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MEMORANDUM

Date: September 25, 2014

To: Council

From: Jessica Coakley and José Montañez, Staff

Subject: Surfclam and Ocean Quahog Cost Recovery Amendment & Data Collection Proposed Rule

The following are included for consideration by the Council on the above subjects:

Cost Recovery Amendment

1) Amendment Public Hearing Draft

Information Collection Proposed Rule for Surfclam and Ocean Quahog (SCOQ)

2) Proposed Rule dated August 7, 2014
3) Draft Application for SCOQ Individual Transferrable Quota (ITQ) Permit
4) Draft Application to Transfer SCOQ ITQ
5) Draft SCOQ ITQ Ownership Form
6) Timeline on Data Collection Protocol Development for SCOQ ITQ Fisheries
7) Data Collection Recommendations for the SCOQ Fisheries (Prepared by FMAT, May 2013)
8) Comments received by Council (letters and emails)

AMENDMENT XX ("COST RECOVERY")

TO THE

ATLANTIC SURFCLAM AND OCEAN QUAHOG

FISHERY MANAGEMENT PLAN

(Includes Environmental Assessment, Regulatory Impact Review, and Initial Regulatory Flexibility Analysis)

September 2014

Mid-Atlantic Fishery Management Council

in cooperation with

the National Marine Fisheries Service

Draft adopted by MAFMC: XXXXXXX
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MID-ATLANTIC FISHERY MANAGEMENT COUNCIL

NOAA NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION U.S. DEPARTMENT OF COMMERCE

1.0 EXECUTIVE SUMMARY

This document was prepared by the Mid-Atlantic Fishery Management Council (Council) in consultation with the National Oceanic and Atmospheric Administrations (NOAA) National Marine Fisheries Service (NMFS), hereafter referred to as NOAA Fisheries throughout this document. The purpose of this action (Amendment) is to is to implement measures for collecting fees and recovering costs associated with the management of the Atlantic surfclam and ocean quahog individual transferrable quota (ITQ) fisheries, to implement measures that facilitate incorporation of revised stock status determination criteria (i.e., biological reference points) for surfclams and ocean quahogs into the Fishery Management Plan (FMP), and to implement measures that would modify or eliminate the optimum yield (OY) ranges for surfclam and ocean quahog currently in the FMP.

Summary of Alternatives

The Council analyzed the biological impacts, habitat (EFH) impacts, impacts on Endangered Species Act (ESA)-listed and Marine Mammal Protection Act (MMPA) protected species, and the social and economic impacts of the Council-considered alternatives. A detailed description and discussion of the expected environmental impacts resulting from each of the alternatives, as well as any cumulative impacts, considered in this document are provided in section 7.0

The following section presents a summary of the differences amongst the alternatives under consideration, and a qualitative summary of expected impacts (Boxes ES-1 and ES-2). For purposes of impact evaluation, No action (*Status Quo*) alternatives are compared to the baseline condition, while all other alternatives are compared to the No action/*Status Quo* alternative.

Box ES-1. Summary comparison of the differences in surfclam and ocean quahog alternatives under consideration in this amendment.

Issue	Alternatives	Main Differences in Alternatives
Cost Recovery	Alternative 1 (No action/*Status Quo*)	No cost recovery program.
	Alternative 2 (ITQ tag holder pays via a federally permitted dealer)	*Who pays?* Tag holder pays fee at the point of landing. *Who collects fee?* Dealer collects fee at point of landing and submits payment to NOAA Fisheries.
	Alternative 3 (ITQ shareholder and tag holder pays; two-tiered approach)	*Who pays?* All shareholders (permanent ITQ allocation holder) have a portion of fee assessed proportionate to the amount of allocation held by the shareholder, regardless of whether ITQ were fished or not. Remaining part of fee is collected from tag holders at point of landing. *Who collects fee?* Shareholder pays portion to NOAA Fisheries. Dealer collects other portion of fee from tag holder at point of landing and submits payment to NOAA Fisheries.
	Alternative 4 (Shareholder pays directly; equal fee per tag)	*Who pays?* Shareholder pays NOAA Fisheries an equal fee per tag, regardless of whether tag was fished or not. *Who collects fee?* Shareholder pays NOAA Fisheries directly.
	Alternative 5 (Shareholder pays; tilefish model)	*Who pays?* Shareholder pays NOAA Fisheries fee based on landed value for shares held. *Who collects fee?* Shareholder pays NOAA Fisheries directly.
Administrative Mechanism to Update Biological Reference Points	Alternative 1 (No action/*Status Quo*)	Requires that reference points be updated in the FMP through an Amendment process.
	Alternative 2 (Redefine the Status Determination Criteria)	Would not require an Amendment process, but status determination criteria must meet Council's standards for consistency with National Standards 1 and 2 definitions and peer review.
Optimum Yield Range	Alternative 1 (No action/*Status Quo*)	Council must do Framework to modify OY Range (stays in FMP); Quotas may be set lower than OY bounds if acceptable biological catch (ABC) is lower, but cannot be set higher without doing a Framework; Inconsistent treatment of upper and lower bounds of OY range; ABC can be lower than plan OY, which is not consistent with NOAA Fisheries interpretation that scientific and management uncertainty must be addressed to achieve OY.
	Alternative 2 (Remove OY Range from FMP; Advisors Recommend)	No Framework required; OY range removed from FMP; Removes inconsistencies with OY and ABC; OY value or range would be recommended by advisors as part of specifications process.
	Alternative 3 (Link Upper OY Range to ABC Recommendations)	Council must do Framework to modify OY range (stays in FMP); Upper bound of OY = ABC; At lower bound, Council can set quotas lower if ABC is less than the OY range; ABC can be lower than plan OY, which is not consistent with NOAA Fisheries interpretation that scientific and management uncertainty must be addressed to achieve OY.

Box ES-2. Overall qualitative summary of the expected impacts of various surfclam and ocean quahog alternatives considered in this document.

Issue	Alternatives	Biological	Habitat	Protected Resources	Socio-economic
Cost Recovery	Alternative 1 (No action/*Status Quo*)	Neutral (0)	Neutral (0)	Neutral (0)	Neutral (0)
	Alternative 2 (ITQ tag holder pays via a federally permitted dealer)	Neutral (0); administrative in nature	Neutral (0); administrative in nature	Neutral (0); administrative in nature	Negative (-); fishermen revenues could potentially decrease by up to 3 percent of ex-vessel value
	Alternative 3 (ITQ shareholder and tag holder pays; two-tiered approach)				
	Alternative 4 (Shareholder pays directly; equal fee per tag)				
	Alternative 5 (Shareholder pays; tilefish model)				
Administrative Mechanism to Update Biological Reference Points	Alternative 1 (No action/*Status Quo*)	Neutral (0) to Slight Negative (-) because would not allow for updates to reference points in FMP when warranted without Amendment (not timely action)	Neutral (0)	Neutral (0)	Neutral (0)
	Alternative 2 (Redefine the Status Determination Criteria)	Neutral (0) to Slight Positive (+) because of more timely and efficient use of updated BRP by management system	Neutral (0); administrative in nature	Neutral (0); administrative in nature	Neutral (0); administrative in nature
Optimum Yield Range	Alternative 1 (No action/*Status Quo*)	Neutral (0); administrative in nature	Neutral (0); administrative in nature	Neutral (0); administrative in nature	Neutral (0); administrative in nature
	Alternative 2 (Remove OY Range from FMP; Advisors Recommend)				
	Alternative 3 (Link Upper OY Range to ABC Recommendations)				

2.0 LIST OF FREQUENTLY USED ACRONYMS, CONVERSIONS, FMP RANGES

Acronyms

CEA	Cumulative Effects Assessment
CEQ	Council on Environmental Quality
CFR	Code of Federal Regulations
DPS	Distinct Population Segment
EA	Environmental Assessment
EEZ	Exclusive Economic Zone
EFH	Essential Fish Habitat
EIS	Environmental Impact Statement
EO	Executive Order
ESA	Endangered Species Act
F	Fishing Mortality Rate
FR	Federal Register
FMAT	Fishery Management Action Team
FMP	Fishery Management Plan
FONSI	Finding of No Significant Impact
GARFO	Greater Atlantic Regional Fisheries Office
IFQ	Individual Fishing Quota
ITQ	Individual Transferrable Quota
LASAF	Limited Access System Administrative Fund
LOF	List of Fisheries
MAFMC	Mid-Atlantic Fishery Management Council
MFMT	Maximum Fishing Mortality Threshold
MMPA	Marine Mammal Protection Act
MSST	Minimum Stock Size Threshold
MSA	Magnuson-Stevens Fishery Conservation and Management Act
MSY	Maximum Sustainable Yield
NAO	National Oceanic and Atmospheric Administration Administrative Order
NEFSC	Northeast Fisheries Science Center
NEFOP	Northeast Fisheries Observer Program
NEPA	National Environmental Policy Act
NMFS	National Marine Fisheries Service
NOAA	National Oceanic and Atmospheric Administration
OFL	Overfishing Limit
OY	Optimal Yield
PRA	Paperwork Reduction Act
RFA	Regulatory Flexibility Analysis
RIR	Regulatory Impact Review
SARC	Stock Assessment Review Committee
SAW	Stock Assessment Workshop
SBA	Small Business Administration
SSC	Scientific and Statistical Committee
US	United States
VECs	Valued Ecosystem Components

Conversions

1 metric ton (mt) = 2,204.622 pounds (lb)
1 Maine bushel = 11 lb meats
1 Atlantic surfclam bushel = 17 lb meats
1 ocean quahog bushel = 10 lb meats

FMP Ranges

Atlantic surfclam optimum yield (OY) range: 1.85 - 3.40 million bushels or 14,265 - 26,218 mt
Ocean quahog OY range: 4.00 - 6.00 million bushels or 18,144 - 27,216 mt

3.0 TABLE OF CONTENTS

4.0 INTRODUCTION AND BACKGROUND

This document was developed in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (MSA)[1] and National Environmental Protection Act (NEPA), the former being the primary domestic legislation governing fisheries management in the U.S. Exclusive Economic Zone (EEZ), and the Atlantic Surfclam and Ocean Quahog Fishery Management Plan (FMP). The management regime and objectives of the fishery are detailed in the FMP, including any subsequent amendments, and are available at: http://www.mafmc.org.

4.1 PURPOSE AND NEED OF THE ACTION

The purpose of this action is to implement measures for collecting fees and recovering costs associated with the management of the Atlantic surfclam and ocean quahog individual transferrable quota (ITQ) fisheries and to ensure the fishery management plan (FMP) is in compliance with the MSA. The MSA requires fees be recovered for incremental costs directly related to management, data collection and analysis, and enforcement of ITQ programs. The need for this action is to ensure that fishermen that hold ITQs are bearing at least part of the costs related to the management of their ITQ fishery.

In addition, a purpose of this action is to implement measures that facilitate incorporation of revised stock status determination criteria (i.e., biological reference points) for surfclams and ocean quahogs into the fishery management plan (FMP). This action is needed to ensure that the Council is applying the most updated information to management through the FMP to ensure that quota levels are set properly and that stocks are managed to prevent overfishing.

Another purpose of this action is to implement measures that would modify or eliminate the optimum yield (OY) ranges for surfclams and ocean quahogs. This action is needed to ensure the Council has the flexibility to set catch and landings limits, and commercial quotas consistent with the MSA without a potential conflict between the OY ranges that currently exist in the FMP and the Scientific and Statistical Committee (SSC) recommendations for acceptable biological catch (ABC). This is further needed to ensure that stocks continue to be managed to prevent overfishing.

[1] Magnuson-Stevens Fishery Conservation and Management Act (MSA), portions retained plus revisions made by the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 (MSRA), and available at: http://www.nmfs.noaa.gov/sfa/magact/MSA_Amended_2007%20.pdf

5.0 MANAGEMENT ALTERNATIVES

Comprehensive descriptions of the current regulations for surfclams and ocean quahogs as detailed in the Code of Federal Regulations (CFR) are available through the website for the Greater Atlantic Regional Fisheries Office (GARFO) of the National Oceanic and Atmospheric Administration (NOAA) Fisheries: http://www.greateratlantic.fisheries.noaa.gov/regs/fr.html.

5.1 Cost Recovery Alternatives

NOAA Fisheries is required under the MSA to collect fees to recover the costs directly related to management, data collection and analysis and enforcement of limited access privilege programs.[2] Under section 304(d)(2)(A) of the Act, the Secretary is authorized to collect a fee to recover these costs. Throughout the description of alternatives, it should be noted that the term shareholder refers to the permanent ITQ allocation holder. ITQ cage tags are issued to the shareholder and these tags may or may not be fished during the fishing year. The tags may also be leased to other entities. The shareholder may harvest surfclams and/or ocean quahogs on his or her own vessel, or pay someone else to provide harvesting services. Therefore, the term tag holder is used to describe an entity that actually holds the tags, but may or may not be the actual ITQ shareholder.

The following provisions of the ITQ cost recovery program would apply to all the proposed alternatives:

- Under alternatives 2-5 the greatest ITQ fee that could be collected is 3 percent of the ex-vessel value of shellfish harvested, which is the maximum fee amount allowed by section 304(d)(2)(B) of the MSA.
- ITQ fees collected would be deposited in the Limited Access System Administrative Fund (LASAF) established in the U.S. Treasury.
- Separate accounts would be created within the LASAF to ensure that the funds from the ITQ cost recovery are used only to pay for the actual costs directly related to management, data collection, analysis, and enforcement costs of the NOAA Fisheries Northeast Region Atlantic Surfclam and Ocean Quahog ITQ Programs, as described in the MSA.[3]
- An annual ITQ report would be generated.[4] This report will be available online and on request from NOAA Fisheries. A copy of the report will be provided to the Council.

[2] A limited access privilege is a permit, issued as part of a limited access system, to harvest a quantity of fish expressed by a unit or units representing a portion of the total allowable catch of the fishery that may be received or held for exclusive use by a person. This includes individual fishing quotas (IFQ). An ITQ is an IFQ program where privileges can be transferred subsequent to initial allocations.

[3] Up to 25- percent of the fees collected can be used for purchasing quota for small-vessel fisherman or quota for new entrants into the fishery, if such a program is submitted by the Council and approved by NOAA Fisheries (as described by paragraph 303A(g) of the MSA).

[4] The report would include annual information regarding the amount and value of Atlantic surfclam and ocean quahog landed during the fishing year, the associated cost recovery fees, and the status of those fees. This report would also

- The ex-vessel value[5] of an ITQ landing would equal the sum of all payments[6] of monetary worth made to fishermen for the sale of the shellfish under the tags provided, during the fishing year.
- NOAA Fisheries will bill for the fees to be collected for the fishing year to those required to pay (i.e., dealers, shareholders, or tag holders depending on the alternative considered). Bills may be mailed or made available electronically via the internet. Payment of the ITQ fee must be made at the end of the fishing season. Payments of the ITQ fee must be made electronically via the Federal web portal, www.pay.gov, or other internet sites as designated by the Regional Administrator (RA[7]). The RA has discretion to authorize payment by check, if necessary. NOAA Fisheries will address any payment liabilities, as needed.
- NOAA Fisheries will estimate the ITQ percentage fee to be applied for the first year of implementation of cost recovery, based on prior year actual costs and the anticipated ex-vessel value of the fishery.
- The RA would review the cost recovery fee annually to determine if adjustment is warranted. Those to be issued bills (i.e., dealers, shareholders, or tag holders depending on the alternative considered) will need to know what ITQ fee percentage will be applied, the RA would publish a notification of the ITQ fee percentage (or ITQ per tag fee if applicable) in the Federal Register each year, prior to the start of the upcoming fishing year. This will be based on prior year estimates of costs. At the end of the fishing year, the Regional Administrator would determine if a fee adjustment is warranted. Factors considered in the review include the catch subject to the ITQ cost recovery, projected ex-vessel value of the catch, costs directly related to the management, enforcement, and data collection of the ITQ program, and expected nonpayment of fee liabilities. If a fee adjustment is warranted, the RA would adjust the ITQ fee percentage in the next fishing year.

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detail the costs incurred by NOAA Fisheries, including the calculation of the recoverable costs for the management, enforcement, and data collection, incurred by NOAA Fisheries during the fishing year.

[5] ''Value'' refers to the worth, in U.S. dollars, of any amount of landed ITQ surfclam and ocean quahog as determined by the sale, or potential economic return for the sale, of those shellfish. Actual ex-vessel value would be the amount of money received as payment for the tag holder's ITQ shellfish sold, as reported by a federally permitted dealer. In other words, this ex-vessel value amount will not be averaged with the other dealer prices for the purposes of calculating cost recovery fees.

[6] This would include any retro-payments (e.g., bonuses, delayed partial payments, post-season payments) made to the tag holder (or shareholder if not one in the same) for previously landed surfclams and/or ocean quahogs. Retro-payments would be part of the ex-vessel value and as such have a fee liability. If they were received after the initial payment, but during the same fishing year, the cost recovery fee for those retro-payments also would be due at the end of the fishing season. It is the responsibility of the dealer to update any previously reported landing report to reflect these "retro-payments".

[7] The reason for the 100- percent electronic fee collection system is to minimize paper transactions, and reduce the administrative burden that would be charged to the industry. Presently, the NOAA Fisheries Greater Atlantic Regional Fishery Office is not equipped to process paper collections. Instructions for electronic payment will be made available on both the payment website and the paper bill. Payment options will include payment via a plastic card (e.g. Visa, MasterCard, Discover, etc.), or direct automated clearing house (ACH) withdrawal from a designated checking account.

- Each year the RA would publish a notification of the ITQ fee percentage and/or per-tag fee for the next fishing year in the Federal Register.
- Those issued bills will provide payment to NOAA Fisheries at the end of the fishing season. Early payment may be allowed,[8] but it would not relieve a federally permitted dealer, tag, or shareholder holder of any associated fee collection or reporting requirement.

5.1.1 Alternative 1 (No action - No Cost Recovery)

Under this alternative, cost recovery would not be implemented for the Atlantic surfclam and ocean quahog ITQ fisheries. This means no fees would be collected to cover the costs directly related to management, data collection and analysis, and enforcement of ITQ programs. This alternative would be contrary to the Congressional mandate to collect fees for ITQ programs as specified in the MSA.

5.1.2 Alternative 2 (ITQ tag holder pays via a federally permitted dealer)

Alternative 2 would implement a cost recovery system where federally permitted dealers would collect the fee to be recovered at the point of purchase when the tag holder uses the cage tags to land surfclams or ocean quahogs. The person that submits the tags at the point of landing (i.e., tag holder) would be responsible for paying the fee to the dealer. This would include tag holders that are, or are not, the actual shareholder.

The dealer would be responsible for collecting the fees from the tag holder at the point of purchase and submitting the payment to NOAA Fisheries at the end of the fishing season. The dollar amount of the fee due would be determined by multiplying the ITQ fee percentage by the actual ex-vessel value of each ITQ landing made using tags.

5.1.3 Alternative 3 (ITQ shareholder and tag holder pays; two-tiered approach)

Alternative 3 would implement a cost recovery system where shareholders (permanent ITQ allocation holders) would have a percentage of the fee assessed proportionate to the amount of allocation (shares) held by the shareholder. This initial portion of the fee would be paid by all shareholders regardless of whether their ITQ was fished or not. The remaining part of the fee would be paid via federally permitted dealers that would collect the fee to be recovered at the point of purchase when the tag holder uses the tags to land surfclams or ocean quahogs. Whoever holds the tags at the point of landing (i.e., tag holder) would be responsible for paying the fee to the dealer. This would include tag holders that are, or are not, the actual shareholder.

The dealer would be responsible for collecting fees at the point of purchase and submitting the payment to NOAA Fisheries at the end of the fishing season. The dollar amount of the fee due

[8] Currently there is not a mechanism at GARFO to allow early payments. Payment is allowed once the bills are sent out and the payment system for cost recovery is not accessible all year. This could increase administrative costs.

would be determined by multiplying the ITQ fee percentage by the actual ex-vessel value of each ITQ landing made using tags.

5.1.4 Alternative 4 (Shareholder pays directly; equal fee per tag)

Alternative 4 would implement a cost recovery system where the shareholders (permanent ITQ allocation holders) would pay the fee directly to NOAA Fisheries, and the fee would be shared by all shareholders regardless of whether the ITQ was fished or not.

The dollar amount of the per-tag fee would be determined by dividing the total recoverable costs of managing the fishery by the number of ITQ shares (i.e., tags). The shareholder would pay the fee for all of the held shares directly to NOAA Fisheries. The total recoverable costs could not exceed 3 percent of the total ex-vessel value of ITQ landings for the surfclam or ocean quahog fisheries.

5.1.5 Alternative 5 (Shareholder pays; tilefish model)

Alternative 5 would implement a cost recovery system where the shareholder (permanent ITQ allocation holders) would pay the fee directly to NOAA Fisheries, and the fee would be based on the landed value of surfclams and ocean quahogs associated with the shares held, even if the associated tags are leased and subsequently landed by another party.

The dollar amount of the fee due would be determined by multiplying the ITQ fee percentage by the total ex-vessel value of ITQ landings. The shareholder would pay the fee for the landed product associated with their held shares (i.e., their annual tags that are used to land product), directly to NOAA Fisheries.

5.1.6 Considered but rejected from further analysis

The Fishery Management Action Team (FMAT) considered an alternative, where the ITQ permit holder will pay the fee associated with the cost recovery program in order to obtain the cage tags at the beginning of the fishing year based on assumed landings for the upcoming fishing year. This was rejected because the MSA stipulates that the recovered fee must be based on the landings, and this implies that those landings and tag use must have already occurred. The FMAT discussed the new entrant promotion program, where up to 25 percent of the fees collected can be used for purchasing quota for small-vessel fisherman or quota for new entrants into the fishery, if such a program is submitted by the Council and approved by NOAA Fisheries. However, the Council has not indicated interest in implementing this program therefore it is not included in the alternatives presented by the FMAT. A lien registry could be used to identify shareholders more accurately given the numbers of transactions with tags that occur in this fishery; however, a formal catch share lien registry has never been implemented by NOAA Fisheries.

5.2 Administrative Mechanism to Update Biological Reference Points Alternatives

Under National Standard 1, the MSA requires that each Council FMP define overfishing as a rate or level of fishing mortality that jeopardizes a fishery's capacity to produce maximum sustainable yield (MSY) on a continuing basis, and defines an overfished stock as a stock size that is less than a minimum biomass threshold. The MSA also requires that each FMP specify objective and measurable status determination criteria for identifying when stocks or stock complexes covered by the FMP are overfished. To fulfill the requirements of the MSA, status determination criteria are comprised of two components: 1) a maximum fishing mortality threshold (section 600.310 (d)(2)(i)) and 2) a minimum stock size threshold (section 600.310 (d)(2)(ii)).

5.2.1 Alternative 1 (No Action)

Under this no action alternative, the status determination criteria, which include a maximum fishing mortality threshold (MFMT; F_{MSY}; or reasonable proxy thereof) and the minimum stock size threshold (MSST; or reasonable proxy thereof) for each species managed under this FMP would remain unchanged and as defined for ocean quahogs and surfclams under Amendment 12 to the FMP (1998) and Amendment 13 to the FMP (2003). These definitions of status determination criteria have remained unchanged for these species since they were described in the FMP in 1998 and 2003, and may only be modified by an Amendment to the FMP (Table 1).

Overfishing for these species is currently defined to occur when the fishing mortality rate exceeds the threshold fishing mortality rate of F_{MSY}. Since F_{MSY} cannot be reliably estimated for surfclams and ocean quahog stocks, proxies are used.

Table 1. Definitions for the MFMT and MSST for surfclams and ocean quahogs.

Stock Status Determination Criteria		
Species	**Current Definition In FMP**	**Needs To Be Updated in FMP**
Surfclams - MFMT	F=M **(2003)**	F=M **(2013)**
Surfclams - MSST	$B_{Threshold}$ = ¼ the 1999 biomass (**2003**)	$B_{Threshold}$ = ¼ the 1999 biomass (**2013**)
Ocean quahogs - MFMT	$F_{25\%MSP}$ (**1998**)	$F_{45\%MSP}$ (**2009**)
Ocean quahogs - MSST	$B_{Threshold}$ = ¼ the virgin biomass of the whole stock; **1998**)	$B_{Threshold}$ = 40% of the 1978 whole stock biomass (**2009**)

For the surfclam and ocean quahog stocks B_{MSY} cannot be reliably estimated; therefore, proxies are used. Updates to the values associated with those definitions may occur when new information becomes available. The Council is not required to undertake any specific action when this occurs, as using the updated values is consistent with National Standard 2.

However, under this no action alternative, incorporation of changes to the status determination criteria would continue to occur through an amendment process as necessary.

5.2.2 Alternative 2 (Redefine the Status Determination Criteria)

Under this alternative, the status determination criteria for each of the species managed under the FMP would be defined as follows.

The maximum fishing mortality threshold for each of the species under the FMP is defined as F_{MSY} (or a reasonable proxy thereof) as a function of productive capacity, and based upon the best scientific information consistent with National Standards 1 and 2. Specifically, F_{MSY} is the fishing mortality rate associated with MSY. The maximum fishing mortality threshold (F_{MSY}) or a reasonable proxy may be defined as a function of (but not limited to): total stock biomass, spawning stock biomass, total egg production, and may include males, females, both, or combinations and ratios thereof which provide the best measure of productive capacity for each of the species managed under the FMP. Exceeding the established fishing mortality threshold constitutes overfishing as defined by the MSA.

The minimum stock size threshold for each of the species under the FMP is defined as ½ B_{MSY} (or a reasonable proxy thereof) as a function of productive capacity, and based upon the best scientific information consistent with National Standards 1 and 2. The minimum stock size threshold (½ B_{MSY}) or a reasonable proxy may be defined as a function of (but not limited to): total stock biomass, spawning stock biomass, total egg production, and may include males, females, both, or combinations and ratios thereof which provide the best measure of productive capacity for each of the species managed under the FMP. The minimum stock size threshold is the level of productive capacity associated with the relevant ½ MSY level. Should the measure of productive capacity for the stock or stock complex fall below this minimum threshold, the stock or stock complex is considered overfished. The target for rebuilding is specified as B_{MSY} (or reasonable proxy thereof) at the level of productive capacity associated with the relevant MSY level, under the same definition of productive capacity as specified for the minimum stock size threshold.

The definitions for status determination criteria for these species are broadened under this alternative to allow for greater flexibility in incorporating changes to the definitions of the maximum fishing mortality threshold and/or minimum stock size threshold as the best scientific information consistent with National Standards 1 and 2 becomes available. As such, the following describes the potential sources of peer-reviewed scientific advice on status determination criteria and the current process of how that scientific advice will move forward in the development of management advice through the Council's annual specification process.

Specific definitions or modifications to the status determinations criteria, and their associated values, would result from the most recent peer-reviewed stock assessments and their panelist recommendations. The Northeast Regional Stock Assessment Workshop/Stock Assessment Review Committee (SAW/SARC) process is the primary mechanism utilized in the Northeast Region at present to review scientific stock assessment advice, including status determination criteria, for federally-managed species. There are also periodic reviews, which occur outside the

SARC process that are subject to rigorous peer-review and may also result in scientific advice to modify or change the existing stock status determination criteria.[9]

These periodic reviews outside the SARC process could be conducted by any of the following listed below, as deemed appropriate by the managing authorities.

- MAFMC SSC Review
- MAFMC Externally Contracted Reviews with Independent Experts (e.g., Center for Independent Experts - CIE)
- NOAA Fisheries Internally Conducted Review (e.g., Comprised of NOAA Fisheries Scientific and Technical Experts from NOAA Fisheries Science Centers or Regions)
- NOAA Fisheries Externally Contracted Review with Independent Experts (e.g., CIE)

The scientific advice provided with respect to status determination criteria could follow three scenarios. First, it is possible that the panelists participating in the peer-review reach consensus with respect to maintaining the current definitions of status determination criteria for surfclams or ocean quahogs. There may be updates to the values associated with those same definitions based on the input of more recent information as well (i.e., additional year's data); however, the Council is not required to undertake any specific action when this occurs, as using the updated values is consistent with National Standard 2. In this case the scientific advice can then move forward to the SSC and then on to the Council to develop management recommendations. Under the second potential scenario for scientific advice, the peer-review recommends changes or different definitions of the status determination criteria, and the panelists reach consensus as to how these status determination criteria should be modified or changed. This scientific advice can move forward to the SSC and then on to the Council to develop management recommendations. Under these first two potential scenarios, consensus has been reached and therefore the scientific advice moving forward to the Council's advisory groups should be clear.

The third potential scenario is the peer review scientific advice with respect to the incorporation to status determination criteria is split (consensus is not reached) or uncertain recommendations are provided (weak consensus). The scientific advice provided by the reviewers may be particularly controversial. In addition, the scientific advice may not be specific enough to provide adequate guidance as to how the maximum fishing mortality threshold and/or minimum stock size threshold should be defined or what resulting management advice should be developed from these changes. Under these circumstances, unclear scientific advice can move forward to the SSC to review the information and recommendations provided by the peer-review group. The SSC, would clarify the scientific advice for the Council as to what the status determination criteria should be (e.g., modify, change, or maintain the same definitions). At that point the scientific advice on how

[9] For example, in 2006 scientific advice on summer flounder status determination criteria was provided through a NMFS internally conducted review at the "Summer Flounder Assessment and Biological Reference Point Update for 2006." The review panel was composed of experts from NOAA Fisheries and academia.

the status determination criteria should be defined will be clear, and can move forward to the Council such that management advice can be developed.

The Council's Industry Advisory groups are often engaged to provide additional management recommendations to the Council. The Council can then utilize the management advice from their advisory groups in developing their own recommendations put forward through the annual regulatory process of setting the annual specifications for the upcoming fishing year, which is the primary mechanism for adjusting management measures to meet the goals of the FMP. The recommendations from the Council can move forward in the annual specification package to NOAA Fisheries for implementation under their regulatory process. The EA/RIR/FRFA in the annual or multi-year specification document currently provides a thorough analysis of this information and the extent to which the information is applied.

5.3 Optimum Yield Range Alternatives

5.3.1 Alternative 1 (No Action)

Under this alternative, the FMP specified optimum yield (OY) ranges would remain as described in the FMP. The FMP specifies a surfclam OY range from 1.85 - 3.40 million bushels or 14,265 - 26,218 mt be used to set the surfclam commercial quota. For ocean quahog the OY range is 4.00 - 6.00 million bushels or 18,144 - 27,216 mt. The Council must select a commercial quota within this range. Modification to the upper end of the range would require a Framework adjustment. Commercial quotas may be set lower than OY bounds if the SSC sets a lower ABC, resulting in an OY range that is higher than ABC.

5.3.2 Alternative 2 (Remove OY Range from FMP; Advisors Recommend)

Under this alternative, the OY ranges would be removed from the FMP and commercial quotas for surfclams and ocean quahogs would continue to be set under the existing system of catch limits. This is consistent with the other FMPs the Council manages; surfclams and ocean quahogs are the only stocks with OY ranges specified in the plan.

As prescribed under this system, the Council may not exceed the ABC recommendations of the SSC, and would continue to specify annual catch limits, targets, and commercial quotas as otherwise described in the FMP. As part of the specifications process, the advisory panel will develop recommendations for commercial quotas, including OY recommendations which will be provided to the Council. For example, this could be completed as part of the advisor's Fishery Performance Report development process.

5.3.3 Alternative 3 (Link Upper Bound of OY Range to ABC Recommendations)

Under this alternative, the upper bound of the OY range for both surfclams and ocean quahogs would be equal to the ABC, which is specified by the SSC for each of these stocks. The FMP prescribes that ACL=ABC. As noted in the CFR§648.72, specifications for surfclams and ocean quahogs may be specified below the OY ranges in the FMP, if the ABC recommendation of the

SSC limits the ACL to a value less than the minimum of the range indicated. This alternative addresses the potential disconnect at the upper end of the OY range.

5.3.4 Considered but rejected from Further Analysis

The FMAT considered modifying the values in the surfclam and ocean quahog OY ranges; however a more complete biological and economic analysis would be required to do so. The OY ranges in the plan were based on scientific information (stock assessments) and industry input in the 1980's and these data would need to be reevaluated. Even with an updated range, there is still the possibility that the SSC might recommend something above the current OY range and the Council would not be able to develop viable commercial quota recommendation without going through a Framework adjustment process (which takes about a year). Therefore, this approach was considered but rejected from further analysis as it does not address the issue of potential disconnect with the newly implemented catch limit system.

6.0 DESCRIPTION OF THE AFFECTED ENVIRONMENT AND FISHERIES

6.1 Description of the Managed Resources

6.1.1 Description of the Fisheries

The management unit is all Atlantic surfclams (*Spisula solidissima*) and ocean quahogs (*Arctica islandica*) in the Atlantic EEZ. The commercial fisheries for surfclams and ocean quahogs are fully described in Amendment 13 to the FMP (MAFMC 2003). Clam dredges (a bottom tending mobile gear) are utilized in the commercial fisheries for both species. An overview of commercial landings for both species is provided below in Table 2.

Table 2. Federal Surfclam and Ocean Quahog Quotas and Landings: 1998 - 2016.

	Surfclams ('000 bu)			Ocean Quahogs ('000 bu)		
Year	**Landings[a]**	**Quota**	**% Harvested**	**Landings[b]**	**Quota**	**% Harvested**
1998	2,365	2,565	92%	3,897	4,000	99%
1999	2,539	2,565	99%	3,770	4,500	86%
2000	2,565	2,565	100%	3,161	4,500	73%
2001	2,855	2,850	100%	3,691	4,500	84%
2002	3,113	3,135	99%	3,871	4,500	89%
2003	3,241	3,250	100%	4,069	4,500	93%
2004	3,138	3,400	92%	3,825	5,000	79%
2005	2,744	3,400	81%	2,940	5,333	57%
2006	3,057	3,400	90%	3,066	5,333	60%
2007	3,231	3,400	95%	3,366	5,333	65%
2008	2,919	3,400	86%	3,426	5,333	65%
2009	2,602	3,400	77%	3,443	5,333	65%
2010	2,332	3,400	69%	3,554	5,333	68%
2011	2,443	3,400	72%	3,116	5,333	60%
2012	2,341	3,400	69%	3,454	5,333	66%
2013	2,390	3,400	70%	3,201	5,333	61%
2014	359[c]	3,400	NA	845[c]	5,333	NA
2015	NA	3,400	NA	NA	5,333	NA
2016	NA	3,400	NA	NA	5,333	NA

[a] 1 surfclam bushel is approximately 17 lb. [b] 1 ocean quahog bushel is approximately 10 lb. [c] Incomplete landings year. NA = Not yet available. Source: NOAA Fisheries Clam Vessel Logbook Reports.

Paralytic Shellfish Poisoning (PSP) is a public health concern for surfclams and ocean quahogs. It is caused by saxitoxins, produced by the alga *Alexandrium fundyense* (red tide), that accumulate in shellfish, and has resulted in closures for these fisheries in the Georges Bank Area of the EEZ. NOAA Fisheries recently reopened portions of the closed areas for harvest of surfclams and ocean quahogs for those vessels using a "Protocol for Onboard Screening and Dockside Testing in Molluscan Shellfish" that is designed to test and verify that clams harvested from these areas are safe.[10]

Additional information on these fisheries can be found in Council meeting materials available at: http://www.mafmc.org.

6.1.2 Description of the Stock (Including Status, Stock Characteristics, and Ecological Relationships)

Reports on stock status, including SAW/SARC reports, and assessment update reports are available online at the NOAA Northeast Fisheries Science Center (NEFSC) website: http://www.nefsc.noaa.gov/. EFH Source Documents, which include details on stock characteristics and ecological relationships, are available at the following website: http://www.nefsc.noaa.gov/nefsc/habitat/efh/.

6.1.2.1 Atlantic Surfclam

The most recent assessment (NEFSC 2013) indicated that the Atlantic surfclam stock was not overfished and overfishing is not occurring relative to the biological reference points. The 2011 F = 0.027, below the reference point $F_{MSYPROXY}$ = M = 0.15. Stock biomass for the entire resource was estimated to be 1,060,000 mt, slightly above the $B_{MSYPROXY}$ = 972,000 mt.

6.1.2.2 Ocean Quahog

The most recent assessment update (Chute et al. 2013) indicated that the ocean quahog stock is not overfished and overfishing is not occurring relative to the biological reference points. The 2011 F = 0.010 y^{-1}, below the reference point $F_{MSYPROXY} = F_{45\%}$ = 0.022 y^{-1}. Stock biomass for the entire resource in 2011 was estimated to be 2.96 million mt, above the $B_{MSYPROXY}$ = 1.73 million mt. The SSC noted in their May 2013 report to the Council Chair, that the "fishing mortality rate reference point is deemed to be non-credible, both because of the species to which quahogs were compared were inappropriate and because the details of the calculations of spawning-per-recruit for any particular level were poorly justified."

[10] For additional information see: http://www.greateratlantic.fisheries.noaa.gov/nr/2013/August/13clamsreopengbcaphl.pdf.

6.1.3 Non-Target Species

The term "bycatch," as defined by the MSA, means fish that are harvested in a fishery but that are not sold or kept for personal use. Bycatch includes the discard of whole fish at sea or elsewhere, including economic and regulatory discards, and fishing mortality due to an encounter with fishing gear that does not result in capture of fish (i.e., unobserved fishing mortality).

Northeast Fisheries Observer Program directed trips for surfclams (sample size (N) = 16) and ocean quahogs (N = 30) with discards from 2004-2006, were used to characterize non-target and bycatch species for these fisheries (Chute, T., Pers. Comm., July 3, 2013). For ocean quahogs and surfclams the bulk of the bycatch from the clam dredges is non-living (debris/shell), with a mean of 8 percent live bycatch (range 0-19 percent) for ocean quahogs trips and 3 percent live bycatch (range 0-7 percent) for surfclam trips. For ocean quahog trips, the top live bycatch, ordered by declining contribution, are sea scallop, little skate, skate (unclassified), monkfish, clapper clam, clapper (unclassified), snail (unclassified), spiny dogfish, winter skate, rock crab, Jonah crab, sea star (unclassified), whelk (unclassified), mollusk (unclassified), summer flounder, ocean pout, crab (unclassified), and longfin sculpin. For surfclam trips, the top live bycatch items include sea scallop, ocean quahog, little skate, clapper clam, stargazer (unclassified), monkfish, spiny dogfish, sea star (unclassified), moon snail (unclassified), clapper (unclassified), sponge (unclassified), horseshoe crab, sand dollar, snail (unclassified), winter skate, rock crab, skate (unclassified), and eggs (unclassified). The surfclam and ocean quahog fisheries are targeted fisheries, and live bycatch constitutes a small percent of total bycatch.

6.2 Habitat (Including Essential Fish Habitat)

A description of the habitat associated with the surfclam and ocean quahog fisheries is presented in the appendices of Amendment 13 to the FMP (MAFMC 2003), and a brief summary of that information is given here. The impact of fishing on surfclams and ocean quahogs on habitat (and EFH) and the impact of the surfclam and ocean quahog fisheries on other species' habitat and EFH can be found in Amendment 12 (MAFMC 1998) and 13 to the FMP (MAFMC 2003). Potential impacts associated with the measures proposed in this document on habitat (including EFH) are discussed in section 7.2.

6.2.1 Physical Environment

Detailed information on the affected physical and biological environments inhabited by the managed resources is available in Stevenson et al. (2004). The managed resources inhabit the Northeast U.S. Shelf Ecosystem, which has been described as including the area from the Gulf of Maine south to Cape Hatteras, extending from the coast seaward to the edge of the continental shelf, including the slope sea offshore to the Gulf Stream. The continental slope includes the area east of the shelf, out to a depth of 2000 m. Four distinct sub-regions comprise the NOAA Fisheries Northeast Region: the Gulf of Maine, Georges Bank, the Mid-Atlantic Bight, and the continental slope. The Gulf of Maine is an enclosed coastal sea, characterized by relatively cold waters and deep basins, with a patchwork of various

sediment types. Georges Bank is a relatively shallow coastal plateau that slopes gently from north to south and has steep submarine canyons on its eastern and southeastern edge. It is characterized by highly productive, well-mixed waters and strong currents. The Mid-Atlantic Bight is comprised of the sandy, relatively flat, gently sloping continental shelf from southern New England to Cape Hatteras, North Carolina. The continental slope begins at the continental shelf break and continues eastward with increasing depth until it becomes the continental rise. It is fairly homogenous, with exceptions at the shelf break, some of the canyons, the Hudson Shelf Valley, and in areas of glacially rafted hard bottom. The environment that could potentially be affected by the proposed action overlaps with EFH for the managed resources. The following sections describe where to find detailed information on EFH and any past actions taken in the FMPs to minimize adverse EFH effects to the extent practicable.

6.2.2 Essential Fish Habitat (EFH)

Information on surfclam and ocean quahog habitat requirements can be found in the documents titled, "Essential Fish Habitat Source Document: Atlantic Surfclam, *Spisula solidissima*, Life History and Habitat Characteristics." (Cargnelli et al. 1999a) and "Essential Fish Habitat Source Document: Ocean Quahog, *Arctica islandica*, Life History and Habitat Characteristics" (Cargnelli et al. 1999b). Electronic versions of these source documents are available at this website: http://www.nefsc.noaa.gov/nefsc/habitat/efh/. The current designations of EFH by life history stage for surfclams and ocean quahogs are provided here:

Atlantic surfclam juveniles and adults: EFH habitat is defined as throughout the substrate, to a depth of three feet below the water/sediment interface, within federal waters from the eastern edge of Georges Bank and the Gulf of Maine throughout the Atlantic EEZ, in areas that encompass the top 90 percent of all the ranked ten-minute squares for the area where surfclams were caught in the NEFSC surfclam and ocean quahog dredge surveys. Surfclams generally occur from the beach zone to a [water] depth of about 200 feet, but beyond about 125 feet abundance is low.

Ocean quahog juveniles and adults: EFH habitat is defined as throughout the substrate, to a depth of three feet below the water/sediment interface, within federal waters from the eastern edge of Georges Bank and the Gulf of Maine throughout the Atlantic EEZ, in areas that encompass the top 90 percent of all the ranked ten-minute squares for the area where ocean quahogs were caught in the NEFSC surfclam and ocean quahog dredge surveys. Distribution in the western Atlantic ranges in [water] depths from 30 feet to about 800 feet. Ocean quahogs are rarely found where bottom water temperatures exceed 60 ^{o}F, and occur progressively further offshore between Cape Cod and Cape Hatteras.

There are other federally-managed species with lifestages that occupy essential benthic habitats that may be susceptible to adverse impacts from hydraulic clam dredges; descriptions of these are given in Table 1 of Appendix A (from Stevenson et al. 2004) and are available at: http://www.greateratlantic.fisheries.noaa.gov/hcd/list.htm.

