



Mid-Atlantic Fishery Management Council

800 North State Street, Suite 201, Dover, DE 19901

Phone: 302-674-2331 | FAX: 302-674-5399 | www.mafmc.org

P. Weston Townsend, Chairman | Michael P. Luisi, Vice Chairman

Christopher M. Moore, Ph.D., Executive Director

MEMORANDUM

Date: September 11, 2023

To: Surfclam and Ocean Quahog (SCOQ) Committee

From: Jessica Coakley and José Montañez, Council Staff

Subject: Surfclam and Ocean Quahog Committee and Advisory Panel Meeting

Below is background information to support SCOQ Committee discussion, with its advisors, during the September 15, 2023, SCOQ Committee and Advisory Panel Meeting.

Molluscan Shellfish Biotoxin Protocols in Federal Waters

In 2019, revisions were made to the National Shellfish Sanitation Program (NSSP) 2019 “Guide for the Control of Molluscan Shellfish (i.e., Model Ordinance and Supporting Documents).” The NSSP is the federal/state cooperative program recognized by the FDA and the Interstate Shellfish Sanitation Conference (ISSC), for the sanitary control of bivalve molluscan shellfish produced and sold for human consumption through interstate commerce. The NSSP Model Ordinance (MO) provides specific requirements for state shellfish programs and the shellfish industry and includes the roles and responsibilities for federal agencies including the Food and Drug Administration (FDA) and National Oceanic and Atmospheric Administration (NOAA), for bivalve molluscan shellfish grown and harvested in Federal waters. This includes biotoxin protocols for molluscan shellfish in Federal waters. Revisions to the guide have implications for our Federal water Atlantic surfclam and ocean quahog fisheries given that any implemented changes may impact protocols with respect to paralytic shellfish poisoning (PSP) closed areas in the Georges Bank fishing areas or other federal waters.

Council staff and Greater Atlantic Regional Fisheries Office Sustainable Fisheries Division (GARFO-SFD) staff have been meeting regularly with staff from the NOAA Office of International Affairs, Trade, and Commerce - Office of Seafood Inspection and Food and Drug Administration since Spring 2022 to track this issue and the implementation of any changes that may impact our fisheries. On September 15, 2022, the Council sent a letter to the Office of Seafood Inspection’s Director (and copied FDA staff) emphasizing that addressing this issue in a timely manner should be a high priority. The ISSC met in Spring 2023 to continue its work. Council staff and GARFO-SFD staff met with NOAA Office of Seafood Inspection and FDA staff again on July 20, 2023, to receive an update on their progress. On July 24, 2023, the Council sent a letter requesting details from the FDA on the steps and associated timing involved with the implementation of any changes to protocols that may impact the Atlantic surfclam and ocean quahog fisheries and allow for an opening of this closed area. That

response letter should be available prior to the meeting on September 15, 2023; Council staff plan to provide an update to the Committee and Advisory Panel.

Implementation Plan Items Discussion

At the October 2023 Council Meeting, the Executive Committee will consider items for inclusion in the draft 2024 Implementation Plan that the Council will further review and finalize at the December 2023 Council Meeting. The following items related to surfclam and ocean quahog were included in the plan for 2023. The Committee can recommend items for inclusion in the 2024 plan and should provide clarity on the scope of those recommended items.

2023 Implementation Plan: Surfclam and Ocean Quahog

- Review 2024 specifications for surfclam and ocean quahog
- Facilitate development of surfclam and ocean quahog advisory panel fishery performance reports
- Oversee SCOQ Electronic Monitoring Project
- Develop alternatives for the Surfclam and Ocean Quahog Species Separation Requirements Amendment

2023 Implementation Plan: Possible Additions

- Develop spatial management options for Atlantic surfclam open water aquaculture in the New York Bight and central Atlantic.
- Develop an action to authorize an experimental Atlantic surfclam fishery in the Great South Channel Habitat Management Area (HMA)

The issue of open water aquaculture was recently raised in the context of offshore wind leases. Wind farms may reduce access to the surfclam fishery within these wind turbine arrays. It has been suggested that aquaculture could be used as a means of mitigation for these lost fishing opportunities. Surfclam seed, produced in hatcheries and nurseries, could be planted on fishing grounds to enhance fishing opportunities outside of offshore wind farms. The feasibility of this is being explored through research. Industry recommended an action be developed to explore open water aquaculture and management approaches related to closing areas where cultured surfclam had been planted on the bottom to fisheries.

