deferred consideration of such issues and committed to begin a new rulemaking proceeding to examine them in depth.

2. Petitioners challenge this decision. One argues that Section 6002(d)(3)(C) of the Budget Act requires the Commission to promulgate regulations governing CMRS-to-CMRS interconnection no later than August 10, 1994. Both request that questions concerning the right of cellular resellers to interconnect their own switches to the facilities of licensed cellular carriers and their right to obtain such interconnection under reasonable terms and conditions be resolved on reconsideration, rather than deferred for resolution in other proceedings. They argue that resellers' interconnection rights must be determined under Section 201 of the Act, and that cellular resellers satisfy criteria established under Section 201 to justify an order for interconnection, i.e., that the request be from a common carrier, and that the request be ''necessary or desirable to serve the public interest.''

3. The *Order* rejects the contention that the Budget Act requires the Commission to adopt rules mandating CMRS-to-CMRS interconnection by August 10, 1994. It states further that the express language of the statute undercuts the Petitioners' claim that CMRS providers have an unqualified right to interconnect with CMRS providers. Section 332(c)(1)(B) provides that the Commission act ''upon reasonable request'' and states further that nothing in that section ''shall be construed as a limitation or expansion of the Commission's authority to order interconnection pursuant to [Section 201 of] the Act.'' Under Section 201, the Commission is authorized to grant requests for interconnection where, ''after opportunity for hearing, [it finds] such action necessary or desirable in the public interest.'' The Order points out that nothing in this language gives anyone an absolute right to interconnection. It concludes therefrom that, even if the Commission were required to adopt rules to implement Section 332(c)(1)(B) with respect to CMRS-to-CMRS interconnection, those rules would not have to mandate such interconnection in all cases.

4. The *Order* also states that the Commission's decision in the *CMRS Second Report and Order* to review the public interest aspects of CMRS-to-CMRS interconnection in a separate proceeding is not only consistent with the language of Sections 332 and 201, but also is wholly in accord with its responsibility and authority to structure and conduct proceedings efficiently. The *Order* notes that the Commission initiated a comprehensive examination of interconnection less than four months after releasing the *CMRS Second Report and Order*, and that it later issued a *Second Notice of Proposed Rulemaking* (59 FR 37734, July 25, 1994) in the same docket, examining a broad range of issues concerning CMRS interconnection and CMRS resale, including the reseller switch issue. The *Order* denies the request for interim relief implementing the reseller switch proposal. The *Order* notes that, during the period in which the Commission is developing broad interconnection policies in these proceedings, it has explicitly provided resellers (and others) the opportunity to file fact-specific complaints concerning CMRS-to-CMRS interconnection disputes, should such disputes arise.

Ordering Clauses

5. Accordingly, it is ordered, that the Petition for Reconsideration of the *Second Report and Order*, Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services, GN Docket No. 93–252, filed jointly by Cellular Service, Inc., and ComTech, Inc., and that portion of the Petition for Reconsideration filed by the National Wireless Resellers Association that relates to the right of cellular resellers to interconnect with facilities-based cellular carriers, are denied. This action is taken pursuant to Sections 4(i), 4(j), 7(a), 201, 303(c), 303(f), 303(g), 303(r), 332(c) and 332(d) of the Communications Act of 1934, 47 U.S.C. §§ 154(i), 154(j), 157(a), 201, 303(c), 303(f), 303(g), 303(r), 332(c), 332(d).

List of Subjects

47 CFR Part 20

Commercial mobile radio services, Radio.

47 CFR Part 22

Public mobile services, Radio.

47 CFR Part 24

Personal communications services, Radio.

47 CFR Part 80

Maritime services, Radio.

47 CFR Part 90

Private land mobile services, Radio.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–2008 Filed 1–27–97; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 961114317–7008–02; I.D. 102596B]

RIN 0648–XX70

Atlantic Surf Clam and Ocean Quahog Fisheries; 1997 Fishing Quotas

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

ACTION: Final 1997 fishing quotas for surf clams and ocean quahogs.