6.2.3 Fishery Impact Considerations

Any actions implemented in the FMP that affect species with overlapping EFH were considered in the EFH assessment for Amendment 13 to the FMP (MAFMC 2003). Atlantic surfclams and ocean quahogs are primarily landed by hydraulic clam dredges. Amendment 13 included alternatives to minimize the adverse impacts of fishing gear on EFH (as required pursuant to section 303(a)(7) of the MSA). As stated in section 2.2 of Amendment 13, the prime habitat of surfclams and ocean quahogs consists of sandy substrates with no vegetation or benthic 'structures' that could be damaged by the passing of a hydraulic dredge. In these 'high energy' environments, it is thought that the recovery time following passage of a clam dredge is relatively short. Because of the potential that the fishery adversely impacts EFH for a number of managed species, eight action alternatives (including closed area alternatives) for minimizing those impacts were considered by the Council in Amendment 13.

A panel of experts who participated in a 2001 workshop to evaluate the potential habitat impacts of fishing gears used in the Northeast region concluded that there are potentially large, localized impacts of hydraulic clam dredges on the biological and physical structure of sandy benthic habitats (NEFSC 2002). The Council concluded in Amendment 13 that there may be some adverse effects of clam dredging on EFH, but concurred with the workshop panel that the effects are short term and minimal because the fishery occurs in a relatively small area (compared to the area impacted by scallop dredges or bottom trawls) and primarily in high energy sand habitats. The panel concluded that biological communities would recover within months to years (depending on what species was affected) and physical structure within days in high energy environments to months in low energy environments. The preamble to the EFH Final Rule (50 CFR Part 600) defines temporary impacts as those that are limited in duration and that allow the particular environment to recover without measurable impact.

Additionally, at the time that workshop was held, the overall area impacted by the clam fisheries was relatively small (approximately 100 square nautical miles), compared to the large area of high energy sand on the continental shelf. The closed area alternatives that were considered in Amendment 13 were analyzed for their biological, economic, and social impacts, but given the results of the gear effects analysis in that document (summarized above), the Council concluded that none of them were necessary or practicable. Since 2003, when Amendment 13 was implemented, the area open to surfclam and ocean quahog harvesting has expanded to include a large area on Georges Bank that has been closed due to the presence of the toxin that causes PSP in the tissues of surfclams and ocean quahogs since 1990 (NMFS 2012 and 2013). The effects of this fishery on EFH have not been re-evaluated since 2003.

Amendment 13 to the Northeast Multispecies FMP (NEFMC 2003), developed by the New England Fishery Management Council (NEFMC) and implemented in 2003, prohibited the use of all mobile, bottom-tending gears (including hydraulic clam dredges) in seven habitat closed areas (total area 2,811 square nautical miles) on Georges Bank and in the Gulf of Maine. These regulations are still in place, but are currently being re-considered by the

NEFMC as part of an overall evaluation of all area management measures in the region that are designed to protect EFH from fishing. Proposed changes will be analyzed in Omnibus EFH Amendment 2 and are expected to go into effect in 2015. Given the fact that the preferred alternative in this document would not adversely affect EFH (see Section 7.0), and that the habitat closures currently in place in New England include prohibitions on clam dredges, no alternatives to minimize adverse effects on EFH are presented in this document.

6.3 ESA-Listed Species and MMPA Protected Species

6.3.1 Species in the Fisheries Environment

There are numerous species inhabiting the environment, within the management unit of the two species managed through this FMP, that are afforded protection under the Endangered Species Act (ESA) of 1973 (i.e., for those designated as threatened or endangered) and the Marine Mammal Protection Act of 1972 (MMPA). Table 3 provides species formally listed as threatened or endangered under the ESA, that occur within the management units for surfclams and ocean quahogs.

More detailed description of the species listed in Table 3, including their environment, ecological relationships and life history information including recent stock status, is available at: http://www.greateratlantic.fisheries.noaa.gov/Protected/.

6.3.2 Commercial Fisheries Interactions

A description of the areas fished commercially for surfclams and ocean quahogs (i.e., area affected by the proposed action) is given in section 6.4.2. The commercial fisheries for surfclam and ocean quahogs are prosecuted with clam dredges, a type of bottom tending mobile gear. The List of Fisheries (LOF) classifies U.S. commercial fisheries into Categories according to the level of interactions that result in incidental mortality or serious injury of marine mammals (Table 4).

6.3.3 Description of Species with Interactions

There are no documented interactions with ESA-listed and MMPA protected species with clam dredges in the surfclam and ocean quahog fisheries. Detailed descriptions of other ESA-listed and MMPA protected species that are distributed within the management units of surfclam and ocean quahog are available at the following website: http://www.nmfs.noaa.gov/pr/. This site also contains general information on marine mammals (cetaceans and pinnipeds), marine turtles, marine and anadromous fish, and marine invertebrates and plants.

Table 3. Species endangered and threatened under the ESA that are found in the environment utilized by the Atlantic surfclam and ocean quahog fisheries.

Species	Common name	Scientific Name	Status
Cetaceans	North Atlantic right	*Eubalaena glacialis*	Endangered
	Humpback	*Megaptera novaeangliae*	Endangered
	Fin	*Balaenoptera physalus*	Endangered
	Blue	*Balaenoptera musculus*	Endangered
	Sei	*Balaenoptera borealis*	Endangered
	Sperm	*Physeter macrocephalus*	Endangered
Sea Turtles	Leatherback	*Dermochelys coriacea*	Endangered
	Kemp's ridley	*Lepidochelys kempii*	Endangered
	Green	*Chelonia mydas*	Threatened
	Hawksbill	*Eretmochelys imbricata*	Endangered
	Loggerhead[11]	*Caretta caretta*	Threatened
Fishes	Shortnose sturgeon	*Acipenser brevirostrum*	Endangered
	Atlantic salmon	*Salmo salar*	Endangered
	Atlantic sturgeon	*Acipenser oxyrinchus*	Threatened - Gulf of Maine DPS
			Endangered - New York Bight DPS
			Endangered - Chesapeake Bay DPS
			Endangered - Carolina DPS
			Endangered - South Atlantic DPS

Table 4. Commercial Fisheries Classification based on 2013 List of Fisheries (LOF).

Fishery (Action Area)	Resource	Gears	LOF	Potential for Interactions
See section 6.4.2 for a description of the areas fished the managed resources	surfclam	U.S. Mid-Atlantic offshore surfclam and quahog dredge	Cat. III	No documented interactions where marine mammal species and stocks incidentally killed or injured
	ocean quahog			

[11] Northwest Atlantic distinct population segment (DPS) of loggerhead turtles.

6.4 Human Communities and Economic Environment

A detailed description of the social and economic aspects of the fisheries for surfclam and ocean quahogs was presented in Amendment 13 to the FMP (MAFMC 2003). When Amendment 13 to the FMP was developed, the Council hired Dr. Bonnie McCay and her associates at Rutgers University to describe the ports and communities that are associated with the surfclam and ocean quahog fisheries (McCay and Cieri 2000). The researchers did an extensive job characterizing the three main fisheries (non-Maine ocean quahog, Maine ocean quahog, and surfclam). In addition, Fishery Performance Reports prepared by industry advisors, provide additonal information on the social and economic environments and are available at http://www.mafmc.org. Recent trends in the fisheries are presented below.

6.4.1 Fishery Descriptions

6.4.1.1 Atlantic Surfclams

The total number of vessels participating in the surfclam fishery has been relatively stable from 2003 through 2013, ranging from 29 vessels in 2006 to 49 vessels in 2013 (Table 3). The average ex-vessel price of surflcams reported by processors increased about 2% from $12.44 in 2012 to $12.63 per bushel in 2013. The total ex-vessel value of the 2013 federal harvest was approximately $31.0 million or 7% increase from the prior year.

As indicated above, surfclams on Georges Bank were not fished from 1990 to 2008 due to the risk of PSP. There was light fishing on Georges Bank in years 2009-2011 under an exempted fishing permit and LPUE in that area was substantially higher (5-7 times higher) than in other traditional fishing grounds. NOAA Fisheries reopened a portion of Georges Bank to the harvest of surfclams and ocean quahogs beginning January 1, 2013 (77 FR 75057, December 19, 2012) under its authority in 50 CFR 648.76. Subsequently, NOAA Fisheries reopened an additional portion of Georges Bank beginning August 16, 2013 (78 FR 49967). Harvesting vessels have to adhere to the recently adopted testing protocol developed by the National Shellfish Sanitation Program. It is anticipated that allowing clam vessels to fish in the reopened area would significantly reduce the fishing pressure in the southern portion of the surfclam range while providing an economic benefit to the industry because of the higher LPUE on Georges Bank.

6.4.1.2 Ocean Quahogs

The average ex-vessel price of non-Maine ocean quahogs reported by processors in 2013 was $6.87 per bushel, representing no change from the 2012 price ($6.88 per bushel). In 2013, 3.2 million bushels of non-Maine ocean quahog were landed compared to 3.4 million bushels (Table 2) landed in 2012. The total ex-vessel value of the 2013 federal harvest outside of Maine was approximately $22.9 million, a 10% increase from the prior year.

The Maine ocean quahog fleet is allocated an overall quota in bushels. In 2013, the Maine ocean quahog fleet harvested a total of 60,302 Maine bushels, a 15% decrease from the 70,655 bushels harvested in 2012. In past years, the Maine ocean quahog fleet has leased

small amounts of ocean quahog ITQ from the non-Maine fishery, averaging 5,101 bushels for the 2009-2013 period (ranging from low values of zero bushels in 2013 and 137 bushels in 2012 to a high of 13,224 bushels in 2011). Therefore, small amounts of ITQ quota may be landed by the Maine ocean quahog fleet. Average prices for Maine ocean quahogs have declined substantially over the past 10 years. In 2003, there were very few trips that sold for less than $37.00 per Maine bushel, and the mean price was $40.66. Aggressive price cutting by one company has driven prices down such that many trips in 2008 and 2009 sold for $28.00, with the mean price for all trips equaling $33.31 per bushel in 2008. In 2013, the mean price was $24.60 per Maine bushel. The value of the 2013 harvest reported by the purchasing dealers totaled $1.48 million, a decrease of 15% from the prior year.

6.4.2 Description of the Areas Fished

A detailed description of the areas fished by the fisheries for surfclam and ocean quahogs was presented in Amendment 13 to the FMP (MAFMC 2003).

The commercial fishery for surfclams in Federal waters is prosecuted with large vessels and hydraulic dredges. The distribution of the fishery is shown in Figure 1. The commercial fishery for ocean quahogs in Federal waters is prosecuted with large vessels and hydraulic dredges, and is very different from the small Maine fishery prosecuted with small vessels (35-45 ft). The distribution of the fishery is shown in Figure 2.

6.4.3 Port and Community Description

Communities from Maine to Virginia are involved in the harvesting and processing of surfclams and ocean quahogs. Ports in New Jersey and Massachusetts handle the most volume and value, particularly Atlantic City and Point Pleasant, New Jersey, and New Bedford, Massachusetts. There are also landings in Ocean City, Maryland, and the Jonesport and Beals Island areas of Maine. The Maine fishery is entirely for ocean quahogs, which are sold as shellstock for the half-shell market. The other fisheries are industrialized ones for surfclams and ocean quahogs, which are hand shucked or steam-shucked and processed into fried, canned, and frozen products.

Additional information on "Community Profiles for the Northeast US Fisheries" can be found at: http://www.nefsc.noaa.gov/read/socialsci/communityProfiles.html.

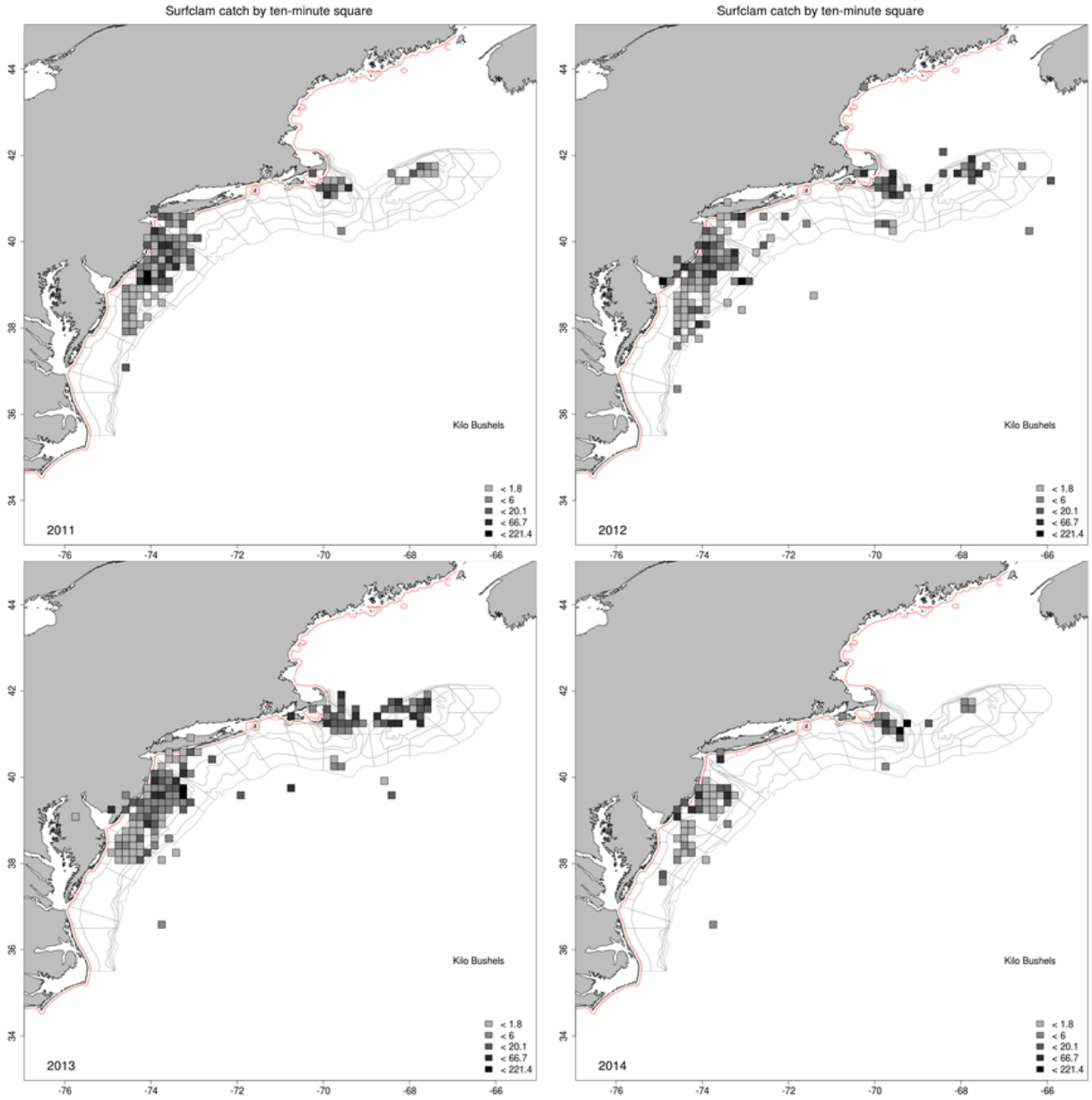

Figure 1. Surfclam landings by ten-minute square (TMSQ), the finest scale location for landings reported in logbooks, for 2011-2013, and preliminary 2014 (1 kilobushel = 1000 bu y-1). Source: Dan Hennen Pers. Comm. (NEFSC 2014).

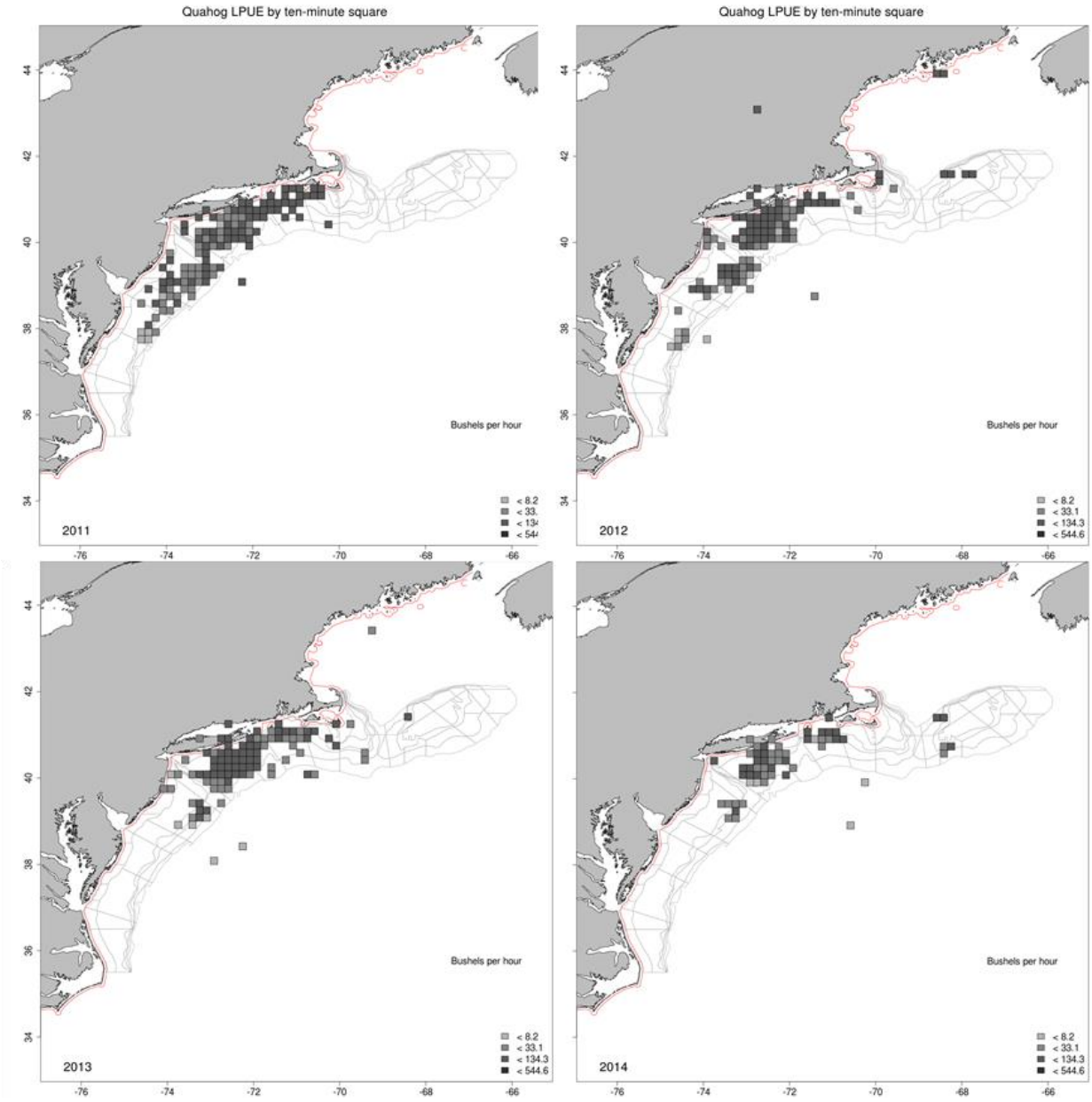

Figure 2. Ocean quahog landings per unit effort (bushels per hour) by ten-minute square (TMSQ), the finest scale location for landings reported in logbooks, for 2011-2013, and preliminary 2014 (1 kilobushel = 1000 bu y-1). Source: Dan Hennen Pers. Comm. (NEFSC 2014).

6.4.4 Vessels and Dealers

Vessels

The total number of vessels participating in the surfclam fishery has been relatively stable from 2004 through 2013, ranging from 29 vessels in 2006 to 33 vessels in 2013 harvesting surfclams only[12] (Table 5). The total number of vessels participating in the ocean quahog fisheries outside the state of Maine has experienced a downward trend as the fisheries moved beyond a market crisis in 2005 where major users of clam meats reduced their purchases from industry and stopped advertising products like clam chowder in the media. Industry members reported that imported meat from Canada and Vietnam contributed to an oversupply of clam meats in the marketplace. The costs to vessels harvesting clams have increased significantly, with the greatest component being the cost of diesel fuel. Trips harvesting quahogs have also increased in length as catch rates have declined steadily. The 30 or so vessels that reported landings during 2004 and 2005 was reduced and coast-wide harvests consolidated on to approximately 20 vessels in the subsequent years. The Maine ocean quahog fleet numbers started to decline with fuel prices soaring in mid-2008 and totaled 11 in 2013. (Table 5).

Table 5. Surfclam and Ocean Quahog active vessels composition by species harvested, 2004 -2013.

Vessel-type	Harvested Species	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Non-Maine Vessels	Both surfclams & quahogs	14	12	9	9	8	8	12	12	13	7
	Only surfclams	21	24	20	24	24	28	22	24	29	33
	Only quahogs	15	12	9	8	10	7	9	7	6	9
	Total	50	48	38	41	42	43	43	43	48	49
Maine Vessels	Only quahogs	34	32	25	24	22	19	15	13	12	11

Dealers

In 2013, there were 7 companies reporting purchases of surfclams and/or ocean quahogs from the industrial fisheries outside of Maine. They were distributed by state as indicated in Table 6. Employment data for these specific firms are not available. In 2013, these companies bought approximately $21.9 million worth of ocean quahogs and $31.0 million worth of surfclams.

[12] The reported number of vessels participating in the surfclam and/or ocean quahog fisheries in this document are derived from Clam logbook data unless otherwise noticed.

Table 6. Companies that reported buying ocean quahogs and surfclams by state (from NOAA Fisheries dealer/processor report database) in 2013.

	MA	NJ	DE
Number of Companies	3	3	1

7.0 ENVIRONMENTAL CONSEQUENCES OF ALTERNATIVES

This EA analyzes the impacts of the alternatives described fully under section 5.0. In summary, this includes:

Cost Recovery Alternatives (section 5.1)

- Alternative 1 (No action - No Cost Recovery)
- Alternative 2 (ITQ tag holder pays via a federally permitted dealer)
- Alternative 3 (ITQ shareholder and tag holder pays; two-tiered approach)
- Alternative 4 (Shareholder pays directly; equal fee per tag)
- Alternative 5 (Shareholder pays; tilefish model)

Administrative Mechanism to Update Biological Reference Points Alternatives (section 5.2)

- Alternative 1 (No Action)
- Alternative 2 (Redefine the Status Determination Criteria)

Optimum Yield Range Alternatives (section 5.3)

- Alternative 1 (No Action)
- Alternative 2 (Remove OY Range from FMP; Advisors Recommend)
- Alternative 3 (Link Upper Bound OY Range to ABC Recommendations)

The aspects of the environment (Valued Ecosystem Components - VECs) that could be affected by the proposed actions are detailed in section 6.0, and the analysis in this section focuses on impacts relative to those (managed resources and non-target species, habitat (including EFH), ESA listed and MMPA protected resources, and human communities). Other aspects of the human environment, such as historic and cultural resources, noise, invasive species, and others, have no potential to be impacted by any of the alternatives and are not analyzed further in this document. For each suite of alternatives, a no action (*status quo*) alternative is presented as alternative 1.

7.1 Biological Impacts

7.1.1 Cost Recovery Alternatives

Under alternative 1, a cost recovery program would not be implemented. Alternative 1 (No action) is expected to result in neutral biological impacts on the Atlantic surfclam or ocean quahog stock, and any non-target species or bycatch. This alternative would be in violation of provisions of the MSA, as the Act requires that a process be established to recover the costs directly related to management, data collection and analysis, and enforcement of ITQ programs.

Alternatives 2-5 are purely administrative as they deal with the recovery of the costs for the management, data collection and analysis, and enforcement of the IFQ program. As a result, impacts resulting from this alternative are not likely to affect the physical or biological environment. Therefore, the alternatives are not expected to have any impact on fishing methods and practices or the interaction of this fishery with non-targeted species. Therefore, biological impacts from all the alternatives (1-5) are expected to be similar.

7.1.2 Administrative Mechanism to Update BRPs Alternatives

Alternative 1 (No action) is expected to result in neutral to slight negative biological impacts on the Atlantic surfclam and ocean quahog stocks, and any non-target species or bycatch. This no action alternative would not allow for updates to biological reference points in the FMP when warranted (would require an Amendment), and as such, may have slight negative impacts relative to alternative 2. Relative to the no action alternative 1, alternative 2 is expected to result in neutral to slight positive biological impacts on Atlantic surfclam or ocean quahog stock, or any non-target species or bycatch. Alternative 2 merely revises the current definitions of the stock status determination criteria for each species and defines the process by which updates to status determination criteria are integrated into the management process. This action is purely administrative; however, there may be indirect slight positive effects from managing these stocks with more accurate or reliable information on stock status that is incorporated into the FMP in a timely way. This action does not directly influence fishing effort, or fishery removals but instead facilitates use of the most current scientific information available to define the status determination criteria for these stocks, so these stocks can be managed to prevent overfishing and manage such that the Atlantic surfclam and ocean quahog stocks are not overfished. By allowing peer-reviewed scientific updates on status determination criteria to be incorporated into the FMP and management process more efficiently (not requiring a timely amendment process), managers can more effectively respond to changes in stock status and make timely adjustments to the management programs for the Atlantic surfclam and ocean quahog stocks. This improvement in efficiency will aid in managing these stocks for sustainability.

7.1.3 Optimum Yield Range Alternatives

All of these alternatives including the No action alternative are expected to result in neutral biological impacts on the Atlantic surfclam and ocean quahog stocks, and any non-target species or bycatch, because these measures are administrative in nature. Regardless of whether the surfclam and ocean quahog OY ranges are or are not retained in the FMP, the proposed action does not alter the specification process by which the Council specifies catch and landings limits that prevent overfishing and are consistent with the advice of its SSC. The Council examines the best available science, consults with its advisors, and undergoes a deliberative process to decide on what upcoming fishing year measures should be recommended. The impacts of those actions are evaluated through a specification EA. Specifically, the Council's catch limits cannot exceed the ABC recommendations of the SSC.

The current regulations indicate that commercial quotas for surfclams and ocean quahogs must be set within the OY ranges given in the FMP. However, the regulations also state that 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 OY range indicated. This flexibility only applies to the lower bound of the OY ranges, and there is no such flexibility in the upper bound of the OY ranges. If the Council wanted to set a commercial quota higher than the upper bound of the OY range for surfclams or ocean quahogs, the OY range would need to be modified through a framework. Frameworks typically take a minimum of 1-year to be completed; with a minimum of two framework

meetings and approximately 4-6 months for rulemaking and implementation. Therefore, both alternative 2 and alternative 3 are intended to bring consistency in how the Council sets commercial quotas relative to the ABC, and consistent treatment of quotas either above or below the currently specified OY range. Lastly, in the NS1 guidelines at §600.310, under the response to comments, NOAA Fisheries states, "NMFS believes that fisheries managers cannot consistently meet the requirements of the MSA to prevent overfishing and achieve, on a continuing basis, OY [optimum yield] unless they address scientific and management uncertainty. The reduction in fishing levels that may be necessary in order to prevent overfishing should be only the amount necessary to achieve the results mandated by the MSA". This suggests that setting commercial quotas less than the OY range in the plan is not consistent with this guidance or the way NMFS interprets OY and sets up a conceptual disconnect between OY and the system of catch and landings limits which address scientific and management uncertainty.

By eliminating the OY range under alternative 2 and having advisors recommend an OY as part of the specifications process, managers can more effectively respond to changes in surfclam and ocean quahog stock status and make timely adjustments to the management programs for the Atlantic surfclam and ocean quahog stocks regardless of the direction of the ABC recommendations of the SSC.

Under alternative 3, the upper bound of the OY range for both surfclams and ocean quahog would be equal to the ABC recommended by the SSC. This would reduce the potential for disconnect with the existing OY ranges. However, there is the potential that the ABC could be set lower than the lower bound of the OY ranges for surfclams and ocean quahogs. This could create some administrative confusion because the Council's Omnibus ACL and AM Amendment indicated that OY should be somewhere between ABC and the annual catch target (ACT) once scientific and management uncertainty have been addressed.

7.2 Habitat Impacts

7.2.1 Cost Recovery Alternatives

Alternative 1 (No action) is expected to result in neutral impacts on habitat. In addition, the actions considered under alternatives 2-5 are purely administrative. These alternatives are not expected to have any impact on fishing methods and practices and are not expected to result in changes in fishing effort or redistribution in fishing effort. Therefore, none of the alternatives under consideration are expected to have adverse impacts to the marine habitats or EFH.

7.2.2 Administrative Mechanism to Update BRPs Alternatives

Alternative 1 (No action) is expected to result in neutral impacts on habitat. Relative to the no action alternative 1, alternative 2 is expected to result in neutral impacts on habitat. This action merely revises the current definitions of the stock status determination criteria for each species and defines the process by which updates to status determination criteria are integrated into the management process. The proposed action is purely administrative;

therefore, it is not expected to result in changes to the manner in which the Atlantic surfclam and ocean quahog fisheries are prosecuted.

7.2.3 Optimum Yield Range Alternatives

Alternative 1 (No action) is expected to result in neutral impacts on habitat. Relative to the no action alternative 1, alternatives 2 and 3 are expected to result in neutral impacts on habitat. Alternative 2 merely eliminates the OY range in the FMP and has advisors recommend OY as part of the specification process. Under alternative 3 the upper bound of the OY range for both surfclams and ocean quahogs would be equal to the ABC recommended by the SSC. Regardless of whether the surfclam and ocean quahog OY ranges are or are not retained in the FMP, the proposed action does not alter the specification process by which the Council specifies catch and landings limits that prevent overfishing and are consistent with the advice of its SSC. The Council examines the best available science, consults with its advisors, and undergoes a deliberative process to decide on what upcoming fishing year measures should be recommended. The impacts of those actions are evaluated through a specification EA. The proposed action under alternatives 2 and 3 is purely administrative (the more detailed discussion in 7.1.3 applies here); therefore, it is not expected to result in changes to the manner in which the Atlantic surfclam and ocean quahog fisheries are prosecuted.

7.3 Impacts on ESA-Listed Species and MMPA Protected Species

7.3.1 Cost Recovery Alternatives

Alternative 1 (No action) is expected to result in neutral impacts on ESA-listed and MMPA protected resources. In addition, the actions considered under alternatives 2-5 are purely administrative. These alternatives are not expected to have any impact on fishing methods and practices and are not expected to result in changes in fishing effort or redistribution in fishing effort. Therefore, none of the alternatives under consideration are expected to have adverse impacts on ESA-listed and MMPA protected resources.

7.3.2 Administrative Mechanism to Update BRPs Alternatives

Alternative 1 (No action) is expected to result in neutral impacts on ESA-listed and MMPA protected resources. Relative to the no action alternative 1, alternative 2 is expected to result in neutral impacts on these resources. This action merely revises the current definitions of the stock status determination criteria for each species and defines the process by which updates to status determination criteria are integrated into the management process. The proposed action is purely administrative; therefore, it is not expected to result in changes to the manner in which Atlantic surfclam and ocean quahog fisheries are prosecuted.

7.3.3 Optimum Yield Range Alternatives

Alternative 1 (No action) is expected to result in neutral impacts on ESA-listed and MMPA protected resources. Relative to the no action alternative 1, alternatives 2 and 3 are expected

to result in neutral impacts on habitat. Alternative 2 merely eliminates the OY range in the FMP and has advisors recommend OY as part of the specification process. Under alternative 3 the upper bound of the OY range for both surfclams and ocean quahog would be equal to the ABC recommended by the SSC. Regardless of whether the surfclam and ocean quahog OY ranges are or are not retained in the FMP, the proposed action does not alter the specification process by which the Council specifies catch and landings limits that prevent overfishing and are consistent with the advice of its SSC. The Council examines the best available science, consults with its advisors, and undergoes a deliberative process to decide on what upcoming fishing year measures should be recommended. The impacts of those actions are evaluated through a specification EA. The proposed action under alternatives 2 and 3 is purely administrative (the more detailed discussion in 7.1.3 applies here); therefore, it is not expected to result in changes to the manner in which the Atlantic surfclam and ocean quahog fisheries are prosecuted.

7.4 Socioeconomic Impacts

7.4.1 Cost Recovery Alternatives

Under the No action alternative 1, a fee and costs recovery program would not be implemented; therefore, socioeconomic impacts would be neutral when compared to the current conditions.

Alternative 2-5 could collect up to a 3 percent maximum of the ex-vessel value of surfclam and ocean quahog harvested under the ITQ program. However, initial conversations with GARFO staff indicated that a conservative initial estimate of management, enforcement, and data collection cost could be approximately $100,000 (the equivalent of a 0.2 percent fee, based on the ex-vessel value of the fishery in 2013), thus for the purpose of discussing a range of potential impacts, a 0.2 percent fee is compared to the potential maximum 3 percent fee, and the no action fee of 0 percent. Surfclam and ocean quahog landings have been relatively stable during the last 3 years (2011-2013; Table 2). Unless market conditions change substantially in the near future, it would be expected that commercial fishermen would likely have landings for these shellfish resources close to the 2013 landings. Based on average landings and ex-vessel prices for the 2011-2013 period of 2.4 million bushels and $12.32 per bushel for surfclams, and 3.3 million bushels and $6.90 per bushel for ocean quahogs, and the maximum fee level of 3 percent; the total fee expected to be collected in the first year of the program would be $1.57 million under the maximum fee level allowed to be collected under MSA (Table 7). It is important to mention that while alternatives 2-5 could impose a cost recovery rate of up to 3 percent, this rate is likely to be substantially lower given the amounts current collected in other Northeast ITQ fisheries, and may change in subsequent years. For example, Table 7 shows the potential fees under a 3 and a 0.2 percent fee.

For both alternatives 2 and 5, the cost recovery fee is based on landings (tags that are fished), however, under alternative 2 the tag holder pays via a federally permit dealer and under alternative 5 the shareholder pays directly to NOAA Fisheries. Under both of these alternatives, assuming average surfclam and ocean quahog landings and ex-vessel prices

for the 2011-2013 period, the potential cost to fishermen associated with a cost recovery fee of 3 percent of ex-vessel value could on average range from approximately $22,176 for vessels that landed surfclams to $42,694 for vessels that landed ocean quahogs. The potential cost to fishermen associated with the cost recovery fee of up to 0.2 percent could range on average from approximately $1,478 for vessels that landed surfclams to $2,846 for vessels that landed ocean quahogs (Table 8). For vessels that land both species, the average cost recovery fee will likely vary from these estimates and would depend on the proportion of each species landed. The potential overall cost to business firms associated with a cost recovery fee under alternatives 2 and 5 would depend on the percentage recovery fee implemented for a specific fishing year and the amount of landings by the specific firm which may use one or multiple vessels.

Note that individual allocations are often registered in the name of a corporation, rather than an individual. It is common for owners of multiple fishing vessels to list each one as being owned by a separate corporation for the purpose of limiting liability. Similarly, a single individual might own multiple allocations that are listed in NOAA Fisheries records as being registered to distinct corporations for the same reason. Banks that have loaned money to allocation holders will often require that the allocation be placed in the bank's name as collateral for the loan. A single individual may have several such loans. As such, it is important to understand that the number of allocations is not equal to the number of allocation owners. Therefore, number of owners will be smaller due to the ownership of multiple allocations. Allocation ownership is a matter of public record. A complete list of the current allocation owners of record may be found and in Appendix B and at: http://www.nero.noaa.gov/sustainable/species/clam/. These are the entities that will be most directly impacted. However, NOAA Fisheries does not currently have information to characterize entities at the owner level. Instead, information on fishing activities is used to characterize and enumerate entities. Additional analysis associated with the cost recovery program at the firm level[13] will be presented as part of the initial regulatory flexibility analysis (IRFA).

Under alternative 4, using the same 2011-2013 assumptions about landings and ex-vessel prices for these species presented above, the potential per tag cost associated with the cost recovery fee of 3 percent could range on average from approximately $4.10 per ocean quahog tag to $8.36 per surfclam tag to (Table 8). The potential cost to associate with the cost recovery fee of up to 0.2 percent could range on average from $0.27 per ocean quahog tag to $0.56 per surfclam tag. Table 9 shows the potential shareholder cost recovery fees (maximum, minimum, average) under a 3 and 0.2 percent fee given the surfclam and ocean quahog tags allocated in 2014.

It is expected that under the two-tier approach in alternative 3, the portion of the cost recovery fee assessed proportionate to shareholder would be substantially smaller than the portion of the cost recovery fee to be paid when the tags are used to land. This is due to the fact that the administrative cost of managing allocation and issuing tags is lower than the

[13] In some cases, some of the vessels with surfclam and ocean quahog permits may be considered to be part of the same firm because they may have the same owners listed. However, the same issues with identifying ownership (described above) will still apply to this allocation holder dataset.

overall costs directly related to management, data collection and analysis, and enforcement of this ITQ program. The potential overall cost to business firms associated with a cost recovery fee under alternatives 3 and 4 would depend on the percentage fee implemented for a specific fishing year and the overall number of tags received and/or used to land by the specific firm.

The overall net cost per ITQ shareholder, vessel, or tag holder associated with surfclam and ocean quahog cost recovery would depend on the cost recovery fee implemented which cannot exceed 3 percent of the ex-vessel value, the amount and value of surfclam and ocean quahog landed, and any other potential costs associated with paying the fee (e.g., time to compile information and complete paperwork associated with payment of fees). In addition, there would likely be a small cost in time to dealers associated with tracking payment of fees associated with any ITQ landings.

Alternatives 2-5 are expected to have negative socioeconomic impacts compared to alternative 1 as fishermen revenues could potentially decrease by up to 3 percent of ex-vessel value due to fees collected by NOAA Fisheries. The extent of negative impacts is slightly different for each of the alternatives. Alternative 4 is expected to incur the smallest negative impacts to individuals that land surfclams and ocean quahogs because the fees to be recovered are spread across all shareholders. Alternative 4 would have the greatest negative impacts to shareholders holders that do not land shellfish. This is because the fee would be shared by all shareholders regardless of whether the ITQ was fished or not. In terms of impacts, this would be followed by alternative 3 (two-tiered approach) because all tag holders would have a percentage of the fee assessed proportionate to the amount of allocation (shares) held by the shareholder. The initial portion of the fee would be paid by all shareholders regardless of whether their ITQ was fished or not. Therefore, a portion of the fee is spread across all shareholders similar to alternative 4. Alternatives 2 and 5 would have the greatest negative impacts to individuals that land surfclams and ocean quahogs because the fee is only borne by the ITQ quota (tags) that have been fished; therefore, the universe of quota shares to which the fee is applied is smaller. Alternatives 2-5 would have no impacts on shareholders that did not land fish with their surfclam and ocean quahog ITQ.

Alternatives 2-5 would impose a cost recovery fee of up to 3 percent of ex-vessel value of surfclam and ocean quahog harvested under the ITQ program. However, the actual rate is likely to be substantially lower given the amounts currently collected in other Northeast ITQ fisheries, and may change in subsequent years. Each year, NOAA Fisheries will determine the percentage of the ex-vessel value of surfclam and ocean quahog that would be collected. It is possible that neutral societal costs impacts will occur as management costs associated with fishing this public resource are simply shifted from the general public/tax payer to the fishing industry as required under MSA.

Table 7. Potential fees associated with a 0.2 and a 3 percent fee under the surfclam and ocean quahog ITQ system assuming 2013 landings and ex-vessel values.

a. Potential fees associated with a 0.2 percent fee recovery program.

	Average Landings 2011-2013	Average ex-vessel value based on an ex-vessel price of $12.32/bu for surfclam and $6.90/bu for ocean quahogs (2011-2013)	Cost associated with a 0.2 percent fee recovery program
Surfclam	2.4 million bu	$29.568 million	$59,136
Ocean Quahog	3.3 million bu	$22.770 million	$45,540
Total	5.7 million bu	$52.338 million	$104,676

Source: NOAA Fisheries unpublished dealer and clam logbook data.

b. Potential fees associated with a 3 percent fee recovery program.

	Average Landings 2011-2013	Average ex-vessel value based on an ex-vessel price of $12.32/bu for surfclam and $6.90/bu for ocean quahogs	Cost associated with a 3 percent fee recovery program
Surfclam	2.4 million bu	$29.568 million	$887,040
Ocean Quahog	3.3 million bu	$22.770 million	$683,100
Total	5.7 million bu	$52.338 million	$1,570,140

Source: NOAA Fisheries unpublished dealer and clam logbook data.

Table 8. Potential fees at the vessel and tag level associated with a 0.2 and a 3 percent fee under the surfclam and ocean quahog ITQ system assuming 2013 landings and ex-vessel values.

a. Potential fees associated with a 0.2 percent fee recovery program.

	Cost associated with a 0.2 percent fee recovery program	**Number of vessels that landed surfclam and ocean quahogs in 2013**	**Per vessel average cost associated with a 0.2 percent fee recovery program**
Surfclam	$59,136	40	$1,478
Ocean quahog	$45,540	16	$2,846
	Cost associated with a 0.2 percent fee recovery program	**Number of cages tags issued in 2014***	**Per tag average cost associated with a 0.2 percent fee recovery program**
Surfclam	$59,136	106,132	$0.56
Ocean quahog	$45,540	166,415	$0.27

b. Potential fees associated with a 3 percent fee recovery program.

	Cost associated with a 3 percent fee recovery program	**Number of vessels that landed surfclam and ocean quahogs in 2013**	**Per vessel average cost associated with a 3 percent fee recovery program**
Surfclam	$887,040	40	$22,176
Ocean quahog	$683,100	16	$42,694
	Cost associated with a 3 percent fee recovery program	**Number of cages tags issued in 2014***	**Per average tag cost associated with a 3 percent fee recovery program**
Surfclam	$887,040	106,132	$8.36
Ocean quahog	$683,100	166,415	$4.10

*See Appendix B for the surfclam and ocean quahog allocation holder report for 2014.

Table 9. Potential fees associated with a 0.2 and a 3 percent fee under the surfclam and ocean quahog ITQ system assuming the number of cage tags issued in 2014.

a. Potential fees associated with a 0.2 percent fee recovery program.

		Number of cages tags issued in 2014	Per tag average cost associated with a 0.2 percent fee recovery program	Cost associated with a 0.2 percent fee recovery program
Surfclam	Maximum	14,177	$0.56	$7,939
	Minimum	52	$0.56	$29
	Average	1,516	$0.56	$849
Ocean Quahog	Maximum	36,314	$0.27	$9,805
	Minimum	2	$0.27	$0.54
	Average	4,059	$0.27	$1,096

a. Potential fees associated with a 3 percent fee recovery program.

