

OMB Control No.	FCC form number or 47 CFR section or part, docket number or title identifying the collection	OMB expiration date
3060-1078	Rules and Regulations Implementing the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 (CAN-SPAM Act), CG Docket No. 04-53.	12/31/07
3060-1079	Radio Frequency Identification Equipment (RFID)	03/31/08
3060-1080	Improving Public Safety Communications in the 800 MHz Band	08/31/08
3060-1081	Federal-State Joint Board on Universal Service, CC Docket No. 96-45	10/31/08
3060-1083	Request to Update Default Compensation Rate for Dial-Around Calls from Pay Phones, WC Docket No. 03-225.	06/30/08
3060-1084	Rules and Regulations Implementing Minimum Customer Account Record Obligations on All Local and Inter-exchange Carriers (CARE), CG Docket No. 02-386.	06/30/10
3060-1085	Collection of Location Information, Provision of Notice and Reporting on Interconnected Voice Over Internet Protocol (VoIP) E911 Compliance.	01/31/09
3060-1086	Secs. 74.786, 74.787, 74.790, 74.794 and 74.796	09/30/08
3060-1087	Broadband Over Power Lines (BPL), ET Docket No. 04-37	09/30/08
3060-1088	FCC 1088 Series	03/31/10
3060-1089	Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Emergency Access Notice of Proposed Rulemaking and IP Relay/VRS Fraud.	( <sup>1</sup> )
3060-1090	Order and Implementing Public Notices Requiring BRS Channels 1 and/or 2/2A Licensee to File Data on the Construction Status and/or Operational Parameters of Each System.	04/30/09
3060-1091	Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; VRS Interoperability, Declaratory Ruling and Further Notice of Proposed Rulemaking.	10/31/07
3060-1092	FCC 609-T and FCC 611-T	01/31/10
3060-1094	Licensing, Operation, and Transition of the 2500-2690 MHz Band	10/31/09
3060-1095	Surrenders of Authorization for International Carrier, Space Station and Earth Station Licensees	12/31/09
3060-1096	Prepaid Calling Card Service Provider Certification, WC Docket No. 05-68	02/28/10
3060-1098	Rural Health Care Support Mechanism	03/31/10
3060-1100	Sec. 15.117	09/30/10
3060-1101	Children's Television Requests for Preemption Flexibility	06/30/10
3060-1103	Sec. 76.41	07/31/10
3060-1107	Request To State and Local Public Safety Entities for Information Equipment Operating in Affected Portion of 700 MHz Public Safety Spectrum.	12/31/07
3060-1108	Consummations of Assignments and Transfers of Control Authorization	09/30/10
3060-1109	Information Collection for Emergency Communications Back-Up System Report to Congress	12/31/07

<sup>1</sup>Pending OMB Approval.

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 648**

[Docket No. 070717342-7713-02]

RIN 0648-AV42

**Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Atlantic Surfclam and Ocean Quahog Fishery; Final 2008-2010 Fishing Quotas for Atlantic Surfclams and Ocean Quahogs**

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

**ACTION:** Temporary rule.

**SUMMARY:** NMFS is specifying the final quotas for the Atlantic surfclam and ocean quahog fisheries for 2008, 2009, and 2010. Regulations governing these

fisheries require NMFS to publish the final quota specifications for the 2008-2010 fishing years. The intent of this action is to implement final specifications for allowable harvest levels of Atlantic surfclams and ocean quahogs from the Exclusive Economic Zone.

**DATES:** Effective from January 1, 2008 to December 31, 2010.

**ADDRESSES:** Copies of supporting documents, including the Environmental Assessment, the Regulatory Impact Review (RIR), and the Initial Regulatory Flexibility Analysis (IRFA) are available from Daniel Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19904-6790. A copy of the RIR/IRFA is accessible via the Internet at <http://www.nero.noaa.gov/nero/regs/com.html>.

The Final Regulatory Flexibility Analysis (FRFA) consists of the IRFA, and the summary of impacts and alternatives contained in the Classification section of the preamble of this final rule. Copies of the small entity compliance guide are available from Patricia A. Kurkul, Regional

Administrator, NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930-2298.