The Great South Channel HMA has a long history. The New England Council began its work on its Omnibus Essential Fish Habitat Amendment 2 (OHA2) in 2004. In December 2014, as completion on OHA2 drew close, the Mid-Atlantic Council submitted comments to the New England Council specifically requesting that, “sub- areas comprised predominantly of sand substrate be identified as clam management areas within the broader proposed habitat closure areas encompassing Nantucket Shoals, Georges Shoals, and Cultivator Shoals.” These areas were intended for clam dredge fishing access.

At the April 2015 New England Council meeting, a large area east of Nantucket (the Great South Channel HMA) was approved for targeted habitat protection. The New England Council recommended the Northeast corner of the area be closed to all dredges and bottom trawls, and the remainder of the area be closed to bottom trawls and scallop dredges with a 1-year exemption for clam dredges. That year would allow for consideration of a different program for clam dredges to

access portions of that HMA. The New England Council initiated action on a framework to address this issue in September 2015.

In January 2018, NOAA Fisheries approved most of the recommendations contained in OHA2. NOAA Fisheries approved the recommendation of the New England Council to establish the Great South Channel HMA, which would be closed to: (1) mobile bottom-tending gear throughout the area; and (2) clam dredge gear in the northeast section. Clam dredge gear would be allowed throughout other parts of the area for 1-year while the New England Council continued to consider refinements through the framework. The OHA2 was implemented April 9, 2018, and prohibited the use of mobile bottom-tending gear within the HMA. However, the surfclam fishery was granted a one-year exemption to continue operating in all but the northeast corner of the area.

In December 2018, the New England Council completed work on the Clam Dredge Framework and signed off on new measures to allow surfclam fishermen to continue fishing within three exemption areas inside the Great South Channel HMA (see Map below). Increased monitoring provisions including 5-minute VMS (vessel monitoring system) polling apply, and mussel fishermen are also able to fish in the new areas. The New England Council also recommended designation of two research areas in the Great South Channel HMA, with the following commitment: “The Council will develop a prioritized list of research needs concerning Rose and Crown and Davis Bank East. The intent is to work towards an exempted fishing permit program for these areas, which will support the potential development of additional exemptions in the future.”

In April 2019, the clam dredge fishery exemption in the Great South Channel HMA expired. Clam dredges were unable to operate in the HMA until final rulemaking occurred on the Clam Dredge Framework in June 2020 ([Final-Rule-2020-10566.pdf](#)).

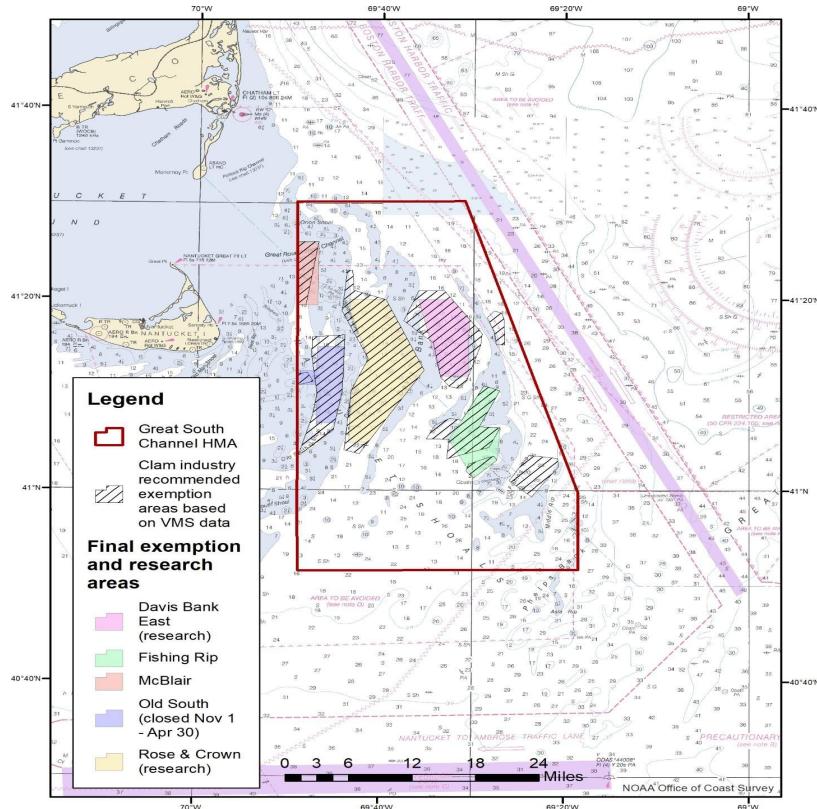
In June 2019, the New England Council followed up on its commitment to develop a research plan for the HMA ([190612-GSC-HMA-Research-Planning-Document.pdf](#)). In January 2020, NOAA Fisheries published a Federal Register notice about an Exempted Fishing Permit (EFP) requested by Coonamessett Farm Foundation (CFF) to fish with dredge mounted cameras in the Rose and Crown area of the HMA. The EFP was issued and in December 2020 CFF provided a progress report on their EFP research to the New England Council’s Habitat Plan development Team (PDT). The Habitat PDT discussed this report on January 25, 2021.