		Number of cages tags issued in 2014	Per tag average cost associated with a 3 percent fee recovery program	Cost associated with a 3 percent fee recovery program
Surfclam	Maximum	14,177	$8.36	$118,520
	Minimum	52	$8.36	$435
	Average	1,516	$8.36	$12,674
Ocean Quahog	Maximum	36,314	$4.10	$148,887
	Minimum	2	$4.10	$8
	Average	4,059	$4.10	$16,642

7.4.2 Administrative Mechanism to Update BRPs Alternatives

Alternative 1 (No action) is expected to result in neutral impacts on the social and economic environment. Relative to the no action alternative 1, alternative 2 is expected to result in neutral impacts on the social and economic environment. This action merely revises the current definitions of the stock status determination criteria for each species and defines the process by which updates to status determination criteria are integrated into the FMP and management process. The proposed action is purely administrative; therefore, it does not alter the catch and landings limits for these species or the allocation of the resources among user groups, with no direct impact on fishing effort or effort distribution in the Atlantic surfclam and ocean quahog fisheries.

7.4.3 Optimum Yield Range Alternatives

Alternative 1 (No action) is expected to result in neutral impacts on the social and economic environment. Relative to the no action alternative 1, alternatives 2 and 3 are expected to result in neutral impacts on the social and economic environment. Alternative 2 merely eliminates the OY range in the FMP and has advisors recommend OY as part of the specification process. Under alternative 3 the upper bound of the OY range for both surfclams and ocean quahog would be equal to the ABC recommended by the SSC. Regardless of whether the surfclam and ocean quahog OY ranges are or are not retained in the FMP, the proposed action does not alter the specification process by which the Council specifies catch and landings limits that prevent overfishing and are consistent with the advice of its SSC. The Council examines the best available science, consults with its advisors, and undergoes a deliberative process to decide on what upcoming fishing year measures should be recommended. The impacts of those actions are evaluated through a specification EA. The proposed action under alternatives 2 and 3 is purely administrative (the more detailed discussion in 7.1.3 applies here); therefore, it is not expected to result in changes to the manner in which the Atlantic surfclam and ocean quahog fisheries are prosecuted or impact those individuals and communities that are dependent on the fisheries. The measures proposed under alternatives 2 and 3 merely provide for consistency and administrative efficiency.

7.5 Cumulative Effects Analysis

A cumulative effects analysis (CEA) is required by the Council on Environmental Quality (CEQ) (40 CFR part 1508.7). The purpose of CEA is to consider the combined effects of many actions on the human environment over time that would be missed if each action were evaluated separately. CEQ guidelines recognize that it is not practical to analyze the cumulative effects of an action from every conceivable perspective, but rather, the intent is to focus on those effects that are truly meaningful. A formal cumulative impact assessment is not necessarily required as part of an EA under NEPA as long as the significance of cumulative impacts have been considered (U.S. EPA 1999). The following remarks address the significance of the expected cumulative impacts as they relate to the federally managed Atlantic surfclam and ocean quahog fisheries.

7.5.1 Consideration of the VECs

In section 6.0 (Description of the Affected Environment), the VECs that exist within surfclam and ocean quahog fishery environment are identified. Therefore, the significance of the cumulative effects will be discussed in relation to the VECs listed below.

1. Managed resources (surfclams and ocean quahogs)
2. Non-target species
3. Habitat including EFH for the managed resource and non-target species
4. ESA-listed and MMPA protected species
5. Human communities

7.5.2 Geographic Boundaries

The analysis of impacts focuses on actions related to the harvest of Atlantic surfclams and ocean quahogs. The core geographic scope for each of the VECs is focused on the Western Atlantic Ocean (section 6.0). The core geographic scopes for the managed resources are the range of the management units (section 6.1). For non-target species, those ranges may be expanded and would depend on the biological range of each individual non-target species in the Western Atlantic Ocean. For habitat, the core geographic scope is focused on EFH within the EEZ but includes all habitat utilized by surfclam and ocean quahog and other non-target species in the Western Atlantic Ocean. The core geographic scope for endangered and protected resources can be considered the overall range of these VECs in the Western Atlantic Ocean. For human communities, the core geographic boundaries are defined as those U.S. fishing communities directly involved in the harvest or processing of the managed resources, which were found to occur in coastal states from Maine through Virginia (section 6.4).

7.5.3 Temporal Boundaries

The temporal scope of past and present actions for VECs is primarily focused on actions that have occurred after FMP implementation (1977 for surfclams and ocean quahogs). For endangered and other protected resources, the scope of past and present actions is on a species-by-species basis (section 6.3) and is largely focused on the 1980s and 1990s through the present, when NOAA Fisheries began generating stock assessments for marine mammals and sea turtles that inhabit waters of the U.S. EEZ. The temporal scope of future actions for all five VECs extends about three years (2017) into the future. This period was chosen because the dynamic nature of resource management and lack of information on projects that may occur in the future make it very difficult to predict impacts beyond this timeframe with any certainty.

7.5.4 Actions Other Than Those Proposed in this Amendment

The impacts of each of the alternatives considered in this amendment document are given in section 7.1 through 7.4. Table 10 presents meaningful past (P), present (Pr), or reasonably foreseeable future (RFF) actions to be considered other than those actions being considered in this amendment document. These impacts are described in chronological order and qualitatively, as the actual impacts of these actions are too complex to be quantified in a meaningful way. When any of these abbreviations occur together (i.e., P, Pr, RFF), it indicates that some past actions are still relevant to the present and/or future actions.

Past and Present Actions

The historical management practices of the Council have resulted in positive impacts on the health of the surfclam and ocean quahog stocks (section 6.1). Numerous actions have been taken to manage these fisheries through amendment and framework adjustment actions. The specifications process provides the opportunity for the Council and NOAA Fisheries to regularly assess the status of the fishery and to make necessary adjustments to ensure that there is a reasonable expectation of meeting the objectives of the FMP. The statutory basis for federal fisheries management is the MSA. To the degree with which this regulatory regime and National Standards are complied, the cumulative impacts of past, present, and reasonably foreseeable future federal fishery management actions on the VECs should generally be associated with positive long-term outcomes, which should bring about long-term sustainability of a given resource, and as such, should, in the long-term, promote positive effects on human communities, especially those that are economically dependent upon the surfclam and ocean quahog stocks.

Non-fishing activities that introduce chemical pollutants, sewage, changes in water temperature, salinity, dissolved oxygen, and suspended sediment into the marine environment pose a risk to all of the identified VECs. Human-induced non-fishing activities tend to be localized in nearshore areas and marine project areas where they occur. Examples of these activities include, but are not limited to agriculture, port maintenance, beach nourishment, coastal development, marine transportation, marine mining, dredging and the disposal of dredged material. Wherever these activities co-occur, they are likely to work additively or synergistically to decrease habitat quality and, as such, may indirectly constrain the sustainability of the managed resources, non-target species, and protected resources. Decreased habitat suitability would tend to reduce the tolerance of these VECs to the impacts of fishing effort. Mitigation of this outcome through regulations that would reduce fishing effort could then negatively impact human communities. The overall impact to the affected species and their habitats on a population level is unknown, but likely neutral to low negative, since a large portion of these species have a limited or minor exposure to these local non-fishing perturbations.

In addition to guidelines mandated by the MSA, NOAA Fisheries reviews these types of effects through the review processes required by Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act for certain activities that are regulated by federal, state, and local authorities. The jurisdiction of these activities is in "waters of the U.S." and includes both riverine and marine habitats.

Reasonably Foreseeable Future Actions

The implementation of a data collection protocol process to collect information about quota share ownership for the surfclam and ocean quahog ITQ fisheries by NOAA Fisheries, as requested by the Council, is likely to occur within the next year (by 2015). An Amendment to address excessive share accumulation for these ITQ fisheries will be developed and could potentially begin in 2016. As a result, these Reasonably Foreseeable Future Actions over the next three years will address outstanding issue for the management of surfclams and ocean quahogs.

For many of the proposed non-fishing activities to be permitted under other federal agencies (such as beach nourishment, offshore wind facilities, etc.), those agencies would conduct examinations of potential impacts on the VECs. The MSA (50 CFR 600.930) imposes an obligation on other federal agencies to consult with the Secretary of Commerce on actions that may adversely affect EFH. The eight Fishery Management Councils are engaged in this review process by making comments and recommendations on any federal or state action that may affect habitat, including EFH, for their managed species and by commenting on actions likely to substantially affect habitat, including EFH.

In addition, under the Fish and Wildlife Coordination Act (Section 662), "whenever the waters of any stream or other body of water are proposed or authorized to be impounded, diverted, the channel deepened, or the stream or other body of water otherwise controlled or modified for any purpose whatever, including navigation and drainage, by any department or agency of the U.S., or by any public or private agency under federal permit or license, such department or agency first shall consult with the U.S. Fish and Wildlife Service (USFWS), Department of the Interior, and with the head of the agency exercising administration over the wildlife resources of the particular state wherein the" activity is taking place. This act provides another avenue for review of actions by other federal and state agencies that may impact resources that NOAA Fisheries manages in the reasonably foreseeable future.

In addition, NOAA Fisheries and the USFWS share responsibility for implementing the ESA. ESA requires NOAA Fisheries to designate "critical habitat" for any species it lists under the ESA (i.e., areas that contain physical or biological features essential to conservation, which may require special management considerations or protection) and to develop and implement recovery plans for threatened and endangered species. The ESA provides another avenue for NOAA Fisheries to review actions by other entities that may impact endangered and protected resources whose management units are under NOAA Fisheries jurisdiction.

7.5.5 Magnitude and Significance of Cumulative Effects

In determining the magnitude and significance of the cumulative effects, the additive and synergistic effects of the proposed action, as well as past, present, and future actions, must be taken into account. The following section discusses the effects of these actions on each of the VECs.

Table 10. Impacts of Past (P), Present (Pr), and Reasonably Foreseeable Future (RFF) Actions on the five VECs (not including those actions considered in this Amendment document).

Action	Description	Impacts on Managed Resource	Impacts on Non-target Species	Impacts on Habitat and EFH	Impacts on Protected Species	Impacts on Human Communities
P, Pr Original FMP and Amendments and Frameworks to the FMP	Established management measures	**Indirect Positive** Regulatory tool available to rebuild and manage stocks	**Indirect Positive** Reduced fishing effort	**Indirect Positive** Reduced fishing effort	**Indirect Positive** Reduced fishing effort	**Indirect Positive** Benefited domestic businesses
P, Pr Surfclam and Ocean Quahog Specifications	Establish quotas, other fishery regulations	**Indirect Positive** Regulatory tool to specify catch limits, and other regulation; allows response to annual stock updates	**Indirect Positive** Reduced effort levels and gear requirements	**Indirect Positive** Reduced effort levels and gear requirements	**Indirect Positive** Reduced effort levels and gear requirements	**Indirect Positive** Benefited domestic businesses
P, Pr, RFF Developed, Applied, and Redo of Standardized Bycatch Reporting Methodology	Established acceptable level of precision and accuracy for monitoring of bycatch in fisheries	**Neutral** May improve data quality for monitoring total removals of managed resource	**Neutral** May improve data quality for monitoring removals of non-target species	**Neutral** Will not affect distribution of effort	**Neutral** May increase observer coverage and will not affect distribution of effort	**Potentially Indirect Negative** May impose an inconvenience on vessel operations
P, Pr, RFF PSP Closed Areas	Reopening of PSP Closed Areas to Clam fishing	**Neutral to Indirect Negative** Fishery impacts in previously unfished areas	**Indirect Positive** Reduced overall fishing effort	**Indirect Positive** Reduced overall fishing effort	**Neutral** Limited interactions with gear occur	**Indirect Positive** Benefitted domestic businesses
P, Pr, RFF Agricultural runoff	Nutrients applied to agricultural land are introduced into aquatic systems	**Indirect Negative** Reduced habitat quality	**Indirect Negative** Reduced habitat quality	**Direct Negative** Reduced habitat quality	**Indirect Negative** Reduced habitat quality	**Indirect Negative** Reduced habitat quality negatively affects resource
P, Pr, RFF Port maintenance	Dredging of coastal, port and harbor areas for port maintenance	**Uncertain – Likely Indirect Negative** Dependent on mitigation effects	**Uncertain – Likely Indirect Negative** Dependent on mitigation effects	**Uncertain – Likely Direct Negative** Dependent on mitigation effects	**Uncertain – Likely Indirect Negative** Dependent on mitigation effects	**Uncertain – Likely Mixed** Dependent on mitigation effects

Table 10 (Continued). Impacts of Past (P), Present (Pr), and Reasonably Foreseeable Future (RFF) Actions on the five VECs (not including those actions considered in this Amendment document).

Action	Description	Impacts on Managed Resource	Impacts on Non-target Species	Impacts on Habitat and EFH	Impacts on Protected Species	Impacts on Human Communities
P, Pr, RFF Offshore disposal of dredged materials	Disposal of dredged materials	**Indirect Negative** Reduced habitat quality	**Indirect Negative** Reduced habitat quality	**Direct Negative** Reduced habitat quality	**Indirect Negative** Reduced habitat quality	**Indirect Negative** Reduced habitat quality negatively affects resource viability
P, Pr, RFF Beach nourishment	Offshore mining of sand for beaches	**Indirect Negative** Localized decreases in habitat quality	**Indirect Negative** Localized decreases in habitat quality	**Direct Negative** Reduced habitat quality	**Indirect Negative** Localized decreases in habitat quality	**Mixed** Positive for mining companies, possibly negative for fishing industry
	Placement of sand to nourish beach shorelines	**Indirect Negative** Localized decreases in habitat quality	**Indirect Negative** Localized decreases in habitat quality	**Direct Negative** Reduced habitat quality	**Indirect Negative** Localized decreases in habitat quality	**Positive** Beachgoers like sand; positive for tourism
P, Pr, RFF Marine transportation	Expansion of port facilities, vessel operations and recreational marinas	**Indirect Negative** Localized decreases in habitat quality	**Indirect Negative** Localized decreases in habitat quality	**Direct Negative** Reduced habitat quality	**Indirect Negative** Localized decreases in habitat quality	**Mixed** Positive for some interests, potential displacement for others
P, Pr, RFF Installation of pipelines, utility lines and cables	Transportation of oil, gas and energy through pipelines, utility lines and cables	**Uncertain – Likely Indirect Negative** Dependent on mitigation effects	**Uncertain – Likely Indirect Negative** Dependent on mitigation effects	**Uncertain – Likely Direct Negative** Reduced habitat quality	**Potentially Direct Negative** Dependent on mitigation effects	**Uncertain – Likely Mixed** Dependent on mitigation effects
P, Pr, RFF National Offshore Aquaculture Act of 2007	Bill that grants DOC authority to issue permits for offshore aquaculture in federal waters	**Potentially Indirect Negative** Localized decreases in habitat quality possible	**Potentially Indirect Negative** Localized decreases in habitat quality possible	**Direct Negative** Localized decreases in habitat quality possible	**Potentially Indirect Negative** Localized decreases in habitat quality possible	**Uncertain – Likely Mixed** Costs/benefits remain unanalyzed

Table 10 (Continued). Impacts of Past (P), Present (Pr), and Reasonably Foreseeable Future (RFF) Actions on the five VECs (not including those actions considered in this Amendment document).

Action	Description	Impacts on Managed Resource	Impacts on Non-target Species	Impacts on Habitat and EFH	Impacts on Protected Species	Impacts on Human Communities
[RFF] Offshore Wind Energy Facilities (within 3 years)	Construction of wind turbines to harness electrical power (Several proposed from ME through NC, including NY/NJ, DE, and VA)	**Uncertain – Likely Indirect Negative** Dependent on mitigation effects	**Uncertain – Likely Indirect Negative** Dependent on mitigation effects	**Potentially Direct Negative** Localized decreases in habitat quality possible	**Uncertain – Likely Indirect Negative** Dependent on mitigation effects	**Uncertain – Likely Mixed** Dependent on mitigation effects
[Pr, RFF] Liquefied Natural Gas (LNG) terminals (within 3 years)	Transport natural gas via tanker to terminals offshore and onshore (1 terminal built in MA; 1 under construction; proposed in RI, NY, NJ and DE)	**Uncertain – Likely Indirect Negative** Dependent on mitigation effects	**Uncertain – Likely Indirect Negative** Dependent on mitigation effects	**Potentially Direct Negative** Localized decreases in habitat quality possible	**Uncertain – Likely Indirect Negative** Dependent on mitigation effects	**Uncertain – Likely Mixed** Dependent on mitigation effects
[RFF] Convening of Gear Take Reduction Teams (within next 3 years)	Recommend measures to reduce mortality and injury to marine mammals	**Indirect Positive** Will improve data quality for monitoring total removals	**Indirect Positive** Reducing availability of gear could reduce bycatch	**Indirect Positive** Reducing availability of gear could reduce gear impacts	**Indirect Positive** Reducing availability of gear could reduce encounters	**Indirect Negative** Reducing availability of gear could reduce revenues
[RFF] Strategy for Sea Turtle Conservation for the Atlantic Ocean and the Gulf of Mexico Fisheries (w/in next 3 years)	May recommend strategies to prevent the bycatch of sea turtles in commercial fisheries operations	**Indirect Positive** Will improve data quality for monitoring total removals	**Indirect Positive** Reducing availability of gear could reduce bycatch	**Indirect Positive** Reducing availability of gear could reduce gear impacts	**Indirect Positive** Reducing availability of gear could reduce encounters	**Indirect Negative** Reducing availability of gear could reduce revenues

Table 10 (Continued). Impacts of Past (P), Present (Pr), and Reasonably Foreseeable Future (RFF) Actions on the five VECs (not including those actions considered in this Amendment document).

Action	Description	Impacts on Managed Resource	Impacts on Non-target Species	Impacts on Habitat and EFH	Impacts on Protected Species	Impacts on Human Communities
RFF Implementation of Data Collection Protocol (within 3 years)	Collect data needed to track ITQ share ownership within the fishery	**Neutral** Administrative - no direct or indirect impacts	**Neutral** Administrative - no direct or indirect impacts	**Neutral** Administrative - no direct or indirect impacts	**Neutral** Administrative - no direct or indirect impacts	**Uncertain – Likely Mixed** Collects data needed to evaluate excessive shares cap, but additional paperwork may be required
RFF Amendment to address Cost Recovery (within 3 years)	Recover costs associated with management of the fishery; EFH Updates; BRP Updates	**Neutral to Positive** Administrative costs recovery- no direct or indirect impacts, but EFH updates and BRP updates positive	**Neutral** Administrative - no direct or indirect impacts	**Neutral to Positive** Administrative costs recovery- no direct or indirect impacts, but EFH updates positive	**Neutral** Administrative - no direct or indirect impacts	**Uncertain – Likely Mixed** Industry will have to provide funds to cover costs of management; taxpayers will not have to cover costs
RFF Amendment to address Excessive Shares (begin work within 3 years)	Establish a cap for excessive share accumulation	**Neutral** Administrative - no direct or indirect impacts	**Neutral** Administrative - no direct or indirect impacts	**Neutral** Administrative - no direct or indirect impacts	**Neutral** Administrative - no direct or indirect impacts	**Indirect Positive** Protects against excessive share accumulation in fishery

7.5.5.1 Managed Resources

Those past, present, and reasonably foreseeable future actions, whose effects may impact the managed resources and the direction of those potential impacts, are summarized in Table 10. The indirectly negative actions described in Table 10 are mainly localized in nearshore areas and marine project areas where they occur. Therefore, the magnitude of those impacts on the managed resources is expected to be limited due to a lack of exposure to the population at large. Agricultural runoff may be much broader in scope, and the impacts of nutrient inputs to the coastal system may be of a larger magnitude, although the impact on productivity of the managed resources is unquantifiable. As described above (section 7.5.4), NOAA Fisheries has several means under which it can review non-fishing actions of other federal or state agencies that may impact NOAA Fisheries managed resources prior to permitting or implementation of those projects. This serves to minimize the extent and magnitude of indirect negative impacts those actions could have on resources under NOAA Fisheries jurisdiction.

Past fishery management actions taken through the FMP and specification process have had a positive cumulative effect on the managed resources. It is anticipated that the future management actions, described in Table 11, will result in additional indirect positive effects on the managed resources through actions which reduce and monitor bycatch, protect habitat, and protect ecosystem services on which surfclam and ocean quahog productivity depends. The 2012 fishing year was the first year of implementation for an Amendment which requires specification of ACLs and ACTs, and this process has been carried forward into the 2014-2016 proposed measures. This represents a major change to the current management program and is expected to lead to improvements in resource sustainability over the long-term. These impacts could be broad in scope. Overall, the past, present, and reasonably foreseeable future actions that are truly meaningful to surfclam and ocean quahog have had a positive cumulative effect.

Catch limits, and commercial quotas for each of the managed resources have been specified to ensure these rebuilt stocks are managed in a sustainable manner, and measures are consistent with the objectives of the FMP under the guidance of the MSA. The impacts from specification of management measures established in previous years on the managed resources are largely dependent on how effective those measures were in meeting their intended objectives (i.e., preventing overfishing, achieve OY) and the extent to which mitigating measures were effective. The proposed action in this document would positively reinforce the past and anticipated positive cumulative effects on the surfclam and ocean quahog stock, by achieving the objectives specified in the FMP and ensuring the requirements of the MSA are met. Therefore, the proposed action would not have any significant effect on the managed resources individually or in conjunction with other anthropogenic activities (see Table 11).

Table 11. Summary of the effects of past, present, and reasonably foreseeable future actions on the managed resource.

Action	Past to the Present	Reasonably Foreseeable Future
Original FMP and subsequent Amendments and Frameworks to the FMP	**Indirect Positive**	
Surfclam and Ocean Quahog Specifications	**Indirect Positive**	
Developed, Apply, and Redo Standardized Bycatch Reporting Methodology	**Neutral**	
PSP Closed Areas		**Neutral to Indirect Negative**
Agricultural runoff	**Indirect Negative**	
Port maintenance	**Uncertain – Likely Indirect Negative**	
Offshore disposal of dredged materials	**Indirect Negative**	
Beach nourishment – Offshore mining	**Indirect Negative**	
Beach nourishment – Sand placement	**Indirect Negative**	
Marine transportation	**Indirect Negative**	
Installation of pipelines, utility lines and cables	**Uncertain – Likely Indirect Negative**	
National Offshore Aquaculture Act of 2007	**Potentially Indirect Negative**	
Offshore Wind Energy Facilities (within 3 years)		**Uncertain – Likely Indirect Negative**
Liquefied Natural Gas (LNG) terminals (within 3 years)		**Uncertain – Likely Indirect Negative**
Convening Gear Take Reduction Teams (within 3 years)		**Indirect Positive**
Strategy for Sea Turtle Conservation for the Atlantic Ocean and the Gulf of Mexico Fisheries (within next 3 years)		**Indirect Positive**
Data Collection Protocol		**Neutral**
Amendment to Address Cost Recovery		**Neutral to Positive**
Amendment to Address Excessive Shares		**Neutral**
Summary of past, present, and future actions excluding those proposed in this amendment document	**Overall, actions have had, or will have, positive impacts on the managed resources * See section 7.5.5.1 for explanation.**	

7.5.5.2 Non-Target Species or Bycatch

Those past, present, and reasonably foreseeable future actions, whose effects may impact non-target species and the direction of those potential impacts, are summarized in Table 10. The effects of indirectly negative actions described in Table 10 are localized in nearshore areas and marine project areas where they occur. Therefore, the magnitude of those impacts on non-target species is expected to be limited due to a lack of exposure to the population at large. Agricultural runoff may be much broader in scope, and the impacts of nutrient inputs to the coastal system may be of a larger magnitude, although the impact on productivity of non-target resources and the oceanic ecosystem is unquantifiable. As described above (section 7.5.4), NOAA Fisheries has several means under which it can review non-fishing actions of other federal or state agencies that may impact NOAA Fisheries managed resources prior to permitting or implementation of those projects. At this time, NOAA Fisheries can consider impacts to non-target species (federally-managed or otherwise) and comment on potential impacts. This serves to minimize the extent and magnitude of indirect negative impacts those actions could have on resources within NOAA Fisheries jurisdiction.

Past fishery management actions taken through the FMP and annual specification process have had a positive cumulative effect on non-target species. Implementation and application of a standardized bycatch reporting methodology (SBRM) would have a particular impact on non-target species by improving the methods which can be used to assess the magnitude and extent of a potential bycatch problem. The redevelopment of the SBRM will result in better assessment of potential bycatch issues and allow more effective and specific management measures to be developed to address a bycatch problem. It is anticipated that future management actions, described in Table 12, will result in additional indirect positive effects on non-target species through actions which reduce and monitor bycatch, protect habitat, and protect ecosystem services on which the productivity of many of these non-target resources depend. The impacts of these future actions could be broad in scope, and it should be noted the managed resource and non-target species are often coupled in that they utilize similar habitat areas and ecosystem resources on which they depend. Overall, the past, present, and reasonably foreseeable future actions that are truly meaningful have had a positive cumulative effect on non-target species.

Catch limits and commercial quotas for each of the managed resources have been specified to ensure these rebuilt stocks are managed in a sustainable manner, and measures are consistent with the objectives of the FMP under the guidance of the MSA. The proposed actions in this document would not change the past and anticipated positive cumulative effects on non-target species and thus, would not have any significant effect on these species individually or in conjunction with other anthropogenic activities (Table 12).

Table 12. Summary of the effects of past, present, and reasonably foreseeable future actions on the non-target species.

Action	Past to the Present	Reasonably Foreseeable Future
Original FMP and subsequent Amendments and Frameworks to the FMP	**Indirect Positive**	
Surfclam and Ocean Quahog Specifications	**Indirect Positive**	
Developed, Apply, and Redo Standardized Bycatch Reporting Methodology	**Neutral**	
PSP Closed Areas		**Potentially Indirect Positive**
Agricultural runoff	**Indirect Negative**	
Port maintenance	**Uncertain – Likely Indirect Negative**	
Offshore disposal of dredged materials	**Indirect Negative**	
Beach nourishment – Offshore mining	**Indirect Negative**	
Beach nourishment – Sand placement	**Indirect Negative**	
Marine transportation	**Indirect Negative**	
Installation of pipelines, utility lines and cables	**Uncertain – Likely Indirect Negative**	
National Offshore Aquaculture Act of 2007	**Potentially Indirect Negative**	
Offshore Wind Energy Facilities (within 3 years)		**Uncertain – Likely Indirect Negative**
Liquefied Natural Gas (LNG) terminals (within 3 years)		**Uncertain – Likely Indirect Negative**
Convening Gear Take Reduction Teams (within 3 years)		**Indirect Positive**
Strategy for Sea Turtle Conservation for the Atlantic Ocean and the Gulf of Mexico Fisheries (within next 3 years)		**Indirect Positive**
Data Collection Protocol		**Neutral**
Amendment to Address Cost Recovery		**Neutral**
Amendment to Address Excessive Shares		**Neutral**
Summary of past, present, and future actions excluding those proposed in this amendment document	**Overall, actions have had, or will have, positive impacts on the non-target species * See section 7.5.5.2 for explanation.**	

7.5.5.3 Habitat (Including EFH)

Those past, present, and reasonably foreseeable future actions, whose effects may impact habitat (including EFH) and the direction of those potential impacts, are summarized in Table 10. The direct and indirect negative actions described in Table 10 are localized in nearshore areas and marine project areas where they occur. Therefore, the magnitude of those impacts on habitat is expected to be limited due to a lack of exposure to habitat at large. Agricultural runoff may be much broader in scope, and the impacts of nutrient inputs to the coastal system may be of a larger magnitude, although the impact on habitat and EFH is unquantifiable. As described above (section 7.5.4), NOAA Fisheries has several means under which it can review non-fishing actions of other federal or state agencies that may impact NOAA Fisheries managed resources and the habitat on which they rely prior to permitting or implementation of those projects. This serves to minimize the extent and magnitude of direct and indirect negative impacts those actions could have on habitat utilized by resources under NOAA Fisheries jurisdiction.

Past fishery management actions taken through the FMP and annual specification process have had a positive cumulative effect on habitat and EFH. The actions have constrained fishing effort at a large scale and locally, and have implemented gear requirements, which may reduce habitat impacts. As required under these FMP actions, EFH was designated for the managed resources. It is anticipated that the future management actions, described in Table 13, will result in additional direct or indirect positive effects on habitat through actions which protect EFH for federally-managed species and protect ecosystem services on which these species' productivity depends. These impacts could be broad in scope. All of the VECs are interrelated; therefore, the linkages among habitat quality and EFH, managed resources and non-target species productivity, and associated fishery yields should be considered. For habitat and EFH, there are direct and indirect negative effects from actions which may be localized or broad in scope; however, positive actions that have broad implications have been, and it is anticipated will continue to be, taken to improve the condition of habitat. There are some actions, which are beyond the scope of NOAA Fisheries and Council management such as coastal population growth and climate changes, which may indirectly impact habitat and ecosystem productivity. Overall, the past, present, and reasonably foreseeable future actions that are truly meaningful to habitat have had a neutral to positive cumulative effect.

Catch limits and commercial quotas for each of the managed resources have been specified to ensure these rebuilt stocks are managed in a sustainable manner, and measures are consistent with the objectives of the FMP under the guidance of the MSA. Proposed changes in Omnibus EFH Amendment 2 being prepared by the New England Fishery management Council are expected to go into effect in 2015. These actions could include closure of some areas near Nantucket Shoals and Great South Channel to clam dredging, although it is unclear if these measures will or will not go into effect. Closure of areas to dredging would not be expected to negatively impact EFH. The proposed actions in this document would not change the past and anticipated cumulative effects on habitat and thus, would not have any significant effect on habitat individually or in conjunction with other anthropogenic activities (Table 13).

Table 13. Summary of the effects of past, present, and reasonably foreseeable future actions on the habitat.

Action	Past to the Present	Reasonably Foreseeable Future
Original FMP and subsequent Amendments and Frameworks to the FMP	**Indirect Positive**	
Surfclam and Ocean Quahog Specifications	**Indirect Positive**	
Developed, Apply, and Redo Standardized Bycatch Reporting Methodology	**Neutral**	
PSP Closed Areas		**Potentially Indirect Positive**
Agricultural runoff	**Direct Negative**	
Port maintenance	**Uncertain – Likely Direct Negative**	
Offshore disposal of dredged materials	**Direct Negative**	
Beach nourishment – Offshore mining	**Direct Negative**	
Beach nourishment – Sand placement	**Direct Negative**	
Marine transportation	**Direct Negative**	
Installation of pipelines, utility lines and cables	**Uncertain – Likely Direct Negative**	
National Offshore Aquaculture Act of 2007	**Direct Negative**	
Offshore Wind Energy Facilities (within 3 years)		**Potentially Direct Negative**
Liquefied Natural Gas (LNG) terminals (within 3 years)		**Potentially Direct Negative**
Convening Gear Take Reduction Teams (within 3 years)		**Indirect Positive**
Strategy for Sea Turtle Conservation for the Atlantic Ocean and the Gulf of Mexico Fisheries (within next 3 years)		**Indirect Positive**
Data Collection Protocol		**Neutral**
Amendment to Address Cost Recovery		**Neutral to Positive**
Amendment to Address Excessive Shares		**Neutral**
Summary of past, present, and future actions excluding those proposed in this amendment document	**Overall, actions have had, or will have, neutral to positive impacts on habitat, including EFH * See section 7.5.5.3 for explanation.**	

7.5.5.4 ESA-Listed and MMPA Protected Species

Those past, present, and reasonably foreseeable future actions, whose effects may impact the protected resources and the direction of those potential impacts, are summarized in Table 10. The indirectly negative actions described in Table 10 are localized in nearshore areas and marine project areas where they occur. Therefore, the magnitude of those impacts on protected resources, relative to the range of many of the protected resources, is expected to be limited due to a lack of exposure to the population at large. Agricultural runoff may be much broader in scope, and the impacts of nutrient inputs to the coastal system may be of a larger magnitude, although the impact on protected resources either directly or indirectly is unquantifiable. As described above (section 7.5.4), NOAA Fisheries has several means, including ESA, under which it can review non-fishing actions of other federal or state agencies that may impact NOAA Fisheries protected resources prior to permitting or implementation of those projects. This serves to minimize the extent and magnitude of indirect negative impacts those actions could have on protected resources under NOAA Fisheries jurisdiction.

Past fishery management actions taken through the FMP and annual specification process have had a positive cumulative effect on ESA-listed and MMPA protected species through the reduction of fishing effort (potential interactions) and implementation of gear requirements. It is anticipated that the future management actions, specifically those recommended by the ALWTRT and the development of strategies for sea turtle conservation described in Table 14, will result in additional indirect positive effects on the protected resources. These impacts could be broad in scope. Overall, the past, present, and reasonably foreseeable future actions that are truly meaningful to protected resources have had a positive cumulative effect.

Catch limits and commercial quotas for each of the managed resources have been specified to ensure these rebuilt stocks are managed in a sustainable manner, and measures are consistent with the objectives of the FMP under the guidance of the MSA. The proposed actions in this document would not change the past and anticipated cumulative effects on ESA-listed and MMPA protected species and thus, would not have any significant effect on protected resources individually or in conjunction with other anthropogenic activities (Table 14).

Table 14. Summary of the effects of past, present, and reasonably foreseeable future actions on the protected resources.

Action	Past to the Present	Reasonably Foreseeable Future
Original FMP and subsequent Amendments and Frameworks to the FMP	**Indirect Positive**	
Surfclam and Ocean Quahog Specifications	**Indirect Positive**	
Developed, Apply, and Redo Standardized Bycatch Reporting Methodology	**Neutral**	
PSP Closed Areas		**Potentially Indirect Positive**
Agricultural runoff	**Indirect Negative**	
Port maintenance	**Uncertain – Likely Indirect Negative**	
Offshore disposal of dredged materials	**Indirect Negative**	
Beach nourishment – Offshore mining	**Indirect Negative**	
Beach nourishment – Sand placement	**Indirect Negative**	
Marine transportation	**Indirect Negative**	
Installation of pipelines, utility lines and cables	**Potentially Direct Negative**	
National Offshore Aquaculture Act of 2007	**Potentially Indirect Negative**	
Offshore Wind Energy Facilities (within 3 years)		**Uncertain – Likely Indirect Negative**
Liquefied Natural Gas (LNG) terminals (within 3 years)		**Uncertain – Likely Indirect Negative**
Convening Gear Take Reduction Teams (within 3 years)		**Indirect Positive**
Strategy for Sea Turtle Conservation for the Atlantic Ocean and the Gulf of Mexico Fisheries (within next 3 years)		**Indirect Positive**
Data Collection Protocol		**Neutral**
Amendment to Address Cost Recovery		**Neutral**
Amendment to Address Excessive Shares		**Neutral**
Summary of past, present, and future actions excluding those proposed in this amendment document	**Overall, actions have had, or will have, positive impacts on protected resources * See section 7.5.5.4 for explanation.**	

7.5.5.5 Human Communities

Those past, present, and reasonably foreseeable future actions, whose effects may impact human communities and the direction of those potential impacts, are summarized in Table 10. The indirectly negative actions described in Table 10 are localized in nearshore areas and marine project areas where they occur. Therefore, the magnitude of those impacts on human communities is expected to be limited in scope. It may, however, displace fishermen from project areas. Agricultural runoff may be much broader in scope, and the impacts of nutrient inputs to the coastal system may be of a larger magnitude. This may result in indirect negative impacts on human communities by reducing resource availability; however, this effect is unquantifiable. As described above (section 7.5.4), NOAA Fisheries has several means under which it can review non-fishing actions of other federal or state agencies prior to permitting or implementation of those projects. This serves to minimize the extent and magnitude of indirect negative impacts those actions could have on human communities.

Past fishery management actions taken through the FMP and annual specification process have had both positive and negative cumulative effects by benefiting domestic fisheries through sustainable fishery management practices, while at the same time potentially reducing the availability of the resource to all participants. Sustainable management practices are, however, expected to yield broad positive impacts to fishermen, their communities, businesses, and the nation as a whole. It is anticipated that the future management actions, described in Table 15, will result in positive effects for human communities due to sustainable management practices, although additional indirect negative effects on the human communities could occur through management actions that may implement gear requirements or area closures and thus, reduce revenues. Overall, the past, present, and reasonably foreseeable future actions that are truly meaningful to human communities have had an overall positive cumulative effect.

Catch limits and commercial quotas for each of the managed resources have been specified to ensure these rebuilt stocks are managed in a sustainable manner, and measures are consistent with the objectives of the FMP under the guidance of the MSA.

Despite the potential for negative short-term effects on human communities, the expectation is that there would be a positive long-term effect on human communities due to the long-term sustainability of surfclam and ocean quahog. Overall, the proposed actions in this document would not change the past and anticipated cumulative effects on human communities and thus, would not have any significant effect on human communities individually, or in conjunction with other anthropogenic activities (Table 15).

Table 15. Summary of the effects of past, present, and reasonably foreseeable future actions on human communities.

Action	Past to the Present	Reasonably Foreseeable Future
Original FMP and subsequent Amendments and Frameworks to the FMP	**Indirect Positive**	
Surfclam and Ocean Quahog Specifications	**Indirect Positive**	
Developed, Apply, and Redo Standardized Bycatch Reporting Methodology	**Potentially Indirect Negative**	
PSP Closed Areas		**Potentially Indirect Positive**
Agricultural runoff	**Indirect Negative**	
Port maintenance	**Uncertain – Likely Mixed**	
Offshore disposal of dredged materials	**Indirect Negative**	
Beach nourishment – Offshore mining	**Mixed**	
Beach nourishment – Sand placement	**Positive**	
Marine transportation	**Mixed**	
Installation of pipelines, utility lines and cables	**Uncertain – Likely Mixed**	
National Offshore Aquaculture Act of 2007	**Uncertain – Likely Mixed**	
Offshore Wind Energy Facilities (within 3 years)		**Uncertain – Likely Mixed**
Liquefied Natural Gas (LNG) terminals (within 3 years)		**Uncertain – Likely Mixed**
Convening Gear Take Reduction Teams (within 3 years)		**Indirect Negative**
Strategy for Sea Turtle Conservation for the Atlantic Ocean and the Gulf of Mexico Fisheries (within next 3 years)		**Indirect Negative**
Data Collection Protocol		**Uncertain – Likely Mixed**
Amendment to Address Cost Recovery		**Direct Negative**
Amendment to Address Excessive Shares		**Indirect Positive**
Summary of past, present, and future actions excluding those proposed in this amendment document	**Overall, actions have had, or will have, positive impacts on human communities * See section 7.5.5.5 for explanation.**	

7.5.6 Preferred Action on all the VECS

[This section will be completed when the Council has identified preferred measures]

8.0 APPLICABLE LAWS

8.1 Magnuson-Stevens Fishery Conservation and Management Act (MSA)

8.1.1 National Standards

Section 301 of the MSA requires that FMPs contain conservation and management measures that are consistent with the ten National Standards. The most recent FMP amendments address how the management actions implemented comply with the National Standards. First and foremost, the Council continues to meet the obligations of National Standard 1 by adopting and implementing conservation and management measures that will continue to prevent overfishing, while achieving, on a continuing basis, the optimum yield for Atlantic surfclam and ocean quahog and the U.S. fishing industry. To achieve OY, both scientific and management uncertainty need to be addressed when establishing catch limits that are less than the OFL; therefore, the Council develops recommendations that do not exceed the ABC recommendations of the SSC which have been developed to explicitly address scientific uncertainty. In addition, the Council has considered relevant sources of management uncertainty and other social, economic, and ecological factors, which resulted in recommendations for annual catch targets for both managed resources. The Council uses the best scientific information available (National Standard 2) and manages both species throughout their range (National Standard 3). These management measures do not discriminate among residents of different states (National Standard 4), they do not have economic allocation as their sole purpose (National Standard 5), the measures account for variations in these fisheries (National Standard 6), they avoid unnecessary duplication (National Standard 7), they take into account the fishing communities (National Standard 8) and they promote safety at sea (National Standard 10). Finally, actions taken are consistent with National Standard 9, which addresses bycatch in fisheries. The Council has implemented many regulations that have indirectly acted to reduce fishing gear impacts on EFH. By continuing to meet the National Standards requirements of the MSA through future FMP amendments, framework actions, and the annual specification setting process, the Council will insure that cumulative impacts of these actions will remain positive overall for the ports and communities that depend on these fisheries, the Nation as a whole, and certainly for the resources.

8.2 NEPA FINDING OF NO SIGNIFICANT IMPACT (FONSI)

[This section will be completed prior to submission to NOAA Fisheries]

National Oceanic and Atmospheric Administration Administrative Order 216-6 (May 20, 1999) contains criteria for determining the significance of the impacts of a proposed action. In addition, the CEQ regulations at 40 CFR §1508.27 state that the significance of an action should be analyzed both in terms of "context" and "intensity." Each criterion listed below is relevant to making a finding of no significant impact and has been considered individually, as well as in combination with the others. The significance of this action is analyzed based on the NAO 216-6 criteria and CEQ's context and intensity criteria. These include:

1) Can the proposed action reasonably be expected to jeopardize the sustainability of any target species that may be affected by the action?

2) Can the proposed action reasonably be expected to jeopardize the sustainability of any non-target species?

3) Can the proposed action reasonably be expected to cause substantial damage to the ocean and coastal habitats and/or essential fish habitat as defined under the Magnuson-Stevens Act and identified in FMPs?

4) Can the proposed action be reasonably expected to have a substantial adverse impact on public health or safety?

5) Can the proposed action reasonably be expected to adversely affect endangered or threatened species, marine mammals, or critical habitat of these species?

6) Can the proposed action be expected to have a substantial impact on biodiversity and/or ecosystem function within the affected area (e.g., benthic productivity, predator-prey relationships, etc.)?

7) Are significant social or economic impacts interrelated with natural or physical environmental effects?

8) Are the effects on the quality of the human environment likely to be highly controversial?

9) Can the proposed action reasonably be expected to result in substantial impacts to unique areas, such as historic or cultural resources, park land, prime farmlands, wetlands, wild and scenic rivers or ecologically critical areas?

10) Are the effects on the human environment likely to be highly uncertain or involve unique or unknown risks?

11) Is the proposed action related to other actions with individually insignificant, but cumulatively significant impacts?

12) Is the proposed action likely to adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural or historical resources?

13) Can the proposed action reasonably be expected to result in the introduction or spread of a nonindigenous species?

14) Is the proposed action likely to establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration?

15) Can the proposed action reasonably be expected to threaten a violation of federal, State, or local law or requirements imposed for the protection of the environment?

16) Can the proposed action reasonably be expected to result in cumulative adverse effects that could have a substantial effect on the target species or non-target species?

8.3 Endangered Species Act

Sections 6.3 and 7.0 should be referenced for an assessment of the impacts of the proposed action on ESA-listed and MMPA protected resources. None of the actions proposed in this document are expected to alter fishing methods or activities. Therefore, this action is not expected to affect endangered or threatened species or critical habitat in any manner not considered in previous consultations on these fisheries.