**FOR FURTHER INFORMATION CONTACT:** Timothy A. Cardiasmenos, Fishery Management Specialist, 978-281-9204.

**SUPPLEMENTARY INFORMATION:** The Fishery Management Plan for the Atlantic Surfclam and Ocean Quahog Fisheries (FMP) requires that NMFS, in consultation with the Mid-Atlantic Fishery Management Council (Council), specify quotas for surfclams and ocean quahogs for a 3-year period, with an annual review, from a range that represents the optimum yield (OY) for each fishery. It is the policy of the Council that the levels selected allow sustainable fishing to continue at that level for at least 10 years for surfclams and 30 years for ocean quahogs. In addition to this constraint, the Council policy also considers the economic impacts of the quotas. Regulations implementing Amendment 10 to the FMP (63 FR 27481, May 19, 1998) added Maine ocean quahogs (locally known as mahogany quahogs) to the management unit, and provided for a small artisanal fishery for ocean quahogs in the waters north of 43° 50' N. lat., with an annual quota within a range of 17,000 to

100,000 Maine bu (5,991 to 35,240 hL). As specified in Amendment 10, the Maine mahogany ocean quahog quota is allocated separately from the quota specified for the ocean quahog fishery. Regulations implementing Amendment 13 to the FMP (68 FR 69970, December 16, 2003) established the ability to set multi-year quotas. An evaluation, in the form of an annual quota recommendation, is conducted by the Council every year to determine if the multi-year quota specifications remains appropriate. The fishing quotas must be in compliance with overfishing definitions for each species. In proposing these quotas, the Council

considered the available stock assessments, data reported by harvesters and processors, and other relevant information concerning exploitable biomass and spawning biomass, fishing mortality rates, stock recruitment, projected fishing effort and catches, and areas closed to fishing.

In June 2007, the Council voted to recommend maintaining the 2007 quota levels of 5.333 million bu (284 million L) for the ocean quahog fishery, 3.400 million bu (181 million L) for the Atlantic surfclam fishery, and 100,000 Maine bu (35,240 hL) for the Maine ocean quahog fishery for 2008–2010. The final quotas for the 2008–2010

Atlantic surfclam and ocean quahog fishery are shown in the table below. The Atlantic surfclam and ocean quahog quotas are specified in standard bu of 53.24 L per bu, while the Maine ocean quahog quota is specified in “Maine” bu of 35.24 L per bu. Because Maine ocean quahogs are the same species as ocean quahogs, both fisheries are assessed under the same ocean quahog overfishing definition. When the two quota amounts (ocean quahog and Maine ocean quahog) are added, the total allowable harvest is still lower than the level that would result in overfishing for the entire stock.

#### 2008–2010 ATLANTIC SURFCLAM AND OCEAN QUAHOG<sup>1</sup> QUOTAS

	2008		2009		2010	
	bu	hL	bu	hL	bu	hL
Surfclams <sup>2</sup>	3.400	1.810	3.400	1.810	3.400	1.810
Ocean Quahogs <sup>2</sup>	5.333	2.840	5.333	2.840	5.333	2.840
Maine Ocean Quahogs <sup>3</sup>	100,000	35,240	100,000	35,240	100,000	35,240

<sup>1</sup> Numerical values are in millions, except for Maine ocean quahogs

<sup>2</sup> 1 bu = 1.88 cubic ft. = 53.24 liters

<sup>3</sup> 1 bu = 1.2445 cubic ft. = 35.24 liters

#### Surfclams

In 1999, the Council expressed its intention to increase the surfclam quota to OY over a period of 5 years (OY = 3.4 million bu (181 million L)). The 2008–2010 status quo surfclam quota was developed after reviewing the results of the 44th Northeast Regional Stock Assessment Workshop (SAW 44) for surfclams, issued in January 2007. The surfclam quota recommendation is consistent with the SAW 44 finding that the Atlantic surfclam stock is not overfished, nor is overfishing occurring. Estimated fishable stock biomass in 2005 was above the management target, and fishing mortality was below the management threshold. Even though the total stock biomass is expected to gradually decline over the next 3 years due to poor recruitment, the total proposed quota of 3.4 million bu (181 million L), if fully harvested, would not exceed the fishing mortality threshold. Based on this information, the Council recommended, and NMFS has approved, maintaining the status quo surfclam quota of 3.4 million bu (181 million L) for 2008–2010. This quota represents the maximum allowable quota under the FMP.

