

Federal Register for publication, notification of closure when a BFT quota is reached, or is projected to be reached. On and after the effective date and time of such closure notification, for the remainder of the fishing year, or for a specified period as indicated in the notification, fishing for, retaining, possessing, or landing BFT under that quota category is prohibited until the opening of the subsequent quota period, or until such date as specified in the notification.

The 2003 BFT quota specifications issued pursuant to § 635.27 set a General category quota of 684.4 mt of large medium and giant BFT to be harvested from the regulatory area during the 2003 fishing year, and divided the General category quota into time-period subquotas. On November 18, 2003, NOAA Fisheries transferred 150 mt to the Reserve category, establishing an adjusted coastwide General category quota of 534.4 mt for the 2003 fishing year (68 FR 64990, November 18, 2003). Based on reported landings and effort, NMFS projects that the adjusted quota will be reached by December 10, 2003. Therefore, fishing for, retaining, possessing, or landing large medium or giant BFT intended for sale by persons aboard vessels in the General or HMS Charter/Headboat categories must cease at 11:30 p.m. local time December 10, 2003. The intent of this closure is to prevent overharvest of the adjusted quota established for the General category.

If it is determined that quota remains uncaught in the General category, or if additional quota can be made available to the General category through an inseason transfer, NMFS will announce the re-opening and/or transfer action in a separate **Federal Register** notice. General category and HMS Charter/Headboat permit holders may tag and release BFT while the General category is closed, subject to the requirements of the tag-and-release program at § 635.26.

Classification

Pursuant to 5 U.S.C. 553 (b) (B), the Assistant Administrator for Fisheries, NOAA (AA), finds that providing for prior notice and public comment for this action is impracticable and contrary to the public interest. Based on recent landings reports, this closure is necessary to prevent the overharvest of the adjusted BFT quota established for the coastwide General category. The fishery is currently underway, and any further delay in this action would cause the fishery to exceed the quota and be inconsistent with domestic and international requirements and objectives. NMFS provides notification

of the closure by publishing the closure notice in the **Federal Register**, faxing notification to individuals on the HMS FAX Network and to known fishery representatives, announcing the notice on the Atlantic Tunas Information Line, and announcing the closure notice over NOAA Weather and Coast Guard radio channels. For these same reasons, the AA also finds good cause to waive the 30-day delay in effective date pursuant to 5 U.S.C. 553 (d)(3). This action is required under 50 CFR 635.28(a) (1) and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: December 9, 2003.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 030908223-3289-02; I.D. 081403B]

RIN 0648-AP57

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Atlantic Surfclam and Ocean Quahog Fishery; Amendment 13 to the Surfclam and Ocean Quahog Fishery Management Plan

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

ACTION: Final rule; implementation of Amendment 13 to the Surfclam and Ocean Quahog Fishery Management Plan (FMP).

SUMMARY: NMFS implements measures contained in Amendment 13 to the FMP (Amendment 13). Amendment 13 establishes: A new surfclam overfishing definition; multi-year fishing quotas; a mandatory vessel monitoring system (VMS), when such a system is economically viable; the ability to suspend or adjust the surfclam minimum size limit through a framework adjustment; and an analysis of fishing gear impacts on Essential Fish Habitat (EFH) for surfclams and ocean quahogs. This final rule includes technical corrections to the regulations

implementing the FMP in order to clarify the Mid-Atlantic Fishery Management Council's (Council) intent not to restrict allocation ownership to only those entities that also own a permitted vessel, and to eliminate the restriction on the transfer of allocation tags of amounts less than 160 bushels (bu) (85 hectoliters (hL)) (i.e., 5 cage tags). The primary purpose of Amendment 13 is to rectify the disapproved surfclam overfishing definition and the EFH analysis and rationale contained in Amendment 12 in order to comply with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), and to simplify the regulatory requirements of the FMP.

DATES: Effective January 15, 2004.

ADDRESSES: Copies of the Amendment 13 document, including the Regulatory Impact Review (RIR), the Initial Regulatory Flexibility Analysis (IRFA), and the Environmental Impact Statement (EIS), and other supporting documents for the amendment are available from Daniel Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South Street, Dover, DE 19901-6790. The Final Regulatory Flexibility Analysis (FRFA) consists of the IRFA, public comments and responses contained in this final rule, and the summary of impacts and alternatives contained in this final rule. Copies of the small entity compliance guide are available from Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930-2298.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: This final rule implements approved measures contained in the FMP, which was approved by NMFS on behalf of the Secretary of Commerce (Secretary) on November 21, 2003.

Details concerning the justification for and development of Amendment 13 and the implementing regulations were provided in the preamble to the proposed rule (68 FR 55358, September 25, 2003) and are only summarized here.

Background

Amendment 12 to the FMP was prepared by the Council to bring the FMP into compliance with the Magnuson-Stevens Act, as amended by the Sustainable Fisheries Act of 1996. On April 28, 1999, the Council was