contacting the primary author noted below. Individual refuge headquarters also retain information regarding hunting permits and the conditions that apply to refuge hunts, and maps of their respective area. You may also obtain information from the regional office at the address listed below:

Region 6—Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah and Wyoming. Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, Box 25486, Denver Federal Center, Denver, Colorado 80225; Telephone (303) 236–8145.

Primary author: Stephen R. Vehrs, Division of Refuges, U.S. Fish and Wildlife Service, Washington, DC 20240, is the primary author of this final rulemaking document.

List of Subjects in 50 CFR Part 32

Fishing, Hunting, Reporting and recordkeeping requirements, Wildlife, Wildlife refuges.

For the reasons set forth in the preamble, the Service amends Title 50, Chapter I, subchapter C of the Code of Federal Regulations as follows:

PART 32—[AMENDED]

1. The authority citation for part 32 continues to read as follows:

Authority: 5 U.S.C. 301; 16 U.S.C. 460k, 664, 668dd, and 715i.

2. Amend § 32.70 *Wyoming* by revising the introductory text of paragraph C. of National Elk Refuge to read as follows:

§ 32.70 Wyoming.

* * * * *

National Elk Refuge

* * * * *

C. Big Game Hunting. Hunters may hunt elk and bison on designated areas of the refuge subject to the following conditions:

* * * * *

Dated: January 7, 1998.

Donald J. Barry,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 98–947 Filed 1–13–98; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 980107005–8055–01; I.D. 102997E]

Fisheries of the Northeastern United States; Final 1998 Fishing Quotas for Atlantic Surf Clams and Ocean Quahogs

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

ACTION: Final 1998 fishing quotas for surf clams and ocean quahogs.

SUMMARY: NMFS issues quotas for the Atlantic surf clam and ocean quahog fisheries for 1998. These quotas were selected from a range defined as optimum yield (OY) for each fishery and in compliance with overfishing definitions for each species. The intent of this action is to establish allowable harvests of surf clams and ocean quahogs from the exclusive economic zone for 1998.

DATES: January 1, 1998, through December 31, 1998.

ADDRESSES: Copies of the Mid-Atlantic Fishery Management Council's analysis and recommendations, including the Environmental Assessment, Regulatory Impact Review/Initial Regulatory Flexibility Analysis, and Final Regulatory Flexibility Analysis are available from David R. Keifer, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19901–6790.

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

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Atlantic Surf Clam and Ocean Quahog Fisheries (FMP) directs the Assistant Administrator for Fisheries, in consultation with the Mid-Atlantic Fishery Management Council (Council), to specify quotas for surf clams and ocean quahogs on an annual basis from a range that represents the OY for each fishery. It is the policy of the Council that the level selected allow fishing to continue at that level for at least 10 years for surf clams and 30 years for ocean quahogs. While staying within this constraint, the quota is to be set at a level that would meet the estimated market demand.

The fishing quotas must be less than the level that would constitute overfishing as defined for each species. The overfishing definitions are fishing mortality rates of $F_{20\%}$ (20 percent of maximum spawning potential (MSP)) for surf clams and $F_{25\%}$ (25 percent of MSP) for ocean quahogs.

This action establishes a surf clam quota of 2.565 million bushels (1.362 mil. hectoliters (hL)) and an ocean quahog quota of 4 million bushels (2.122 mil. hL). The 1998 surf clam quota is identical to the 1997 quota, and the 1998 ocean quahog quota is a reduction of 0.317 million bushels (0.168 mil. hL) from the 1997 quota. These levels are unchanged from the levels set forth in the preamble to the proposed rule, published in the **Federal Register** on November 24, 1997 (62 FR 62543). That preamble presents background on the specification of these levels.

FINAL 1998 SURF CLAM/OCEAN QUAHOG QUOTAS

Fishery	1998 final quotas (bu)	1998 final quotas (hL)
Surf clam	2,565,000	1,362,000
Ocean quahog ..	4,000,000	2,122,000

Comments and Responses

Two sets of comments were received on the proposed quotas. One commenter, a consulting firm, favors a reduction of the surf clam quota below the proposed level. The other commenter, an industry participant, opposed the proposed reduction of the 1998 ocean quahog quota. These commenters also offered several other comments on various aspects of the quota setting process.