#### Ocean Quahogs

The final 2008–2010 quota for ocean quahogs also reflects the status quo quota of 5.333 million bu (284 million L) in 2007. SAW 44 found that the

ocean quahog stock is not overfished, nor is overfishing occurring. Estimated fishable biomass in 2005 was above the management target, and estimated fishing mortality was well below the target level. Fishing mortality is not expected to reach the target threshold if the proposed quota is harvested each of the 3 years. Similar to surfclams, the ocean quahog biomass is expected to decline over the next 3 years. There is some evidence of recruitment, and small ocean quahogs are found in most regions; however, growth is so slow that initial recruitment of year classes to the fishery is delayed for about 20 years. Based on this information, the Council recommended, and NMFS has approved, maintaining the status quo quota of 5.333 million bu (284 million L) for 2008–2010. This quota level is above current market demand, but allows for growth of the market if conditions change.

The 2008–2010 quota for Maine ocean quahogs is the status quo level of 100,000 Maine bu (35,240 hL). In 2006, the State of Maine completed a stock assessment of the resource within the Maine Mahogany Quahog Zone. This assessment was peer-reviewed as part of SAW 44. Although landings per unit of effort have declined since 2002, they remain relatively high overall. The findings of the Maine quahog survey did not change the status of the entire ocean quahog resource. The quota represents

the maximum allowable quota under the FMP.

#### Comments and Responses

NMFS received no comments on the proposed rule (November 15, 2007; 72 FR 64187) during the comment period that ended on December 17, 2007.

#### Classification

Pursuant to section 304 (b)(1)(A) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the NMFS Assistant Administrator has determined that this final rule is consistent with the FMP, other provisions of the Magnuson-Stevens Act, and other applicable law. This action is authorized by 50 CFR part 648 and has been determined to be not significant for purposes of Executive Order 12866.

A delay in the effective date of this final rule would cause a disruption in the ordinary commerce of the surfclam and ocean quahog fisheries. Individual Transferable Quota (ITQ) shareholders each receive a portion of the overall annual quotas for the two species. An allocation holder receives an amount of cage tags equivalent to his/her share of the overall quota. Fishing for surfclams and ocean quahogs begins on January 1, 2008, regardless of the publication of the annual quota, as tags for the 2008 fishing year have already been issued by the vendor pursuant to § 648.75(b). ITQ allocations are often transferred either

permanently or temporarily to meet changing economic circumstances in the fishery right from the commencement of these fisheries. Without a quota in effect, NMFS cannot make a transfer of part or the entirety of an allocation either permanently or temporarily. This inability on the part of NMFS to make such transfers effective would preclude the intended recipients of such transfers from fishing, thereby engendering a negative economic impact on the surfclam and ocean quahog fisheries. A delay in the effectiveness of this rule would be contrary to the rule's intent to maintain current quota levels that have the full support of the fishing industry and facilitate the transfer of quotas requested by the industry. Every effort was made to publish this final rule as expeditiously as possible. However, the Council could not provide its quota specifications until September of 2007. As a result of that timing, in order for NMFS to provide a proposed rulemaking stage with adequate opportunity for comment, it is necessary to waive the 30 day delay in effectiveness, as it would compromise the start of the fishing year and thereby undermine the intent of the rule. By delaying the transfer of quota to a harvesting vessel, a vessel operator may choose to fish during periods when they may otherwise choose not. Given the increase in foul weather and hazardous seas during the winter months, a vessel's ability to operate safely at sea could be compromised. Therefore, there is good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delayed effectiveness period for the implementation of the 2008–2010 surfclam, ocean quahog, and Maine ocean quahog quotas.