8.4 Marine Mammal Protection Act

Sections 6.3 and 7.0 should be referenced for an assessment of the impacts of the proposed action on marine mammals protected under the MMPA. None of the actions proposed in this document are expected to alter fishing methods or activities. Therefore, this action is not expected to affect marine mammals or critical habitat in any manner not considered in previous consultations on the fisheries.

8.5 Coastal Zone Management Act

The Coastal Zone Management Act (CZMA) of 1972, as amended, provides measures for ensuring stability of productive fishery habitat while striving to balance development pressures with social, economic, cultural, and other impacts on the coastal zone. It is recognized that responsible management of both coastal zones and fish stocks must involve mutually supportive goals. The Council has developed this amendment document and will submit it to NOAA Fisheries; NOAA Fisheries must determine whether this action is consistent to the maximum extent practicable with the CZM programs for each state (Maine through North Carolina).

8.6 Administrative Procedure Act

Sections 551-553 of the Federal Administrative Procedure Act establish procedural requirements applicable to informal rulemaking by federal agencies. The purpose is to ensure public access to the federal rulemaking process and to give the public notice and opportunity to comment before the agency promulgates new regulations.

The Administrative Procedure Act requires solicitation and review of public comments on actions taken in the development of an FMP and subsequent amendments and framework adjustments. Development of this amendment document provided many opportunities for public review, input, and access to the rulemaking process. This action and the proposed measures was developed through a multi-stage process that was open to review by affected members of the public. The public had the opportunity to review and comment on management measures during the Council meeting in August 2013, June 2014, and October 2014. Fishery Management Action Team Meetings (in-person and via webinar) were also open to the public. Public hearings will be held and provide addition opportunity for comment from the public, prior to the Council's decision to submit the document to NOAA Fisheries. In addition, the public will have further opportunity to

comment on this amendment document when NOAA Fisheries publishes a request for comments notice in the Federal Register (FR).

8.7 Section 515 (Data Quality Act)

Utility of Information Product

This action proposes measures for collecting fees and recovering costs associated with the management of the Atlantic surfclam and ocean quahog ITQ fisheries, measures that facilitate incorporation of revised stock status determination criteria (i.e., biological reference points) for surfclams and ocean quahogs into the FMP, and measures that would modify or eliminate the OY ranges for surfclam and ocean quahog currently in the FMP. This document includes: A description of the alternatives considered, the preferred action and rationale for selection, and any changes to the implementing regulations of the FMP (if applicable). As such, this document enables the implementing agency (NOAA Fisheries) to make a decision on implementation and this document serves as a supporting document for the proposed rule.

The action contained within this amendment document was developed to be consistent with the FMP, MSA, and other applicable laws, through a multi-stage process that was open to review by affected members of the public. The public had the opportunity to review and comment on management measures during a number of public meetings (see section 8.6). In addition, the public will have further opportunity to comment on this amendment document once NOAA Fisheries publishes a request for comments notice in the FR.

Integrity of Information Product

The information product meets the standards for integrity under the following types of documents: Other/Discussion (e.g., Confidentiality of Statistics of the MSA; NOAA Administrative Order 216-100, Protection of Confidential Fisheries Statistics; 50 CFR 229.11, Confidentiality of information collected under the MMPA).

Objectivity of Information Product

The category of information product that applies here is "Natural Resource Plans." This section (section 8.0) describes how this document was developed to be consistent with any applicable laws, including MSA with any of the applicable National Standards. The analyses used to develop the alternatives (i.e., policy choices) are based upon the best scientific information available and the most up to date information is used to develop the EA which evaluates the impacts of those alternatives (see section 7.0 of this document for additional details). The specialists who worked with these core data sets and population assessment models are familiar with the most recent analytical techniques and are familiar with the available data and information relevant to the surfclam and ocean quahog fisheries.

The review process for this amendment document involves MAFMC, NEFSC, GARFO, and NOAA Fisheries headquarters. The NEFSC technical review is conducted by senior level scientists with specialties in fisheries ecology, population dynamics and biology, as well as economics and

social anthropology. The MAFMC review process involves public meetings at which affected stakeholders have the opportunity to comments on proposed management measures. Review by GARFO is conducted by those with expertise in fisheries management and policy, habitat conservation, protected resources, and compliance with the applicable law. Final approval of the specifications document and clearance of the rule is conducted by staff at NOAA Fisheries Headquarters, the Department of Commerce, and the U.S. Office of Management and Budget.

8.8 Paperwork Reduction Act

The Paperwork Reduction Act (PRA) concerns the collection of information. The intent of the PRA is to minimize the federal paperwork burden for individuals, small businesses, state and local governments, and other persons as well as to maximize the usefulness of information collected by the Federal government. This action will contain a collection-of-information requirement for purposes of the PRA. Under the proposed cost recovery program, ITQ shareholders, or dealers may be required to provide tax identification numbers or a social security number. In addition, the payment of bills under cost recovery (and any rebates, refunds) associated with the payment system may require that additional information be provided.

8.9 Impacts of the Plan Relative to Federalism/EO 13132

This document does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order (EO) 13132.

8.10 Environmental Justice/EO 12898

This EO provides that "each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations." EO 12898 directs each Federal agency to analyze the environmental effects, including human health, economic, and social effects of Federal actions on minority populations, low-income populations, and Indian tribes, when such analysis is required by NEPA. Agencies are further directed to "identify potential effects and mitigation measures in consultation with affected communities, and improve the accessibility of meetings, crucial documents, and notices."

The proposed actions are not expected to affect participation in the surfclam and ocean quahog fisheries. Since the proposed action represents no changes relative to the current levels of participation in these fisheries, no negative economic or social effects in the context of EO 12898 are anticipated as a result. Therefore, the proposed action is not expected to cause disproportionately high and adverse human health, environmental or economic effects on minority populations, low-income populations, or Indian tribes.

8.11 Regulatory Impact Review/Regulatory Flexibility Analysis

The NOAA Fisheries requires the preparation of a Regulatory Impact Review (RIR) for all regulatory actions that either implement a new Fishery Management Plan (FMP) or significantly amend an existing plan. This RIR is part of the process of preparing and reviewing FMPs and provides a comprehensive review of the changes in net economic benefits to society associated with proposed regulatory actions. This analysis also provides a review of the problems and policy objectives prompting the regulatory proposals and an evaluation of the major alternatives that could be used to solve the problems. The purpose of this analysis is to ensure that the regulatory agency systematically and comprehensively considers all available alternatives so that the public welfare can be enhanced in the most efficient and cost-effective way. This RIR addresses many items in the regulatory philosophy and principles of EO 12866.

The Regulatory Flexibility Act (RFA) requires the Federal rulemaker to examine the impacts of proposed and existing rules on small businesses, small organizations, and small governmental jurisdictions. In reviewing the potential impacts of proposed regulations, the agency must either certify that the rule "will not, if promulgated, have a significant economic impact on a substantial number of small entities." As indicated in section 5.0, the proposed actions in this document would implement measures for collecting fees and recovering costs associated with the management of the Atlantic surfclam and ocean quahog ITQ fisheries, measures that facilitate incorporation of revised stock status determination criteria (i.e., biological reference points) for surfclams and ocean quahog into the FMP, and measures that would modify or eliminate the OY ranges for surfclam and ocean quahog currently in the FMP. An Initial Regulatory Flexibility Analysis (IRFA) will be prepared to further evaluate the economic impacts of the various alternatives presented once the Council has identified preferred alternatives. This analysis supports a more thorough analysis (RFA) which will be completed.

9.0 LITERATURE CITED

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Stevenson D, Chiarella L, Stephan D, Reid R, Wilhelm K, McCarthy J, Pentony M. 2004. Characterization of the fishing practices and marine benthic ecosystems of the Northeast U.S. shelf, and an evaluation of the potential effects of fishing on essential fish habitat. Woods Hole (MA): National Marine Fisheries Service, Northeast Fisheries Science Center, NOAA Technical Memorandum NMFS-NE-181. 179 p.

10.0 LIST OF AGENCIES AND PERSONS CONSULTED

In preparing this document, the Council consulted with NOAA Fisheries, New England and South Atlantic Fishery Management Councils, Fish and Wildlife Service, and the states of Maine through North Carolina through their membership on the Mid-Atlantic and New England Fishery Management Councils. To ensure compliance with NOAA Fisheries formatting requirements, the advice of NOAA Fisheries GARFO personnel was sought.

Copies of this document are available from Dr. Christopher M. Moore, Executive Director,
Mid-Atlantic Fishery Management Council,
Suite 201, 800 North State Street,
Dover, DE 19901

APPENDIX A

Table 1. Essential Fish Habitat descriptions for federally-managed species/life stages in the U.S. Northeast Shelf Ecosystem that are vulnerable to bottom tending fishing gear.

Species	Life Stage	Geographic Area of EFH	Depth (meters)	Bottom Type
American plaice	juvenile	GOM, including estuaries from Passamaquoddy Bay to Saco Bay, ME and from Massachusetts Bay to Cape Cod Bay	45 - 150	Fine grained sediments, sand, or gravel
American plaice	adult	GOM, including estuaries from Passamaquoddy Bay to Saco Bay, ME and from Massachusetts Bay to Cape Cod Bay	45 - 175	Fine grained sediments, sand, or gravel
Atlantic cod	juvenile	GOM, GB, eastern portion of continental shelf off SNE, these estuaries: Passamaquoddy Bay to Saco Bay, Massachusetts Bay, Boston Harbor, Cape Cod Bay, Buzzards Bay	25 - 75	Cobble or gravel
Atlantic cod	adult	GOM, GB, eastern portion of continental shelf off SNE, these estuaries: Passamaquoddy Bay to Saco Bay, Massachusetts Bay, Boston Harbor, Cape Cod Bay, Buzzards Bay	10 - 150	Rocks, pebbles, or gravel
Atl halibut	juvenile	GOM and GB	20 - 60	Sand, gravel, or clay
Atl halibut	adult	GOM and GB	100 - 700	Sand, gravel, or clay
Barndoor skate	juvenile/ adult	Eastern GOM, GB, SNE, Mid-Atlantic Bight to Hudson Canyon	l0-750, most < 150	Mud, gravel, and sand
Black sea bass	juvenile	GOM to Cape Hatteras, NC, including estuaries from Buzzards Bay to Long Island Sound, Gardiners Bay, Barnegat Bay to Chesapeake Bay, Tangier/ Pocomoke Sound, and James River	1 - 38	Rough bottom, shellfish/ eelgrass beds, manmade structures, offshore clam beds, and shell patches
Black sea bass	adult	GOM to Cape Hatteras, NC, including Buzzards Bay, Narragansett Bay, Gardiners Bay, Great South Bay, Barnegat Bay to Chesapeake Bay, and James River	20 - 50	Structured habitats (natural and manmade), sand and shell substrates preferred
Clearnose skate	juvenile/ adult	GOM, along continental shelf to Cape Hatteras, NC, including the estuaries from Hudson River/Raritan Bay south to the Chesapeake Bay mainstem	0 – 500, most < 111	Soft bottom and rocky or gravelly bottom
Haddock	juvenile	GB, GOM, and Mid-Atlantic south to Delaware Bay	35 - 100	Pebble and gravel
Haddock	adult	GB, eastern side of Nantucket Shoals, and throughout GOM	40 - 150	Broken ground, pebbles, smooth hard sand, and smooth areas between rocky patches
Little skate	juvenile/ adult	GB through Mid-Atlantic Bight to Cape Hatteras, NC; includes estuaries from Buzzards Bay south to mainstem Chesapeake Bay	0-137, most 73 - 91	Sandy or gravelly substrate or mud
Ocean pout	eggs	GOM, GB, SNE, and Mid-Atlantic south to Delaware Bay, including the following estuaries: Passamaquoddy Bay to Saco Bay, Massachusetts Bay and Cape Cod Bay	<50	Generally sheltered nests in hard bottom in holes or crevices
Ocean pout	juvenile	GOM, GB, SNE, Mid-Atlantic south to Delaware Bay and the following estuaries: Passamaquoddy Bay to Saco Bay, Massachusetts Bay, and Cape Cod Bay	< 50	Close proximity to hard bottom nesting areas
Ocean pout	adult	GOM, GB, SNE, Mid-Atlantic south to Delaware Bay and the following estuaries: Passamaquoddy Bay to Saco Bay, MA Bay, Boston Harbor, and Cape Cod Bay	< 80	Smooth bottom near rocks or algae
Pollock	adult	GOME, GB, SNE, and Mid-Atlantic south to New Jersey and the following estuaries: Passamaquoddy Bay, Damariscotta R., MA Bay, Cape Cod Bay, Long Island Sound	15 – 365	Hard bottom habitats including artificial reefs

Species	Life Stage	Geographic Area of EFH	Depth (meters)	Bottom Type
Red hake	juvenile	GOM, GB, continental shelf off SNE, and Mid-Atlantic south to Cape Hatteras, including the following estuaries: Passamaquoddy Bay to Saco Bay, Great Bay, MA Bay to Cape Cod Bay; Buzzards Bay to CT River, Hudson River, Raritan Bay, and Chesapeake Bay	< 100	Shell fragments, including areas with an abundance of live scallops
Red hake	adult	GOM, GB, continental shelf off SNE, Mid-Atlantic south to Cape Hatteras, these estuaries: Passamaquoddy Bay to Saco Bay, Great Bay, MA Bay to Cape Cod Bay; Buzzards Bay to CT River, Hudson River, Raritan Bay, Delaware Bay, and Chesapeake Bay	10 - 130	In sand and mud, in depressions
Redfish	juvenile	GOM, southern edge of GB	25 - 400	Silt, mud, or hard bottom
Redfish	adult	GOM, southern edge of GB	50 - 350	Silt, mud, or hard bottom
Rosette skate	juvenile/ adult	Nantucket shoals and southern edge of GB to Cape Hatteras, NC	33-530, most 74-274	Soft substrate, including sand/mud bottoms
Scup	juvenile/ adult	GOM to Cape Hatteras, NC, including the following estuaries: MA Bay, Cape Cod Bay to Long Island Sound, Gardiners Bay to Delaware inland bays, and Chesapeake Bay	0-38 for juv 2-185 for adult	Demersal waters north of Cape Hatteras and inshore estuaries (various substrate types)
Silver hake	juvenile	GOM, GB, continental shelf off SNE, Mid-Atlantic south to Cape Hatteras and the following estuaries: Passamaquoddy Bay to Casco Bay, ME, MA Bay to Cape Cod Bay	20 – 270	All substrate types
Summer Flounder	juvenile/ adult	GOM to Florida – estuarine and over continental shelf to shelf break	0-250	Demersal/estuarine waters, varied substrates. Mostly inshore in summer and offshore in winter.
Smooth skate	juvenile/ adult	Offshore banks of GOM	31–874, most 110-457	Soft mud (silt and clay), sand, broken shells, gravel and pebbles
Thorny skate	juvenile/ adult	GOM and GB	18-2000, most 111-366	Sand, gravel, broken shell, pebbles, and soft mud
Tilefish	juvenile/ adult	Outer continental shelf and slope from the U.S./Canadian boundary to the Virginia/North Carolina boundary	100 - 300	Burrows in clay (some may be semi-hardened into rock)
White hake	juvenile	GOM, southern edge of GB, SNE to Mid-Atlantic and the following estuaries: Passamaquoddy Bay, ME to Great Bay, NH, Massachusetts Bay to Cape Cod Bay	5 - 225	Seagrass beds, mud, or fine grained sand
Winter flounder	adult	GB, inshore areas of GOM, SNE, Mid- Atlantic south to Delaware Bay and the estuaries from Passamaquoddy Bay, ME to Chincoteague Bay, VA	1 - 100	Mud, sand, and gravel
Winter skate	juvenile/ adult	Cape Cod Bay, GB, SNE shelf through Mid-Atlantic Bight to North Carolina; includes the estuaries from Buzzards Bay south to the Chesapeake Bay mainstem	0 - 371, most < 111	Sand and gravel or mud
Witch flounder	juvenile	GOM, outer continental shelf from GB south to Cape Hatteras	50 - 450 to 1500	Fine grained substrate
Witch flounder	adult	GOME, outer continental shelf from GB south to Chesapeake Bay	25 - 300	Fine grained substrate
Yellowtail flounder	adult	GB, GOM, SNE and Mid-Atlantic south to Delaware Bay and these estuaries: Sheepscot River and Casco Bay, ME, MA Bay to Cape Cod Bay	20 - 50	Sand or sand and mud

APPENDIX B

Tables reformatted for editorial purposes only. Complete Tables found at http://www.greateratlantic.fisheries.noaa.gov/sustainable/species/clam/.

Surfclam ITQ allocation holder report, 2014.

ALLOC_#	OWNER	OWNER2	RATIO	BUSHELS	NUM_TAGS	BEG_TAG	END_TAG
C624	INTERNATIONAL CLAM MANAGEMENT		0.133430588	453664	14177	1	14177
C583	Singer Island Ventures Inc		0.113054118	384384	12012	14178	26189
C529	First Pioneer Farm Credit, ACA	ATTN: JAMES M PAPAI	0.076829538	261216	8163	26190	34352
C520	WELLS FARGO BANK N.A.	ATTN: KAREN SEK	0.057204706	194496	6078	34353	40430
C632	TRISTATE CAPITAL BANK		0.054418824	185024	5782	40431	46212
C617	Cape Bank (for Daniel Cohen)		0.037242353	126624	3957	46213	50169
C609	Frank Corrado, Escrow Agent		0.032508235	110528	3454	50170	53623
C136	STEPHANIE DEE INC		0.030776471	104640	3270	53624	56893
C496	SUN NATIONAL BANK	(ITF TRUEX, MEYERS & TRUEX)	0.023099077	78528	2454	56894	59347
C455	Sturdy Savings Bank (OB)	ATTN: RICHARD PAYNE	0.022465882	76384	2387	59348	61734
C634	TRISTATE CAPITAL BANK		0.020517647	69760	2180	61735	63914
C074	KRISTY LEE CLAM CO	(JOE GARVILLA)	0.020485	69664	2177	63915	66091
C546	1ST PIONEER F.B.O. JM & MT		0.019689952	66944	2092	66092	68183
C188	BLOUNT SEAFOOD CORP.		0.018089412	61504	1922	68184	70105
C627	Farm Credit East, ACA	ATTN: TOM COSGROVE	0.016837647	57248	1789	70106	71894
C540	GEORGE TORGGLER		0.016462769	55968	1749	71895	73643
C528	LNA Inc.		0.013825882	47008	1469	73644	75112
C567	Sturdy Savings Bank (Cohen)		0.013016615	44256	1383	75113	76495
C146	WOODROW LAURENCE, INC.		0.012935	43968	1374	76496	77869
C026	GEORGE S CARMINES IN TRUST		0.010128	34432	1076	77870	78945
C651	STEVEN S. INC.		0.010117647	34400	1075	78946	80020
C547	1ST PIONEER F.B.O. LET		0.00985008	33504	1047	80021	81067
C031	ATLANTIC VESSELS OF DEL INC		0.009581176	32576	1018	81068	82085
C527	Atlantic Vessels Inc.		0.009408331	32000	1000	82086	83085
C004	ADRIATIC INC		0.009173	31200	975	83086	84060
C642	CCCFA		0.009157647	26336	823	84211	85033
C562	Sun National Bank	F.B.O. FL QUAHOGS	0.008733538	29696	928	85034	85961
C594	Daniel LaVecchia and	MICHAEL LAVECCHIA, PARTNERS	0.007811765	26560	830	85962	86791

ALLOC_#	OWNER	OWNER2	RATIO	BUSHELS	NUM_TAGS	BEG_TAG	END_TAG
C110	F/V OCEAN BIRD, INC		0.007651765	26016	813	87621	88433
C166	NANTUCKET SHOALS INC	ALBERT C. ROSINHA	0.007802	26528	829	86792	87620
C133	CITY OF SOUTHPORT INC		0.007242	24608	769	88434	89202
C128	ADRIAN WAYNE WATSON		0.007024	23872	746	89203	89948
C552	M J HOLDING CO., LLC		0.007022648	23872	746	89949	90694
C065	SARAH C CONWAY INC		0.006889412	23424	732	90695	91426
C559	Sturdy Savings Bank (P & E)		0.006587077	22400	700	91427	92126
C655	AUDUBON SAVINGS BANK ITF CAPE COD OF MARYLAND	ATTN: FRANK N CONSTANTINO, VP CCO	0.006409412	21792	681	92127	92807
C007	A & B COMMERCIAL FISH INC		0.006296471	21408	669	92808	93476
C046	B & D COMMERCIAL FISH INC		0.006004706	20416	638	93477	94114
C215	LEROY E. AND DOLORES TRUEX		0.00592	20128	629	94115	94743
C189	ANTHONY W. WATSON		0.005897846	20064	627	94744	95370
C099	MABEL KIM INC	C/O 20 FATHOM, LLC	0.005750588	19552	611	95371	95981
C151	PATTI B CLAM VENTURES INC		0.005628235	19136	598	95982	96579
C071	WYOMING BOAT CORPORATION		0.005345	18176	568	96580	97147
C080	LEPRECHAUN INC		0.005327059	18112	566	97148	97713
C454	LEROY E. TRUEX		0.005176471	17600	550	97714	98263
C584	Mabel Susan III Inc.		0.005157647	17536	548	98264	98811
C561	Roy Osmundsen		0.00496	16864	527	98812	99338
C033	Big Diamond Inc.		0.004818824	16384	512	99339	99850
C135	T & M CLAMMERS INC		0.004536471	15424	482	99851	100332
C201	ANTHONY E. & JOHN D. MARTIN		0.004356	14816	463	100333	100795
C134	STARLIGHT COMM FISH INC		0.004178824	14208	444	100796	101239
C127	GARY OSMUNDSEN		0.004037647	13728	429	101240	101668
C149	WANDO RIVER CORP		0.003806	12928	404	101669	102072
C250	SUN NATIONAL BANK (SJSC)	ATTN: EDWARD F. MADDEN	0.003743	12736	398	102073	102470
C515	DOLORES TRUEX		0.003717647	12640	395	102471	102865
C638	VONGOLE RAGAZZI, LLC		0.003350588	11392	356	102866	103221
C629	New Sea Rover Inc. ITF	BLOUNT SEAFOOD CORP.	0.003322353	11296	353	103222	103574
C079	LAUREN KIM INC		0.003077647	10464	327	103575	103901
C656	FARM CREDIT EAST, ACA		0.002870588	9760	305	103902	104206
C560	Mary Patricia Price		0.002861176	9728	304	104207	104510

ALLOC_#	OWNER	OWNER2	RATIO	BUSHELS	NUM_TAGS	BEG_TAG	END_TAG
C613	NSR Resource, LLC		0.002748235	9344	292	104511	104802
C229	KENNETH W. & SHARON L. BAILEY		0.002503529	8512	266	104803	105068
C008	F/V AMANDA TARA INC		0.002145882	7296	228	105069	105296
C232	PETER A. LAMONICA	C/O 20 FATHOM LLC	0.002088	7104	222	105297	105518
C075	SEAFISH INC/MARYLAND CORP		0.002066	7040	220	105519	105738
C628	Barbara Hall ITF Blount Seafoo		0.001797647	6112	191	105739	105929
C063	T & P VESSEL INC		0.001285	4384	137	105930	106066
C568	Daniel Cohen		0.001007059	3424	107	106067	106173
C637	MAUDE PLATT INC		0.000536471	1824	57	106174	106230
C011	D & L COMMERCIAL FISH INC		0.000489412	1664	52	106231	106282

Ocean quahog ITQ allocation holder report, 2014.

ALLOC_#	OWNER	OWNER2	RATIO	BUSHELS	NUM_TAGS	BEG_TAG	END_TAG
Q667	Bumble Bee Foods, LLC		0.217896014	1162048	36314	200001	236314
Q649	Singer Island Ventures Inc		0.144435027	770272	24071	236315	260385
Q664	TD BANK, NA	ATTN: DONALD COLLIGAN	0.074814005	398976	12468	260386	272853
Q553	SUN NATIONAL BANK	(ITF TRUEX, MEYERS & TRUEX)	0.069346334	369824	11557	272854	284410
Q665	WELLS FARGO BANK N.A.	ATTN: KAREN SEK	0.052104003	277856	8683	284411	293093
Q684	ITQ, LLC		0.048939059	260992	8156	293094	301249
Q112	WANDO RIVER CORP		0.043822	233696	7303	301250	308552
Q194	JOHN KELLEHER	C/O 20 FATHOM, LLC	0.039740484	211936	6623	308553	315175
Q021	ATLANTIC VESSELS OF DEL INC		0.034759	185376	5793	315176	320968
Q055	KRISTY LEE CLAM CO		0.033745	179968	5624	320969	326592
Q628	Sun National Bank	F.B.O. FL QUAHOGS	0.033507556	178688	5584	326593	332176
Q687	STURDY SAVINGS BANK (MCNULTY)		0.028099756	149856	4683	332177	336859
Q576	FOXY INVESTMENTS INC	C/O 20 FATHOM, LLC	0.024823551	132384	4137	336860	340996
Q636	Sun National Bank, F.B.O. LET	ATTN: MICHELE POWELCZYK	0.023374222	124640	3895	340997	344891
Q609	M J HOLDING CO., LLC		0.022442667	119680	3740	344892	348631
Q199	LEGEND INC.		0.019080001	101760	3180	348632	351811
Q596	Atlantic Vessels Inc.	P.O. BOX 178	0.01675628	89376	2793	351812	354604
Q206	SUN NATIONAL BANK (CIC)	ATTN: EDWARD F. MADDEN	0.012594	67168	2099	354605	356703
Q207	SUN NATIONAL BANK (OS)	ATTN: EDWARD F. MADDEN	0.012594	67168	2099	356704	358802
Q688	STURDY SAVINGS BANK (MCNULTY SR)		0.007926495	42272	1321	358803	360123
Q672	OSM Resources, LLC		0.007306	38976	1218	360124	361341
Q598	JOHN W. KELLEHER TRUST	C/O 20 FATHOM, LLC	0.006786	36192	1131	361342	362472
Q676	INTERNATIONAL CLAM MANAGEMENT		0.006402	34144	1067	362473	363539
Q109	WOODROW LAURENCE, INC.		0.003912	20864	652	363540	364191
Q128	F/V OCEAN VIEW INC		0.003792237	20224	632	364192	364823
Q554	SUN NATIONAL BANK	(ITF S.J.S.C.)	0.00362	19296	603	364824	365426
Q101	T & M CLAMMERS INC		0.001104069	5888	184	365427	365610
Q193	PETER A. LAMONICA	C/O 20 FATHOM LLC	0.000729	3872	121	365611	365731
Q107	JOHN & ANTHONY MARTIN		0.000725	3872	121	365732	365852
Q174	LEROY E. AND DOLORES TRUEX		0.000678042	3616	113	365853	365965
Q084	B&B SHELLFISHING INC		0.000672042	3584	112	365966	366077
Q685	NSR RESOURCES LLC		0.000552035	2944	92	366078	366169
Q016	GEORGE S CARMINES IN TRUST		0.000519	2752	86	366170	366255

ALLOC_#	OWNER	OWNER2	RATIO	BUSHELS	NUM_TAGS	BEG_TAG	END_TAG
Q003	ADRIATIC INC		0.000272	1440	45	366256	366300
Q144	CAPE COD PACKING OF DELAWARE		0.000266	1408	44	366301	366344
Q669	KENNETH W BAILEY		0.000246	1312	41	366345	366385
Q658	D.C. Air Marine Division Inc.		0.000072	384	12	366386	366397
Q056	SEAFISH INC/MARYLAND CORP		0.0000543	288	9	366398	366406
Q044	Heidi & Kristi , Inc		0.0000302	160	5	366407	366411
Q104	STEVEN S INC		0.0000121	64	2	366412	366413
Q143	RAM ISLAND SHELLFISH INC		0.0000121	64	2	366414	366415

CFR 229.32(h), whenever a vessel issued a directed shark LAP has a gillnet(s) on board.

* * * * *

■ 12. In § 635.71, paragraphs (d)(6), (d)(7), and (d)(18) are revised to read as follows:

§ 635.71 Prohibitions.

* * * * *

(d) * * *

(6) Fail to maintain a shark in its proper form, as specified in § 635.30(c). Fail to maintain naturally attached shark fins through offloading as specified in § 635.30(c), except for under the conditions specified in § 635.30(c)(5).

(7) Sell or purchase smooth dogfish fins that are disproportionate to the weight of smooth dogfish carcasses, as specified in § 635.30(c)(5).

* * * * *

(18) Retain or possess on board a vessel in the trawl fishery smoothhound sharks in an amount that exceeds 25 percent, by weight, of the total fish on board or offloaded from the vessel, as specified at § 635.24(a)(7).

* * * * *

■ 13. In appendix A to part 635, section E of table 1 is revised to read as follows:

Appendix A to Part 635—Species Tables

Table 1 of Appendix A to Part 635—Oceanic Sharks

* * * * *

E. Smoothhound Sharks

Smooth dogfish, *Mustelus canis*
Florida smoothhound, *Mustelus norrisi*
Gulf smoothhound, *Mustelus sinusmexicanus*
Mustelus species

[FR Doc. 2014–18671 Filed 8–6–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 130822745–4627–01]

RIN 0648–BD64

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Atlantic Surfclam and Ocean Quahog Fishery; Information Collection

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes an information collection program for the Atlantic surfclam and ocean quahog fishery. The intended effect of this rule is to collect more detailed information about individuals and businesses that hold fishery quota allocation in the Atlantic surfclam and ocean quahog individual transferable quota programs. This action is necessary to ensure that the Mid-Atlantic Fishery Management Council has the information needed to develop a future management action intended to establish an excessive share cap in this fishery.

DATES: Comments must be received by September 8, 2014.

ADDRESSES: You may submit comments, identified by NOAA–NMFS–2014–0088, by any of the following methods:

• *Electronic Submissions:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2014-0088,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.

• *Fax:* (978) 281–9135, Attn: Douglas Potts.

• *Mail:* John K. Bullard, Regional Administrator, NMFS, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope: ''Comments on Surfclam/Ocean Quahog Information Collection.''

Instructions: All comments received are part of the public record and will generally be posted to *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 via Microsoft Word, Microsoft Excel, WordPerfect, or Adobe PDF file formats only.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to the Greater Atlantic Regional Fisheries Office and by email to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Douglas Potts, Fishery Policy Analyst, 978–281–9341.

SUPPLEMENTARY INFORMATION:

Background

Section 402(a)(1) for the Magnuson-Stevens Fishery Conservation and Management Act authorizes the Secretary of Commerce to implement an information collection program if a fishery management council determines that additional information would be beneficial for developing, implementing, or revising a fishery management plan (FMP). The Mid-Atlantic Fishery Management Council requests that NMFS implement an information collection program in the Atlantic surfclam and ocean quahog individual transferable quota (ITQ) fisheries. The specific components of the requested information collection are detailed in a white paper titled, ''Data Collection Recommendations for the Surfclam and Ocean Quahog Fisheries'' that was prepared by the Surfclam and Ocean Quahog Data Collection Fishery Management Action Team, at the direction of the Council. The purpose of this information collection is to better identify the specific individuals who hold or control ITQ allocation in these fisheries. The Council will use the information collected to inform the development of a future management action intended to establish an excessive share cap as part of the Council's Surfclam/Ocean Quahog FMP.

The Atlantic surfclam and ocean quahog fisheries have been managed under an ITQ system since 1990. Vessel owners received an initial allocation of quota share based on a formula of historical catch and vessel size. Each year, the total commercial quotas for the surfclam and ocean quahog ITQ fisheries are divided among the individuals who hold quota share. Annual allocations take the form of cage tags for the standard 32-bushel (1,700L) cages, which must be used to land the product. The quota share or cage tags are both considered types of ITQ allocation, and may be leased or sold to anyone, except foreign owners.

While managed jointly, the surfclam and ocean quahog ITQ fisheries are operationally distinct. The commercial quotas, quota shareholders, and cage tags are different for the two species. In addition, vessels may not land both surfclams and ocean quahogs on the same trip. Because these fisheries are managed in the same way, this information collection program applies equally to both fisheries.

Currently, NMFS collects only basic information about the individuals or businesses that hold surfclam and ocean quahog ITQ allocations. This information is collected at the time that

an entity first acquires ITQ allocation and is not routinely verified or updated. The information collection program proposed by this action is intended to identify the specific individuals who have an ownership interest in surfclam or ocean quahog ITQ allocation through a corporation, partnership, or other entity, or control the use of ITQ allocation through the use of long-term contracts or other agreements. This action would also ensure that the ownership information on file remains current by modifying the procedures for receiving and maintaining an ITQ allocation permit.

With this action, we are proposing to change the current surfclam and ocean quahog ITQ allocation permit, which currently never expires, into an annual ITQ permit. A surfclam or ocean quahog ITQ permit would need to be renewed each year before the ITQ permit holder could receive cage tags. In addition, if the permit holder has quota share, the permit would need to be renewed before the end of the fishing year or that quota could be considered voluntarily relinquished, and no longer eligible to receive an annual allocation of cage tags.

To receive a surfclam or ocean quahog ITQ permit, an applicant would need to complete both an ITQ permit application form and an ITQ ownership form. In subsequent years, the permit renewal process would require the applicant to review a pre-filled copy of these forms, make any necessary changes, then sign and submit the forms to NMFS in order to verify that the information on file remains current. Any transfer of ITQ quota share or cage tags would require an ITQ transfer application form.

Application for Surfclam/Ocean Quahog ITQ Permit

The ITQ permit application form would collect the applicant's name, business address, telephone number, and date of birth (for individuals) or taxpayer identification number (TIN) (for businesses) to positively identify people or businesses with similar names. The applicant would also need to verify that the permit holder meets the requirement to be eligible to own a documented vessel under the terms of 46 U.S.C. 12103(b). This requirement ensures that the applicant is a U.S. citizen or a U.S. controlled corporation.

Surfclam/Ocean Quahog ITQ Ownership Form

The ITQ ownership form would collect detailed information about the entities that hold ITQ allocation. The form would collect the ITQ permit holder's name, business address, telephone number, date of birth (for individuals) or TIN (for businesses), state registered in (for businesses), and identify the organization type (e.g., individual/sole proprietorship, joint ownership, partnership, corporation, etc.).

As requested by the Council, the form would allow state or federal chartered banks that hold ITQ allocation as collateral on a loan, but do not exert control over the use of the allocation, to attest to this fact. Such banks would need to identify the borrower, but would not need to complete the more detailed ownership information described below. To ensure that the borrower is the controlling factor in the use of the ITQ allocation, the borrower would need to maintain a separate ITQ permit, and any transfer of quota share or cage tags from the bank would be restricted to the borrower. Allocation could then be transferred to a third party, at the discretion of the borrower. A borrower would therefore need to complete the more detailed ownership information in order to maintain a valid ITQ permit.

ITQ holders that are not eligible banks would need to provide more detailed ownership information. An ITQ permit holder that is a business entity would need to identify corporate officers. All ITQ permit holders would need to identify any shareholders with a 10 percent or greater ownership interest in the permit holder down to the individual level. This means that if an ITQ permit is held by a business entity, and that business is owned in part by another business entity, ownership of that second business would also need to be identified to the level of individual persons that make up that business. If that second business was part owned by another business entity, then ownership of that third business would need to be identified to the level of individual persons, and so on. In addition, the applicant would need to identify any immediate family members of the ITQ permit holder, or the individuals who have an ownership interest in the ITQ permit holder, that also have an ownership interest in any other surfclam or ocean quahog ITQ permit. For purposes of this collection, we are using the definition of ''immediate family member'' used by the Small Business Administration: Father, mother, husband, wife, son, daughter, brother, sister, grandfather, grandmother, grandson, granddaughter, father-in-law, and mother-in-law.

Application To Transfer Surfclam/Ocean Quahog ITQ

The current ITQ transfer form would be modified by this action. Information about the allocation holder would be removed, as that would now be collected through the ITQ permit application and the ITQ ownership form. The transfer form would clarify whether or not a permanent transfer of ITQ quota share includes all of the cage tags for the current fishing year. The current transfer process does not allow a permanent transfer of quota share without also transferring all of the associated cage tags for the current fishing year. This can be restrictive on quota shareholders who might wish to transfer quota share separate from transfer of the current allocation of cage tags. This action would add questions to the transfer form to better understand the nature of the transfer. These questions include: Total price paid for the transfer, including any fees; broker fees paid, if applicable; whether the transfer is part of a long-term (more than 1 year) contract; if so, the duration of the contract and whether the price is fixed or flexible; and any other conditions on the transfer. As on the current transfer form, both parties would need to sign the form.

In addition, this action would make minor corrections and clarifications to the surfclam and ocean quahog regulations. The current regulations contain an outdated cross reference to the portion of the U.S.C. that defines which persons or entities are eligible to own a documented vessel. Several paragraphs in the Prohibitions section at § 648.14(j) that pertain to the surfclam and ocean quahog fisheries have incorrect cross references to other sections of the part 648 regulations. The regulations specifying when the Regional Administrator may deny a transfer are currently unclear. This action would revise the regulations to provide additional detail and clarity.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the Assistant Administrator for Fisheries, NOAA, has determined that this proposed rule is consistent with the Atlantic Surfclam and Ocean Quahog FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified

to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities.

The factual basis for this certification is as follows:

The proposed measures would only affect allocation permit holders that would need to apply for the new annual ITQ permit. This includes entities that hold surfclam or ocean quahog quota share, or that lease the cage tags that are used to land product in these fisheries. In 2013, there were 189 allocation permit holders that either held quota share and/or participated in a lease of cage tags for surfclams or ocean quahog.

Note that individual allocations are often registered in the name of a corporation, rather than an individual. It is common for owners of multiple fishing vessels to list each one as being owned by a separate corporation for the purpose of limiting liability. Similarly, a single individual might hold multiple allocations that are listed in NMFS's records as being registered to distinct corporations for the same reason. Banks that have loaned money to allocation holders will often require that the allocation be placed in the bank's name as collateral for the loan. A single individual may have several such loans. As such, it is important to understand that the number of allocations is not equal to the number of allocation owners. The number of owners will be smaller due to the ownership of multiple allocations, which may be listed under a corporate name or in the name of a bank.

However, NMFS currently does not have information to characterize small entities at the ITQ allocation level. Instead, information on fishing activities is used to characterize and enumerate small entities. One of the benefits of this action would be a better understanding of ownership of allocation holders, which could lead to better identification of small entities and help analyze the impacts of future management actions.

The Small Business Administration defines a small business in the commercial shellfish harvesting sector, as a firm with total annual receipts (gross revenues) not in excess of $5.5 mil. In 2012, there were 498 fishing firms that held at least one surfclam or ocean quahog vessel permit. Vessel permits are open access, available to anyone who applies. Many of the permitted vessels do not actively participate in the fishery. These potential participants likely do not own quota, likely do not have established marketing relationships with surfclam and ocean quahog processors, and likely do not own gear needed to harvest surfclam and ocean quahog. Therefore, while there are 498 regulated entities, many of these entities are only potential participants and unlikely to experience any direct effects of any changes in regulations. In order to provide a more accurate count and description of the directly regulated entities, landings data are used to select only firms that were active in either the surfclam and ocean quahog fishery. There are 38 active fishing firms, of which 36 are small entities and 2 are large entities.

Some of the detailed ownership information has not been previously collected, we have estimated just over one hour of additional time and effort will be necessary on the part of the ITQ permit holder to complete the forms in the first year. However, in subsequent years, renewal forms would be sent to ITQ permit holders completed with the information on file. An ITQ permit holder would just need to review and sign the forms to ensure that the information on file is still correct. This review process is estimated to take 5 minutes per form if the ownership information does not need to be changed.

Therefore, because this action is administrative and because no significant change in fishing effort, participation in the fishery, or fishery expenses is expected, this action will not have a significant economic impact on a substantial number of small entities. As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

This proposed rule contains collection-of-information requirements subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). These requirements have been submitted to OMB for approval. Public reporting burden is estimated to average 5 minutes per response for the application for surfclam/ocean quahog ITQ permit; 60 minutes per response for new entrants completing the surfclam/ocean quahog ITQ ownership form and to average 5 minutes per response when the form is pre-filled for renewing entities; and the application to transfer surfclam/ocean quahog ITQ are estimated to average 5 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Public comment is sought regarding: Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to the Greater Atlantic Regional Fisheries Office at the **ADDRESSES** above, and email to *OIRA_Submission@omb.eop.gov,* or fax to (202) 395–5806.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number. All currently approved NOAA collections of information may be viewed at: *www.cio.noaa.gov/services_programs/prasubs.html.*

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: August 1, 2014.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

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

■ 2. In § 648.14, revise paragraphs (j)(1)(ii), (j)(2), (j)(3)(v), (j)(3)(vi), (j)(5)(ii), (j)(5)(iv), (j)(5)(v), (j)(6)(ii), (j)(6)(iii) to read as follows:

§ 648.14 Prohibitions.

* * * * *

(j) * * *

(1) * * *

(ii) Shuck surfclams or ocean quahogs harvested in or from the EEZ at sea, unless permitted by the Regional Administrator under the terms of § 648.75.

* * * * *

(2) *Transfer and purchase.* (i) Receive for a commercial purpose other than solely for transport on land, surfclams or ocean quahogs harvested in or from the EEZ, whether or not they are landed

under an allocation under § 648.74, unless issued a dealer/processor permit under this part.

* * * * *

(3) * * *

(v) Possess an empty cage to which a cage tag required by § 648.77 is affixed, or possess any cage that does not contain surfclams or ocean quahogs and to which a cage tag required by § 648.77 is affixed.

(vi) Land or possess, after offloading, any cage holding surfclams or ocean quahogs without a cage tag or tags required by § 648.77, unless the person can demonstrate the inapplicability of the presumptions set forth in § 648.77(h).

* * * * *

(5) * * *

(ii) Land unshucked surfclams and ocean quahogs harvested in or from the EEZ within the Maine mahogany quahog zone in containers other than cages from vessels capable of carrying cages unless, with respect to ocean quahogs, the vessel has been issued a Maine mahogany quahog permit under this part and is not fishing for an individual allocation of quahogs under § 648.74.

(iii) * * *

(iv) Offload unshucked ocean quahogs harvested in or from the EEZ within the Maine mahogany quahog zone from vessels not capable of carrying cages, other than directly into cages, unless the vessel has been issued a Maine mahogany quahog permit under this part and is not fishing for an individual allocation of quahogs under § 648.74.

(v) Land or possess ocean quahogs harvested in or from the EEZ within the Maine mahogany quahog zone after the effective date published in the **Federal Register** notifying participants that Maine mahogany quahog quota is no longer available for the respective fishing year, unless the vessel is fishing for an individual allocation of ocean quahogs under § 648.74.