Comment 1: One commenter believes the action of the Council, in making a recommendation to keep the surf clam quota at the 1997 level, violated national standard 1 of the Magnuson-Stevens Act which requires that fisheries be managed to provide OY based on the maximum sustainable yield as reduced by any relevant economic, social, or ecological factor. The commenter, in requesting a reduction of the quota, asserted that certain prevailing economic conditions were not properly considered by the Council as it contemplated a possible reduction to the surf clam fishing quota. The commenter suggested that an oversupply of surf clams exists which, when coupled with a decrease in demand, is having a detrimental effect on the industry in terms of depressed prices. Based upon recent landings and ex-vessel and wholesale prices, the commenter concluded that if the quota

were reduced this adverse market condition would improve.

Response: NMFS disagrees with the contention that the quota level violates national standard 1. At its August 1997 meeting, the Council's Science and Statistical Committee (S&S Committee) agreed with the Council staff recommendation of 2.565 mil. bushels (1.362 mil. hL) for the 1998 surf clam quota. The S&S Committee noted that there is no biological reason to reduce the quota. This recommendation was based on advice from the 22nd Northeast Regional Stock Assessment Workshop (SAW 22) which recommended the quota remain at the 1996/1997 level of 2.565 mil. bushels (1.362 mil. hL) until a new stock assessment, with abundance estimates based on fishery catch rate and research survey data, is available. In addition, the S&S Committee concluded that the economic rationale for reducing the quota, as presented at the August meeting and repeated in the text of this comment, does not rely upon an appropriate economic analysis but is, instead, based on a general discussion of economic theory using anecdotal information from only one segment of the industry.

In the absence of verifiable information to the contrary, there is no justifiable basis to adjust the surf clam quota downward. NMFS notes it falls within the OY range of 1.850 million bushels (0.982 mil. hL) and 3.400 million bushels (1.805 mil. hL) specified in the FMP and represents a reasonable OY from this fishery.

Comment 2: One commenter believes that the failure to reduce the surf clam quota will negatively impact communities dependent upon the surf clam fishery through reductions in crews' take-home pay and a decrease in boat owners' profits. The commenter claims that local fishing communities will undergo a major social upheaval which violates national standard 8(B) of the Magnuson-Stevens Act which requires that management measures ''to the extent practicable, minimize adverse economic impacts on such communities.''

Response: In regard to national standard 8, the commenter discusses, in very general terms, the major negative economic and social impacts that the commenter anticipates communities would bear in the absence of a surf clam quota reduction. However, the commenter fails to provide any specific information. In the absence of any socioeconomic data or analysis, the assertion of negative impact on communities is only conjecture and not a sound basis upon which to reduce the quota. Furthermore, in the absence of a biological rationale, basing a reduction solely on economic allocation, would be in violation of national standard 5 of the Magnuson-Stevens Act which requires that no fishery management measure shall have economic allocation as its sole purpose.

Comment 3: One commenter believes that the Council, in failing to recommend a lower surf clam quota, disregarded the purposes section of the Magnuson-Stevens Act found at paragraphs (4) and (5) of Section 2(b) which requires the preparation and implementation of fishery management plans that will achieve and maintain, on a continuing basis, the OY from each fishery; and take into account the social and economic needs of the States.

Response: NMFS reiterates that there was not adequate information presented to the Council during the comment period to substantiate this comment.

Comment 4: One commenter stated that the Council's failure to reduce the surf clam quota disregards FMP objectives 1, 3, and 4 which guide the Council to: stabilize harvest rates in a way that minimizes short-term economic dislocations, bring harvesting capacity in balance with processing and biological capacity allowing industry to achieve efficient utilization of capital resources, and provide a management regime that is flexible to unanticipated short-term events and consistent with long-term industry planning and investment needs.