NMFS, pursuant to section 604 of the Regulatory Flexibility Act (RFA), prepared this FRFA in support of the 2008–2010 Atlantic surfclam and ocean quahog specifications. The FRFA incorporates the economic impacts summarized in the IRFA and the corresponding RIR that were prepared for this action. The IRFA was summarized in the proposed rule and is not repeated here. Copies of the IRFA, FRFA, and RIR prepared for these quota specifications are available from the Northeast Regional Office (see **ADDRESSES**). A description of why this action was taken, the objectives of, and the legal basis for this rule, are contained in the preamble to this final rule, and are not repeated here.

There are no Federal rules that duplicate, overlap, or conflict with this final rule. There were no public comments received regarding the IRFA.

This action implements final fishing quotas for Atlantic surfclams and ocean quahogs for 2008–2010. The Council analyzed four quota alternatives for the Atlantic surfclam fishery, five alternatives for the ocean quahog fishery, and four alternatives for the Maine ocean quahog fishery. Each of the alternative sets included a preferred alternative and a “no action” alternative. The three approved quotas for 2008–2010 are 5.333 million bu (284 million L) for the ocean quahog fishery, 3.400 million bu (181 million L) for the Atlantic surfclam fishery, and 100,000 Maine bu (35,240 hL) for the Maine ocean quahog fishery.

#### *Description and Estimate of the Number of Small Entities to Which This Rule Will Apply*

The Small Business Administration (SBA) defines a small commercial fishing entity as a firm with gross annual receipts not exceeding \$4 million. In 2006, 38 vessels reported harvesting surfclams and/or ocean quahogs from Federal waters under an Individual Transferable Quota (ITQ) system. In addition, 25 vessels participated in the limited access Maine ocean quahog fishery, for a total of 63 participants in the 2006 fisheries. Average 2006 gross income from surfclam ITQ trips was \$1,182,713 per vessel, and from ocean quahog ITQ trips was \$1,020,409 per vessel. The Maine ocean quahog fishery reported an average value of \$160,698 per vessel. Each vessel in this analysis is treated as a single entity for purposes of size determination and impact assessment. All 63 commercial fishing entities fall under the SBA size standard for small commercial fishing entities.

In addition to the actual vessels that participate in the fishery, there are 55 ocean quahog quota allocation owners, 67 surfclam allocation owners, and 51 Federal limited access Maine mahogany quahog permit holders. An allocation owner may choose to fish or lease his or her quota allocation.

#### *A Description of the Reporting, Recordkeeping, or other Compliance Requirements of the Final Rule*

This rule does not impose any new reporting, recordkeeping, or other compliance requirements. Therefore, the cost of compliance is unchanged.

#### *A Description of the Steps Taken to Minimize the Significant Economic Impact of This Final Action on Small Entities*

The final quotas for 2008–2010 reflect the same quota levels set for 2005–2007. Therefore, it is not expected that there

will be any different economic impacts beyond status quo resulting from the final quota level. Leaving the ocean quahog quota at the harvest level of 5.333 million bu (284 million L) is not expected to constrain the fishery. In fact, actual ocean quahog landings for 2005 and 2006 did not exceed 60 percent of the available quota. The total 2007 harvest is expected to be similar to that of recent years (as of September 15, 2007, only 45.4 percent of the quota had been harvested). In comparison, 41 percent of the quota had been harvested as of September 15, 2006.

The surfclam quota is to be set to the maximum allowed under the FMP. In contrast to the ocean quahog harvest, the surfclam fishery has harvested over 80 percent of the available quota each year since 2005. The Maine ocean quahog quota is to be also set at the maximum allowed under the FMP. The Maine ocean quahog quota is often fully harvested on an annual basis. It is anticipated that, by maintaining the status quo quota level for the next 3 years, the fishing industry will benefit from the stability of product demand from the seafood processors and being able to predict future fishery performance based on past performance from the last 3 years.

