§ 648.72 Minimum surf clam size.

(a) Minimum length. The minimum length for surf clams is 4.75 inches (12.065 cm).

(b) Determination of compliance. No more than 50 surf clams in any cage may be less than 4.75 inches (12.065 cm) in length. If more than 50 surf clams in any inspected cage of surf clams are less than 4.75 inches (12.065 cm) in length, all cages landed by the same vessel from the same trip are deemed to be in violation of the minimum size restriction.

(c) Suspension. Upon the recommendation of the MAFMC, the Regional Administrator may suspend annually, by publication in the FEDERAL REGISTER, the minimum shell-height standard, unless discard, catch, and survey data indicate that 30 percent of the surf clams are smaller than 4.75 inches (12.065 cm) and the overall reduced shell height is not attributable to beds where the growth of individual surf clams has been reduced because of density dependent factors.

(d) Measurement. Length is measured at the longest dimension of the surf clam shell.

Effective date note: At 76 FR 60622, Sept. 29, 2011 § 648.72 was revised, effective October 31, 2011. For the convenience of the user, the revised text is set forth as follows:

§ 648.72 Surfclam and ocean quahog specifications.

(a) Establishing catch quotas. The amount of surfclams or ocean quahogs that may be caught annually by fishing vessels subject to these regulations will be specified for up to a 3-year period by the Regional Administrator. Specifications of the annual quotas will be accomplished in the final year of the quota period, unless the quotas are modified in the interim pursuant to paragraph (b) of this section. The amount of surfclams available for harvest annually must be specified within the range of 1.85 to 3.4 million bu (98.5 to 181 million L). The amount of ocean quahogs available for harvest annually must be specified within the range of 4 to 6 million bu (213 to 319.4 million L). Quotas for surfclams and ocean quahogs may be specified below these ranges if the ABC recommendation of the SSC limits the ACL to a value less than the minimum of the range indicated.

(1) Quota reports. On an annual basis, MAFMC staff will produce and provide to the MAFMC an Atlantic surfclam and ocean quahog annual quota recommendation paper based on the ABC recommendation of the SSC, the latest available stock assessment report prepared by NMFS, data reported by harvesters and processors, and other relevant data, as well as the information contained in paragraphs (a)(1)(i) through (vi) of this section. Based on that report, and at least once prior to August 15 of the year in which a multi-year annual quota specification expires, the MAFMC, following an opportunity for public comment, will recommend to the Regional Administrator annual quotas and estimates of DAH and DAP within the ranges specified for up to a 3-year period. In selecting the annual quotas, the MAFMC shall consider the current stock assessments, catch reports, and other relevant information concerning:

(i) Exploitable and spawning biomass relative to the OY.

(ii) Fishing mortality rates relative to the OY.

(iii) Magnitude of incoming recruitment.

(iv) Projected effort and corresponding catches.

(v) Geographical distribution of the catch relative to the geographical distribution of the resource.

(vi) Status of areas previously closed to surfclam fishing that are to be opened during the year and areas likely to be closed to fishing during the year.

(b) Interim quota modifications. Based upon information presented in the quota reports described in paragraph (a)(1) of this section, the MAFMC may recommend to the Regional Administrator a modification to the annual quotas that have been specified for a 3-year period and any estimate of DAH or DAP made in conjunction with such specifications within the ranges specified in paragraph (a)(1) of this section. Based upon the MAFMC’s recommendation, the Regional Administrator may propose surfclam and/or ocean quahog quotas that differ from the annual quotas specified for the current 3-year...
period. Such modification shall be in effect for a period of up to 3 years, unless further modified. Any interim modification shall follow the same procedures for establishing the annual quotas that are specified for up to a 3-year period.

(c) Annual quotas. The annual quotas for surf clams and ocean quahogs will remain effective unless revised pursuant to this section. At the end of a multiyear quota period, NMFS will issue notification in the Federal Register if the previous year’s specifications will not be changed.

§ 648.73 Closed areas.

(a) Areas closed because of environmental degradation. Certain areas are closed to all surf clam and ocean quahog fishing because of adverse environmental conditions. These areas will remain closed until the Assistant Administrator determines that the adverse environmental conditions no longer exist. If additional areas are identified by the Assistant Administrator as being contaminated by the introduction or presence of hazardous materials or pollutants, they may be closed by the Assistant Administrator in accordance with paragraph (c) of this section. The areas closed are:

(1) Boston Foul Ground. The waste disposal site known as the “Boston Foul Ground” and located at 42°25'36" N. lat., 70°35'00" W. long., with a radius of 1 nautical mile in every direction from that point.

(2) New York Bight. The polluted area and waste disposal site known as the “New York Bight” and located at 40°25'04" N. lat., 73°42'38" W. long., and with a radius of 6 nm in every direction from that point, extending further northwestward, westward and southwestward between a line from a point on the arc at 40°31'00" N. lat., 73°43'38" W. long., directly northward toward Atlantic Beach Light in New York to the limit of the state territorial waters of New York; and a line from the point on the arc at 40°19'48" N. lat., 73°45'42" W. long., to a point at the limit of the state territorial waters of New Jersey at 40°14'00" N. lat., 73°55'42" W. long.

(3) 106 Dumpsite. The toxic industrial site known as the “106 Dumpsite” and located between 38°40'00" and 39°00'00" N. lat., and between 72°00'00" and 72°30'00" W. long.

(4) Georges Bank. The paralytic shellfish poisoning (PSP) contaminated area, which is located in Georges Bank, and is located east of 69° W. longitude, and south of 42°20' N. latitude.

(b) Areas closed because of small surf clams. Areas may be closed because they contain small surf clams.

(1) Closure. The Assistant Administrator may close an area to surf clams and ocean quahog fishing if he/she determines, based on logbook entries, processors’ reports, survey cruises, or other information, that the area contains surf clams of which:

(i) Sixty percent or more are smaller than the minimum size (4.5 inches (11.43 cm)); and

(ii) Not more than 15 percent are larger than 5.5 inches (13.97 cm) in size.

(2) Reopening. The Assistant Administrator may reopen areas or parts of areas closed under paragraph (b)(1) of this section if he/she determines, based on survey cruises or other information, that:

(i) The average length of the dominant (in terms of weight) size class in the area to be reopened is equal to or greater than 4.75 inches (12.065 cm); or

(ii) The yield or rate of growth of the dominant shell-height class in the area to be reopened would be significantly enhanced through selective, controlled, or limited harvest of surf clams in the area.

(c) Procedure. (1) The Regional Administrator may hold a public hearing on the proposed closure or reopening of any area under paragraph (a) or (b) of this section. The Assistant Administrator shall publish notification in the Federal Register of any proposed area closure or reopening, including any restrictions on harvest in a reopened area. Comments on the proposed closure or reopening may be submitted to the Regional Administrator within 30 days after publication. The Assistant Administrator shall consider all comments and publish the final notification of closure or reopening, and any restrictions on harvest, in the Federal Register. Any adjustment to harvest restrictions in a reopened area shall be made by notification in the Federal Register. The Regional Administrator shall send notice of any action under this paragraph (c)(1) to each surf clam and ocean quahog processor.