(6) * * *

(ii) Surfclams or ocean quahogs landed from a trip for which notification was provided under § 648.15(b) or § 648.74(b) are deemed to have been harvested in the EEZ and count against the individual's annual allocation, unless the vessel has a valid Maine mahogany quahog permit issued pursuant to § 648.4(a)(4)(i) and is not fishing for an individual allocation under § 648.74.

(iii) Surfclams or ocean quahogs found in cages without a valid state tag are deemed to have been harvested in the EEZ and are deemed to be part of an individual's allocation, unless the vessel has a valid Maine mahogany quahog permit issued pursuant to § 648.4(a)(4)(i) and is not fishing for an individual allocation under § 648.74; or, unless the preponderance of available evidence demonstrates that he/she has surrendered his/her surfclam and ocean quahog permit issued under § 648.4 and he/she conducted fishing operations exclusively within waters under the jurisdiction of any state. Surfclams and ocean quahogs in cages with a Federal tag or tags, issued and still valid pursuant to this part, affixed thereto are deemed to have been harvested by the individual allocation holder to whom the tags were issued or transferred under § 648.74 or § 648.77(b).

* * * * *

■ 3. Revise § 648.74 to read as follows:

§ 648.74 Individual Transferable Quota (ITQ) Program.

(a) *Annual individual allocations.* Each fishing year, the Regional Administrator shall determine the initial annual allocation of surfclams and ocean quahogs for the next fishing year for each ITQ permit holder holding ITQ quota share pursuant to the requirements of this section. For each species, the initial allocation for the next fishing year is calculated by multiplying the quota share percentage held by each ITQ permit holder as of the last day of the previous fishing year in which quota share holders are permitted to permanently transfer quota share percentage pursuant to paragraph (b) of this section (i.e., October 15 of every year), by the quota specified by the Regional Administrator pursuant to § 648.72. The total number of bushels of annual allocation shall be divided by 32 to determine the appropriate number of cage tags to be issued or acquired under § 648.77. Amounts of annual allocation of 0.5 cages or smaller created by this division shall be rounded downward to the nearest whole number, and amounts of annual allocation greater than 0.5 cages created by this division shall be rounded upward to the nearest whole number, so that annual allocations are specified in whole cages.

(1) *Surfclam and ocean quahog ITQ permits.* Surfclam and ocean quahog ITQ allocations shall be issued in the form of annual ITQ permits. The ITQ permit shall specify the quota share percentage held by the ITQ permit holder and the annual allocation in cages and cage tags for each species.

(i) *Eligibility.* In order to be eligible to hold a surfclam or ocean quahog ITQ permit, an individual must be eligible to own a documented vessel under the terms of 46 U.S.C. 12103(b).

(ii) *Application.* (A) *General.* Applicants for a surfclam or ocean quahog ITQ permit under this section must submit a completed ITQ permit application and a completed ITQ ownership form on the appropriate forms obtained from NMFS. The ITQ permit application and ITQ ownership form must be filled out completely and signed by the applicant. The Regional Administrator will notify the applicant of any deficiency in the application.

(B) *Renewal applications.* Applications to renew a surfclam or ocean quahog ITQ permit must be received by November 1 to be processed in time for permits to be issued by December 15, as specified in paragraph (a)(1)(iii) of this section. Renewal applications received after this date may not be approved, and a new permit may not be issued before the start of the next fishing year. An ITQ permit holder must renew his/her ITQ permit(s) on an annual basis by submitting an application and an ownership form for such permit prior to the end of the fishing year for which the permit is required. Failure to renew a surfclam or ocean quahog ITQ permit in any fishing year will result in any surfclam or ocean quahog ITQ quota share held by that ITQ permit holder to be considered abandoned and relinquished as specified in paragraph (a)(1)(ix) of this section.

(iii) *Issuance.* Except as provided in subpart D of 15 CFR part 904, and provided an application for such permit is submitted by November 1, as specified in paragraph (a)(1)(ii)(B) of this section, NMFS shall issue annual ITQ permits on or before December 15, to allow allocation owners to purchase cage tags from a vendor specified by the Regional Administrator pursuant to § 648.77(b).

(iv) *Duration.* An ITQ permit is valid through December 31 of each fishing year unless it is suspended, modified, or revoked pursuant to 15 CFR part 904, or revised due to a transfer of all or part of the ITQ quota share or cage tag allocation under paragraph (b) of this section.

(v) *Alteration.* An ITQ permit that is altered, erased, or mutilated is invalid.

(vi) *Replacement.* The Regional Administrator may issue a replacement permit upon written application of the annual ITQ permit holder.

(vii) *Transfer.* The annual ITQ permit is valid only for the person to whom it is issued. All or part of the ITQ quota share or the cage tag allocation specified in the ITQ permit may be transferred in accordance with paragraph (b) of this section.

(viii) *Fee.* The Regional Administrator may, after publication of a fee notification in the **Federal Register**, charge a permit fee before issuance of the permit to recover administrative expenses. Failure to pay the fee will preclude issuance of the permit.

(ix) *Abandonment or voluntary relinquishment.* Any ITQ permit that is voluntarily relinquished to the Regional Administrator, or deemed to have been voluntarily relinquished for failure to renew in accordance with paragraph (a)(1)(ii) of this section, shall not be reissued or renewed in a subsequent year, except as specified in paragraph (a)(1)(x) of this section.

(x) *Transitional grace period.* A surfclam or ocean quahog quota share holder who does not apply for an ITQ permit before the end of the 2015 fishing year, may be granted a grace period of up to one year to complete the initial application process, and be issued an ITQ permit, before the quota share is considered permanently relinquished. If an individual is issued a 2015 ITQ permit, but fails to renew that ITQ permit before the end of the 2016 fishing year, the Regional Administrator may allow a grace period until no later than July 1, 2017, to complete the renewal process and retain the permit. A permit holder may not be issued cage tags or transfer quota share until a valid ITQ permit is issued. Failure to complete the ITQ permit application or renewal process, and be issued a valid ITQ permit before the end of such a grace period would result in the ITQ permit and any associated ITQ quota share being permanently forfeit.

(2) [Reserved]

(b) *Transfers*—(1) *Quota share percentage.* Subject to the approval of the Regional Administrator, part or all of a quota share percentage may be transferred in the year in which the transfer is made, to any person or entity with a valid ITQ allocation permit under paragraph (a). Approval of a transfer by the Regional Administrator and for a new ITQ permit reflecting that transfer may be requested by submitting a written application for approval of the transfer and for issuance of a new ITQ permit to the Regional Administrator at least 10 days before the date on which the applicant desires the transfer to be effective, in the form of a completed transfer form supplied by the Regional Administrator. The transfer is not effective until the new holder receives a new or revised ITQ permit from the Regional Administrator reflecting the new quota share percentage. An application for transfer may not be made between October 15 and December 31 of each year.

(2) *Cage tags.* Cage tags issued pursuant to § 648.77 may be transferred at any time, and in any amount subject to the restrictions and procedure specified in paragraph (b)(1) of this section; provided that application for such cage tag transfers may be made at any time before December 10 of each year. The transfer is effective upon the receipt by the transferee of written authorization from the Regional Administrator.

(3) *Denial of ITQ transfer application.* The Regional Administrator may reject an application to transfer surfclam or ocean quahog ITQ quota share or cage tags for the following reasons: The application is incomplete; the transferor or transferee does not possess a valid surfclam or ocean quahog ITQ permit for the appropriate species; the transferor's or transferee's surfclam or ocean quahog ITQ permit has been sanctioned pursuant to an enforcement proceeding under 15 CFR part 904; or any other failure to meet the requirements of this subpart. Upon denial of an application to transfer ITQ allocation, the Regional Administrator shall send a letter to the applicant describing the reason(s) for the denial. The decision by the Regional Administrator is the final decision of the Department of Commerce; there is no opportunity for an administrative appeal.

[FR Doc. 2014–18676 Filed 8–6–14; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 131115973–4630–01]

RIN 0648–BD74

Fisheries of the Exclusive Economic Zone Off Alaska; Amendment 96 to the Gulf of Alaska Fishery Management Plan; Management of Community Quota Entities

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement Amendment 96 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP). If approved, Amendment 96 would amend certain provisions of the Individual Fishing Quota Program for the Fixed-Gear Commercial Fisheries for Pacific Halibut and Sablefish in Waters in and off Alaska (IFQ Program). This action would remove a regulation that prohibits a Gulf of Alaska (GOA) Community Quota Entity (CQE) from transferring and holding small blocks of halibut and sablefish quota share (QS). This action would allow CQEs to acquire additional QS and facilitate sustained participation by CQE community residents in the IFQ Program. This action would promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the Northern Pacific Halibut Act of 1982, the FMP, and other applicable law.

DATES: Submit comments on or before September 8, 2014.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2013–0161, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2013-0161,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. P.O. Box 21668, Juneau, AK 99802–1668.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

An electronic copy of the Regulatory Impact Review (RIR)/Initial Regulatory Flexibility Analysis (IRFA) (collectively, Analysis) prepared for Amendment 96 and the regulatory amendment to allow CQE acquisition of small block halibut QS is available from *http://www.regulations.gov* or from the NMFS Alaska Region Web site at *http://*

U.S. Department of Commerce
NOAA/National Marine Fisheries Service
55 Great Republic Drive
Gloucester, MA 01930-2298
Tel: (978) 282-8483

Application for Surfclam / Ocean Quahog Individual Transferable Quota (ITQ) Permit Fishing Year YYYY January 1, YYYY – December 31, YYYY

Section A – Permit Holder Information

Name of Applicant:	ITQ Permit Number: [C-XXX or Q-XXX] Leave blank for initial application
	DOB (if person) or TIN (if business):
Business Mailing Address: Street or PO Box	Telephone Number:
	Email address (optional):
City / State / Zip Code	

For an initial application, please select desired ITQ permit type(s): ☐Atlantic Surfclam ☐Ocean Quahog

Section B – Permit Eligibility

The applicant must be eligible to own a documented vessel under the terms of 46 U.S.C. 12103(b). Specifically, the applicant must be one of the following:

1. An individual who is a citizen of the United States.
2. An association, trust, joint venture, or other entity if—
   A. each of its members is a citizen of the United States; and
   B. it is capable of holding title to a vessel under the laws of the United States or a State.
3. A partnership if–
   A. each general partner is a citizen of the United States; and
   B. the controlling interest in the partnership is owned by citizens of the United States.
4. A corporation if–
   A. it is incorporated under the laws of the United States or a State;
   B. its chief executive officer, by whatever title, and the chairman of its board of directors are citizens of the United States; and
   C. no more of its directors are noncitizens than a minority of the number necessary to constitute a quorum.
5. The United States Government.
6. The government of a State.

Is the applicant eligible to hold a surfclam or ocean quahog ITQ permit, consistent with this requirement?

☐Yes ☐No

Section C – ITQ Quota Share Holdings

Your ITQ Quota Share is: [Insert Ratio]

Your annual cage tag allocation is determined by multiplying the total surfclam quota by this ratio. The result is divided by 32 to determine the appropriate number of cage tags to be allocated. Amounts of allocation of 0.5 cages or smaller are rounded down to the nearest whole number, and amounts greater than 0.5 cages are rounded up to the next whole number, so that allocations are in whole cages.
Please refer to your ITQ permit, when issued, for your actual YYYY cage tag allocation.
An ITQ permit does not need to have associated quota share to be used for leasing cage tags.

Section D – Certification of Applicant	
Under penalty of perjury, I hereby declare that I, the undersigned, am authorized to certify this application on behalf of the applicant and completed this form, and the information contained is true, correct, and complete to the best of my knowledge and belief. (18 U.S.C. § 1001)	
Applicant Signature:	Date:
Print Name:	

To avoid delay in processing, please include all information requested.

PAPERWORK REDUCTION ACT STATEMENT: Public reporting burden for this collection of information is estimated to average 5 minutes per Individual Fishing Quota application, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other suggestions for reducing this burden to the Assistant Regional Administrator, Sustainable Fisheries Division, NOAA National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930.

Permit holder name, address, phone, and permit information will be released via a NOAA Fisheries website. All other data submitted will be handled as confidential in accordance with section 402(b) of the Magnuson-Stevens Act and NOAA Administrative Order 216-100, Protection of Confidential Fisheries Statistics. Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subjected to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

Instructions – Application for Surfclam / Ocean Quahog ITQ Permit

If you wish to receive surfclam or ocean quahog ITQ by temporary lease of cage tags or permanent transfer of quota share, you must submit this application in order to obtain a Surfclam or Ocean Quahog ITQ permit. The Surfclam or Ocean Quahog ITQ permit, once issued would authorize you to receive ITQ allocation through the cage tag transfer program. Please make sure that you also complete the Surfclam and Ocean Quahog ITQ Identification of Ownership Interest form.

Although we use one application form, we issue separate permits for surfclam ITQ and ocean quahog ITQ. Surfclam and ocean quahog ITQ permits are issued annually and must be renewed each year. If you hold both surfclam and ocean quahog ITQ permits you must submit separate renewal applications for each permit. If you hold surfclam or ocean quahog ITQ quota share (Section C), and do not renew the ITQ permit in any fishing year, you will no longer be eligible for the permit in subsequent years. Any associated ITQ quota share would therefore be considered voluntarily relinquished.

SECTION A - Permit Holder Information:
If applying for a new ITQ permit: Please complete all required fields, leaving the ITQ permit number blank. Once an ITQ permit is issued, you may submit an allocation transfer form to transfer ITQ quota share or cage tags to your ITQ permit.
If renewing an existing ITQ permit: All fields should already be filled out with the information we have on file. Please enter information **only** for items that have changed or are incorrect, or if you need to submit additional information.

SECTION B - Permit Eligibility:
In order to receive your ITQ permit you must certify the applicant's eligibility to hold a quota share permit as specified at 50 CFR 648.74.

SECTION C - ITQ Quota Share Holdings:
Information only. Do not modify. If you believe this section is incorrect, please contact NMFS Program Support Line at 978-282-8483.

SECTION D - Certification of Applicant:
Please sign the form. Unsigned or incomplete applications will be returned. Your signature is an affirmation under penalty of perjury, that all the information provided in obtaining this permit is true (18 U.S.C. § 1001).

When completed, submit the application along with a Surfclam / Ocean Quahog ITQ Identification of Ownership Interest form to the following address:

NOAA's National Marine Fisheries Service
Greater Atlantic Regional Fisheries Office
Attn: Permits
55 Great Republic Drive
Gloucester, MA 01930

For questions, please call 978-282-8483

U.S. Department of Commerce
NOAA/National Marine Fisheries Service
55 Great Republic Drive
Gloucester, MA 01930-2298
Tel: (978) 282-8483

Application to Transfer Surfclam / Ocean Quahog Individual Transferable Quota (ITQ) Fishing Year YYYY January 1, YYYY – December 31, YYYY

Section A – Type of Transfer Requested

☐Temporary Transfer of Cage Tags	
☐Permanent Transfer of ITQ Quota Share	☐Transfer quota share including all cage tags for the current fishing year
	☐Transfer quota share only, not cage tags for the current fishing year (transfer is effective for the following fishing year)

Section B – Transfer Details

	Beginning Tag Number	Ending Tag Number	Total Tags
Tag Series 1:			
Tag Series 2:			
Tag Series 3			

Additional transaction details

Total price paid, including all fees:

Broker fees, if applicable:

Is this transfer part of a long-term (more than 1 year) contract? ☐No ☐Yes Contract duration: _____
Note: Temporary tag transfers only apply to the current fishing year. Any future transfer would require a separate transfer application.

Is the contract based on a fixed price, or a market-based flexible price? ☐Fixed price ☐Flexible price ☐NA

Specify any other conditions on this transfer (e.g. harvester must sell clams to a specific processor, right of first refusal on future transfers, etc.).

Section C – Transferor (Seller) Certification

Name of Permit Holder:	ITQ Permit Number:
Under penalty of perjury, I hereby declare that I, the undersigned, am authorized to certify this application on behalf of the transferor and completed this form, and the information contained is true, correct, and complete to the best of my knowledge and belief. (18 U.S.C. § 1001)	
Signature:	Date:
Print Name:	

Section D – Transferee (Buyer) Certification	
Name of Permit Holder:	ITQ Permit Number:
Under penalty of perjury, I hereby declare that I, the undersigned, am authorized to certify this application on behalf of the transferee and completed this form, and the information contained is true, correct, and complete to the best of my knowledge and belief. (18 U.S.C. § 1001)	
Signature:	Date:
Print Name:	

To avoid delay in processing, please include all information requested.

PAPERWORK REDUCTION ACT STATEMENT: Public reporting burden for this collection of information is estimated to average 5 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the information. Send comments regarding this burden estimate or any other suggestions for reducing this burden to the Assistant Regional Administrator, Sustainable Fisheries Division, NOAA National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930.

Permit holder name, address, phone, and permit information will be released via a NOAA Fisheries website. All other data submitted will be handled as confidential in accordance with section 402(b) of the Magnuson-Stevens Act and NOAA Administrative Order 216-100, Protection of Confidential Fisheries Statistics. Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subjected to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

Instructions – Application to Transfer Surfclam / Ocean Quahog ITQ

If you wish to transfer surfclam or ocean quahog ITQ by temporary lease of cage tags or permanent transfer of quota share, both parties must be issued a current ITQ permit for the appropriate fishery. To obtain a surfclam or ocean quahog ITQ permit, submit a completed ITQ permit application along with a completed ITQ ownership form. A surfclam or ocean quahog ITQ permit, once issued, will authorize you to participate in an ITQ transfer of either cage tags or quota share.

SECTION A – Type of transfer requested
Temporary transfer: Transfers cage tags but does not affect the underlying quota share.
Permanent transfer: Transfers the underlying quota share, so that future cage tags would be issued to the new quota shareholder. Permanent transfers of quota share may or may not include the cage tags for the current fishing year. Be sure to check the appropriate box.

SECTION B – Transfer Details
Provide details of the allocation to be transferred. Temporary transfers and permanent transfers that include all cage tags should list the full range of tag numbers being transferred. Permanent transfers without the associated cage tags may list a number of tags to be transferred, or a percentage of the transferor's total quota share. A permanent transfer based on a number of tags will be converted to a quota share percentage based on the current fishing year quota. Future cage tag allocations may change based on any changes to the commercial quota. Additional questions about this transaction have been added to address a request from the Mid-Atlantic Fishery Management Council. Complete all applicable fields. Please note: Tag transfers are only good for the current fishing year. NMFS will not automatically transfer any tags in the future without another completed transfer application, even if you indicate the current tag transfer is part of a multi-year contract.

SECTION C – Transferor Certification
Provide the name and ITQ permit number of transferor**. Please sign the form. Unsigned or incomplete applications will be returned.** Your signature is an affirmation under penalty of perjury, that all the information provided in obtaining this permit is true (18 U.S.C. § 1001).

SECTION D – Transferee Certification
Provide the name and ITQ permit number of the transferee. **Please sign the form. Unsigned or incomplete applications will be returned.** Your signature is an affirmation under penalty of perjury, that all the information provided in obtaining this permit is true (18 U.S.C. § 1001).

When completed, submit the application to the following address:

NOAA's National Marine Fisheries Service
Greater Atlantic Regional Fisheries Office
Attn: Permits
55 Great Republic Drive
Gloucester, MA 01930

For questions, please call 978-282-8483

U.S. Department of Commerce
NOAA/National Marine Fisheries Service
55 Great Republic Drive
Gloucester, MA 01930-2298
Tel: (978) 282-8483

Surfclam / Ocean Quahog Individual Transferable Quota (ITQ) Ownership Form Fishing Year YYYY

Section A – Permit Holder Information

1. ITQ Permit Number:

2. Name of ITQ Permit Holder:

3. Date of Birth (if person) or TIN (if business):

4. State Registered In (if business):

5. Business Mailing Address:
Street or PO Box

City | State | Zip Code

6. Telephone Number:

7. Email address (optional):

8. ☐Individual/Sole Proprietorship ☐General Partnership ☐Limited Partnership ☐C Corporation ☐S Corporation ☐Limited Liability Company (LLC) ☐Other (specify) _____

Section B – Certification of Bank Held Quota Share

Is the ITQ permit holder identified above a State or Federal chartered bank, which is holding the ITQ quota share solely as collateral on a loan, and does not exert control over how the associated annual cage tags are used?
☐ Yes
☐ No

If 'No', please skip to Section C, and complete the rest of this form.

If 'Yes', complete all fields in Section B, and sign below. You do not need to complete Sections C-F.

Name of Borrower:

Borrower's ITQ Permit Number:

The borrower must maintain a valid ITQ permit and transfer of quota share or cage tags must be to the borrower's ITQ permit listed here.

Under penalty of perjury, I hereby declare that I, the undersigned, am authorized to certify this application on behalf of the permit holder and the information contained in Section A and Section B is true, correct, and complete to the best of my knowledge and belief. (18 U.S.C. § 1001)

Signature:

Date:

Printed Name:

Section C – Identification of Corporate Officers

If the permit holder is not an individual, provide the names of all corporate officers.
If necessary, attach additional sheets of paper.

Name (Last, First, Middle Initial)	DOB	Mailing Address (Street or PO Box, City, State, Zip code)	Title
☐President/CEO ☐Vice President ☐Secretary ☐Treasurer ☐Director/Manager ☐Partner ☐Other ________________			
☐President/CEO ☐Vice President ☐Secretary ☐Treasurer ☐Director/Manager ☐Partner ☐Other ________________			
☐President/CEO ☐Vice President ☐Secretary ☐Treasurer ☐Director/Manager ☐Partner ☐Other ________________			
☐President/CEO ☐Vice President ☐Secretary ☐Treasurer ☐Director/Manager ☐Partner ☐Other ________________			
☐President/CEO ☐Vice President ☐Secretary ☐Treasurer ☐Director/Manager ☐Partner ☐Other ________________			

Section D – Identification of Major Shareholders and Partners
Part 1 – First Level

List all shareholders with a 10% or greater ownership interest in the permit holder. If you list a business entity as a shareholder, use Part 2 to identify the specific ownership of that business. If necessary, attach additional sheets of paper.

Name (Last, First, Middle Initial)	TIN or DOB	Mailing Address (Street or PO Box, City, State, Zip code)	% Interest Held
		Total Ownership	%
		Number of shareholders with less than 10% ownership interest	

Section D – Identification of Major Shareholders and Partners
Part 2 – Second Level

List owners of any business from Section D - Part 1 above, down to the level of individual persons who make up that business.
If more than one business is listed, be clear which individuals belong to which business.
If necessary, attach additional sheets of paper.

	Name (Last, First, Middle Initial)	TIN or DOB	Mailing Address (Street or PO Box, City, State, Zip code)	% Interest Held
Business Name 1 from Part 1				
Owners of Business 1				
			Total Ownership of Business 1	%
Business Name 2 from Part 1				
Owners of Business 2				
			Total Ownership of Business 2	%
Business Name 3 from Part 1				
Owners of Business 3				
			Total Ownership of Business 3	%

Section E – Identification of Family

If any of the individuals listed in Section D (Parts 1&2) has an immediate family member who has an ownership interest in any other surfclam or ocean quahog ITQ permit list those family members here. Immediate family is defined as: Father, mother, husband, wife, son, daughter, brother, sister, grandfather, grandmother, grandson, granddaughter, father-in-law, or mother-in-law. If necessary, attach additional sheets of paper.

Name (Last, First, Middle Initial)	DOB	Mailing Address (Street or PO Box, City, State, Zip code)	Relationship to Person in Section D (ex. son of John Smith)	ITQ Permit Number(s)

Section F – Certification

Under penalty of perjury, I hereby declare that I, the undersigned, am authorized to certify this application on behalf of the applicant and completed this form, and the information contained is true, correct, and complete to the best of my knowledge and belief. (18 U.S.C. § 1001)

Signature:	Date:
Print Name:	

To avoid delay in processing, please include all information requested.

PAPERWORK REDUCTION ACT STATEMENT: Public reporting burden for this collection of information is estimated to average 1 hour per response for new entrants, and is estimated to average 5 minutes when pre-filled for renewing entities, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other suggestions for reducing this burden to the Assistant Regional Administrator, Sustainable Fisheries Division, NOAA National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930.

Permit holder name, address, phone, and permit information will be released via a NOAA Fisheries website. All other data submitted will be handled as confidential in accordance with section 402(b) of the Magnuson-Stevens Act and NOAA Administrative Order 216-100, Protection of Confidential Fisheries Statistics. Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subjected to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

Instructions
Surfclam / Ocean Quahog ITQ Ownership Form

This form must be completed and submitted to the National Marine Fisheries Service (NMFS) at the address below to provide ownership information for individuals or businesses applying for or renewing a surfclam or ocean quahog individual transferable quota (ITQ) permit. Any individual or business applying for or renewing an ITQ permit must document those individual persons who have an ownership interest of 10 percent or greater.

Please type or print legibly in ink. Attach additional sheets as necessary. Sign in ink, keep a copy for your records, and mail the completed form to the following address:

NOAA's National Marine Fisheries Service
Greater Atlantic Regional Fisheries Office
Attn: Permits
55 Great Republic Drive
Gloucester, MA 01930

SECTION A – Permit Holder Information:

- Field 1. Permit Number: If you are submitting an initial application for a surfclam or ocean quahog ITQ permit and do not have an ITQ permit number, leave this field blank. Otherwise, enter your ITQ permit number.

- Fields 2-3. Legal name of ITQ permit holder and TIN or DOB: Enter the name of the business entity or individual that holds the ITQ permit. If a business entity, list tax identification number (TIN). If an individual person, list date of birth (DOB) using the format mm/dd/yyyy.

- Field 4. State Registered In (if business): If a business entity, list the state where that entity was established and is currently recognized as active.

- Field 5. Business Mailing Address: Enter the business mailing address, including street or PO Box number, city, state, and zip code where correspondence should be sent. This information should match the information provided on the application or renewal form.

- Fields 6-7: Business Phone and Email: List the business telephone number, including area code; email is optional. This information should match the information provided on the application or renewal form.

- Field 8: Check the box that best describes the ITQ permit holder.

SECTION B – Certification of Bank Held Quota Share

Read the statement and indicate whether the ITQ permit holder is a state or Federal chartered bank, which is holding the ITQ quota share solely as collateral on a loan, and does not exert control over how the associated annual cage tags are used.

If the answer is 'No', please skip the rest of Section B and proceed to Section C.

If the answer is 'Yes', please complete the rest of Section B. Enter the name of the borrower and the borrower's ITQ permit number. The borrower must have a valid ITQ permit and renew it each year. Permanent transfer of quota share or temporary transfer of cage tags must go to the borrower. The borrower may then transfer the quota share or cage tags as needed. Then sign, date, and print your name at the end of Section B. You are not required to fill out Sections C-F for this form to be considered complete.

SECTION C – Identification of Corporate Officers

If the permit holder is a business entity, please identify the corporate officers in Section C. Each officer should be identified by name, date of birth, mailing address, and by checking the appropriate box(es) for their position(s).

SECTION D – Identification of Shareholders and Partners

The intent of Section D (Parts 1 and 2) is to identify all of the individuals who control the business and their percent of ownership interest. Use as many pages as needed to list each entity down to the individual level. Please note that only ownership interest for shareholders with greater than or equal to 10% ownership interest in the business entity must be reported.

- Part 1 – First Level
  Part 1 must be filled with the business entities or individuals listed in Section A. List the tax identification number (TIN) for business entities and the date of birth (DOB) for individuals. List the mailing address (if different than Section A), and the % ownership interest in the ITQ permit as listed in Section A. Please see examples below.

- Part 2 – Second Level
  If Part 1 includes any business entities, Part 2 should be completed. For example, if Part 1 listed a business entity and an individual, only the business entity would need to be entered into Part 2. If the business entity is able to be listed to the individual level in Part 2, no further identification is needed. However, if Part 2 includes a business entity, you will need to list the ownership behind this entity. All business entities owning 10% or greater interest in the ITQ permit must be listed to the individual level. Please see examples below. Print additional pages and write in "third level", "fourth level", etc. if needed.

Example A: Two individuals

Part 1

Name	TIN/DOB	Mailing Address	% Held
Spisula, Sally	2/29/1970	14 Solidissima St Cape May, NJ 08204	60 %
Arctica, Alex	9/14/1930	42 Islandica Blvd New Bedford,MA 02740	40 %
		Total Ownership =	100%
		Number of shareholders with less than 10% ownership interest	0

Part 2

	Name	TIN/DOB	Mailing Address	% Held
Business name 1 from Part 1 .				
Owners of Business				
			Total Ownership of Business 1 =	%

Not Required

Example B: An individual and a business

Part 1

Name	TIN/DOB	Mailing Address	% Held
Spisula, Sally	02/29/1970	14 Solidissima St Cape May, NJ 08204	50%
Clam Dredge, Inc.	10-1234567	1 Shellfish Ln Cape May, NJ 08204	50%
		Total Ownership =	100%
		Number of shareholders with less than 10% ownership interest	

Part 2

	Name	TIN/DOB	Mailing Address	% Held
Business name 1 from Part 1 Clam Dredge, Inc.				
Owners of Business	Arctica, Alex	9/14/ 1930	42 Islandica Blvd New Bedford,MA 02740	60%
	Mercenaria, Mike	11/27/ 1947	35 Quahog Ln Gloucester, MA 01930	25%
	Spisula, Sally	02/29/ 1970	14 Solidissima St Cape May, NJ 08204	15%
			Total Ownership of Business 1 =	100%

Example C: Two businesses and a third owner that holds less than 10%

Part 1

Name	TIN/DOB	Mailing Address	% Held
Clam Dredge, Inc.	10-1234567	1 Shellfish Ln Cape May, NJ 08204	30%
Wicked Good Chowder, Co.	12-9876543	7 Wampum Way New Bedford, MA 02740	62%
		Total Ownership =	92 %
		Number of shareholders with less than 10% ownership interest	1

Part 2

	Name	TIN/DOB	Mailing Address	% Held
Business name 1 from Part 1 Clam Dredge, Inc.				
Owners of Business	Arctica, Alex	9/14/ 1930	42 Islandica Blvd New Bedford,MA 02740	60%
	Mercenaria, Mike	11/27/ 1947	35 Quahog Ln Gloucester, MA 01930	25%
	Spisula, Sally	02/29/ 1970	14 Solidissima St Cape May, NJ 08204	15%
			Total Ownership of Business 1 =	100%
Business name 2 from Part 1 Wicked Good Chowder, Co.				
Owners of Business	Mya, Megan	3/24/ 1962	16 Arenaria St Portland, ME 04101	60%
	Mercenaria, Mike	11/27/ 1947	35 Quahog Ln Gloucester, MA 01930	40%
			Total Ownership of Business 2=	100%

SECTION E – Identification of Family

If any immediate family members of the individuals identified in Section D have an ownership interest in any other surfclam or ocean quahog ITQ permit, those family members need to be identified here. Immediate family is defined as: Father, mother, husband, wife, son, daughter, brother, sister, grandfather, grandmother, grandson, granddaughter, father-in-law, or mother-in-law. For example, if Sally Spisula from Example A above, has a brother who has an ownership interest in another ITQ permit, his name, DOB, address, "brother of Sally Spisula", and the associated ITQ permit number should be listed here. If necessary, attach additional sheets of paper.

SECTION F – Certification

The applicant or authorized representative must sign and date the form. By signing and dating the form, the applicant or authorized representative certifies under penalty of perjury that all information set forth in the form is true, correct, and complete to the best of the applicant's knowledge or belief. The form will not be considered without the authorized representative's signature. NMFS may request that the authorized representative for a business entity include a copy of the corporate resolution or other document authorizing the individual to sign and certify on behalf of the business entity. (18 U.S.C. § 1001)

For questions, please call 978-282-8483

Timeline on Data Collection Protocol Development for
Atlantic Surfclam and Ocean Quahog Individual Transferrable Quota (ITQ) Fisheries

1990

- The Atlantic surfclam and ocean quahog (SCOQ) fisheries have been managed under an ITQ system since 1990.

2002

- Discussion of excessive shares cap in this fishery goes back to the December 2002 Government Accountability Office (GAO) report "Individual Fishing Quotas: Better Information Could Improve Program Management."

- December 2002 GAO report states, "Surfclam and ocean quahog quota consolidation is greater than NMFS data indicate. According to NMFS officials and others knowledgeable about the fishery, the quota holder of record (i.e., the individual or entity under whose name the quota is listed) is often not the entity that controls the use of the quota. Some families hold quota under the names of more than one family member; some parent corporations hold quota under the names of one or more subsidiaries; some entities hold quota under the name of one or more incorporated vessels; and some financial institutions serve as transfer agents and hold quota on behalf of others or in lieu of collateral for loans."

- December 2002 GAO report states, "The governing rules of each program may have affected the extent of consolidation and the information collected. However, without clear and accurate data on quota holders and fishery-specific limits on quota holdings, it is difficult to determine whether any quota holdings in a particular fishery would be viewed as excessive, as prohibited by the Magnuson-Stevens Act [MSA]."

- December 2002 GAO report Conclusions state, " However, NMFS does not gather sufficient information or periodically analyze the data it does collect on surfclam/ocean quahog and Wreckfish quota holders to determine (1) who actually controls the use of the quota and (2) whether the holder is a foreign individual or entity. Furthermore, while each fishery is different, the regional councils have not defined the amount of quota that constitutes an excessive share in the surfclam/ocean quahog and wreckfish IFQ programs. Different program objectives and the political, economic, and social characteristics of each fishery make it difficult to define excessive share. However, without the information on who controls quota and defined limits on quota accumulation, NMFS cannot determine whether eligibility requirements are being met or raise questions as to whether any quota holdings are excessive."

2003

- In 2003, NMFS responded to several members of Congress about the GAO report. NMFS indicated that it would urge the Council to develop a plan amendment that limits the shares that an individual may hold.

2004

- A 2004 NMFS report (by Doug Christel) was written in response to the GAO report, and highlighted some of the additional information needs in this fishery. "This report concludes that the degree of concentration in the ITQ program described by the GAO is due to the amount of information available. Current data collection by NOAA Fisheries is insufficient to assess ownership concentration to the extent necessary to monitor excessive shares within the ITQ program. This is because limited information is collected on corporate structure or related business entities." In addition, "This report recommends that further information be collected regarding allocation ownership within the ITQ program."

- This 2004 NMFS report also noted that, "Concern over the control of quota allocations, whether through direct ownership, leasing or other contractual arrangements, and, in turn, who might control an excessive share of allocations in a fishery managed under and IFQ program, has traditionally centered around the issue of whether an entity is able to control or manipulate prices in the fishery concerned. Within the surfclam and ocean quahog ITQ fishery, the issue of "price fixing" may relate to the ability of an individual entity to control prices within three markets: (1) The raw material market (i.e., ex-vessel prices paid for harvested shellfish), (2) the product market (i.e., the price paid processed shellfish), and (3) the quota market (i.e., the price paid for either the purchase or lease of quota allocation)."

2004-2011

- During this time period, several FMAT meetings were held to discuss this issue. Periodically, the Council was updated on FMAT activities. But during this time period, no decisions were made to move this action forward to the Council.

2011

- Compass Lexicon Report concluded that, "The evidence we analyzed does not support a conclusion that market power is currently being exercised through withholding of quota in the SCOQ fisheries." However the report indicates that, "We do not analyze whether market power is exercised through the withholding of harvesting or processing, or through exclusionary conduct other than conduct involving quota ownership."

- The Compass Lexicon Report was Center for Independent Experts (CIE) reviewed. [Summary of Findings by the Center for Independent Experts Regarding Setting

Excessive Share Limits for ITQ Fisheries. Northeast Fisheries Science Center Reference Document 11-22]. The review noted that:

  - "Measures of industrial concentration in the SCOQ fishery (the Herfindahl-Hirchman index) suggests that marketing power may exist in the fishery, particularly in its harvesting and processing sectors, but less so in quota holdings. These concentration measures are only indicative of the possibility of market power. They do not establish that it actually exists."
  - "Implementation of the Method Proposed by the Technical group requires at least the following data: quota ownership and control, processing volumes and capacity, size of the relevant market."

- Bottom line, in general the CIE reviewers suggested that market power may or may not exist in this fishery. More information is needed to understand issues.

2012

- The February 2012 SCOQ Committee meeting was discussing next steps for then-designated Amendment 15.
- At that meeting, General Counsel Joel MacDonald advised that an information collection program could be implemented by NMFS without a Council FMP amendment under authority granted in section 402(a) of the MSA.
- The committee voted to split Amendment 15, move forward with cost recovery, essential fish habitat (EFH), and the ocean quahog biological reference point update in the current amendment, request an info collection to address data issues raised by the CIE report, and move development of an excessive shares cap to the next amendment.
- October 2012 the Council sent NMFS a request to form a new FMAT for the information collection action.
- Council Motions (February 2012):
  - Move to request that the agency develop a data collection program for the SCOQ fishery under the authority in section 402A of the MSA.
    Anderson for Committee
    Moved by consent with 1 abstention
  - Move that the Council request that the SCOQ FMAT (with selected additional members) to ascertain what types of data are needed to monitor and regulate ownership and lease activity with respect to the selected S* cap.
    Anderson for Committee
    Moved by consent
  - Move to include EFH, cost recovery, and ocean quahog overfishing definition in Amendment 16 (15).
    Anderson for Committee
    Moved by consent
  - Move to include the excessive share cap definition in Amendment 17 (16).
    Anderson for Committee
    Moved by consent

2013

- The FMAT met three times to develop an information collection white paper, which describes the data elements to be collected by NMFS. The meetings were attending by a number of advisors. The FMAT took public comment and considered industry input when developing the recommendations presented in the white paper.
    - January 30, 2013 by webinar
    - March 28, 2013 in-person
    - May 10, 2013 in-person

- Also on May 3, 2013, the industry advisory panel (AP) met to develop the Fishery Performance Report. During that AP meeting, advisors were asked for input on the data collection protocol as part of the agenda.

- June 2013, the FMAT developed a white paper that was adopted by the Council at the June Council Meeting.
    - The white paper included comments that, "the FMAT recommends that language developed by the Service and used in the Mid-Atlantic Golden "Tilefish IFQ Allocation Interest Declaration Form" be included in the Interest Declaration Form recommended in this document." So, the FMAT approach is similar to that already in place for the Tilefish IFQ Fishery.
    - Move the Council approve the data collection protocol as prepared by the FMAT, with the understanding the NMFS will initiate a regulatory Amendment to implement a data collection protocol.
      Anderson/McMurray (13/1/1), Motion carries

- July 2013, a formal request letter to implement the information collection protocol was received by NMFS.

- October 2013 update from NMFS-GARFO on Data Collection Protocol was scheduled, but Government was shut down; therefore, that agenda item was not addressed.

- December 2013, Doug Potts (NMFS-GARFO) provided a brief update on the collection rulemaking at the December Council meeting, but did not have draft forms completed at that time.

- Proposed rule published August 7, 2014 and included the rule and three forms for review. Comment period was open until September 8, 2014.

    - The proposed rule contain estimates of time to complete forms – about 1 hour to complete ownership declaration form in year 1, then approx. 5 minutes to review subsequent years if no information has changed.
    - Banks that hold ITQ do not have to provide detailed shareholder or owner information on forms, but must provide owner name and permit number for allocation holder on forms.

- The price per bushel of clams landed is reported in the vessel logbook and the dealer-processor reports, however, the price of allocation transfers are not reported and would be collected on these form. Collecting the price of quota sale and leases is also important to enable analysis of impacts of management actions and the “true cost" of clam ITQ. Although not noted in the rule, it also provides the price information to understand prices in the third market, as noted by Cristal 2004 (see full quote above) in: (1) The raw material market (i.e., ex-vessel prices paid for harvested shellfish), (2) the product market (i.e., the price paid processed shellfish), and (3) the quota market (i.e., the price paid for either the purchase or lease of quota allocation).

Data Collection Recommendations for the Surfclam and Ocean Quahog Fisheries

Prepared by the Surfclam and Ocean Quahog Data Collection FMAT

May 2013

Table of Contents

1.0 Executive Summary

In order to collect the data necessary to monitor the ownership/control and lease activity under the surfclam and ocean quahog individual transferable quota (ITQ) management system, the Fisheries Management Action Team (FMAT) recommends that an Interest Declaration Form (section 3.1) be developed for the surfclam and ocean quahog fisheries. The Interest Declaration Form would be required to establish ownership information for existing participants and new participants in these fisheries. Currently, there are several Individual Fishing Quotas Fisheries (IFQ) in the U.S. that require participants to complete such forms (e.g., Mid-Atlantic Golden Tilefish, Alaskan Quota Share Program) in order to participate and monitor ownership in those fisheries. In the Gulf of Mexico IFQ program, an IFQ Online Account Application is required for both the red snapper and grouper-tilefish program; this application serves the same function as the interest declaration forms used in other fisheries (i.e., monitor ownership of shares). The FMAT used the existing forms in various IFQ systems throughout the U.S. as an example to identify the data elements needed on an Interest Declaration Form for the surfclam and ocean quahog fisheries. In addition, the FMAT recommends that language developed by the Service and used in the Mid-Atlantic Golden "Tilefish IFQ Allocation Interest Declaration Form" be included in the Interest Declaration Form recommended in this document.

Any entity that participates in the fishery (e.g., individuals, corporations, or banking/lending institutions) would be required to complete the Interest Declaration Form. Banks and other lending institutions own surfclam and ocean quahog ITQ allocations as these have been used by stakeholders as collateral for borrowing funds to conduct harvesting and/or processing operations. Surfclam and ocean quahog industry advisors have indicated that requiring banking and lending institutions to fill out the proposed Interest Declaration Form could jeopardize

relationships with the banks and lending institutions may not want to fill out these forms or provide details of loan agreements. The FMAT discussed the possibility that a Central Registry for Limited Access Permits (lien registry), as required under the Sustainable Fisheries Act (SFA)[1] would allow banks or other financial institutions to register a financial interest in a permit without taking formal ownership of the quota allocation. Any new ownership reporting requirements would therefore not apply to these institutions. However, such a lien registry has not been developed yet and there is no indication when, or if, it will be implemented in the future. The National Marine Fisheries Service (NMFS) Alaska Regional Office is currently operating an informal lien registry that parties may use to file security interests in permits. Since no applicable law authorizes this unofficial law, parties will not maintain any priority based on participation in the Alaska unofficial registry.[2] Any system to track liens may be welcome by banking/lending institutions as it may allow for the legal assertion of a financial claim on an ITQ allocation without the reporting and permitting requirements of ownership.

The FMAT discussed that a possibility would be to allow banking/lending institutions with ITQ ownership to be exempt from any additional reporting requirements, but to have the debtor associated with the bank loan fill out the declaration form. This would require very clear instructions on the form to the banking/lending institutions that the borrower itself must complete the Interest Declaration Form and not the bank/lending institutions. This may be the best option in the absence of a formal lien registry in order to collect the information needed while addressing the industry's reasonable concern over the potential impact of this program on the availability of financing.