Response: The Council has recommended and NMFS has specified a surf clam quota of 2.565 million bushels (1.362 mil. hL) for each fishing year since 1995. In the absence of a biological rationale for decreasing the quota, the Council has chosen to accept the recommendations of its own S&S Committee and maintain the previous quota level for the 1998 fishing year. The Council found there was insufficient information to require a reduction under the FMP, and NMFS concurred.

Comment 5: One commenter believes that if the surf clam quota is not reduced and an oversupply is allowed to continue into 1998, it will shift the current balance of power between the processors and the vessels to a position that will favor the processors.

Response: The balance of power between the processors and fishing vessels under the FMP and the implementing regulations is not relevant to the specification process.

Comment 6: One commenter argued that there has been no new science to support a reduction in the ocean quahog quota.

Response: The results of SAW 22 were available in August, 1996, and represent the most recent available stock assessment for surf clams and ocean quahogs. New stock assessment information will be available from SAW 27 in 1998 for purposes of setting the 1999 quota. SAW 22 did not offer management advice on the 1998 ocean quahog fishing quotas, whereas, in the case of surf clams they advised no change until the next stock assessment. However, SAW 22 noted that a 30-year supply as dictated by Council policy is possible only if the estimated biomass on Georges Bank and in areas off Southern New England and Long Island generally too deep to be harvested with current technology are included. Furthermore, they cautioned that this strategy implies that sustainable fishing after 30 years will be limited to recruitment and very slow annual growth of fully recruited quahogs. Although the S&S committee voted to recommend no change for the 1998 ocean quota from the 1997 level of 4.317 mil. bus. (2.290 mil. hL), the Council, noting the SAW 22 statement regarding the availability of quahogs over the next 30-year period, voted to take a conservative position and recommended a reduction in the quota to 4.00 mil. bus. (2.122 mil. hL), the lowest OY specification allowed under the FMP.

Comment 7: One commenter argued that it is inappropriate to presume that Georges Bank and deep water areas will not be available over the next 30 years for the harvest of quahogs. The commenter argued that the paralytic shellfish poisoning contamination may be addressed by testing or may disappear in the future. The commenter also argued that technology will be developed to allow deepwater harvesting.

Response: The Council believes that a conservative approach is required for specifying the 1998 ocean quahog quota. The Council realizes that in the absence of formidable recruitment, it may be impossible to maintain a 30-year supply if the quahogs on Georges Bank and the deepwater areas continue to be unavailable. NMFS has accepted this as a valid concern, pending the new stock assessment.

NMFS acknowledges that it is possible that both concerns could be addressed within the 30-year time period. However, that fact is not sufficient to override the Council's recommendation. There has been no recent progress in addressing the presence of paralytic shellfish poison (PSP) toxin on Georges Bank. NMFS notes that in 1994 it worked with the U.S. Food and Drug Administration to

develop a draft lot-testing protocol to allow harvesting of ocean quahogs on Georges Bank. Under the protocol, harvested animals would be tested for the presence of PSP to ensure that contaminated product was not marketed. NMFS hosted a meeting in October 1995 to review the proposed protocol with representatives from industry and the coastal states. At the meeting several technical issues were identified that must be addressed in any final testing protocol. The attendees also noted that there were major impediments to use of the protocol, notably the costs of testing and disposal associated with contaminated product. Meeting attendees expressed no immediate interest in proceeding further with PSP testing.

The commenter also argued that a quota reduction was not necessary because PSP could disappear in the future and deepwater harvest technology could be developed in the future. In the absence of some indication that such events are likely to occur, this is not sufficient reason to overrule the judgement of the Council.

Comment 8: One commenter argued that the recommended ocean quahog quota level represents an arbitrary value. The commenter argued there is no biological rationale for the 4.0 million bushel level and that it was selected because it was the lowest quota allowed under the FMP.

Response: The Council's rationale for recommending a decrease in the ocean quahog quota involves only the conservation of the resource and preservation of the fishery. Council members and the S&S Committee expressed serious concern that given the biology of the species, its extreme longevity, its slow growth rate, and sporadic and poorly understood recruitment events, the current quota level may be very risky in the long term.

Classification

This action is authorized by 50 CFR part 648, complies with the National Environmental Policy Act, and is exempt from review under E.O. 12866.