In December 2021, the Mid-Atlantic Council recommended that Council leadership prioritize a leadership level discussion about the Great South Channel Habitat Management Area between both Councils. This was in response to a letter received by the Mid-Atlantic Council requesting this discussion. In January 2022, the leadership of both the New England and Mid-Atlantic Councils met and discussed opportunities to further coordinate this issue within the scope of the Council process. They agreed to notify the MAFMC Advisors of upcoming NEFMC meetings related to their requested emergency action in this region, and meeting to discuss any reports for research under the EFP issues.

In February 2022, the New England Council requested that the Habitat Committee work with the PDT to review the final report for the project. In June 2022, CFF submitted a final report on the project which was reviewed by the Habitat Committee and then the New England Council. The New England Council forwarded the Committee’s evaluation to NOAA Fisheries for their consideration when reviewing future EFP proposals. CFF applied for another EFP (a Phase II Project) that would have conducted video and acoustic mapping in Davis Bank East. In August 2023, NOAA Fisheries

determined the application does not warrant further consideration; but noted the applicant can revise their proposal and submit a new EFP request.

For summaries of past meetings or additional background on the OHA2 and the Clam Dredge Framework, see: <https://www.nefmc.org/management-plans/habitat>



Map: GSCHMA final exemption and research areas.

Atlantic Surfclam and Ocean Quahog Species Separation Requirements Amendment

As surfclam have shifted toward deeper water in recent years, catches including both surfclam and ocean quahog on the same trip have become more common. Current regulations do not allow surfclam and ocean quahog to be landed on the same trip or in the same tagged cage. The Council began the process of exploring possible modifications to the species separation requirements in these fisheries back in 2020 with the formation of a Fishery Management Action Team (FMAT). In November 2021, the FMAT provided a [discussion paper](#) that presented 9 options that could be further explored as approaches to address this issue to the Committee and Advisory Panel at a December 6, 2021 Meeting. In the meeting summary it was noted that, “members of the AP indicated they were supportive of an approach like Option #3 (Modify Regulations to Require Onboard Sorting and Allow Mixed Trips) as a first step, which would require manual onboard sorting and separation of clams by species (surfclam or quahog) when cages are filled on board the vessel, and then taking a research and development (R&D) approach to look at other longer term solutions (like Option #6 or other options that address long term monitoring).”

Therefore, the Committee passed the following motion by unanimous consent: "I move that the Committee forward the recommendation of the AP and Committee as discussed Dec 6 (i.e., proposal of option 3 [required onboard sorting] and longer-term R&D such as EM type of solution), to the full Council for consideration." At the December 2021 Council Meeting, the Council also passed a similar motion "Move to initiate an Amendment that considers short term solutions to species separation including white paper option 3. Also request that the staff/NEFSC¹ explore the feasibility of longer-term solutions for monitoring (such as electronic monitoring testing on the clam survey)."

In 2022, development continued on an Amendment with 3 action alternatives included; the primary alternative that at the time was supported (onboard sorting into cages) and two other alternatives to bracket the ranges of expected impacts and costs for the NEPA analysis (i.e., the development of a port monitoring program and a longer-term solution of electronic monitoring). That document was taken out for public comment in October 2022, and industry indicated that onboard sorting was not a feasible option nor were other alternatives contained within the action.

In December 2022, the Council reviewed public comments and agreed to postpone final action on this Amendment to allow time for development of additional alternatives. The Fishery Management Action Team met in January 2023 jointly with the Surfclam and Ocean Quahog Advisory Panel to solicit input on additional alternatives to explore that are [summarized here](#). The FMAT met again in April 2023 with port agents, enforcement experts, and data management experts (from the GARFO Analysis and Program Support Division) to gather input (see FMAT Summary on page 6 below).

As described in the FMAT summary, there are substantial issues associated with the ideas suggested by the industry as a potential solution. Based on discussion with additional expertise from monitoring and enforcement, moving all sorting into dealer facilities is highly problematic. It sets up a system that makes it much easier to circumvent requirements and difficult if not impossible to enforce. In addition, industry members had indicated they were not supportive of sorting under a standardized protocol in the dealer facilities. Likewise, having partial sorting/estimation on board would likely not provide the information needed, including a more detailed accounting of catch and discards.