In addition, the FMAT recommends that additional data elements be added to the existing ITQ Allocation or Cage Tag Transfer Form (section 3.2). These additional elements are needed to track contract patterns as they relate to ownership/control of the surfclam and ocean quahog ITQ program.

[1] The Sustainable Fisheries Act (SFA) requires the Secretary of Commerce to establish an exclusive central registry system (registry) for limited access system permits (including ITQ), by April 11, 1997. The registry must provide for the registration of title to, and security interest in, assignments of, and liens of (with the exception of Federal tax liens), these permits, and it must be accessible to the public. In the list of requirements the SFA lien registry would also require NMFS to collect a fee for registering a title of up to 0.5% of the value of the permit.

[2] Lien priority is determined based on time of filling, the first to file having the highest priority. The NMFS Alaska Regional Office does not enforce anyone's assertion of financial interest in a permit. The NMFS Alaska Regional Office only provides notice that a permit is being transferred and a short amount of time for the lien holder to seek remedy through the courts.

2.0 Issue and Background

At the February 2012 Mid-Atlantic Fishery Management Council (Council) meeting, the Council adopted the following motions:

"Move to request that the agency develop a data collection program for the Surfclam/Ocean Quahog [SCOQ] fishery under the authority in section 402A of the MSA." and "Move that the Council request that the SCOQ FMAT (with selected additional members) ascertain what types of data are needed to monitor and regulate ownership and lease activity with respect to the selected S* cap [S* = excessive shares]."[3]

A newly formed Fishery Management Action Team (FMAT)[4] reviewed current data elements collected for the management of the surfclam and ocean quahog ITQ (Individual Transferable Quota) fisheries relative to ownership and leasing activity. The FMAT concluded that we do not currently collect the data necessary to monitor the ownership/control[5] and lease activity under the surfclam and ocean quahog management system. The following sections briefly describe the current data collection requirements in these fisheries and present a series of recommendations made by the FMAT for additional data to be collected to monitor ownership/control and lease activity in these fisheries.

2.1 Management System and Administration

The surfclam and ocean quahog fisheries have been managed under an ITQ system since 1990. Initial ITQ shares of the fishery were allocated to vessel owners based on a formula of historical catch (80%) and vessel size (20%). Anyone (except foreign owners) is eligible to buy or lease ITQ.

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[3] S* = Excessive Shares. Regarding share accumulation, section 303A(c)(5)(D) of the 2006 reauthorized Magnuson-Stevens Act states that ITQ privilege programs should ensure that limited access privilege holders do not acquire an excessive share of the total limited access privileges in the program. In addition, National Standard 4 of the Magnuson Act (16 U.S.C. 1851(a)(4)) requires that fishing privilege allocations be carried out so that "no particular individual, corporation, or other entity acquires an excessive share of such privileges." While the Magnuson-Stevens Fishery Conservation and Management Act of 2006 does not specify the meaning of excessive shares, it is well understood as the amount of shares that could generate market power. In competition theory, market power is defined as the ability of companies to profitably manipulate output (or input) prices. This activity, while profitable for the companies, usually corresponds to an overall economic loss for society.

[4] FMAT members are: Jessica Coakley (Council Staff), Daniel Hennen (NEFSC/PDB), Anna Macan (NERO/APSD), José Montañez (Council Staff/FMAT Chair), Douglas Potts (NERO/SFA), and Barbara Rountree (NEFSC/SSB).

[5]Control is defined as the person or entity who decides how to use the quota.

The Northeast Regional Office (NERO) maintains a list of ITQ owners (for each, surfclams and ocean quahogs) along with the share of harvest allocated to each owner. Each fishing year, the NERO calculates the initial allocation of surfclams and ocean quahogs for the next fishing year by multiplying the allocation percentage owned by each allocation owner[6] by the total allowable catch (TAC) for the fishing season. The total number of bushels of allocation are divided by 32 (clams are landed in 32-bushel cages) to determine the appropriate number of cage tags to be issued to ITQ allocation owners. The NERO issues uniquely numbered cage tags corresponding to the owner's share of the allowed harvest at the beginning of the year. When the harvested clams come to shore, the vessel operator must have affixed the appropriate tags to all cages that contain clams[7].

Mandatory reporting of landings (for vessel owners/operators) and purchase of clams (for dealers) is required. Vessel owners/operators report vessel catch using a clam logbook and dealers report clam purchases electronically. Cage tag numbers must be reported on both vessel logbook reports and dealer-processor reports and are used to cross-check logbooks between vessels and processors. Atlantic surfclam and ocean quahog ITQ fishing vessels are also required to use a vessel monitoring system (VMS), at all times, except when a "VMS Power Down Exemption Request" has been granted. While the requirement of a VMS has reduced the necessity of continuous at-sea and air surveillance monitoring, they may still be conducted to reduce the possibility that vessels with state permits or without cage tags may drift into federal waters. Finally, it is mandatory for ITQ allocation holders to report ITQ permanent transfers and temporary leases (discussed below). The permanent transfer of ITQ shares are monitored to update the list of ITQ share ownerships as transfers are made.

2.2 Tracking Share Ownership

Since the implementation of the ITQ system, the industry has experienced consolidation; with the number of ITQ allocation owners decreasing. The number of allocation owners has decreased from 154 in 1990 to 64 in 2013 for surfclams and from 117 to 41 for ocean quahogs over the same period. Originally, these allocations corresponded to the allocation shares given to each vessel owner when the ITQ system was first implemented. Over time, they have been sold and combined with others, thereby reducing the number of allocation owners.

The list of surfclam and ocean quahog owners as of the start of 2012 is presented in Appendix I. A large number of the 'owners' listed are corporations, or banking/lending institutions holding

[6] Owned by each allocation owner as of the last day of the previous fishing year in which allocation owners are permitted to permanently transfer allocation percentage (i.e., October 15 of every year).

[7] A tag is required for every 60 ft^3 (1,700 L) of cage volume (standard cage), or portion thereof.

the allocation permits in their names as collateral. NERO currently has limited 'ownership' information on these ITQ allocation holders, such as their individual or business names and basic contact information (i.e., addresses and phone number). NERO cannot, from this information alone, discern who the individual people are that hold an interest in these corporations and banking/lending institutions. A single individual, therefore, could potentially own or control many of these individual share allocations. Similarly, a number of banks listed as allocation holders could have a single borrower under multiple loans. While the majority of the allocation 'owners' are listed as either a business or a banking/lending institutions, some are listed as an individual. An ITQ 'owner' listed as an individual also does not necessarily preclude that these individuals are not associated with a partnership and/or one of the ITQs held by a corporation or baking/lending institution.

2.3 Surfclam and Ocean Quahog ITQ Transfer Program

Currently, NERO manages the surfclam and ocean quahog ITQ transfer program, which consists of temporary (i.e. leases) and permanent transfers of ITQ. Leasing of quota applies only to the current fishing year and permanent transfers are valid until NMFS receives and approves a subsequent request for a permanent transfer. It is important to note, though, that industry members have reported that they have various types of ITQ agreements that occur outside the requirements of the current ITQ transfer program. For instance, industry members have reported they often enter into long-term lease agreements (e.g., five or more years) and/or exclusive contracts between processor and harvesters. These various types of transfers and agreements are further discussed under the Contract Patterns section below.

In order to permanently or temporarily transfer clam ITQ, a "Request for Atlantic Surfclam or Ocean Quahog ITQ Allocation or Cage Tag Transfer" form must be completed (Appendix II). Regarding transfers, regulations at 50 CFR § 648.74 indicate that:

(b) Transfers — (1) Allocation percentage. Subject to the approval of the Regional Administrator, part or all of an allocation percentage may be transferred in the year in which the transfer is made, to any person or entity eligible to own a documented vessel under the terms of 46 U.S.C. 12102(a). Approval of a transfer by the Regional Administrator and for a new allocation permit reflecting that transfer may be requested by submitting a written application for approval of the transfer and for issuance of a new allocation permit to the Regional Administrator at least 10 days before the date on which the applicant desires the transfer to be effective, in the form of a completed transfer log supplied by the Regional Administrator. The transfer is not effective until the new holder receives a new or revised annual allocation permit from the Regional Administrator. An application for [permanent] transfer may not be made between October 15 and December 31 of each year.

(2) Cage tags. Cage tags issued pursuant to § 648.77 may be transferred at any time, and in any amount subject to the restrictions and procedure specified in paragraph (b)(1) of this section; provided that application for such cage tag transfers may be made at any time before December 10 of each year. The transfer is effective upon the receipt by the transferee of written authorization from the Regional Administrator.

The NERO tracks transfers in the surfclam and ocean quahog fisheries to monitor permanent and temporary ITQ transfers. Appendix III presents the surfclam and ocean quahog transfers in 2011. As shown in Appendix III, the majority of the transfers are typically temporary transfers (i.e., leases). Notice that here, as well as under the information presented in Appendix I, the NERO has no ability to discern if a single individual is a shareholder in many of the listed corporations. NERO uses permanent transfer information to re-evaluate ownership allocations. Temporary transfers are used to monitor lease activity or temporary transfers of cage tags.

Furthermore, as previously indicated, industry members have reported that there are various types of ITQ transactions that frequently occur, including permanent transfers (sale), relatively long-term leases (e.g., five or more years), and transfers of cage tags. The nature of ITQ or quota transactions needs to be transparent in order to better assess quota ownership and control. The section below summarizes some of the business relationships between harvesters and processors that currently exist in the industry.

2.4 Contract Patterns[8]

When the ITQ system was first implemented, processors were not directly incorporated into the initial ITQ allocation. However, processors owning licensed vessels received the allocations associated with the vessels that they owned. Over time, some processors or processor affiliates have developed quota ownership either by the direct acquisition of ITQs or by the acquisition of vessels and quotas associated with those vessels.

As previously stated, processors may enter into long-term leasing contracts (e.g., five or more years) with quota holders or may enter into exclusive contracts with vessel owners to harvest clams. In these cases, either the processor or vessel owners may be responsible for providing the cage tags for the catch. Due to the need for processing plants to meet product delivery schedules the majority of clams are sold under contract between processors and harvesters or are harvested

[8] The bulk of the discussion presented here was taken from: 1) Glenn M., Peterson S., and Willig R. Recommendations for Excessive - Share Limits in the Surfclam and Ocean Quahog Fisheries. Compass Lexecon, May 3, 2011. Report commissioned by the National Marine Fisheries Service (NMFS) for setting an excessive share limit in catch share fisheries, and more specifically, the Surfclam and Ocean Quahog ITQ fishery, and 2) Excessive Share Technical Meeting, October 22, 2010.

by processor-affiliated vessels, according to industry members. Vessels cannot generally harvest for more than a single processor, due to scheduling requirements and directives from processors to fish at specific times (weather permitting). Since vessels must have tags at the time the clams are harvested, harvesting vessels and processors must organize the tags to be used before the vessel leaves port.

Because of the complicated business relationships that are prevalent in the fishery, it is necessary to solicit information regarding transfers and these business relationships in order to develop a more transparent understanding of the flow and control of ITQ. Below are some examples of various business arrangements between processors and harvesters. In addition, the entity that holds ownership/control under each transaction is identified:

When the processor owns quota or contracts for quota on behalf of a harvester, the transfer data may or may not indicate whether the quota has been transferred to a harvester. The transfer data will not show whether the processor retains control of the quota in such transactions. Vessel logbooks and dealer reports throughout the season report tag numbers associated with all landed clams. However, in many instances, it is not the recorded owner but another entity that reports the quota used. As such, additional data would need to be collected to better track ITQ transactions.

It is important to collect and assess information on the nature of the contract (long-term versus short-term) in order to better evaluate quota control (which includes quota share and annual cage tags). Including this information as part of the current data collection effort would allow for potentially important analyses that may be used by the Council in support of future decisions to set and monitor an excessive share cap. For example, in a situation where a quota has been leased under a long-term "fixed-price"[9] contract, quota control could be assigned to the entity that leased the quota from the owner. [In this case, the lessees would benefit from any increase in price of quota during the term of the contract and the incentive for contractual holders to withhold quota that they control may exist. In leases with market-driven flexible pricing, the risk of the lessee to withhold quota is likely lower as it is the lessor that would benefit from quota price increases, as such, minimizing any incentive for the lessee to withhold quota].

Also, in cases of contracts (associated with ITQ temporary transfers) between processors and harvesters that involve ITQ, similar rules can be applied. In the case that a harvester is obligated to use the ITQ (or tags) on behalf of the processor, the quota could be assigned to the processor. The processor controls the use of quota and would benefit from an increase in the value of clams

[9] "Fixed-price" means the price of the quota (price per bushel of harvest allowed) is agreed for the duration of the contract. This does not mean that the price is fixed at a specific level (same price) throughout the term of the contract, but the level at any point during the term is predetermined at the onset of the contract.

and quota even though the harvested clams would be attributed to the independent harvester once landed. Conversely, if the supply agreement does not obligate the harvester to reserve the quota for the processor, the quota should be assigned to the harvester, since in this case the harvester would benefit from an increase in the price of quota and clam.

The data would be used in the correct determination of post-transfer quota ownership and control and this is extremely important in the implementation, monitoring, and enforcing of an excessive-share cap. Transfers occurring during a season must also be reported and tracked to determine the controlling influence. There is a need to develop more transparency and reliable data that would allow for the monitoring of the ownership, annual temporary transfers, and contracts (long-term and short-term leases) for ITQ. Below, under the "proposed data elements" section, recommendations are made to collect data elements to improve the monitoring of ITQ ownership and control.

2.5 Tracking Landings and Prices

The SC/OQ quota is monitored using dealer-reported landings. Dealers report clam purchases electronically using a web-based system to report data previously reported on paper logs. Captains use a clam logbook report (fishing trip record) to report vessel's catch. A sample of the data elements reported in the clam dealer processor reports and vessel logbook report are presented in Appendices IV and V, respectively. Cage tag numbers must be reported on both vessel logbook reports and dealer-processor reports to cross-check landings between vessels and processors.

The price per bushel of clams landed is reported in the vessel logbook and the dealer-processor reports, however, the price of allocation transfers are not reported. Collecting the price of quota sale and leases is also important to enable analysis of impacts of management actions and the "true cost" of clam ITQ.

3.0 Proposed Data Elements

This section contains the FMAT proposed recommendations for additional data elements to be collected for the Atlantic surfclam and ocean quahog fisheries. This information is required to properly assess the ownership, control, and lease activity of quota in the clam fisheries, and to monitor/assess S*. These elements are listed by data collection tool. These include the creation of an Interest Declaration of Ownership Form and additions to the existing ITQ Allocation and Transfer Form. The newly proposed data elements for collection are in ***italics***; current elements are not.

3.1 Declaration of Ownership Interest

A declaration of ownership interest is needed and specific data elements would need to be included in this declaration form. This Interest Declaration Form would be required to establish ownership information for existing participants and new participants, as is done in other IFQ (Individual Fishing Quota) fisheries. For example, in the tilefish fishery, an annual IFQ Allocation Interest Declaration Form must be submitted in order to receive tilefish IFQ allocation. This declaration form specifically states: "All persons and entities who have an interest in the Tilefish IFQ Allocation Permit that is the subject of this application must list all the other Tilefish IFQ Allocation Permits in which they have an interest. Individuals who have an interest in a Tilefish IFQ Allocation Permit are defined as and include, but are not limited to, individuals, persons who are shareholders or officers in a corporation, persons who have formed a partnership (general or limited), immediate family members of those who hold an interest, and any other entities that have an interest in a Tilefish IFQ Allocation Permit." Language similar to that given above on the tilefish interest declaration form, should be included on a newly created surfclam and ocean quahog interest declaration form, with a clear definition of an immediate family member according to the Small Business Administration (SBA). As defined by the SBA, immediate family member means father, mother, husband, wife, son, daughter, brother, sister, grandfather, grandmother, grandson, granddaughter, father-in-law, and mother-in-law.

The ownership Interest Declaration Form would collect the following information:

- *Specify if Individual or Sole Proprietorship, Joint Ownership, Partnership, Corporation, Other (specify)*
- *Name or Name of Business*
- *Additional element to capture family members as defined by SBA*
- *Mailing Address, Physical Address*
- *Tax ID number (FED ID if business or SSN if individual)*
- *Date of Birth (if individual) or Date of Business Filled (if business)*
- *Phone Number*
- *Citizenship Status (if individual) or Declaration of U.S. Control (if business)*
- *Specify name of borrower associated with the security interest/lien*
- *Declaration that to the best of the applicant's knowledge and belief, the information presented is true, correct, and complete.*

In addition, if the declaration is for a Corporation/Business/LLC, the additional following information is required on each officer, shareholder, or partner associated with the business. The FMAT has recommended that information is needed only for major shareholders. Therefore, major shareholders would need to be identified on this declaration form. A major shareholder in

this context would be defined as a shareholder that individually hold shares that total 10% or more of the shares of the Corporation/Business/LLC.

- *Information on President/CEO, Vice President, Secretary, Treasurer, Director/Manager, Partner, Other (specify)*
- *Shareholders Information (Major Shareholders only; defined as 10% or more of interest)*
- *Percent of Corporation/Business/LLC held by major shareholders*
- *Name, Mailing Address, Physical Address (on items above)*
- *SSN, Date of Birth, Phone Number (on items above)*
- *Minor Shareholders, Total percentage (%) Corporation/Business/LLC held by minority shareholder(s) that individually hold less than 10% of the total shares of Corporation/Business/LLC.*
- *Number of Minority Shareholders*
- *Declaration that to the best of the applicant's knowledge and belief, the information presented is true, correct, and complete.*

The additional information regarding individual members of the Corporation/Business/LLC is required to track ITQ ownership levels within the surfclam and ocean quahog fisheries. The 10% reporting cutoff for major shareholders was identified by the FMAT as a reasonable percentage, which would result in no more than 10 shareholders needing to be reported on the declaration of interest form. This avoids excessively long lists of shareholders, which are in fact minor shareholders with minimal interest in the fishery.

Ideally, ownership information would be requested prior to the start of the new fishing year as a condition for issuing cage tags. The owner of record would make the declaration. Furthermore, if for example, a bank or other financial institution or business declares they are holding the ITQ allocation on behalf of another company or individual, they would need to provide information regarding the person or entity that would control use of the quota. As indicated above, the proposed declaration form would have to be completed by both existing and new participants so that ownership can be established. The forms will have to be submitted to the Service yearly. Declaration forms would have to be submitted early enough to the Service so they can be processed before the cage tags are issued and distributed.

Strengths:

1. Provides a comprehensive and transparent definition for ownership interest
2. Used in other IFQ fisheries

Weakness:

1. Timing, it might not be possible to get all the information at the very beginning of the year when cage tags are initially issued (year 1). It is expected that the second year would be better.

2. Banking/lending institutions may view this information collection as intrusive and burdensome. Having banking/lending institutions provide the required information may jeopardize relationships between borrowers and lenders.
3. Banks may not want to disclose loan information.

The FMAT discussed the possibility that a Central Registry for Limited Access Permits (lien registry), as required under the SFA would allow banks or other financial institutions to register a financial interest in a permit without taking formal ownership of the quota allocation. Any new ownership reporting requirements would therefore not apply to these institutions. However, such a lien registry has not been developed yet and there is no indication when, or if, it will be implemented in the future. The NMFS Alaska Regional Office is currently operating an informal lien registry that parties may use to file security interests in permits. Since no applicable law authorizes this unofficial law, parties will not maintain any priority based on participation in the Alaska unofficial registry. Any system to track liens may be welcome by banking/lending institutions as it may allow for the legal assertion of a financial claim on an ITQ allocation without the reporting and permitting requirements of ownership.

The FMAT discussed that a possibility would be to allow banking/lending institutions with ITQ ownership to be exempt from any additional reporting requirements, but to have the debtor associated with the bank loan fill out the declaration form. This would require very clear instructions on the form to the banking/lending institutions that the borrower itself must complete the Interest Declaration Form and not the bank/lending institutions. This may be the best option in the absence of a formal lien registry in order to collect the information needed while addressing the industry's reasonable concern over the potential impact of this program on the availability of financing.

3.2 Additional Data Elements on Transfer Forms

In order to monitor transfers more efficiently, the following information would need to be collected in addition to what is already collected in the transfer forms:

- Type of Transfer (Permanent or Temporary)
- Name of Transferor (Seller), Allocation Number, Signature
- Cage tags to be transferred
- Transferee (Buyer): Name, Address, List of Allocation Numbers in which an interest is owned, Vessel (if applicable), U.S. Citizenship Affirmation, Signature

- *Price Per Tag (Two parts: Price Per Tag Including All Fees, Provide Broker Fees if applicable)*[10]
- *Will the ITQ purchased have a lien attached? If yes, provide the name of lien holder*
- *If a temporary transfer, specify if short-term or long-term (if an agreement to transfer for several years in advance is planned then specify duration)*
- *If a long-term contract is planned (temporary transfer planned for multiple years in advance), then specify if fixed-price or market-driven flexible pricing applies.*
- *Is there an agreement placed on resale? For example, to return the ITQ or tags to the transferor, or any other person.*
- *Specify additional transfer conditions. For example, if the tags are leased from a processor to a harvester, is the harvester obligated to sell those clams to the processor from which the tags were leased (and not another processor)*?
- *Transferor (seller) and transferee (buyer) declaration that to the best of the applicant's knowledge and belief, the information presented is true, correct, and complete*.

Strengths:

1. Would provide more effective monitoring of transactions by quota share holders
2. Enables monitoring of how the tag numbers associated with an allocation are processed
3. Enable tracking of tag number transfers between individuals or business

Weakness:

1. Stakeholders may be reluctant to provide detailed business agreements. However, this information would be considered confidential under the MSA. Therefore, it could be used to monitor ownership concentration and control within NMFS, but detailed business agreements could not be publicly reported, except in aggregate form.

The proposed additional data collection information developed by the FMAT is needed to transparently monitor clam ITQ ownership and control. However, it does not provide the tools that would be needed to monitor all types of business transactions that may occur in the fishery. For example, a processor may offer an independent harvester (that owns ITQ) a fixed price for clams and the independent harvester is obligated to reserve the ITQ necessary to supply these clams to the processor. Under this scenario, the processor controls the use of the quota and benefits from an increase in the price of clams and quota. However, there is no mechanism to monitor this type of business arrangement as cage tags or quota is not transferred.

[10] Industry members raised concerns about this proposed collection data element. More specifically, stakeholders indicated that this type of data is not needed for assessing S*. Furthermore, stakeholders indicated that in some circumstances tags are temporarily transferred between individuals and no money is transferred. This is the case when a tag owner simply transferred the tags to a vessel that is only providing a harvesting service and selling the clams back to the tag owner at a preset price.

4.0 References

1) GAO Report-03-159. “Individual Fishing Quotas: Better Information Could Improve Program Management.” This document describes the data collection systems in the Halibut, Sablefish, SCOQ, and wreckfish IFQ programs. The report reviewed the ITQ programs for their consistency with Federal regulations and provided recommendations to NOAA Fisheries and the Regional Fishery Management Councils on how to better manage these programs according to the regulations. Available on line at: http://www.gao.gov/new.items/d03159.pdf

2) GAO Report-04-277. “Individual Fishing Quotas: Methods for Community Protection and New Entry Required Periodic Evaluation." This report describes the difficulties in monitoring ownership and control of IFQ shares, especially in situations where fishermen create subsidiaries and complicated business relationships. The report also presents case studies where this situation has been mitigated. Available on line at: http://www.gao.gov/new.items/d04277.pdf

3) National Marine Fisheries Service Review of the Atlantic Surfclam and Ocean Quahog ITQ Program: Addressing Issues Raised by the GAO Report, “Individual Fishing Quotas: Better Information Could Improve Program Management [GAO Report-03-159 mentioned above].” This is an excellent document prepared by Douglas W. Christel of NMFS/NERO. The report summarizes current data collection in the SCOQ fisheries and offers suggestions for future data needs

4) Walden J. 2011. Summary of findings by the Center for Independent Experts regarding setting excessive share limits for ITQ fisheries. U.S. Dept Commer, Northeast Fish Sci Cent Ref Doc. 11-22; 104 p. Available from: National Marine Fisheries Service, 166 Water Street, Woods Hole, MA 02543-1026, or online at http://nefsc.noaa.gov/publications/

5) Glenn M., Peterson S., and Willig R. Recommendations for Excessive - Share Limits in the Surfclam and Ocean Quahog Fisheries. Compass Lexecon, May 3, 2011.

6) Various data collection system for IFQ programs (SCOQ, tilefish, halibut, sablefish, red snapper and grouper-tilefish). For additional information, see the following links: http://www.nero.noaa.gov/permits/forms.html; http://alaskafisheries.noaa.gov/ram/applications.htm#Link_7; and http://sero.nmfs.noaa.gov/sf/pdfs/IFQ_Online_Account_Application.pdf.

Appendix I
List of SCOQ Owners as of the Start of 2012

2012 ATLANTIC SURFCLAM ITQ ALLOCATIONS

ALLOC_NUM	OWNER	OWNER2	STREET	CITY	STATE	ZIP	RATIO	BUSHELS	NUM_TAGS	BEG_TAG	END_TAG
C004	ADRIATIC INC		10127 Keyser Point Rd.	Ocean City	MD	21842	0.009173	31200	975	85596	86570
C007	A & B COMMERCIAL FISH INC		P O BOX 727	MANAHAWKIN	NJ	08050	0.006296471	21408	669	95318	95986
C008	F/V AMANDA TARA INC		P O BOX 727	MANAHAWKIN	NJ	08050	0.002145882	7296	228	105161	105388
C011	D & L COMMERCIAL FISH INC		P O BOX 727	MANAHAWKIN	NJ	08050	0.000489412	1664	52	106231	106282
C026	GEORGE S CARMINES		103 RENS ROAD	POQUOSON	VA	23662	0.010128	34432	1076	80380	81455
C031	ATLANTIC VESSELS OF DEL INC		BOX 178	NORFOLK	VA	23510	0.009581176	32576	1018	83578	84595
C036	ISLE OF YORK / HAROLD W MARTIN		10045 KEYSER POINT ROAD	OCEAN CITY	MD	21842	0.009162	31136	973	86571	87543
C046	B & D COMMERCIAL FISH INC		P O BOX 727	MANAHAWKIN	NJ	08050	0.006004706	20416	638	95987	96624
C063	T & P VESSEL INC		210 HAGAN ROAD	CLERMONT	NJ	08210	0.001285	4384	137	106037	106173
C065	SARAH C CONWAY INC		P O BOX 727	MANAHAWKIN	NJ	08050	0.006889412	23424	732	93205	93936
C071	WYOMING BOAT CORPORATION		12 RABBIT RUN	CAPE MAY	NJ	08204	0.005345	18176	568	98479	99046
C074	KRISTY LEE CLAM CO	(JOE GARVILLA)	P.O. BOX 114	NEWCOMB	NY	12852	0.020485	69664	2177	65431	67607
C075	SEAFISH INC/MARYLAND CORP		10152 WATERVIEW DRIVE	OCEAN CITY	MD	21842	0.002066	7040	220	105611	105830
C080	LEPRECHAUN INC		P O BOX 727	MANAHAWKIN	NJ	08050	0.005327059	18112	566	99047	99612
C110	F/V OCEAN BIRD, INC		P O BOX 727	MANAHAWKIN	NJ	08050	0.007651765	26016	813	90131	90943
C128	ADRIAN WAYNE WATSON		10222 Golf Course Road	OCEAN CITY	MD	21842	0.007024	23872	746	91713	92458
C130	ALEXANDER R SMITH		P.O. BOX N36	WESTPORT	MA	02790	0.000539	1824	57	106174	106230
C133	CITY OF SOUTHPORT INC		6009 Fire Fly Drive	Salisbury	MD	21801	0.007242	24608	769	90944	91712
C134	STARLIGHT COMM FISH INC		P O BOX 727	MANAHAWKIN	NJ	08050	0.004178824	14208	444	101645	102088
C135	T & M CLAMMERS INC		P O BOX 727	MANAHAWKIN	NJ	08050	0.004536471	15424	482	100700	101181
C136	STEPHANIE DEE INC		PO BOX 38	MAPPSVILLE	VA	23407	0.030776471	104640	3270	49748	53017
C146	WOODROW LAURENCE, INC.		12310 COLLINS RD	BISHOPVILLE	MD	21813-1528	0.012935	43968	1374	77713	79086
C149	WANDO RIVER CORP		383 WATER STREET	WARREN	RI	02885	0.003806	12928	404	102089	102492
C151	PATTI B CLAM VENTURES INC		P O BOX 727	MANAHAWKIN	NJ	08050	0.005628235	19136	598	97881	98478
C166	NANTUCKET SHOALS INC	ALBERT C. ROSINHA	147 Pine Street	Rochester	MA	02770	0.007802	26528	829	89302	90130
C188	BLOUNT SEAFOOD CORP.		BOX 368	WARREN	RI	02885	0.015275294	51936	1623	73238	74860
C189	ANTHONY W. WATSON		8041 IRONSHIRE STATION RD	BERLIN	MD	21811	0.005897846	20064	627	97254	97880
C201	ANTHONY E. & JOHN D. MARTIN		11014 GRAYS CORNER ROAD	BERLIN	MD	21811	0.004356	14816	463	101182	101644
C215	LEROY E. AND DOLORES TRUEX		P.O. BOX 727	MANAHAWKIN	NJ	08050	0.00592	20128	629	96625	97253
C229	KENNETH W. BAILEY SR		231 MAIN ST.; P.O. BOX 12	HEISLERVILLE	NJ	08324-0012	0.003514	11936	373	103286	103658
C232	PETER A. LAMONICA	C/O 20 FATHOM LLC	PO Box 600	Dorchester	NJ	08316	0.002088	7104	222	105389	105610
C250	SUN NATIONAL BANK (SJSC)	ATTN: EDWARD F. MADDEN	226 LANDIS AVENUE	VINELAND	NJ	08360	0.003743	12736	398	102493	102890
C394	FIRST PIONEER FARM CREDIT, ACA	ATTN: SCOTT A. M. ANDERSEN	29 LANDIS AVENUE	BRIDGETON	NJ	08302	0.010118	34400	1075	81456	82530
C454	LEROY E. TRUEX		PO BOX 727	MANAHAWKIN	NJ	08050	0.005176471	17600	550	99613	100162
C455	Sturdy Savings Bank (OB)	ATTN: RICHARD PAYNE	506 S. Main St.; P.O. Box 900	Cape May Court House	NJ	08210	0.022465882	76384	2387	58495	60881
C496	SUN NATIONAL BANK	(ITF TRUEX, MEYERS & TRUEX)	226 Landis Avenue	Vineland	NJ	08360	0.023099077	78528	2454	56041	58494
C515	DOLORES TRUEX		PO BOX 727	MANAHAWKIN	NJ	08050	0.003717647	12640	395	102891	103285
C520	WELLS FARGO BANK N.A.-ITF SPISULA	ATTN: SOUTHERN NJ RCBO R.V.P.	600 CUTHBERT BLVD.	HADDON TOWNSHIP	NJ	08108	0.057204706	194496	6078	34353	40430
C527	Atlantic Vessels Inc.		902 Southampton Ave.	Norfolk	VA	23510	0.009408331	32000	1000	84596	85595
C528	LNA Inc.		PO Box 178	Portsmouth	RI	02871	0.013825882	47008	1469	74861	76329
C529	First Pioneer Farm Credit, ACA	ATTN: JAMES M PAPAI	240 South Road	Enfield	CT	06882	0.076829538	261216	8163	26190	34352
C540	GEORGE TORGGLER		921 PRESERVE DR	ANNAPOLIS	MD	21401	0.016462769	55968	1749	71489	73237
C546	1ST PIONEER F.B.O. JM & MT		240 SOUTH ROAD	ENFIELD,	CT	06082	0.019689952	66944	2092	67608	69699
C547	1ST PIONEER F.B.O. LET		240 SOUTH ROAD	ENFIELD,	CT	06082	0.00985008	33504	1047	82531	83577
C552	M J HOLDING CO., LLC		P.O. BOX 114	NEWCOMB	NY	12852	0.007022648	23872	746	92459	93204
C559	Sturdy Savings Bank (P & E)		506 South Main St.; PO BOX 900	Cape May Court House	NJ	08210	0.006587077	22400	700	93937	94636
C560	Mary Patricia Price		121 South Genoa Ave.	Egg Harbor City	NJ	08215-3526	0.002861176	9728	304	104270	104573
C562	Sun National Bank	F.B.O. FL QUAHOGS	226 Landis Avenue	Vineland	NJ	08360	0.008733538	29696	928	87544	88471
C567	Sturdy Savings Bank (Cohen)		506 S. Main St., P.O. Box 900	Cape May Court House	NJ	08210	0.013016615	44256	1383	76330	77712
C578	Atlantic Capes Fisheries, Inc.		985 Ocean Drive	Cape May	NJ	08204	0.012169412	41376	1293	79087	80379
C583	Singer Island Ventures Inc		13249 Lankford Hwy	Mappsville	VA	23407	0.113054118	384384	12012	14178	26189
C590	Stephen W. Barry, Esq.		2700 Pacific Avenue	Wildwood	NJ	08260	0.028451765	96736	3023	53018	56040
C593	WELLS FARGO BANK N.A.-ITF LAVECCHIAS	ATTN: SOUTHERN NJ RCBO R.V.P.	600 Cuthbert Blvd.	Haddon Township	NJ	08108	0.007811765	26560	830	88472	89301
C594	Daniel LaVecchia and	MICHAEL LAVECCHIA, PARTNERS	48 Gorton Road	Millville	NJ	08332	0.001938824	6592	206	105831	106036
C606	KENNETH W. BAILEY		231 MAIN STREET, BOX 12	HEISLERVILLE	NJ	08324-0012	0.002776471	9440	295	104574	104868
C608	WELLS FARGO BANK N.A.-ITFCAPE COD OF MD	ATTN: SOURTHERN NJ RCBO R.V.P.	600 Cuthbert Blvd	Haddon Township	NJ	08108	0.006409412	21792	681	94637	95317
C609	Frank Corrado, Escrow Agent		2700 Pacific Ave.	Wildwood	NJ	08260	0.033270588	113120	3535	46213	49747
C613	NSR Resource, LLC		PO Box 727	Manahawkin	NJ	08050	0.002748235	9344	292	104869	105160
C617	Cape Bank (for Daniel Cohen)		225 N. Main Street	Cape May Court House	NJ	08210	0.022296471	75808	2369	60882	63250
C624	INTERNATIONAL CLAM MANAGEMENT		2 48TH ST UNIT 901	OCEAN CITY	MD	21842-6563	0.133430588	453664	14177	1	14177
C627	Farm Credit East, ACA	ATTN: TOM COSGROVE	240 South Rd.	Enfield	CT	06082	0.016837647	57248	1789	69700	71488
C628	Barbara Hall ITF Blount Seafoo		114 Willow Drive	North Cape May	NJ	08204	0.00288	9792	306	103659	103964
C629	New Sea Rover Inc. ITF	BLOUNT SEAFOOD CORP.	31480 Avenue G	Big Pine Key	FL	33043	0.005054118	17184	537	100163	100699
C632	TRISTATE CAPITAL BANK		ONE OXFORD CENTRE	PITTSBURGH	PA	15219	0.054418824	185024	5782	40431	46212
C634	TRISTATE CAPITAL BANK		ONE OXFORD CENTRE	PITTSBURGH	PA	15219	0.020517647	69760	2180	63251	65430
C636	ROCKPORT NATIONAL BANK		16 MAIN STREET	ROCKPORT	MA	01966	0.002870588	9760	305	103965	104269

2012 ATLANTIC OCEAN QUAHOG ITQ ALLOCATIONS

ALLOC_NUM	OWNER	OWNER2	STREET	CITY	STATE	ZIP	RATIO	BUSHELS	NUM_TAGS	BEG_TAG	END_TAG
Q003	ADRIATIC INC		10127 Keyser Point Rd.	Ocean City	MD	21842	0.000272	1440	45	366256	366300
Q006	THOMAS E MCNULTY		118 SPRINGERS MILL ROAD	CAPE MAY COURT HOUSE	NJ	08210	0.0281	149856	4683	331370	336052
Q016	GEORGE S CARMINES IN TRUST		103 RENS ROAD	POQUOSON	VA	23662	0.000519	2752	86	366170	366255
Q021	ATLANTIC VESSELS OF DEL INC		BOX 178	NORFOLK	VA	23501	0.034759	185376	5793	309410	315202
Q044	Heidi & Kristi , Inc		18 BOTKA DRIVE	CHARLESTOWN	RI	02813	0.0000302	160	5	366407	366411
Q055	KRISTY LEE CLAM CO		P.O. BOX 114	NEWCOMB	NY	12852	0.033745	179968	5624	315203	320826
Q056	SEAFISH INC/MARYLAND CORP		10152 WATERVIEW DRIVE	OCEAN CITY	MD	21842	0.0000543	288	9	366398	366406
Q104	STEVEN S INC		348 SOUTH MAIN STREET	PLEASANTVILLE	NJ	08232	0.0000121	64	2	366412	366413
Q107	JOHN & ANTHONY MARTIN		11014 GRAYS CORNER ROAD	BERLIN	MD	21811	0.000725	3872	121	365957	366077
Q109	WOODROW LAURENCE, INC.		12310 COLLINS RD	BISHOPVILLE	MD	21813-1528	0.003912	20864	652	364397	365048
Q112	WANDO RIVER CORP		383 WATER STREET	WARREN	RI	02885	0.043822	233696	7303	302107	309409
Q128	F/V OCEAN VIEW INC		P O BOX 727	MANAHAWKIN	NJ	08050	0.001104069	5888	184	365652	365835
Q143	RAM ISLAND SHELLFISH INC		P.O. BOX 86	WEST SAYVILLE	NY	11796	0.0000121	64	2	366414	366415
Q144	CAPE COD PACKING OF DELAWARE		1500 MT. HERMON ROAD	SALISBURY	MD	21804	0.000266	1408	44	366301	366344
Q181	THOMAS E MCNULTY SR		118 SPRINGERS MILL ROAD	CAPE MAY COURT HOUSE	NJ	08210	0.007928	42272	1321	359660	360980
Q193	PETER A. LAMONICA	C/O 20 FATHOM LLC	PO Box 600	Dorchester	NJ	08316	0.000729	3872	121	365836	365956
Q194	JOHN KELLEHER	C/O 20 FATHOM, LLC	P.O. Box 600	Dorchester	NJ	08316	0.008136001	43392	1356	358304	359659
Q199	LEGEND INC.		607 SEASHORE ROAD	CAPE MAY	NJ	08204	0.019080001	101760	3180	348133	351312
Q206	SUN NATIONAL BANK (CIC)	ATTN: EDWARD F. MADDEN	226 LANDIS AVENUE	VINELAND	NJ	08360	0.012594	67168	2099	354106	356204
Q207	SUN NATIONAL BANK (OS)	ATTN: EDWARD F. MADDEN	226 LANDIS AVENUE	VINELAND	NJ	08360	0.012594	67168	2099	356205	358303
Q553	SUN NATIONAL BANK	(ITF TRUEX, MEYERS & TRUEX)	226 Landis Avenue	Vineland	NJ	08360	0.069346334	369824	11557	265274	276830
Q554	SUN NATIONAL BANK	(ITF S.J.S.C.)	226 Landis Ave	Vineland	NJ	08360	0.00362	19296	603	365049	365651
Q576	FOXY INVESTMENTS INC	C/O 20 FATHOM, LLC	PO Box 600	Dorchester	NJ	08316	0.029754002	158688	4959	326411	331369
Q596	Atlantic Vessels Inc.	P.O. BOX 178	902 Southampton Ave.	Norfolk	VA	23501	0.01675628	89376	2793	351313	354105
Q598	JOHN W. KELLEHER TRUST	C/O 20 FATHOM, LLC	P.O. Box 600	Dorchester	NJ	08316	0.006786	36192	1131	362199	363329
Q602	STURDY SAVINGS BANK		506 S. Main St.; PO BOX 900	CAPE MAY COURTHOUSE	NJ	08210	0.026673778	142240	4445	336053	340497
Q609	M J HOLDING CO., LLC		P.O. BOX 114	NEWCOMB	NY	12852	0.022442667	119680	3740	344393	348132
Q628	Sun National Bank	F.B.O. FL QUAHOGS	226 Landis Avenue	Vineland	NJ	08360	0.033507556	178688	5584	320827	326410
Q636	Sun National Bank, F.B.O. LET	ATTN: MICHELE POWELCZYK	226 Landis Ave.	Vineland	NJ	08362	0.023374222	124640	3895	340498	344392
Q649	Singer Island Ventures Inc		13249 Lankford Hwy	Mappsville	VA	23407	0.098952185	527712	16491	236315	252805
Q658	D.C. Air Marine Division Inc.		P.O. Box 581	Winter Harbor	ME	04693	0.000072	384	12	366386	366397
Q664	TD BANK, NA	ATTN: DONALD COLLIGAN	1203 TILTON RD	NORTHFIELD	NJ	08225	0.074814005	398976	12468	252806	265273
Q665	WELLS FARGO BANK N.A.-ITF SPISULA	ATTN: SOUTHERN NJ RCBO R.V.P.	600 CUTHBERT BLVD.	HADDON TOWNSHIP	NJ	08108	0.052104003	277856	8683	276831	285513
Q667	Bumble Bee Foods, LLC		9655 Granite Ridge Dr, STE 100	San Diego	CA	92123	0.217896014	1162048	36314	200001	236314
Q669	KENNETH W BAILEY		231 MAIN STREET, BOX 12	HEISLERVILLE	NJ	08324-0012	0.000246	1312	41	366345	366385
Q672	OSM Resources, LLC		P.O. Box 727	Manahawkin	NJ	08050	0.007306	38976	1218	360981	362198
Q676	INTERNATIONAL CLAM MANAGEMENT		2 48TH ST UNIT 901	OCEAN CITY	MD	21842-6563	0.006402	34144	1067	363330	364396
Q680	CAPE ISLAND SCALLOP INC		P.O. BOX 497	CAPE MAY	NJ	08204	0.050625164	269984	8437	285514	293950
Q684	ITQ, LLC		P.O. BOX 727	MANAHAWKIN	NJ	08050	0.048939059	260992	8156	293951	302106
Q685	NSR RESOURCES LLC		P.O. BOX 727	MANAHAWKIN	NJ	08050	0.000552035	2944	92	366078	366169

Appendix II
Request for Atlantic Surfclam or Ocean Quahog
Allocation or Cage Tag Transfer Form

Print Form

Request for Atlantic Surfclam or Ocean Quahog ITQ Allocation or Cage Tag Transfer

United States Department of Commerce
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
Northeast Region
55 Great Republic Drive
Gloucester, MA 01930

Section 1. Check which type of transfer you are requesting:

☐	**Permanent ITQ Allocation Transfer**
☐	**Temporary Cage Tag Transfer**

Section 2.