The Council prepared an initial regulatory flexibility analysis as part of the regulatory impact review, which concluded that this action could have a significant economic impact on a substantial number of small entities. This determination was described in the proposed rule (62 FR 62543) and forwarded to the Chief Counsel for Advocacy of the Small Business Administration.

In sum, the FRFA finds that of the 56 vessels participating in the surf clam and ocean quahog fisheries in 1996, 20 fished exclusively for surf clams, 14 fished for both surf clams and ocean quahogs, and 22 fished exclusively for ocean quahogs. The 36 vessels that harvest ocean quahogs are considered, by definition, to be small entities and are all impacted by the reduction in the ocean quahog quota. While the impact of a 7.3 percent reduction in ocean quahog quota will be diluted somewhat for those vessels augmenting their incomes with surf clam harvests, a full 7.3 percent reduction in gross revenues is likely for the vessels fishing exclusively for ocean quahogs. Therefore, this action is likely to decrease the gross revenues of 61 percent of the vessels that harvest ocean quahogs (22 out of 36 vessels) by more than 5 percent. NMFS has established a threshold for ''significant economic impact'' on a substantial number of small entities under the Regulatory Flexibility Act as a reduction of gross revenues greater than 5 percent for 20 percent or more of the small entities. This action is, therefore, found to be significant.

NMFS is required to consider alternative actions that would minimize the negative economic impacts on small entities. Clearly, the economic impact would be minimized if the quota reduction was less than that enacted by this rule, however, NMFS has established the quota at the level recommended by the Council. The Council made its quota recommendation in response to several concerns, including its doubts that ocean quahogs on Georges Bank and in deepwater areas will become available for harvest. The Council and its S&S Committee also expressed concern that harvest must be reduced in light of the species' slow growth rate and poorly-understood recruitment. The Council's Environmental Assessment noted that it may take up to 20 years, depending upon environmental conditions, for ocean quahogs to reach a marketable size, and that there has been no recent recruitment event. NMFS has reviewed the concerns that led the Council to make its recommendation and NMFS concurs in that recommendation. NMFS finds that it is necessary to be very conservative in setting the 1998 quota to assure that overfishing does not occur.

Pursuant to 5 U.S.C. 553(d)(3), the Assistant Administrator for Fisheries, NOAA, finds for good cause that a delay in the effective date of the final fishing quotas for the 1998 fishing year for the Atlantic surf clams and ocean quahog fisheries is unnecessary because the quotas are not a requirement for which a regulated entity must come into compliance. The fishing quotas are year-long quotas and are used for the sole purpose of closing the fishery when the amounts specified have been taken.

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

Dated: January 8, 1998.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 98–804 Filed 1–13–98; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 971015246–7293–02; I.D. 100897D]

RIN 0648–AK44

Fisheries of the Northeastern United States; Summer Flounder, Scup, and Black Sea Bass Fisheries; 1998 Final Specifications; Correction

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

ACTION: Correction to final rule.

SUMMARY: NMFS issued a final rule that implemented the final specifications for the 1998 summer flounder, scup, and black sea bass fisheries (62 FR 66304, December 18, 1997). Several errors were made in Table 4, which specified the 1998 black sea bass quarterly coastwide quotas and quarterly trip limits. This document revises Table 4 to the preamble of the above final rule. The dates for the final rule remain unchanged.

DATES: The amendments to §§ 648.14(u)(1), 648.100(a), 648.143(a), and § 648.144(a)(1)(i) were effective January 1, 1998. The final specifications for the 1998 summer flounder, scup, and black sea bass fisheries and notifications of commercial quota harvest were effective January 1, 1998, through December 31, 1998.

FOR FURTHER INFORMATION CONTACT: Regina L. Spallone, Fishery Policy Analyst, (978–281–9221).

SUPPLEMENTARY INFORMATION: The title of Table 4 needs to be clarified to indicate that the table specifies the allocations and trip limits for the commercial black sea bass fishery. In fact, 49 percent of the total harvest limit for black sea bass is allocated to the commercial sector as a quota, and 51 percent is allocated to the recreational sector as a coastwide harvest limit. The commercial quota is further allocated to