SUMMARY: NMFS issues final quotas for the Atlantic surf clam and ocean quahog fisheries for 1997. These quotas are selected from a range defined as optimum yield (OY) for each fishery. The intent of this action is to establish allowable harvests of surf clams and ocean quahogs from the exclusive economic zone in 1997.

EFFECTIVE DATE: January 1, 1997, through December 31, 1997.

ADDRESSES: Copies of the Mid-Atlantic Fishery Management Council's analysis and recommendations and environmental assessment are available from David R. Keifer, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19901–6790.

FOR FURTHER INFORMATION CONTACT: Myles Raizin, Fishery Policy Analyst, 508–281–9104.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Atlantic Surf Clam and Ocean Quahog Fisheries (FMP) directs NMFS, acting on behalf of the Secretary of Commerce (Secretary) and 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 defined by the FMP as the OY for each fishery. For surf clams, the quota must fall within the OY range of 1.85 million bushels (mil. bu.) (652,000 hectoliters (hL)) to 3.4 mil. bu. (1.2 mil. hL). For ocean quahogs, the quota must fall within the OY range of 4 mil. bu. (1.4 mil. hL) to 6 mil. bu. (2.1 mil. hL). Further, the Council follows the policy that the quotas selected should allow fishing to continue at that level for at least 10 years for surf clams and 30 years for ocean quahogs. While staying within these constraints, the quotas are also to be set at a level that

would meet the estimated annual demand.

Amendment 9 to the FMP (61 FR 50807, September 27, 1996) revised overfishing definitions for surf clams and ocean quahogs. Overfishing was previously defined for both species in terms of actual yield levels. That is, overfishing was defined as harvests in excess of the quota levels specified. However, that definition did not incorporate biological considerations to protect against overfishing. The overfishing definitions contained in Amendment 9 are fishing mortality rates of $F_{20\%}$ (20 percent of maximum spawning potential (MSP)) for surf clams and $F_{20\%}$ (25 percent of MSP) for ocean quahogs. These levels equate to annual exploitation rates of 15.3 percent for surf clams and 4.3 percent for ocean quahogs.

This action establishes a surf clam quota of 2.565 mil. bu. (1.36 mil. hL) and an ocean quahog quota of 4.317 mil. bu. (2.292 mil. hL) for the 1997 fisheries. The 1997 surf clam quota is identical to the 1996 quota, and the 1997 ocean quahog quota represents a 3-percent reduction from the 1996 quota. These quotas established by NMFS on behalf of the Secretary are unchanged from the proposed quotas published in the Federal Register on November 26, 1996 (61 FR 60074). The proposed rule contains details concerning these quota recommendations that are not repeated here.

FINAL 1997 SURF CLAM/OCEAN QUAHOG QUOTAS

Fishery	1996 final quotas (mil. bu.)	1996 final quotas (mil. hL)
Surf clam	2,565,000	1,362,000
Ocean quahog ..	4,317,000	2,292,000

Comments

No comments were received during the public comment period.

Classification

This action is authorized by 50 CFR part 648 and is exempt from review under E.O. 12866.

The Assistant General Counsel for Legislation and Regulation, Department of Commerce, certified to the Chief Counsel for Advocacy of the Small Business Administration at the proposed rule stage that these fishing quotas would not have a significant economic impact on a substantial number of small entities. As a result, a regulatory flexibility analysis was not prepared. Details concerning this certification were provided in the proposed rule and are not repeated here.

Pursuant to 5 U.S.C. 553(d)(3), the Assistant Administrator for Fisheries, NOAA, finds for good cause that a delay in the effective date is unnecessary because this rule does not impose a burden on the fishery, as it only establishes year-long quotas to be used for the sole purpose of closing the fishery when the quotas are reached. Therefore, it is unnecessary to delay this rule's effectiveness for 30 days.

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

Dated: January 16, 1997.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 97–2046 Filed 1–23–97; 3:37 pm]

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