listed above.

The Council determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management programs of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Maryland and Delaware. This determination has been submitted for review by the responsible State agencies under Section 307 of the Coastal Zone Management Act.

List of Subjects in 50 CFR Part 649

Administrative practice and procedure, Fish, Fisheries, Reporting requirements.

Dated:

Carmen J. Blondin

Deputy Assistant Administrator for Fisheries Resource Management,
National Marine Fisheries Service.

For the reasons set out in the preamble, NOAA proposes to amend 50 CFR
Part 652 as set forth below:

1. The authority citation for Part 652 reads as follows:

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

2. Section 652.7 is amended by revising subparagraph (a)(3) and adding (a)(4)
to read as follows:

§652.7 Prohibitions.

(a) * * *

(3) On days of the week in which fishing for these species is not authorized;
or

(4) In excess of applicable trip or weekly landings limits.

* * * * *

3. Section 652.21 is amended by revising paragraph (b) as follows:

§652.21 Catch quotas.

(b) Surf clams: New England Area.

(1) Establishing Quotas. The amount of surf clams which may be harvested in
the New England Area by fishing vessels subject to these regulations will be
specified annually between 25,000 and 200,000 bushels, using the procedures
and criteria set forth in §652.21(a).

(2) Bimonthly Guidelines. (1) Purpose. To monitor fishery programs and

adjust the management measures specified in §652.22(b); bimonthly harvest guidelines are imposed in the following percentage of the annual quota:
January and February - 8%, March and April - 8%, May and June - 28%, July and August - 16%, September and October - 28%, November and December - 12%.

(11) Adjustment. Prior to the beginning of each year, the Regional Director and the Council will review the seasonal distribution of harvest and determine whether the bimonthly guidelines should be adjusted to better reflect seasonal patterns or changes in demand. If necessary, with approval of the Council, the Regional Director may revise the guidelines. In that event, the Secretary will publish notice of the revisions in the Federal Register.

* * * * *

4. In §652.22, paragraphs (b), (d) and (e) are revised to read as follows:
§652.22 Effort restrictions.

(b) Surf Clams. New England Area.

(1) The fishing week. Fishing for surf clams will be allowed seven days per week. The fish week begins at 0001 hours Sunday and ends at 2400 hours Saturday.

(2) Management measure adjustments. The Regional Director will monitor the rate of harvest using logbook and other available information. If he determines that harvests are consistent with the bimonthly harvest guidelines, he will take no action. If he determines that harvest are exceeding the guidelines, he may implement the following measures, in succession, following consultation with the Council or its designated Committee. The first tier of restrictions will be trip landing limits not less than 400 bushels per trip. If the Regional Director determines that the first

tier measures cannot effectively constrain harvests within the guidelines, the second tier of restrictions will be weekly landing limits no less than 600 bushels per week as defined in subparagraph (1) above. When the Regional Director consults with the Council in moving between tiers, he will determine with the Council the range of trip or weekly landings limits to be used within the tier. He may adjust those limits as required within the specified range to adhere to the bimonthly guidelines without further consultation with the Council. The closure provisions specified in paragraph (d) below may be invoked by the Regional Director as required without consultation with the Council.

* * * * *

(d) Closures. If the Regional Director determines (based on logbook reports, processors reports, vessel inspections, or other information) that the quota or harvest guidelines for surf clams or ocean quahogs for any time period will be exceeded, the Secretary shall publish a notice in the Federal Register stating the determination and stating a date and time for closure of the fishery.

(e) Notices. The Secretary will publish a notice in the Federal Register of any change in allowable fishing times, trip or weekly landing limits. The Regional Director will send notice of any management measure adjustment taken under this section to each surf clam or ocean quahog processor and vessel permit holder.

* * * * *

5. Section 652.25 is amended by revising paragraph (a) as follows:

§652.25 Size restrictions.

(a) Minimum length. A minimum size limit for surf clams of 5-1/2 inches in length is imposed with the following exceptions:

* * * * *