#### *Small Entity Compliance Guide*

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as “small entity compliance guides.” The agency shall explain the action a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a small entity compliance guide was prepared. Copies of the guide will be sent to all holders of commercial Federal Atlantic surfclam, ocean quahog, and the limited access Maine ocean quahog fishery permits. The guide will also be available on the internet at <http://www.nero.noaa.gov>. Copies of the guide can also be obtained from the Regional Administrator (see **ADDRESSES**).

#### **Reporting and Recordkeeping Requirements**

This final rule does not impose any new reporting, recordkeeping, or other compliance requirements. Therefore, the costs of compliance remains unchanged.

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

Dated: December 31, 2007

**John Oliver,**

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

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**BILLING CODE 3510-22-S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 070213033-7033-01]

RIN 0648-XE78

#### Fisheries of the Exclusive Economic Zone Off Alaska; Inseason Adjustment to the 2008 Bering Sea Pollock Total Allowable Catch Amount

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

**ACTION:** Temporary rule; inseason adjustment; request for comments.

**SUMMARY:** NMFS is adjusting the 2008 total allowable catch amount (TAC) for the Bering Sea pollock fishery. This action is necessary because NMFS has determined this TAC is incorrectly specified. This action will ensure the Bering Sea pollock TAC does not exceed the appropriate amount based on the best available scientific information for pollock in the Bering Sea subarea. This action is consistent with the goals and objectives of the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP).

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), December 31, 2007, through 2400 hrs, A.l.t., December 31, 2008, unless otherwise modified or

superseded through publication of a notification in the **Federal Register**.

Comments must be received at the following address no later than 4:30 p.m., A.l.t., January 15, 2008.

**ADDRESSES:** You may submit comments, identified by "RIN 0648-XE78," by any one of the following methods:

- Mail to: P.O. Box 21668, Juneau, AK 99802

- Hand delivery to the Federal Building, 709 West 9th Street, Room 420A, Juneau, Alaska

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal <http://www.regulations.gov>

- FAX to 907-586-7557, Attn: Ellen Sebastian

Instructions: All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments. Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Hogan, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the Bering Sea and Aleutian Islands (BSAI) according to the FMP prepared by the North Pacific Fishery Management Council (Council) under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2008 pollock TAC in the Bering Sea subarea was set at 1,318,000 metric tons (mt) by the 2007 and 2008 harvest specification for groundfish in the BSAI (72 FR 9451, March 2, 2007).

In December 2007, the Council recommended a 2008 pollock TAC of 1,000,000 mt for the Bering Sea subarea. This amount is less than the 1,318,000 mt established by the 2007 and 2008 harvest specification for groundfish in the BSAI (72 FR 9451, March 2, 2007). The TAC recommended by the Council is based on the Stock Assessment and Fishery Evaluation report (SAFE), dated November 2007, which NMFS has determined is the best available scientific information for this fishery.

Steller sea lions occur in the same location as the pollock fishery and are listed as endangered under the Endangered Species Act (ESA). Pollock is a principal prey species for Steller sea lions in the BSAI. The seasonal apportionment of pollock harvest is necessary to ensure the groundfish fisheries are not likely to cause jeopardy of extinction or adverse modification of critical habitat for Steller sea lions. The regulations at § 679.20(a)(5)(i)(A) specifies how the pollock TAC shall be apportioned.

In accordance with § 679.25(a)(2)(i)(B), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that, based on the November 2007 SAFE report for this fishery, the current Bering Sea pollock TAC is incorrectly specified. Consequently, the Regional Administrator is adjusting the 2008 pollock TAC to 1,000,000 mt in the Bering Sea subarea.

Pursuant to § 679.20(a)(5), Table 3 of the 2007 and 2008 final harvest specifications for groundfish in the BSAI (72 FR 9451, March 2, 2007) is revised for the 2008 pollock TACs consistent with this adjustment.

**BILLING CODE 3510-22-S**