Transferer (Seller)			
Name:		Allocation Number:	
Cage Tags to be Transferred			
	Beginning Tag Number	Ending Tag Number	Total Tags
Tag Series 1:			
Tag Series 2:			
Tag Series 3:			

Section 3.

Transferee (Buyer)	
Name:	*Allocation Number:
List of allocation numbers in which an interest is owned:	* If an allocation number has not been issued Section 4 of this form must be completed. NMFS will issue an allocation number upon receipt of the completed application.

Section 4.

Name:	
Vessel (if applicable):	
Street:	
City/ State/ Zip:	
Telephone:	
☐	U.S. citizen requirement. By checking this box you are indicating that you are eligible to own a documented vessel under the terms of 46 U.S.C. 12102(a) and are able to provide documentation attesting to such eligibility if requested by NMFS.

Section 5.

Signature of Transferer or Authorized Agent:	Signature of Transferee or Authorized Agent:
Date:	Date:

OMB Approval No. 0648-0240 Expires 4/30/2012

Appendix III
List of SCOQ Transfers in 2011

2011 ATLANTIC SURFCLAM TRANFER REPORT

YEAR	FROM	OWNER	TO	OWNER	TRANSFER TYPE TEMPORARY (T) OR PERMANANENT (P)	BEGENNING TAG	END TAG	DATE
2011	C571	WELLS FARGO BANK N.A.- ITF TRUEX, MYERS & TRUEX	C632	TRISTATE CAPITAL BANK	P	41625	47406	28-Dec-10
2011	C571	WELLS FARGO BANK N.A.- ITF TRUEX, MYERS & TRUEX	C080	LEPRECHAUN INC	P	47407	47972	28-Dec-10
2011	C570	WELLS FARGO BANK N.A.- ITF L.E. TRUEX	C007	A & B COMMERCIAL FISH INC	P	34092	34760	28-Dec-10
2011	C570	WELLS FARGO BANK N.A.- ITF L.E. TRUEX	C008	F/V AMANDA TARA INC	P	34761	34988	28-Dec-10
2011	C570	WELLS FARGO BANK N.A.- ITF L.E. TRUEX	C011	D & L COMMERCIAL FISH INC	P	34989	35040	28-Dec-10
2011	C570	WELLS FARGO BANK N.A.- ITF L.E. TRUEX	C046	B & D COMMERCIAL FISH INC	P	35041	35678	28-Dec-10
2011	C570	WELLS FARGO BANK N.A.- ITF L.E. TRUEX	C053	FRANCIS E SOFFRON INC	P	35679	36336	28-Dec-10
2011	C570	WELLS FARGO BANK N.A.- ITF L.E. TRUEX	C065	SARAH C CONWAY INC	P	36337	37068	28-Dec-10
2011	C570	WELLS FARGO BANK N.A.- ITF L.E. TRUEX	C215	LEROY E. AND DOLORES TRUEX	P	37069	37697	28-Dec-10
2011	C570	WELLS FARGO BANK N.A.- ITF L.E. TRUEX	C100	F/V MISS TAMMY INC	P	37698	37995	28-Dec-10
2011	C570	WELLS FARGO BANK N.A.- ITF L.E. TRUEX	C110	F/V OCEAN BIRD, INC	P	37996	38808	28-Dec-10
2011	C570	WELLS FARGO BANK N.A.- ITF L.E. TRUEX	C112	OCEAN GULL INC	P	38809	39467	28-Dec-10
2011	C570	WELLS FARGO BANK N.A.- ITF L.E. TRUEX	C454	LEROY E. TRUEX	P	39468	40017	28-Dec-10
2011	C570	WELLS FARGO BANK N.A.- ITF L.E. TRUEX	C115	B&B SHELLFISHING INC	P	40018	40582	28-Dec-10
2011	C570	WELLS FARGO BANK N.A.- ITF L.E. TRUEX	C134	STARLIGHT COMM FISH INC	P	40583	41026	28-Dec-10
2011	C570	WELLS FARGO BANK N.A.- ITF L.E. TRUEX	C151	PATTI B CLAM VENTURES INC	P	41027	41624	28-Dec-10
2011	C632	TRISTATE CAPITAL BANK	C625	TMT Allocations, Inc.	T	41625	42163	28-Dec-10
2011	C632	TRISTATE CAPITAL BANK	C111	EMILY MARGARETTE INC	T	42164	42777	28-Dec-10
2011	C632	TRISTATE CAPITAL BANK	C599	TMT, LLC	T	42778	43804	28-Dec-10
2011	C632	TRISTATE CAPITAL BANK	C122	SO JERSEY SURF CLAM INC	T	43805	44266	28-Dec-10
2011	C632	TRISTATE CAPITAL BANK	C495	MAYETTA ASSOCIATES PARTNERSHIP	T	44267	47406	28-Dec-10
2011	C627	Farm Credit East, ACA	C615	Fishing Vessel Enterprises Inc	T	75358	77146	28-Dec-10
2011	C617	Cape Bank (for Daniel Cohen)	C568	Daniel Cohen	T	68720	71088	28-Dec-10
2011	C593	WELLS FARGO BANK N.A.-ITF LAVECCHIAS	C594	Daniel LaVecchia and	T	92679	93508	28-Dec-10
2011	C608	WELLS FARGO BANK N.A.-ITFCAPE COD OF MARYLAND	C607	Cape Cod of Maryland Inc.	T	98761	99441	28-Dec-10
2011	C455	Sturdy Savings Bank (OB)	C009	THOMAS E MCNULTY	T	66333	68719	28-Dec-10
2011	C559	Sturdy Savings Bank (P & E)	C248	P&E VESSEL, INC.	T	98061	98760	28-Dec-10
2011	C567	Sturdy Savings Bank (Cohen)	C568	Daniel Cohen	T	81830	83212	28-Dec-10
2011	C568	Daniel Cohen	C528	LNA Inc.	T	68720	69019	28-Dec-10
2011	C568	Daniel Cohen	C612	Brayton Marine LLC	T	69020	69319	28-Dec-10
2011	C529	First Pioneer Farm Credit, ACA	C569	LET Vessels, LLC	T	25929	26610	28-Dec-10
2011	C529	First Pioneer Farm Credit, ACA	C065	SARAH C CONWAY INC	T	26611	27290	28-Dec-10
2011	C529	First Pioneer Farm Credit, ACA	C553	LEROY E TRUEX	T	27291	27970	28-Dec-10
2011	C529	First Pioneer Farm Credit, ACA	C151	PATTI B CLAM VENTURES INC	T	27971	28650	28-Dec-10
2011	C529	First Pioneer Farm Credit, ACA	C122	SO JERSEY SURF CLAM INC	T	28651	30010	28-Dec-10
2011	C529	First Pioneer Farm Credit, ACA	C575	WINTER HARBOR BRANDS	T	30011	31370	28-Dec-10
2011	C529	First Pioneer Farm Credit, ACA	C574	MISTY DAWN INC.	T	31371	32730	28-Dec-10
2011	C529	First Pioneer Farm Credit, ACA	C605	Misty Dawn Inc.	T	32731	34091	28-Dec-10
2011	C546	1ST PIONEER F.B.O. JM & MT	C253	WINTER HARBOR BRANDS INC	T	73266	73615	28-Dec-10
2011	C546	1ST PIONEER F.B.O. JM & MT	C548	ST. PETERS DOCK	T	73616	73965	28-Dec-10
2011	C546	1ST PIONEER F.B.O. JM & MT	C588	Ocean View Inc.	T	73966	74315	28-Dec-10
2011	C546	1ST PIONEER F.B.O. JM & MT	C587	Ocean View Inc.	T	74316	75357	28-Dec-10
2011	C547	1ST PIONEER F.B.O. LET	C254	BAY HEAD INC.	T	86738	87087	28-Dec-10
2011	C547	1ST PIONEER F.B.O. LET	C577	PEK CLAM CO. INC	T	87088	87437	28-Dec-10
2011	C547	1ST PIONEER F.B.O. LET	C596	Barney's Bait Company	T	87438	87784	28-Dec-10
2011	C007	A & B COMMERCIAL FISH INC	C569	LET Vessels, LLC	T	34092	34760	28-Dec-10
2011	C562	Sun National Bank	C563	Ellen W., LLC	T	91751	92678	28-Dec-10
2011	C250	SUN NATIONAL BANK (SJSC)	C122	SO JERSEY SURF CLAM INC	T	103325	103722	28-Dec-10

2011 ATLANTIC SURFCLAM TRANFER REPORT

YEAR	FROM	OWNER	TO	OWNER	TRANSFER TYPE TEMPORARY (T) OR PERMANANENT (P)	BEGENNING TAG	END TAG	DATE
2011	C515	DOLORES TRUEX	C596	Barney's Bait Company	T	103723	104117	28-Dec-10
2011	C110	F/V OCEAN BIRD, INC	C553	LEROY E TRUEX	T	37996	38808	28-Dec-10
2011	C496	SUN NATIONAL BANK	C495	MAYETTA ASSOCIATES PARTNERSHIP	T	63879	66332	28-Dec-10
2011	C495	MAYETTA ASSOCIATES PARTNERSHIP	C621	Jersey Clam Inc.	T	63879	64400	28-Dec-10
2011	C495	MAYETTA ASSOCIATES PARTNERSHIP	C254	BAY HEAD INC.	T	64401	64700	28-Dec-10
2011	C495	MAYETTA ASSOCIATES PARTNERSHIP	C253	WINTER HARBOR BRANDS INC	T	64701	65000	28-Dec-10
2011	C495	MAYETTA ASSOCIATES PARTNERSHIP	C548	ST. PETERS DOCK	T	65001	65300	28-Dec-10
2011	C568	Daniel Cohen	C631	F/V ENTERPRISE, LLC	T	69720	70019	3-Jan-11
2011	C609	Frank Corrado, Escrow Agent	C604	Oceanside Marine LLC	T	54051	57585	3-Jan-11
2011	C201	ANTHONY E. & JOHN D. MARTIN	C526	ATLANTIC VESSELS OF MARYLAND, LLC	T	102458	102920	3-Jan-11
2011	C520	WELLS FARGO BANK N.A.-ITF SPISULA	C521	SPISULA, LLC	T	47973	54050	3-Jan-11
2011	C521	SPISULA, LLC	C604	Oceanside Marine LLC	T	47973	54050	3-Jan-11
2011	C594	Daniel LaVecchia and	C604	Oceanside Marine LLC	T	92679	93508	3-Jan-11
2011	C607	Cape Cod of Maryland Inc.	C604	Oceanside Marine LLC	T	98761	99441	3-Jan-11
2011	C604	Oceanside Marine LLC	C610	M/V MISS TOBY INC.	T	99161	99441	3-Jan-11
2011	C594	Daniel LaVecchia and	C604	Oceanside Marine LLC	T	105883	106088	3-Jan-11
2011	C560	Mary Patricia Price	C604	Oceanside Marine LLC	T	100707	101010	3-Jan-11
2011	C031	ATLANTIC VESSELS OF DEL INC	C551	ATLANTIC VESSELS OF VIRGINIA	T	88635	88802	3-Jan-11
2011	C629	New Sea Rover Inc. ITF	C188	BLOUNT SEAFOOD CORP.	P	99442	99542	4-Jan-11
2011	C628	Barbara Hall ITF Blount Seafoo	C188	BLOUNT SEAFOOD CORP.	P	104491	104547	4-Jan-11
2011	C629	New Sea Rover Inc. ITF	C188	BLOUNT SEAFOOD CORP.	T	99543	100079	4-Jan-11
2011	C628	Barbara Hall ITF Blount Seafoo	C188	BLOUNT SEAFOOD CORP.	T	104548	104853	4-Jan-11
2011	C394	FIRST PIONEER FARM CREDIT, ACA	C603	Fair Tide Shellfish	T	85663	86737	5-Jan-11
2011	C603	Fair Tide Shellfish	C619	B &C Bait Co.	T	85663	85870	5-Jan-11
2011	C583	Singer Island Ventures Inc	C588	Ocean View Inc.	T	14178	16000	13-Jan-11
2011	C583	Singer Island Ventures Inc	C596	Barney's Bait Company	T	16001	17000	13-Jan-11
2011	C583	Singer Island Ventures Inc	C621	Jersey Clam Inc.	T	17001	18000	13-Jan-11
2011	C583	Singer Island Ventures Inc	C587	Ocean View Inc.	T	18001	20465	13-Jan-11
2011	C568	Daniel Cohen	C631	F/V ENTERPRISE, LLC	T	70020	70319	18-Jan-11
2011	C568	Daniel Cohen	C633	F/V LAUREN LLC	T	69320	69419	24-Jan-11
2011	C568	Daniel Cohen	C602	F/V SILVER FOX LLC	T	69420	69519	24-Jan-11
2011	C188	BLOUNT SEAFOOD CORP.	C548	ST. PETERS DOCK	T	80365	80564	24-Jan-11
2011	C188	BLOUNT SEAFOOD CORP.	C253	WINTER HARBOR BRANDS INC	T	80565	80764	24-Jan-11
2011	C188	BLOUNT SEAFOOD CORP.	C254	BAY HEAD INC.	T	80765	80964	24-Jan-11
2011	C149	WANDO RIVER CORP	C122	SO JERSEY SURF CLAM INC	T	102921	103324	24-Jan-11
2011	C026	GEORGE S CARMINES	C526	ATLANTIC VESSELS OF MARYLAND, LLC	T	84587	85662	25-Jan-11
2011	C075	SEAFISH INC/MARYLAND CORP	C527	Atlantic Vessels Inc.	T	105663	105882	25-Jan-11
2011	C229	KENNETH W. BAILEY SR	C568	Daniel Cohen	T	104118	104490	31-Jan-11
2011	C495	MAYETTA ASSOCIATES PARTNERSHIP	C193	BSC FISHING CORP	T	65301	65600	3-Feb-11
2011	C004	ADRIATIC INC	C186	Cape Cod Packing of Delaware	T	89803	89911	4-Feb-11
2011	C624	INTERNATIONAL CLAM MANAGEMENT	C621	Jersey Clam Inc.	T	1	500	10-Feb-11
2011	C568	Daniel Cohen	C631	F/V ENTERPRISE, LLC	T	70820	71088	14-Feb-11
2011	C604	Oceanside Marine LLC	C610	M/V MISS TOBY INC.	T	54051	55000	22-Feb-11
2011	C568	Daniel Cohen	C631	F/V ENTERPRISE, LLC	T	81830	82119	25-Feb-11
2011	C146	WOODROW LAURENCE, INC.	C526	ATLANTIC VESSELS OF MARYLAND, LLC	T	83213	84586	25-Feb-11
2011	C495	MAYETTA ASSOCIATES PARTNERSHIP	C605	Misty Dawn Inc.	T	65601	66332	1-Mar-11
2011	C526	ATLANTIC VESSELS OF MARYLAND, LLC	C551	ATLANTIC VESSELS OF VIRGINIA	T	84587	84754	1-Mar-11
2011	C624	INTERNATIONAL CLAM MANAGEMENT	C588	Ocean View Inc.	T	501	2000	2-Mar-11

2011 ATLANTIC SURFCLAM TRANFER REPORT

YEAR	FROM	OWNER	TO	OWNER	TRANSFER TYPE TEMPORARY (T) OR PERMANANENT (P)	BEGENNING TAG	END TAG	DATE
2011	C624	INTERNATIONAL CLAM MANAGEMENT	C587	Ocean View Inc.	T	2001	4000	2-Mar-11
2011	C248	P&E VESSEL, INC.	C621	Jersey Clam Inc.	T	98061	98760	2-Mar-11
2011	C063	T & P VESSEL INC	C621	Jersey Clam Inc.	T	106089	106225	2-Mar-11
2011	C603	Fair Tide Shellfish	C619	B &C Bait Co.	T	85871	86300	7-Mar-11
2011	C004	ADRIATIC INC	C186	Cape Cod Packing of Delaware	T	89912	90020	8-Mar-11
2011	C004	ADRIATIC INC	C186	Cape Cod Packing of Delaware	T	90021	90129	8-Mar-11
2011	C186	Cape Cod Packing of Delaware	C594	Daniel LaVecchia and	T	89803	89911	8-Mar-11
2011	C186	Cape Cod Packing of Delaware	C594	Daniel LaVecchia and	T	89912	90020	8-Mar-11
2011	C186	Cape Cod Packing of Delaware	C594	Daniel LaVecchia and	T	90021	90129	8-Mar-11
2011	C594	Daniel LaVecchia and	C604	Oceanside Marine LLC	T	89803	89911	8-Mar-11
2011	C594	Daniel LaVecchia and	C604	Oceanside Marine LLC	T	89912	90020	8-Mar-11
2011	C594	Daniel LaVecchia and	C604	Oceanside Marine LLC	T	90021	90129	8-Mar-11
2011	C540	GEORGE TORGGLER	C621	Jersey Clam Inc.	T	77147	78021	11-Mar-11
2011	C495	MAYETTA ASSOCIATES PARTNERSHIP	C605	Misty Dawn Inc.	T	44267	46000	11-Mar-11
2011	C604	Oceanside Marine LLC	C610	M/V MISS TOBY INC.	T	100707	101010	15-Mar-11
2011	C604	Oceanside Marine LLC	C610	M/V MISS TOBY INC.	T	89803	89911	15-Mar-11
2011	C604	Oceanside Marine LLC	C610	M/V MISS TOBY INC.	T	89912	90020	15-Mar-11
2011	C604	Oceanside Marine LLC	C610	M/V MISS TOBY INC.	T	90021	90129	15-Mar-11
2011	C630	CAPE ISLAND SCALLOP INC	C135	T & M CLAMMERS INC	P	96599	97080	18-Mar-11
2011	C630	CAPE ISLAND SCALLOP INC	C583	Singer Island Ventures Inc	P	97081	97341	18-Mar-11
2011	C568	Daniel Cohen	C633	F/V LAUREN LLC	T	70320	70519	21-Mar-11
2011	C046	B & D COMMERCIAL FISH INC	C065	SARAH C CONWAY INC	T	35041	35678	21-Mar-11
2011	C215	LEROY E. AND DOLORES TRUEX	C553	LEROY E TRUEX	T	37069	37697	21-Mar-11
2011	C454	LEROY E. TRUEX	C569	LET Vessels, LLC	T	39468	40017	21-Mar-11
2011	C134	STARLIGHT COMM FISH INC	C151	PATTI B CLAM VENTURES INC	T	40583	41026	21-Mar-11
2011	C625	TMT Allocations, Inc.	C574	MISTY DAWN INC.	T	41625	42163	21-Mar-11
2011	C053	FRANCIS E SOFFRON INC	C626	LET Ventures, Inc.	P	35679	36336	22-Mar-11
2011	C100	F/V MISS TAMMY INC	C626	LET Ventures, Inc.	P	37698	37995	22-Mar-11
2011	C112	OCEAN GULL INC	C626	LET Ventures, Inc.	P	38809	39467	22-Mar-11
2011	C115	B&B SHELLFISHING INC	C626	LET Ventures, Inc.	P	40018	40582	22-Mar-11
2011	C626	LET Ventures, Inc.	C634	TRISTATE CAPITAL BANK	P	35679	36336	22-Mar-11
2011	C626	LET Ventures, Inc.	C634	TRISTATE CAPITAL BANK	P	37698	37995	22-Mar-11
2011	C626	LET Ventures, Inc.	C634	TRISTATE CAPITAL BANK	P	38809	39467	22-Mar-11
2011	C626	LET Ventures, Inc.	C634	TRISTATE CAPITAL BANK	P	40018	40582	22-Mar-11
2011	C568	Daniel Cohen	C612	Brayton Marine LLC	T	70520	70819	22-Mar-11
2011	C604	Oceanside Marine LLC	C079	LAUREN KIM INC	T	105883	106088	29-Mar-11
2011	C166	NANTUCKET SHOALS INC	C612	Brayton Marine LLC	T	93509	93600	5-Apr-11
2011	C568	Daniel Cohen	C631	F/V ENTERPRISE, LLC	T	82620	82919	5-Apr-11
2011	C166	NANTUCKET SHOALS INC	C612	Brayton Marine LLC	T	93601	93690	12-Apr-11
2011	C188	BLOUNT SEAFOOD CORP.	C122	SO JERSEY SURF CLAM INC	T	80965	81829	15-Apr-11
2011	C495	MAYETTA ASSOCIATES PARTNERSHIP	C605	Misty Dawn Inc.	T	46001	47406	21-Apr-11
2011	C568	Daniel Cohen	C612	Brayton Marine LLC	T	82120	82419	6-May-11
2011	C604	Oceanside Marine LLC	C079	LAUREN KIM INC	T	51001	51400	10-May-11
2011	C624	INTERNATIONAL CLAM MANAGEMENT	C621	Jersey Clam Inc.	T	4001	4500	10-May-11
2011	C575	WINTER HARBOR BRANDS	C553	LEROY E TRUEX	T	30601	31370	10-May-11
2011	C560	Mary Patricia Price	C635	HOWARD MONTE ROME	P	101011	101315	11-May-11
2011	C568	Daniel Cohen	C633	F/V LAUREN LLC	T	82420	82619	13-May-11
2011	C631	F/V ENTERPRISE, LLC	C623	F/V Lori Ann LLC	T	81830	82119	17-May-11

2011 ATLANTIC SURFCLAM TRANFER REPORT

YEAR	FROM	OWNER	TO	OWNER	TRANSFER TYPE TEMPORARY (T) OR PERMANANENT (P)	BEGENNING TAG	END TAG	DATE
2011	C080	LEPRECHAUN INC	C623	F/V Lori Ann LLC	T	47407	47706	18-May-11
2011	C568	Daniel Cohen	C631	F/V ENTERPRISE, LLC	T	82920	83212	24-May-11
2011	C635	HOWARD MONTE ROME	C636	ROCKPORT NATIONAL BANK	P	101011	101315	25-May-11
2011	C603	Fair Tide Shellfish	C619	B &C Bait Co.	T	86301	86737	1-Jun-11
2011	C122	SO JERSEY SURF CLAM INC	C621	Jersey Clam Inc.	T	29501	30010	3-Jun-11
2011	C636	ROCKPORT NATIONAL BANK	C635	HOWARD MONTE ROME	T	101011	101315	8-Jun-11
2011	C635	HOWARD MONTE ROME	C615	Fishing Vessel Enterprises Inc	T	101011	101160	8-Jun-11
2011	C634	TRISTATE CAPITAL BANK	C626	LET Ventures, Inc.	T	35679	36336	14-Jun-11
2011	C626	LET Ventures, Inc.	C065	SARAH C CONWAY INC	T	35679	36336	14-Jun-11
2011	C634	TRISTATE CAPITAL BANK	C626	LET Ventures, Inc.	T	37698	37995	14-Jun-11
2011	C626	LET Ventures, Inc.	C151	PATTI B CLAM VENTURES INC	T	37698	37995	14-Jun-11
2011	C634	TRISTATE CAPITAL BANK	C626	LET Ventures, Inc.	T	38809	39467	14-Jun-11
2011	C626	LET Ventures, Inc.	C553	LEROY E TRUEX	T	38809	39467	14-Jun-11
2011	C634	TRISTATE CAPITAL BANK	C626	LET Ventures, Inc.	T	40018	40582	14-Jun-11
2011	C626	LET Ventures, Inc.	C569	LET Vessels, LLC	T	40018	40582	14-Jun-11
2011	C615	Fishing Vessel Enterprises Inc	C612	Brayton Marine LLC	T	75358	75657	20-Jun-11
2011	C615	Fishing Vessel Enterprises Inc	C633	F/V LAUREN LLC	T	75658	75857	20-Jun-11
2011	C615	Fishing Vessel Enterprises Inc	C631	F/V ENTERPRISE, LLC	T	75858	76157	20-Jun-11
2011	C615	Fishing Vessel Enterprises Inc	C578	Atlantic Capes Fisheries, Inc.	T	76158	76257	22-Jun-11
2011	C599	TMT, LLC	C605	Misty Dawn Inc.	T	42778	43804	22-Jun-11
2011	C604	Oceanside Marine LLC	C009	THOMAS E MCNULTY	T	51401	51720	29-Jun-11
2011	C604	Oceanside Marine LLC	C526	ATLANTIC VESSELS OF MARYLAND, LLC	T	51721	51910	5-Jul-11
2011	C604	Oceanside Marine LLC	C079	LAUREN KIM INC	T	52601	52920	12-Jul-11
2011	C188	BLOUNT SEAFOOD CORP.	C253	WINTER HARBOR BRANDS INC	T	99912	100079	18-Jul-11
2011	C193	BSC FISHING CORP	C253	WINTER HARBOR BRANDS INC	T	65301	65450	18-Jul-11
2011	C193	BSC FISHING CORP	C254	BAY HEAD INC.	T	65451	65600	18-Jul-11
2011	C526	ATLANTIC VESSELS OF MARYLAND, LLC	C551	ATLANTIC VESSELS OF VIRGINIA	T	51721	51910	19-Jul-11
2011	C111	EMILY MARGARETTE INC	C605	Misty Dawn Inc.	T	42164	42777	21-Jul-11
2011	C122	SO JERSEY SURF CLAM INC	C254	BAY HEAD INC.	T	81270	81380	27-Jul-11
2011	C122	SO JERSEY SURF CLAM INC	C548	ST. PETERS DOCK	T	81381	81492	27-Jul-11
2011	C122	SO JERSEY SURF CLAM INC	C588	Ocean View Inc.	T	81493	81604	27-Jul-11
2011	C615	Fishing Vessel Enterprises Inc	C633	F/V LAUREN LLC	T	76258	76457	4-Aug-11
2011	C568	Daniel Cohen	C602	F/V SILVER FOX LLC	T	104118	104317	11-Aug-11
2011	C615	Fishing Vessel Enterprises Inc	C612	Brayton Marine LLC	T	76458	76757	12-Aug-11
2011	C008	F/V AMANDA TARA INC	C065	SARAH C CONWAY INC	T	34761	34988	12-Aug-11
2011	C011	D & L COMMERCIAL FISH INC	C151	PATTI B CLAM VENTURES INC	T	34989	35040	12-Aug-11
2011	C574	MISTY DAWN INC.	C605	Misty Dawn Inc.	T	41661	42163	12-Aug-11
2011	C590	Stephen W. Barry, Esq.	C594	Daniel LaVecchia and	T	60856	62367	15-Aug-11
2011	C594	Daniel LaVecchia and	C604	Oceanside Marine LLC	T	60856	62367	15-Aug-11
2011	C232	PETER A. LAMONICA	C526	ATLANTIC VESSELS OF MARYLAND, LLC	T	105441	105662	15-Aug-11
2011	C615	Fishing Vessel Enterprises Inc	C623	F/V Lori Ann LLC	T	76758	76957	18-Aug-11
2011	C624	INTERNATIONAL CLAM MANAGEMENT	C625	TMT Allocations, Inc.	T	4501	5000	23-Aug-11
2011	C577	PEK CLAM CO. INC	C193	BSC FISHING CORP	T	87088	87437	23-Aug-11
2011	C635	HOWARD MONTE ROME	C631	F/V ENTERPRISE, LLC	T	101161	101315	25-Aug-11
2011	C625	TMT Allocations, Inc.	C615	Fishing Vessel Enterprises Inc	T	4501	5000	26-Aug-11
2011	C540	GEORGE TORGGLER	C615	Fishing Vessel Enterprises Inc	T	78022	78895	26-Aug-11
2011	C037	DOXSEE SEA CLAM CO., INC.	C613	NSR Resource, LLC	P	105149	105440	30-Aug-11
2011	C613	NSR Resource, LLC	C605	Misty Dawn Inc.	T	105149	105440	30-Aug-11

2011 ATLANTIC SURFCLAM TRANFER REPORT

YEAR	FROM	OWNER	TO	OWNER	TRANSFER TYPE TEMPORARY (T) OR PERMANANENT (P)	BEGENNING TAG	END TAG	DATE
2011	C122	SO JERSEY SURF CLAM INC	C605	Misty Dawn Inc.	T	29007	29500	6-Sep-11
2011	C615	Fishing Vessel Enterprises Inc	C619	B &C Bait Co.	T	101011	101160	6-Sep-11
2011	C624	INTERNATIONAL CLAM MANAGEMENT	C596	Barney's Bait Company	T	5001	5500	9-Sep-11
2011	C563	Ellen W., LLC	C569	LET Vessels, LLC	T	91751	91950	9-Sep-11
2011	C563	Ellen W., LLC	C065	SARAH C CONWAY INC	T	91951	92150	9-Sep-11
2011	C563	Ellen W., LLC	C151	PATTI B CLAM VENTURES INC	T	92151	92350	9-Sep-11
2011	C563	Ellen W., LLC	C553	LEROY E TRUEX	T	92351	92678	9-Sep-11
2011	C604	Oceanside Marine LLC	C079	LAUREN KIM INC	T	52981	53000	19-Sep-11
2011	C604	Oceanside Marine LLC	C079	LAUREN KIM INC	T	55819	56000	19-Sep-11
2011	C254	BAY HEAD INC.	C553	LEROY E TRUEX	T	64411	64700	19-Sep-11
2011	C615	Fishing Vessel Enterprises Inc	C612	Brayton Marine LLC	T	4501	4800	19-Sep-11
2011	C615	Fishing Vessel Enterprises Inc	C631	F/V ENTERPRISE, LLC	T	76958	77146	20-Sep-11
2011	C166	NANTUCKET SHOALS INC	C637	MAUDE PLATT INC	T	93691	93790	20-Sep-11
2011	C631	F/V ENTERPRISE, LLC	C623	F/V Lori Ann LLC	T	101161	101315	21-Sep-11
2011	C188	BLOUNT SEAFOOD CORP.	C011	D & L COMMERCIAL FISH INC	T	99442	99542	21-Sep-11
2011	C188	BLOUNT SEAFOOD CORP.	C011	D & L COMMERCIAL FISH INC	T	99543	99911	21-Sep-11
2011	C011	D & L COMMERCIAL FISH INC	C623	F/V Lori Ann LLC	T	99442	99542	21-Sep-11
2011	C011	D & L COMMERCIAL FISH INC	C623	F/V Lori Ann LLC	T	99543	99911	21-Sep-11
2011	C188	BLOUNT SEAFOOD CORP.	C011	D & L COMMERCIAL FISH INC	T	104491	104547	21-Sep-11
2011	C188	BLOUNT SEAFOOD CORP.	C011	D & L COMMERCIAL FISH INC	T	104548	104853	21-Sep-11
2011	C011	D & L COMMERCIAL FISH INC	C623	F/V Lori Ann LLC	T	104491	104547	21-Sep-11
2011	C011	D & L COMMERCIAL FISH INC	C623	F/V Lori Ann LLC	T	104548	104853	21-Sep-11
2011	C623	F/V Lori Ann LLC	C631	F/V ENTERPRISE, LLC	T	99642	99911	23-Sep-11
2011	C135	T & M CLAMMERS INC	C605	Misty Dawn Inc.	T	96599	97080	23-Sep-11
2011	C254	BAY HEAD INC.	C151	PATTI B CLAM VENTURES INC	T	65451	65600	29-Sep-11
2011	C122	SO JERSEY SURF CLAM INC	C553	LEROY E TRUEX	T	28651	28800	30-Sep-11
2011	C122	SO JERSEY SURF CLAM INC	C569	LET Vessels, LLC	T	28801	28900	30-Sep-11
2011	C122	SO JERSEY SURF CLAM INC	C065	SARAH C CONWAY INC	T	28901	29000	30-Sep-11
2011	C590	Stephen W. Barry, Esq.	C594	Daniel LaVecchia and	T	62368	63878	3-Oct-11
2011	C095	ALFRED L FERNANDEZ	C578	Atlantic Capes Fisheries, Inc.	P	101316	101889	5-Oct-11
2011	C615	Fishing Vessel Enterprises Inc	C602	F/V SILVER FOX LLC	T	78022	78121	7-Oct-11
2011	C624	INTERNATIONAL CLAM MANAGEMENT	C569	LET Vessels, LLC	T	5501	5700	11-Oct-11
2011	C624	INTERNATIONAL CLAM MANAGEMENT	C065	SARAH C CONWAY INC	T	5701	5900	11-Oct-11
2011	C624	INTERNATIONAL CLAM MANAGEMENT	C553	LEROY E TRUEX	T	5901	6100	11-Oct-11
2011	C624	INTERNATIONAL CLAM MANAGEMENT	C625	TMT Allocations, Inc.	T	6101	6600	11-Oct-11
2011	C625	TMT Allocations, Inc.	C615	Fishing Vessel Enterprises Inc	T	6101	6600	11-Oct-11
2011	C253	WINTER HARBOR BRANDS INC	C151	PATTI B CLAM VENTURES INC	T	65301	65450	11-Oct-11
2011	C594	Daniel LaVecchia and	C604	Oceanside Marine LLC	T	62368	63878	12-Oct-11
2011	C615	Fishing Vessel Enterprises Inc	C623	F/V Lori Ann LLC	T	78122	78421	12-Oct-11
2011	C575	WINTER HARBOR BRANDS	C569	LET Vessels, LLC	T	30124	30280	12-Oct-11
2011	C575	WINTER HARBOR BRANDS	C065	SARAH C CONWAY INC	T	30281	30440	12-Oct-11
2011	C575	WINTER HARBOR BRANDS	C553	LEROY E TRUEX	T	30441	30600	12-Oct-11
2011	C558	ATLANTIC CLAMS, INC.	C578	Atlantic Capes Fisheries, Inc.	P	97342	98060	17-Oct-11
2011	C578	Atlantic Capes Fisheries, Inc.	C615	Fishing Vessel Enterprises Inc	T	97342	98060	17-Oct-11
2011	C615	Fishing Vessel Enterprises Inc	C623	F/V Lori Ann LLC	T	97342	97541	17-Oct-11
2011	C615	Fishing Vessel Enterprises Inc	C631	F/V ENTERPRISE, LLC	T	97542	97741	17-Oct-11
2011	C615	Fishing Vessel Enterprises Inc	C619	B &C Bait Co.	T	4801	5000	17-Oct-11
2011	C604	Oceanside Marine LLC	C009	THOMAS E MCNULTY	T	56061	56360	18-Oct-11

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2011	C615	Fishing Vessel Enterprises Inc	C633	F/V LAUREN LLC	T	97742	97941	21-Oct-11
2011	C080	LEPRECHAUN INC	C605	Misty Dawn Inc.	T	47707	47972	24-Oct-11
2011	C615	Fishing Vessel Enterprises Inc	C631	F/V ENTERPRISE, LLC	T	97942	98060	24-Oct-11
2011	C548	ST. PETERS DOCK	C605	Misty Dawn Inc.	T	65068	65300	26-Oct-11
2011	C623	F/V Lori Ann LLC	C528	LNA Inc.	T	97342	97541	28-Oct-11
2011	C604	Oceanside Marine LLC	C610	M/V MISS TOBY INC.	T	56661	56860	28-Oct-11
2011	C136	STEPHANIE DEE INC	C071	WYOMING BOAT CORPORATION	T	57586	58000	14-Nov-11
2011	C596	Barney's Bait Company	C193	BSC FISHING CORP	T	5001	5300	14-Nov-11
2011	C624	INTERNATIONAL CLAM MANAGEMENT	C605	Misty Dawn Inc.	T	6601	7100	14-Nov-11
2011	C624	INTERNATIONAL CLAM MANAGEMENT	C151	PATTI B CLAM VENTURES INC	T	7101	7300	14-Nov-11
2011	C624	INTERNATIONAL CLAM MANAGEMENT	C553	LEROY E TRUEX	T	7301	7587	14-Nov-11
2011	C578	Atlantic Capes Fisheries, Inc.	C602	F/V SILVER FOX LLC	T	101316	101415	14-Nov-11
2011	C604	Oceanside Marine LLC	C612	Brayton Marine LLC	T	56001	56060	15-Nov-11
2011	C578	Atlantic Capes Fisheries, Inc.	C528	LNA Inc.	T	101416	101715	15-Nov-11
2011	C136	STEPHANIE DEE INC	C587	Ocean View Inc.	T	58001	58500	16-Nov-11
2011	C136	STEPHANIE DEE INC	C588	Ocean View Inc.	T	58501	58800	16-Nov-11
2011	C526	ATLANTIC VESSELS OF MARYLAND, LLC	C551	ATLANTIC VESSELS OF VIRGINIA	T	83901	84100	18-Nov-11
2011	C604	Oceanside Marine LLC	C071	WYOMING BOAT CORPORATION	T	60885	60916	18-Nov-11
2011	C604	Oceanside Marine LLC	C009	THOMAS E MCNULTY	T	60917	61421	18-Nov-11
2011	C624	INTERNATIONAL CLAM MANAGEMENT	C569	LET Vessels, LLC	T	7588	8000	18-Nov-11
2011	C624	INTERNATIONAL CLAM MANAGEMENT	C065	SARAH C CONWAY INC	T	8001	8500	18-Nov-11
2011	C136	STEPHANIE DEE INC	C553	LEROY E TRUEX	T	58801	59335	18-Nov-11
2011	C574	MISTY DAWN INC.	C569	LET Vessels, LLC	T	32529	32730	18-Nov-11
2011	C254	BAY HEAD INC.	C193	BSC FISHING CORP	T	81270	81380	18-Nov-11
2011	C122	SO JERSEY SURF CLAM INC	C605	Misty Dawn Inc.	T	103616	103722	18-Nov-11
2011	C166	NANTUCKET SHOALS INC	C528	LNA Inc.	T	93791	93847	21-Nov-11
2011	C527	Atlantic Vessels Inc.	C031	ATLANTIC VESSELS OF DEL INC	T	105663	105882	22-Nov-11
2011	C122	SO JERSEY SURF CLAM INC	C605	Misty Dawn Inc.	T	81605	81829	28-Nov-11
2011	C604	Oceanside Marine LLC	C031	ATLANTIC VESSELS OF DEL INC	T	60871	60884	28-Nov-11
2011	C604	Oceanside Marine LLC	C526	ATLANTIC VESSELS OF MARYLAND, LLC	T	61574	61664	28-Nov-11
2011	C604	Oceanside Marine LLC	C527	Atlantic Vessels Inc.	T	61422	61573	28-Nov-11
2011	C615	Fishing Vessel Enterprises Inc	C602	F/V SILVER FOX LLC	T	6101	6200	29-Nov-11
2011	C578	Atlantic Capes Fisheries, Inc.	C619	B &C Bait Co.	T	101716	101889	29-Nov-11
2011	C615	Fishing Vessel Enterprises Inc	C633	F/V LAUREN LLC	T	78422	78521	30-Nov-11
2011	C624	INTERNATIONAL CLAM MANAGEMENT	C605	Misty Dawn Inc.	T	8501	9000	30-Nov-11
2011	C624	INTERNATIONAL CLAM MANAGEMENT	C587	Ocean View Inc.	T	9001	10000	30-Nov-11
2011	C548	ST. PETERS DOCK	C605	Misty Dawn Inc.	T	81437	81492	2-Dec-11
2011	C166	NANTUCKET SHOALS INC	C637	MAUDE PLATT INC	T	93851	93880	2-Dec-11
2011	C615	Fishing Vessel Enterprises Inc	C528	LNA Inc.	T	78522	78821	6-Dec-11
2011	C615	Fishing Vessel Enterprises Inc	C631	F/V ENTERPRISE, LLC	T	6201	6400	6-Dec-11
2011	C621	Jersey Clam Inc.	C605	Misty Dawn Inc.	T	29629	30010	6-Dec-11
2011	C253	WINTER HARBOR BRANDS INC	C605	Misty Dawn Inc.	T	73382	73615	6-Dec-11
2011	C253	WINTER HARBOR BRANDS INC	C605	Misty Dawn Inc.	T	100010	100079	6-Dec-11
2011	C527	Atlantic Vessels Inc.	C551	ATLANTIC VESSELS OF VIRGINIA	T	61422	61573	8-Dec-11
2011	C624	INTERNATIONAL CLAM MANAGEMENT	C588	Ocean View Inc.	T	10001	10500	8-Dec-11
2011	C624	INTERNATIONAL CLAM MANAGEMENT	C151	PATTI B CLAM VENTURES INC	T	10501	10800	8-Dec-11
2011	C624	INTERNATIONAL CLAM MANAGEMENT	C122	SO JERSEY SURF CLAM INC	T	10801	11100	8-Dec-11
2011	C193	BSC FISHING CORP	C588	Ocean View Inc.	T	81270	81380	8-Dec-11

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2011	C624	INTERNATIONAL CLAM MANAGEMENT	C587	Ocean View Inc.	T	11101	11600	12-Dec-11
2011	C624	INTERNATIONAL CLAM MANAGEMENT	C122	SO JERSEY SURF CLAM INC	T	11601	11800	12-Dec-11
2011	C604	Oceanside Marine LLC	C526	ATLANTIC VESSELS OF MARYLAND, LLC	T	62775	63014	12-Dec-11
2011	C604	Oceanside Marine LLC	C551	ATLANTIC VESSELS OF VIRGINIA	T	63015	63264	12-Dec-11
2011	C615	Fishing Vessel Enterprises Inc	C631	F/V ENTERPRISE, LLC	T	6401	6600	12-Dec-11
2011	C578	Atlantic Capes Fisheries, Inc.	C602	F/V SILVER FOX LLC	T	76176	76206	12-Dec-11
2011	C528	LNA Inc.	C623	F/V Lori Ann LLC	T	78622	78721	12-Dec-11
2011	C615	Fishing Vessel Enterprises Inc	C623	F/V Lori Ann LLC	T	78822	78895	12-Dec-11
2011	C604	Oceanside Marine LLC	C610	M/V MISS TOBY INC.	T	56908	57000	12-Dec-11
2011	C604	Oceanside Marine LLC	C610	M/V MISS TOBY INC.	T	62368	62424	12-Dec-11
2011	C604	Oceanside Marine LLC	C009	THOMAS E MCNULTY	T	62425	62774	12-Dec-11
2011	C606	KENNETH W. BAILEY	C602	F/V SILVER FOX LLC	T	104854	104922	12-Dec-11
2011	C606	KENNETH W. BAILEY	C633	F/V LAUREN LLC	T	104923	105022	12-Dec-11
2011	C606	KENNETH W. BAILEY	C619	B &C Bait Co.	T	105023	105122	12-Dec-11
2011	C606	KENNETH W. BAILEY	C623	F/V Lori Ann LLC	T	105123	105148	12-Dec-11

