

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 648

[Docket No. 900124-0127; I.D. 101906A]

**Fisheries of the Northeastern United States; Atlantic Surfclam and Ocean Quahog Fisheries; Suspension of Minimum Atlantic Surfclam Size Limit for Fishing Year 2007**

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

**ACTION:** Temporary rule; suspension of the Atlantic surfclam minimum size limit.

**SUMMARY:** NMFS suspends the minimum size limit of 4.75 inches (12.065 cm) for Atlantic surfclams for the 2007 fishing year. This action is taken under the authority of the implementing regulations for this fishery, which allow for the annual suspension of the minimum size limit based upon set criteria. The intended effect is to relieve the industry from a regulatory burden that is not necessary, as the majority of surfclams harvested are larger than the minimum size limit.

**DATES:** Effective January 1, 2007, through December 31, 2007.

**ADDRESSES:** Written inquiries may be sent to Patricia A. Kurkul, Regional Administrator, National Marine Fisheries Service, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930-2298.

**FOR FURTHER INFORMATION CONTACT:** Tobey Curtis, Fishery Management Specialist, (978) 281-9273; fax (978) 281-9135.

**SUPPLEMENTARY INFORMATION:** Section 648.72(c) of the regulations implementing the Fishery Management Plan (FMP) for the Atlantic Surfclam and Ocean Quahog Fisheries allows the Administrator, Northeast Region, NMFS (Regional Administrator) to suspend annually, by publication of a notification in the **Federal Register**, the minimum size limit for Atlantic surfclams. This action may be taken unless discard, catch, and biological sampling data indicate that 30 percent of the Atlantic surfclam resource is smaller than 4.75 inches (12.065 cm) and the overall reduced size is not attributable to harvest from beds where growth of the individual clams has been reduced because of density-dependent factors.

At its June 2004 meeting, the Mid-Atlantic Fishery Management Council (Council) voted to recommend that the Regional Administrator suspend the minimum size limit for the 2005, 2006, and 2007 fishing years. In accordance with the provisions of the FMP, the Regional Administrator will publish the suspension of the surfclam minimum size for the applicable fishing year if the proportion of undersized surfclams is under 30 percent of the total surfclam landings.

Commercial surfclam data for 2006 were analyzed to determine the percentage of surfclams that were smaller than the minimum size requirement. The analysis indicated that 4.80 percent of the overall commercial landings were composed of surfclams that were less than 4.75 inches (12.065 cm). Based on these data, the Regional Administrator adopts the Council's recommendation and suspends the minimum size limit for Atlantic surfclams from January 1 through December 31, 2007, through this temporary rule.

**Classification**

Pursuant to 5 U.S.C. 553(b)(B), the Assistant Administrator finds good cause to waive prior notice and opportunity for public comment as notice and comment would be unnecessary and contrary to the public interest. The surfclam minimum size has been suspended consistently for many consecutive years. The industry has repeatedly supported the timely suspension of the size limit, to coincide with the beginning of the fishing year on January 1st, because of the unnecessary costs involved with complying with the minimum size limit if this rule is delayed beyond that date. This action relieves a burden in that, minus this suspension, the catch of clams would have to be inspected on board a vessel in order to cull out clams that did not meet the minimum size limit. This would be difficult because of the current highly mechanized process that removes the clams from the dredge and transports them to the 32-bushel cages, which are then sent to the processing plant. Given poor weather conditions in the fall/early winter, delay of this action beyond January 1, 2007, could also make the culling process dangerous. Culling out small clams will also increase the time it takes for a vessel owner to harvest the allocation for which the vessel is fishing, potentially increasing fuel costs and other vessel operation expenses, as well as the fishing mortality on the stock. Pursuant to 5 U.S.C. 553(d)(3), the Assistant Administrator finds good cause to waive

the delayed effectiveness period for the reasons stated above. Delaying effectiveness of this rule would also promote confusion in the industry, which has not had to comply with a minimum size restriction for many years.

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

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

Dated: October 24, 2006.

**James P. Burgess,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

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## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 648

[Docket No. 060719196-6271-02; I.D. 071106F]

RIN 0648-AU54

**Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; Correction**

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

**ACTION:** Final rule; correction.

**SUMMARY:** NMFS implements this final rule to clarify the expiration date of the limited entry program for *Illex* squid, reestablish a minimum mesh requirement for the butterfish fishery, and remove a regulatory requirement for annual specifications to be published by a specific date. These measures were initially implemented by the final rule implementing the specifications for the 2005 fishing year for Atlantic mackerel, squid, and butterfish (MSB). These regulatory measures were intended to be of a permanent nature, unlike the 2005 specifications themselves, which were effective through December 31, 2005. An error in the final rule caused these three measures to expire; this rule restores the regulatory requirements. This action is being taken by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

**DATES:** Effective November 29, 2006.

**ADDRESSES:** Copies of supporting documents used by the Mid-Atlantic Fishery Management Council (Council),