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YEAR	FROM	OWNER	TO	OWNER	TRANSFER TYPE TEMPORARY (T) OR PERMANANENT (P)	BEGINNING TAG	END TAG	DATE
2011	Q576	FOXY INVESTMENTS INC	Q627	Foxy Investment, Inc.	T	325554	327553	28-Dec-10
2011	Q576	FOXY INVESTMENTS INC	Q626	JK Harvest, LLC	T	327554	328512	28-Dec-10
2011	Q576	FOXY INVESTMENTS INC	Q640	JK HARVESTING, LLC	T	328513	330512	28-Dec-10
2011	Q194	JOHN KELLEHER	Q627	Foxy Investment, Inc.	T	357447	357946	28-Dec-10
2011	Q194	JOHN KELLEHER	Q626	JK Harvest, LLC	T	357947	358302	28-Dec-10
2011	Q194	JOHN KELLEHER	Q640	JK HARVESTING, LLC	T	358303	358802	28-Dec-10
2011	Q598	JOHN W. KELLEHER TRUST	Q627	Foxy Investment, Inc.	T	361342	361906	28-Dec-10
2011	Q598	JOHN W. KELLEHER TRUST	Q640	JK HARVESTING, LLC	T	361907	362472	28-Dec-10
2011	Q602	STURDY SAVINGS BANK	Q029	DEBBIE LYNN INC-NJ CORP	T	335196	339640	28-Dec-10
2011	Q672	OSM Resources, LLC	Q603	Jersey Clam, Inc.	T	360124	361341	28-Dec-10
2011	Q553	SUN NATIONAL BANK	Q082	EMILY MARGARETTE INC	T	272854	272902	28-Dec-10
2011	Q082	EMILY MARGARETTE INC	Q653	Ocean View Inc.	T	272854	272902	28-Dec-10
2011	Q553	SUN NATIONAL BANK	Q061	LEPRECHAUN INC	T	272903	273367	28-Dec-10
2011	Q061	LEPRECHAUN INC	Q653	Ocean View Inc.	T	272903	273367	28-Dec-10
2011	Q553	SUN NATIONAL BANK	Q089	SO JERSEY SURF CLAM INC	T	273368	273410	28-Dec-10
2011	Q089	SO JERSEY SURF CLAM INC	Q653	Ocean View Inc.	T	273368	273410	28-Dec-10
2011	Q553	SUN NATIONAL BANK	Q573	VIGOROUS ENTERPRISES INC	T	273411	273620	28-Dec-10
2011	Q573	VIGOROUS ENTERPRISES INC	Q653	Ocean View Inc.	T	273411	273620	28-Dec-10
2011	Q553	SUN NATIONAL BANK	Q552	MAYETTA ASSOC PARNERSHIP	T	273621	284410	28-Dec-10
2011	Q552	MAYETTA ASSOC PARNERSHIP	Q643	F/V Misty Dawn Inc	T	273621	276000	28-Dec-10
2011	Q552	MAYETTA ASSOC PARNERSHIP	Q611	F/V MISTY DAWN INC.	T	276001	277000	28-Dec-10
2011	Q552	MAYETTA ASSOC PARNERSHIP	Q671	WINTER HARBOR BRANDS	T	277001	278000	28-Dec-10
2011	Q552	MAYETTA ASSOC PARNERSHIP	Q668	Ocean View Inc.	T	278001	279000	28-Dec-10
2011	Q552	MAYETTA ASSOC PARNERSHIP	Q610	ARCTICA CORP.	T	279001	280000	28-Dec-10
2011	Q636	Sun National Bank, F.B.O. LET	Q005	A & B COMMERCIAL FISH INC	T	339641	340698	28-Dec-10
2011	Q005	A & B COMMERCIAL FISH INC	Q673	Ocean View Inc.	T	339641	340698	28-Dec-10
2011	Q636	Sun National Bank, F.B.O. LET	Q049	SARAH C CONWAY INC	T	340699	341658	28-Dec-10
2011	Q049	SARAH C CONWAY INC	Q673	Ocean View Inc.	T	340699	341658	28-Dec-10
2011	Q636	Sun National Bank, F.B.O. LET	Q128	F/V OCEAN VIEW INC	T	341659	341846	28-Dec-10
2011	Q128	F/V OCEAN VIEW INC	Q673	Ocean View Inc.	T	341659	341846	28-Dec-10
2011	Q636	Sun National Bank, F.B.O. LET	Q115	PATTI B CLAM VENTURES INC	T	341847	343535	28-Dec-10
2011	Q115	PATTI B CLAM VENTURES INC	Q653	Ocean View Inc.	T	341847	343535	28-Dec-10
2011	Q628	Sun National Bank	Q629	Ellen W., LLC	T	319970	325553	28-Dec-10
2011	Q554	SUN NATIONAL BANK	Q089	SO JERSEY SURF CLAM INC	T	365049	365651	28-Dec-10
2011	Q665	WELLS FARGO BANK N.A.-ITF SPISULA	Q584	Spisula, LLC	T	284411	293093	3-Jan-11
2011	Q584	Spisula, LLC	Q053	WYOMING BOAT CORPORATION	T	284411	287910	3-Jan-11
2011	Q584	Spisula, LLC	Q060	LAUREN KIM INC	T	287911	289593	3-Jan-11
2011	Q584	Spisula, LLC	Q683	F/V LORI ANN LLC	T	289594	293093	3-Jan-11
2011	Q107	JOHN & ANTHONY MARTIN	Q596	Atlantic Vessels Inc.	T	365957	366077	3-Jan-11
2011	Q021	ATLANTIC VESSELS OF DEL INC	Q608	ATLANTIC VESSELS OF VIRGINIA,	T	308553	309200	3-Jan-11

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2011	Q667	Bumble Bee Foods, LLC	Q626	JK Harvest, LLC	T	200001	206000	6-Jan-11
2011	Q667	Bumble Bee Foods, LLC	Q627	Foxy Investment, Inc.	T	206001	215000	6-Jan-11
2011	Q667	Bumble Bee Foods, LLC	Q640	JK HARVESTING, LLC	T	215001	225000	6-Jan-11
2011	Q676	INTERNATIONAL CLAM MANAGEMENT	Q658	D.C. Air Marine Division Inc.	T	363141	363160	18-Jan-11
2011	Q016	GEORGE S CARMINES IN TRUST	Q596	Atlantic Vessels Inc.	T	366170	366255	25-Jan-11
2011	Q056	SEAFISH INC/MARYLAND CORP	Q596	Atlantic Vessels Inc.	T	366398	366406	25-Jan-11
2011	Q649	Singer Island Ventures Inc	Q653	Ocean View Inc.	T	236315	240000	10-Feb-11
2011	Q649	Singer Island Ventures Inc	Q673	Ocean View Inc.	T	240001	244000	10-Feb-11
2011	Q552	MAYETTA ASSOC PARNERSHIP	Q643	F/V Misty Dawn Inc	T	280001	281000	10-Feb-11
2011	Q552	MAYETTA ASSOC PARNERSHIP	Q671	WINTER HARBOR BRANDS	T	281001	282000	10-Feb-11
2011	Q676	INTERNATIONAL CLAM MANAGEMENT	Q658	D.C. Air Marine Division Inc.	T	363161	363200	24-Feb-11
2011	Q109	WOODROW LAURENCE, INC.	Q608	ATLANTIC VESSELS OF VIRGINIA,	T	364397	365048	25-Feb-11
2011	Q552	MAYETTA ASSOC PARNERSHIP	Q089	SO JERSEY SURF CLAM INC	T	282001	283000	11-Mar-11
2011	Q680	CAPE ISLAND SCALLOP INC	Q101	T & M CLAMMERS INC	T	363540	363723	17-Mar-11
2011	Q680	CAPE ISLAND SCALLOP INC	Q174	LEROY E. AND DOLORES TRUEX	T	363724	363836	17-Mar-11
2011	Q680	CAPE ISLAND SCALLOP INC	Q084	B&B SHELLFISHING INC	T	363837	363948	17-Mar-11
2011	Q680	CAPE ISLAND SCALLOP INC	Q128	F/V OCEAN VIEW INC	T	363949	364396	17-Mar-11
2011	Q649	Singer Island Ventures Inc	Q680	CAPE ISLAND SCALLOP INC	P	251277	258856	18-Mar-11
2011	Q680	CAPE ISLAND SCALLOP INC	Q649	Singer Island Ventures Inc	T	251277	258856	18-Mar-11
2011	Q021	ATLANTIC VESSELS OF DEL INC	Q608	ATLANTIC VESSELS OF VIRGINIA,	T	310601	311000	18-Mar-11
2011	Q552	MAYETTA ASSOC PARNERSHIP	Q671	WINTER HARBOR BRANDS	T	283001	284000	21-Mar-11
2011	Q021	ATLANTIC VESSELS OF DEL INC	Q626	JK Harvest, LLC	T	313783	314063	22-Mar-11
2011	Q021	ATLANTIC VESSELS OF DEL INC	Q640	JK HARVESTING, LLC	T	314064	314345	22-Mar-11
2011	Q021	ATLANTIC VESSELS OF DEL INC	Q626	JK Harvest, LLC	T	311001	311113	29-Mar-11
2011	Q021	ATLANTIC VESSELS OF DEL INC	Q640	JK HARVESTING, LLC	T	311114	311225	29-Mar-11
2011	Q207	SUN NATIONAL BANK (OS)	Q653	Ocean View Inc.	T	353249	355347	15-Apr-11
2011	Q206	SUN NATIONAL BANK (CIC)	Q673	Ocean View Inc.	T	355348	357446	15-Apr-11
2011	Q112	WANDO RIVER CORP	Q089	SO JERSEY SURF CLAM INC	T	307001	308552	15-Apr-11
2011	Q029	DEBBIE LYNN INC-NJ CORP	Q626	JK Harvest, LLC	T	335196	335640	20-Apr-11
2011	Q029	DEBBIE LYNN INC-NJ CORP	Q640	JK HARVESTING, LLC	T	335641	337640	20-Apr-11
2011	Q029	DEBBIE LYNN INC-NJ CORP	Q627	Foxy Investment, Inc.	T	337641	339640	20-Apr-11
2011	Q676	INTERNATIONAL CLAM MANAGEMENT	Q658	D.C. Air Marine Division Inc.	T	363201	363260	25-Apr-11
2011	Q552	MAYETTA ASSOC PARNERSHIP	Q671	WINTER HARBOR BRANDS	T	284001	284410	10-May-11
2011	Q089	SO JERSEY SURF CLAM INC	Q671	WINTER HARBOR BRANDS	T	282001	283000	13-May-11
2011	Q676	INTERNATIONAL CLAM MANAGEMENT	Q658	D.C. Air Marine Division Inc.	T	363261	363320	24-May-11
2011	Q664	TD BANK, NA	Q611	F/V MISTY DAWN INC.	T	260386	272853	8-Jun-11
2011	Q611	F/V MISTY DAWN INC.	Q653	Ocean View Inc.	T	260386	261385	8-Jun-11
2011	Q611	F/V MISTY DAWN INC.	Q673	Ocean View Inc.	T	261386	262385	8-Jun-11
2011	Q649	Singer Island Ventures Inc	Q673	Ocean View Inc.	T	244001	245000	21-Jun-11
2011	Q611	F/V MISTY DAWN INC.	Q603	Jersey Clam, Inc.	T	262386	265000	21-Jun-11

2011 OCEAN QUAHOG TRANFER REPORT

YEAR	FROM	OWNER	TO	OWNER	TRANSFER TYPE TEMPORARY (T) OR PERMANANENT (P)	BEGINNING TAG	END TAG	DATE
2011	Q684	ITQ, LLC	Q671	WINTER HARBOR BRANDS	T	293094	294000	21-Jun-11
2011	Q684	ITQ, LLC	Q668	Ocean View Inc.	T	294001	295000	21-Jun-11
2011	Q676	INTERNATIONAL CLAM MANAGEMENT	Q658	D.C. Air Marine Division Inc.	T	363321	363360	5-Jul-11
2011	Q643	F/V Misty Dawn Inc	Q671	WINTER HARBOR BRANDS	T	280001	281000	6-Jul-11
2011	Q676	INTERNATIONAL CLAM MANAGEMENT	Q658	D.C. Air Marine Division Inc.	T	363361	363420	14-Jul-11
2011	Q021	ATLANTIC VESSELS OF DEL INC	Q596	Atlantic Vessels Inc.	T	313001	313782	14-Jul-11
2011	Q112	WANDO RIVER CORP	Q089	SO JERSEY SURF CLAM INC	T	306441	307000	21-Jul-11
2011	Q643	F/V Misty Dawn Inc	Q671	WINTER HARBOR BRANDS	T	275001	276000	21-Jul-11
2011	Q684	ITQ, LLC	Q668	Ocean View Inc.	T	295001	296000	21-Jul-11
2011	Q649	Singer Island Ventures Inc	Q673	Ocean View Inc.	T	245001	246000	27-Jul-11
2011	Q649	Singer Island Ventures Inc	Q653	Ocean View Inc.	T	246001	247000	27-Jul-11
2011	Q021	ATLANTIC VESSELS OF DEL INC	Q596	Atlantic Vessels Inc.	T	311501	312500	23-Aug-11
2011	Q684	ITQ, LLC	Q668	Ocean View Inc.	T	296001	297000	24-Aug-11
2011	Q676	INTERNATIONAL CLAM MANAGEMENT	Q658	D.C. Air Marine Division Inc.	T	363421	363450	26-Aug-11
2011	Q027	DOXSEE SEA CLAM CO., INC.	Q685	NSR RESOURCES LLC	P	366078	366169	30-Aug-11
2011	Q685	NSR RESOURCES LLC	Q671	WINTER HARBOR BRANDS	T	366078	366169	30-Aug-11
2011	Q649	Singer Island Ventures Inc	Q653	Ocean View Inc.	T	247001	248000	6-Sep-11
2011	Q128	F/V OCEAN VIEW INC	Q668	Ocean View Inc.	T	365652	365835	19-Sep-11
2011	Q611	F/V MISTY DAWN INC.	Q603	Jersey Clam, Inc.	T	265001	266000	19-Sep-11
2011	Q611	F/V MISTY DAWN INC.	Q653	Ocean View Inc.	T	266001	267000	19-Sep-11
2011	Q611	F/V MISTY DAWN INC.	Q673	Ocean View Inc.	T	267001	268000	19-Sep-11
2011	Q611	F/V MISTY DAWN INC.	Q668	Ocean View Inc.	T	276361	277000	19-Sep-11
2011	Q596	Atlantic Vessels Inc.	Q021	ATLANTIC VESSELS OF DEL INC	T	311501	312500	20-Sep-11
2011	Q021	ATLANTIC VESSELS OF DEL INC	Q596	Atlantic Vessels Inc.	T	311701	312500	20-Sep-11
2011	Q021	ATLANTIC VESSELS OF DEL INC	Q596	Atlantic Vessels Inc.	T	312501	312700	20-Sep-11
2011	Q676	INTERNATIONAL CLAM MANAGEMENT	Q658	D.C. Air Marine Division Inc.	T	363451	363460	21-Sep-11
2011	Q101	T & M CLAMMERS INC	Q668	Ocean View Inc.	T	363540	363723	23-Sep-11
2011	Q174	LEROY E. AND DOLORES TRUEX	Q668	Ocean View Inc.	T	363724	363836	27-Sep-11
2011	Q084	B&B SHELLFISHING INC	Q668	Ocean View Inc.	T	363837	363948	27-Sep-11
2011	Q128	F/V OCEAN VIEW INC	Q668	Ocean View Inc.	T	363949	364396	27-Sep-11
2011	Q611	F/V MISTY DAWN INC.	Q653	Ocean View Inc.	T	268001	270000	11-Oct-11
2011	Q199	LEGEND INC.	Q611	F/V MISTY DAWN INC.	T	347276	348152	11-Oct-11
2011	Q611	F/V MISTY DAWN INC.	Q603	Jersey Clam, Inc.	T	270001	271000	26-Oct-11
2011	Q676	INTERNATIONAL CLAM MANAGEMENT	Q658	D.C. Air Marine Division Inc.	T	363461	363470	26-Oct-11
2011	Q643	F/V Misty Dawn Inc	Q668	Ocean View Inc.	T	274032	275000	31-Oct-11
2011	Q640	JK HARVESTING, LLC	Q021	ATLANTIC VESSELS OF DEL INC	T	314064	314299	16-Nov-11
2011	Q640	JK HARVESTING, LLC	Q608	ATLANTIC VESSELS OF VIRGINIA,	T	314300	314345	16-Nov-11
2011	Q640	JK HARVESTING, LLC	Q608	ATLANTIC VESSELS OF VIRGINIA,	T	311114	311212	16-Nov-11
2011	Q640	JK HARVESTING, LLC	Q596	Atlantic Vessels Inc.	T	224001	224843	16-Nov-11
2011	Q611	F/V MISTY DAWN INC.	Q603	Jersey Clam, Inc.	T	271001	272853	17-Nov-11

2011 OCEAN QUAHOG TRANFER REPORT

YEAR	FROM	OWNER	TO	OWNER	TRANSFER TYPE TEMPORARY (T) OR PERMANANENT (P)	BEGINNING TAG	END TAG	DATE
2011	Q608	ATLANTIC VESSELS OF VIRGINIA,	Q021	ATLANTIC VESSELS OF DEL INC	T	364893	365048	18-Nov-11
2011	Q629	Ellen W., LLC	Q653	Ocean View Inc.	T	325001	325553	28-Nov-11
2011	Q611	F/V MISTY DAWN INC.	Q673	Ocean View Inc.	T	347276	348152	28-Nov-11
2011	Q649	Singer Island Ventures Inc	Q671	WINTER HARBOR BRANDS	T	248001	248500	8-Dec-11
2011	Q610	ARCTICA CORP.	Q671	WINTER HARBOR BRANDS	T	279001	279200	8-Dec-11
2011	Q610	ARCTICA CORP.	Q603	Jersey Clam, Inc.	T	279201	279800	8-Dec-11
2011	Q610	ARCTICA CORP.	Q673	Ocean View Inc.	T	279801	280000	8-Dec-11
2011	Q649	Singer Island Ventures Inc	Q673	Ocean View Inc.	T	248501	249000	12-Dec-11

Appendix IV
List of Data Elements
in the Dealer Electronic Reporting

GLOSSARY OF DATA ELEMENTS

Bushel	Number of bushels of clams purchased.
Category	1 = Surf Clams; 6 = Northern Quahogs or Mahogany Clams
Date Received	Date clams were purchased.
Dealer Name	Name of the dealer
Dealer Number	Processor or dealer's Federal permit number issued by NOAA Fisheries, Northeast Regional Office.
End Report Date	The ending date of the data in the file to be uploaded.
File Type	An indicator of the type of data being uploaded; N = new data; R = replacement data.
Password	Password assigned to the username. The password is encrypted before it is stored in the table.
Port	6-digit code for port of landing of the vessel who harvested the clams
Price	Actual price or average price per bushel.
Site Code	The place name and a 6-digit code to indicate the locations of the processor.
Start Report Date	The starting date of the data in the file to be uploaded.
Username	The identifier assigned to the person responsible for actually performing the data upload process.
Vessel Permit	Vessel's Federal permit number issued by NOAA Fisheries, Northeast Regional Office.
Tag Number	Tag number associated with the bushels purchased.

Appendix V
SCOQ Vessel Logbook Report

41376

CATCH RECORD: Week of: _____ Vessel Name/Permit Number: _____

I certify that the information provided on this form is true, complete and correct to the best of my knowledge, and made in good faith. Making a false statement on this form is punishable by law (18 U.S.C. 1001).

Captain or Owner Signature and Date: _____

Trip No.	Date	Area Fished Longitude/Latitude or LORAN Bearing	Time at Sea --------- 0.1 hrs.	Time in Fishing --------- 0.1 hrs.	Catch in Bushels	Average Discard Percent	Port Landed	Name of Buyer and Date of Sale	Price per Bushel	Allocation Number	Tag Numbers
SURF CLAMS											
1											
2											
3											
4											
5											
6											
7											
8											
OCEAN QUAHOGS											
1											
2											
3											
4											
5											
6											
7											
8											

Comments:

NOAA Form 88-140
OMB Form 0648-0212 (Expires: 1/31/2013)

NMFS COPY

Coakley, Jessica

From: Thomas T. Alspach <talspach@goeaston.net>
Sent: Monday, September 08, 2014 11:28 AM
To: Robins, Rick
Cc: Bullard, John; Anderson, Lee; Baum, Tom; Steve Heins; Kaelin, Jeff; King, Howard; Michels, Stewart; Nolan, Laurie; Moore, Christopher; Coakley, Jessica; Montanez, Jose; Dameron, Tom; Miles, John; Martin, Samuel; La Vecchia, Michael; Himchak, Peter; Alexander, Warren; Wallace, Dave; Lacotte, Joe; Richardson, George; La Vecchia, Daniel
Subject: Proposed Data Collection Rule
Attachments: John Bullard NMFS.9022014.pdf

Dear Rick –

I am attaching a copy of comments I have submitted on behalf of Sea Watch International, Ltd. in response to the pending data collection rule as proposed by NMFS. The deadline for such public comment expires today, as I understand.

The purpose of this communication, however, is to place an objection to the procedural manner in which this rule is being considered. Consideration of the rule is not proceeding in the manner that was promised at the MAFMC meeting in June 2013, and as a result both the Council and industry are being deprived of the opportunity for significant public discussion and consideration of the rule at an open meeting.

At the June 2013 Council meeting both industry and several members of the Surfclam Committee raised questions/issues about certain aspects of the proposed rule, including in particular the requirement for disclosure of proprietary leasing arrangements as well as the disclosure of proprietary information concerning the prices of ITQ transfers, associated fees and brokerages. None of these sorts of information have any bearing on the purported purpose of the rule, which was/is to identify the "natural person" owners of ITQ shares.

At the June 2013 meeting, because of these concerns, at least two Council members specifically asked George Darcy on behalf of NMFS to come back to the Council when the rule was closer to its final form, for further open discussion/consideration of those provisions that might impact industry practices, and in particular that implicate confidential and proprietary business information. The Council and industry were assured that this follow up would occur and that there would be more opportunity for deliberation at the Council level.

Some months ago Doug Potts on behalf of NMFS did appear at a Council meeting and provided a generalized overview of what the rule would entail. This event, however, did not constitute the promised opportunity for further Council consideration and industry discussion. For one thing, the provisions regarding industry disclosure of confidential information as just described were not presented to the Council at that time as part of the proposed rule as the rule still was in its formative stages.

All of us learned for the first time what the full range of subject matter under the rule would be, when it was first published in the Federal Register back at the end of July. It seems apparent, however, that further consideration/adoption of the rule will proceed in exactly the way that was a concern to industry, and at least some Council members, back in June 2013. That is, the only opportunity for public "comment" will be by way of written submissions to NMFS, and both the Council and industry will be deprived of the opportunity for open discussion of the more controversial elements of the rule, and for dialogue with NMFS on the same, at an MAFMC public meeting or meetings.

Please recall that originally the data collection "rule" was to be included as part of an FMP amendment, which would have guaranteed the public process and meetings that now will not occur since it is proposed to adopt the rule through administrative action. I do not recall exactly why it was decided to proceed administratively instead of by way of an amendment to the FMP, but I do know that the result is that significant and necessary Council and industry comments/discussion is being foreclosed.

Inasmuch as it was the Council that asked NMFS for help in drafting the rule, and that this action was not initiated by NMFS, it would seem reasonable for the Council similarly to ask that NMFS provide the opportunity for a more public forum on these new provisions as was originally contemplated when an amendment was under consideration, and when the commitment was made in June 2013. So in conclusion I respectfully request that the Council in turn request that, before the rule is adopted, a public session or sessions may be scheduled at a council meeting for discussion of this important subject and the implications of the rule.

Thank you for considering these comments.

TTA

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September 2, 2014

VIA ELECTRONIC MAIL
AND FIRST CLASS MAIL

John K. Bullard, Regional Administrator
National Marine Fisheries Service
Greater Atlantic Regional Fisheries Office
55 Great Republic Drive
Gloucester, MA 01930

Re: Comments on Surfclam/Ocean Quahog Information Collection

Dear Mr. Bullard:

The following comments are submitted on behalf of Sea Watch International, Ltd. ("Sea Watch") in response to the public notice dated August 7, 2014 concerning a proposed rule governing collection of information on ITQ ownership in the surfclam and ocean quahog fisheries.

Sea Watch is a processor of surfclam and ocean quahog shellstock and provides substantial local employment at its processing facilities in New Bedford, Massachusetts; Easton, Maryland; and Milford, Delaware. Sea Watch does not own any ITQ allocation rights itself, but does contract with entities owning such allocation for the harvesting of shellstock that is delivered to its processing facilities.

The public notice specifically requests comment regarding "whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility." The short answer to this inquiry is "No." The reason for this answer has been explained to the Mid-Atlantic Fishery Management Council on multiple occasions, over the past seven plus years, but will be provided once again here.

This proposed rule is not required by the Magnuson Act or any other federal law. The proposed rule serves no purpose in terms of policy, nor is it required for operational benefit within the management sector or within the fishery. The rule amounts to no more than a pointless exercise in the collection of unneeded information, at unnecessary agency, industry and taxpayer expense, resulting in the unwarranted diversion of such agency/public funds from other endeavors sorely in need of more financing, such as the improvement of fishery stock assessments.

The purported purpose of the proposed rule is to collect information to "better identify the specific individuals" who hold or control ITQ shares in the surfclam/quahog fisheries, in order to establish "an excessive share cap as part of the Council's Surfclam/Ocean Quahog FMP." But there already is, and for the past 24 years there has been, an "excessive share" cap in place in the surfclam/quahog fishery, and that excessive share cap explicitly was approved by not only the Mid-Atlantic Council, but also by NMFS, NOAA and the Secretary of Commerce.

The existing excessive share limitation in the surfclam/quahog fishery was adopted as part of Amendment 8 to the FMP in order to comply with National Standard 4 of the MSA which states in part:

> If it becomes necessary to allocate or assign fishing privileges among various U.S. fishermen, such allocation shall be ... carried out in such manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.

The Mid-Atlantic Council, with the concurrence of NMFS, explained that Amendment 8 satisfied the "excessive share" limitation in Standard 4 because "antitrust laws are already in force which would cover the abuse of excessive shares." Amendment 8 to the FMP, at App. 6-2 (June 20, 1990).

In short, the current definition of an "excessive share" in the SCOQ fishery, which has been in place since 1990 with all regulatory approvals, may be succinctly stated: An excessive share is an amount of ITQ privileges that enables an industry participant to act in contravention of the federal antitrust laws (i.e., to raise prices arbitrarily or to exclude competition).

Such circumstances never have existed in the SCOQ fishery, and do not exist now. For many years the industry has harvested only approximately half of the ocean quahog quota, and a little more than half of the surfclam quota, with the result that ample ITQ shares – roughly half of all such shares – routinely are available to any entity that would want to enter, or to expand its presence in, the SCOQ fishery. Accordingly, no SCOQ participant is in a position to raise prices arbitrarily or exclude competition in this highly competitive market, and as a result no entity has, or ever has had, an "excessive share" of ITQ privileges.

This conclusion was independently confirmed by a panel of three expert economists, selected and approved by NMFS and the Council, who undertook an extensive economic survey of the SCOQ fishery, and the possibility of an "excessive" concentration of ITQ shares, in 2011 (at considerable unnecessary taxpayer expense). Those consultants issued a report that confirmed the obvious: no individual or entity in the SCOQ fishery holds sufficient ITQ shares so as to exercise "market power" – as that term is defined by the antitrust laws – and no individual or entity is in a position to utilize market power for anti-competitive purposes in the industry. No individual or entity therefore owned ITQ shares in excess of the "excessive share cap" established by the current FMP.

The current proposal, to collect information to support a different "excessive share" cap for the SCOQ industry, originated some seven years ago, when your predecessor announced to the Council that it was "required" to adopt a new "excessive share" cap/definition. The RA misleadingly claimed that such action was intended by the GAO as recited in a report delivered to Congress in 2002. That report included several recommendations for the future, one of which related to the definition of an "excessive share":

> To help prevent an individual or entity from acquiring an excessive share of the quota **in future IFQ programs**, we recommend that the Secretary of Commerce require regional fishery management councils to define what constitutes an excessive share for the fishery.

GAO Report – 03-159, December 11, 2002 (emphasis added). The GAO plainly was not directing this recommendation to preexisting ITQ programs, such as the surfclam/quahog FMP, but instead only to new ITQ programs adopted in the future.

In 2006 Congress adopted refinements for federal fishery management plans, including a provision that any new ITQ plans must include a definition of "excessive shares" expressed as a percentage of the total allowable harvest:

> ALLOCATION – **In developing a limited access privilege program** to harvest fish a Council or Secretary shall... establish a maximum share, expressed as a percentage of the total limited access privileges, that a limited access privilege holder is permitted to hold, acquire or use ... .

MSA §303A(c)(5) (emphasis added). In a March 26, 2008 email, however, commenting on an excessive share definition for surfclam/quahog ITQs, NMFS' General Counsel acknowledged that "the excessive share provision of §303A(c)(5) does not pertain to this action." General Counsel clarified that "the excessive shares language" applicable to the surfclam/quahog ITQ program "is in National Standard 4," and further confirmed that Standard 4 does **not** require that an "excessive share" be defined by way of a percentage cap.

None of the foregoing facts is in dispute and so these conclusions necessarily follow:

(1) An "excessive share" limitation or "cap" already is in place in the SCOQ fishery, has been approved by all regulators and has been extant for almost 25 years.

(2) No individual or entity now holds, nor ever has held, ITQ shares that would violate or exceed the existing excessive shares cap.

(3) The fact that no individual/entity in the industry possesses ITQ shares that would violate

existing "excessive share" limitations has been independently verified and confirmed by expert consultants.

(4) There is no legal requirement that NMFS or the Council must adopt an excessive shares cap expressed as a percentage of total shares for ITQ holders in the SCOQ industry.

Again, the stated purpose of the proposed rule is to collect data for establishing an "excessive shares cap." But because of the facts and reasons just recited, the proposed rule is not necessary "for the proper performance of the functions of the agency," and the proposed information to be collected would not "have practical utility."

Moving beyond the fact that there is no legal or policy justification for the proposed rule, its implementation as drafted would pose substantial and unnecessary practical hardship. A comprehensive list of the draft rule's shortcomings is not practical, but several stand out:

The rule proposes that a corporate ITQ holder must disclose its corporate shareholders (with a 10% interest). If one or more such shareholders are corporations, they in turn must disclose their shareholders, and if those shareholders are corporations their shareholders must be disclosed, and so on. Putting aside the paperwork/identification morass that this reporting structure would create, it is plain that the rule's drafters are utterly naive regarding how corporations are controlled in the private sector. The identities that the rule would require to be disclosed would not lead to meaningful information concerning actual "control."

This is because virtually any business entity – whether a C corp, S corp, LLC, LLP or partnership – will have in place a shareholders' agreement which will include any of a virtual multitude of terms/requirements concerning corporate control. Share ownership may be divided in one fashion for purposes of distributing revenues, but have entirely different provisions for how control is exercised. To take one example, it would not at all be inconceivable for a five percent shareholder (below the proposed 10% threshold for identification) to have actual control over a entity through voting provisions in the shareholders' agreement. Such control routinely would extend to all business decisions, e.g., concerning whether to enter into leases and whether to sell/buy ITQ shares.

So the identification of individuals who own shares in an entity yields exactly nothing concerning who actually controls those entities. If not already so structured, corporate ITQ shareholders easily could be restructured in a way that will not provide any meaningful information about actual "control."

The proposal to require disclosure of lease agreements with terms of more than one year is unnecessarily intrusive, regards information that the industry considers confidential and proprietary, and again would yield nothing useful. It is notable that the economic "experts" who reported on the industry, as well as the FMAT, noted that contracts with terms of five or more years would be more

indicative of "control," as contractual relationships that change year by year do not really tell you anything. Furthermore, the industry is now close knit enough that many such "leases" in fact are verbal and therefore would not be subject to meaningful disclosure. When the staff's data collection proposal was presented to the Mid-Atlantic Council in June 2013, several Council members expressed specific reservation about requiring disclosure of proprietary information such as leases and at the very least the Council should be consulted on this issue again in public session.

Even more intrusive is the suggestion that industry should be compelled to disclose pricing associated with ITQ transfers, including fees and broker fees paid, and information regarding fixed vs. flexible pricing. This confidential and proprietary information quite simply is not the business of the agency and, moreover, belies the claim that this rule is proposed simply to identify who owns ITQ shares. Prices that industry participants negotiate in connection with ITQ sales/transfers would shed no light whatsoever on who actually owns the shares – which information already would be derived from other components of the rule – and seems instead to be proposed for some other unspoken agency objective. Perhaps an effort to impress Congress with the financial value of what the agencies regulate when making budget requests?

In any event, NMFS does not have the legal right to demand the production of confidential and proprietary fees paid and pricing included in connection with the leasing of ITQ rights by private parties. Section 402(a) of the MSA, regarding information collection, states that:

> If a Council determines that additional information **(other than information that would disclose proprietary or confidential commercial or financial information regarding fishing operations or fish processing operations)** would be beneficial for developing, implementing, or revising a fishery management plan ... the Council may request that the Secretary implement an information collection program for the fishery which would provide the types of information **(other than information that would disclose proprietary or confidential commercial or financial information regarding fishery operations or fish processing operations)** specified by the Council.

(Emphasis added). The negotiation of pricing for the leasing of ITQ allocation rights is a central and critical element of both fishing operations and the operations of processors in the surfclam/quahog ITQ fishery. Therefore the submission of such financial information in connection with a data collection program, such as that proposed, is explicitly forbidden by the Magnuson Act.

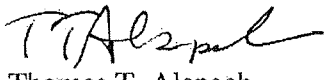
The replacement of current ITQ permits, which do not expire, with new permits that expire annually would create economic insecurity that would devastate financing, which now is critical, for those seeking to acquire ITQ shares. As the rule recognizes, banks commonly take control of ITQ shares as collateral, and if circumstances change such that ITQ permits extend only for a year – even

if theoretically they should be renewable – an unacceptable loss of long term security for banks and other lenders will result, making an already difficult lending environment even more unstable.

Finally, at least for this list, the cost of this entire proposed enterprise – particularly in view of its pointlessness and absence of utility – should not be imposed upon either the taxpayers (through the unnecessary diversion of agency funding) or the industry (through pending "cost recovery" rules). The time consuming nature of such reporting, particularly when one considers the nitpicking nature of the proposed corporate/shareholder reporting, will be significantly greater than what is projected by the draft rule. And the maintenance of that information, and in particular efforts to attempt to interpret/manipulate it in order to reach conclusions about "control," will result in additional considerable expense. It would be one thing if such expenses were required to address an existing critical problem with management oversight, or with improvements in our stock assessments. But to spend even one dollar of taxpayer funds, or one dollar of industry revenues, to attempt to implement a rule fraught with practical problems, and which serves no legal or policy purpose, simply cannot be justified.

Thank you for considering these comments.

Very truly yours,



Thomas T. Alspach

TTA/tsd
cc: Honorable Barbara Mikulski
Honorable Andy Harris
Samuel D. Rauch, III
Richard Robins
Christopher Moore
Robert Brennan, President
Jerry Gordon, COO/CFO
Guy Simmons, Vice President

WALLACE & ASSOCIATES

September 5, 2014

John K. Bullard, Regional Administrator

NMFS, Greater Atlantic Regional Fisheries Office
55 Great Republic Drive
Gloucester, MA 01930

Re: Comments on Surfclam and Ocean Quahog Fishery Information Collection Proposed Rule

Dear Mr. Bullard:

Wallace & Associates is representing surfclam and ocean quahog fishing firms in Maryland, Delaware, New Jersey, Rhode Island and Massachusetts and we are responding, to the Federal Register notice of August 7, 2014 where NMFS is soliciting comments on a proposed rule to collect information on the Atlantic surfclam and ocean quahog fishery. The FR states that "public comment is sought regarding: Whether this proposed collection of information is necessary for the proper performance of the functions of the agency . . ." I could not be more emphatic in my answer – that this information collection is certainly NOT needed. Wallace & Associates represents a large number of the surfclam and ocean quahog fishermen and processors, and they all strongly agree with my conclusion.

These fisheries were the first ones in this country managed under the Magnuson Stevens Act with the development of an FMP in 1977. The industry needed federal involvement because it had overfished the surfclam resource. In the past 37 years, the surfclam resource has been rebuilt and the resources have never been overfished, nor has overfishing occurred since the initiation of management. The first 13 years of management was hellacious with draconian government micromanagement. Fishing effort was limited to as little as 24 six hour trips a year. Then in 1990, ITQs were implemented and the fishery went from one of the most intensely micromanaged to one where industry meets with the Council and the Agency only once or twice a year. This fishery is successful without government intrusion. It is so successful that, agency leaders as important as the former Chief Scientist and the Director of Policy, who had been involved directly with these fisheries, have labeled them as "some of the best managed fisheries in the US, if not the world. In this time of budgetary constraints, why would you invest even one dollar of taxpayers or industry funds to collect unnecessary information?

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My clients oppose the collection of this information which is necessary "to ensure the MAFMC has the information needed to . . . establish an excessive share cap in this fishery". There already exists an excessive share definition for surfclam and ocean quahogs ITQs in Amendment 8 that complies with National Standard 4. The MAFMC, with the approval of the Agency, stated that the "excessive share" limitation of NS 4 was met because "antitrust laws are already in force which would cover the abuse of excessive shares". There was even an industry sponsored lawsuit against the Agency over this when the ITQ program was initiated and the Agency won with this definition!

NMFS spent over $100,000 to fund a panel of three economic experts (antitrust) that were charged to look at excessive shares and their conclusion was that no individual or entity owns ITQ shares in excess in order to hold "market power". Surfclam and ocean quahog landings for the past several years have been about two thirds of each species annual quota. There is plenty of quota for new entities if they wish to enter the fishery or existing firms can expand their markets. Currently the markets are simply not demanding the entire quota, but should someone become creative and develop or expand existing markets – there is a large surplus of supply to handle any such opportunity.

The involvement of banks and the collection of any information on ownership from them is simply going to make borrowing money with the quota used as collateral for a loan much harder, if not impossible in these economic times. The identification of any shareholders with a 10% or greater ownership interest in the permit down to the individual level to the second and third business level is absurd. This is a paperwork nightmare and way too intrusive for government to require, and certainly will likely not provide practical information for the Agency.

I have serious misgivings about the expiration of the current ITQ permits and their replacement with new permits that expire each year. Suppose a "clerk' in an office forgets to annually file for the new permit? Does my client lose his or her permit? That minor oversight could cost a company **millions and millions of dollars**! This issue has the potential to create havoc and preclude or at least make more difficult the use of the allocation as collateral. In the last few years banks have called the loans that used clam ITQs as collateral and withdrawn from the market. The industry has not been able to find new banks willing to take the current risk and if the ITQs expire the two or three banks that currently consider taking them as collateral will most likely withdraw leaving the clam industry without a way to use their ITQs to finance their operations.

New extensive price information (sale and lease) is not needed as price per bushel is already collected. Collecting sales and lease information will not inform the Agency of anything useful since it is at the bottom of the clam financial structure. Other price data, like price paid

for the transfer and fees, are confidential and proprietary and vary significantly among companies and over time. Proprietary and confidential commercial or financial information is prohibited under the Magnuson Stevens Act.

In fact, when the Council staff presented this type of information collection program to the Council in June 2013, several Council members expressed concern over the proprietary nature of this information. Industry was very concerned but was somewhat placated with the assurance from the Assistant RA at the time, George Darcy that the Agency would bring this issue back before the Council and industry before it was a proposed rule. Why has this not occurred? Submitting this information collection program as a proposed rule with industry comment only during the comment period, shows a lack of good faith on the Agency's part!

The cost/benefit section of the FR says that the rule estimates just over one hour of additional time and effort for the permit holder to complete the forms the first year and then estimates 5 minutes/form for years after the first year. I am sure that this is a gross underestimate! Why don't you provide industry representatives with the actual forms for the information collection and attempt to get some realistic estimates of time? Not every fishermen or company representative is adept at government paperwork.

I could go on about this being a horrible idea and simply an unnecessary and futile expansion of government. This seems to be an attempt to get back to the pre-ITQ level of government micromanagement of these fisheries. And for what purpose, for some academic analyses that employ many more economists? Empire building!

The cost of this information collection process will fall to the taxpayer. It will require more paperwork for industry and more Agency staff and time to review and analyze the information and to learn nothing that the Agency does already know. The MAFMC is currently working on a cost recovery Amendment. If and when that Amendment goes into effect, the cost of this information program will fall fully to industry. Industry will strongly resent paying for unnecessary and questionable information and analyses that does not benefit the Agency, the Council or industry. This is a waste of taxpayers and industry time and money.

In summary, I oppose this proposed information collection rule. A lot of unnecessary information is being collected and there should at least be a more thorough analysis of the cost, benefits and usefulness of this information prior to the implementation of this program. As stated in the FR: "One of the benefits of this action would be a better understanding of ownership of allocation holders, which could lead to better identification of small entities and

help analyze the impacts of future management actions." All this data collection for the possibility that it "could lead" to help analyze some future impacts? This fishery management system is NOT broken. Please don't try to fix it.

Thank you for your consideration of these comments. Please do not hesitate to contact me should you have any questions.

Sincerely yours,

David H. Wallace

Cc:
Douglas Potts
MAFMC
Clam Industry
Congressman Andy Harris
Congressman Frank LoBiondo
Office of Management and Budget

Coakley, Jessica

From: George Richardson <grrclam@gmail.com>
Sent: Monday, September 08, 2014 3:30 PM
To: Alspach, Tom; Robins, Rick
Cc: Bullard, John; Anderson, Lee; Baum, Tom; 'Steve Heins'; Kaelin, Jeff; King, Howard; Michels, Stewart; Nolan, Laurie; Moore, Christopher; Coakley, Jessica; Montanez, Jose; Dameron, Tom; Miles, John; Martin, Samuel; La Vecchia, Michael; Himchak, Peter; Alexander, Warren; Wallace, Dave; Lacotte, Joe; La Vecchia, Daniel; Alspach, Tom
Subject: RE: Proposed Data Collection Rule

Dear Rick,

I have read the comments submitted by Tom Alspach, and though we don't always agree, I agree with him on this matter. First, I agree that a promise was made in June 2013 that there would be opportunity for full and open debate of the issues. Second, I agree that the rule as proposed seeks proprietary business information that it has no right or need to seek. Thirdly, I believe that seeking this information and the desire to place a cap on control of ITQ flies in the face of every commissioned group that has studied the issue. I participated in the FMAT process, I participated in the independent investigation by economists, and I have participated in the counsel process for more than 30 years. My understanding of the conclusions of all these groups was that there was enough protection in the regulations or competition from other clam sources or other protein sources to insure that no one could gain control of the selling price to adversely affect consumers.

To adopt this rule administratively would be a huge departure from the way we have done business historically.

Thank you,
George Richardson