In other fisheries, including other Limited Access Privilege Programs (e.g., Pacific Groundfish; Scallops), and the NEFMC groundfish sectors, the catches are monitored at-sea (via high levels/near 100% observer coverage, at-sea monitors, or EM requirements often in lieu of monitors) to ensure any multispecies catch and discards are accurately accounted for. Those types of catch monitoring systems are very expensive and would impose costs on the industry and/or NOAA Fisheries.

At this stage the FMAT has exhausted most of the potential options. As noted, some of the proposed solutions by industry would be unenforceable and not provide adequate, verifiable monitoring, and the solutions most likely to be enforceable and provide accurate monitoring would impose high costs on the industry/NOAA. The FMAT needs additional guidance from the SCOQ Committee and Council on what directions it should further pursue for additional alternative development for the amendment.

¹ NOAA has funded work to explore longer-term solutions for monitoring as described in this [news article](#). The video camera/image collection system was recently deployed on the August 2023 clam survey and project results are expected in 2024.



Atlantic Surfclam and Ocean Quahog (SCOQ) Species Separation Requirements Fishery Management Action Team (FMAT) Meeting Summary April 12, 2023

The Mid-Atlantic Fishery Management Council's (Council) Species Separation requirements FMAT met in person and via webinar on April 12, 2023, to continue its work on the Species Separation Requirement Amendment. The FMAT invited experts from the GARFO Analysis and Program Support Division, Office of Law Enforcement, and Port Agent Program, to provide input on issues related to catch and allocation monitoring and enforcement of regulations. Members of the public also attended.

FMAT members present: Jessica Coakley and José Montañez (Council Staff), Douglas Potts and Sharon Benjamin (GARFO), and Dan Hennen and John Walden (NEFSC).

Others: Caleb Gilbert, Barry Clifford, Bill Duffy, Ben Galuardi, Josh O'Connor, Ted Hawes, Tom Dameron, Peter Himchak, Samuel Martin, Joe Myers, and Dave Wallace.

Summary of Discussion

The meeting was opened with introductory remarks and a review of the agenda. Staff provided an overview of the proposed timeline for work. The FMAT discussed the trip declaration process and law enforcement noted that those declarations are important to retain; therefore, it is important to retain the individual declarations (so it highlights whether quahog or surfclam are the primary target). The fishing industry had suggested the potential for a sampling or subsampling protocol onboard the vessel and then additional sampling protocols at processor to assess composition of the mix.

It was noted that it is important to get a precise accounting of catch before it comes to shore, because right now we are not capturing the discards on board the vessel. There are clams that are tossed overboard and not accounted for in the data.

One suggestion was for a predetermined monitoring plan for each vessel and processor group – this is like what has been done in some of the catch share programs. Each group could work on what would need to be in each detailed monitoring plan. The enforcement aspect is important, and for catch shares it is expensive and carefully monitored. Another option is to develop a separate shoreside monitoring/sampling program, again this could be a more expensive option. This sampling program would need to collect adequate data on catch; however, this would not capture any discards occurring onboard. The group agreed to reach out to NEFSC on Fisheries Monitoring (Katherine McArdle), Cooperative Research (Anna Mercer), and the Port Sampling Program – could look for opportunities through SK, NFWF, FIS, or other programs to develop proof of concept.

It was suggested that there be a two-track option developed – one for smaller vessels and one for larger vessels. It may be easier for smaller vessels with lower volume to manage onboard sorting, and some

industry members may support it, while larger vessels with higher volume catches may be less supportive.

The group discussed the concept of physical tagging versus developing a system to do e-tags – this would make partial use of allocation a bit easier. Right now, any kind of partial use of tags would be problematic for tracking in the databases. It was noted that ITQ is allocated not by mix, but by individual species. To land a mixed trip would you have to have allocation/tags to cover what is being landed? The group discussed the fact that you could shift away from tag-based tracking. Could set up processor/vessel groups and manage allocation accounts (like what was done in the Gulf). This could support a tag less system; however, this would be a big endeavor and require major changes to how allocation is tracked. Allocation would be moved into allocation accounts and only authorized vessels would fish and run a debit to the account based on haul weights, etc. A tag less system could have additional cost recovery implications.

Tags are used for other purposes, so the group discussed tracking and tagging. Might want to check with seafood inspection to make sure tag less would not impact traceability.

It was noted that this fishery is an ITQ – not an IFQ. Perhaps, you need a processor ITQ instead of a vessel/individual ITQ, then the processing plant would have to bear the cost of monitoring. Other industries, such as the meat industry, have inspectors embedded in their facilities (e.g., FDA inspectors). The issue with moving all sorting into dealer facilities is challenging for monitoring and enforcement – there would be no cross checks on the data system and there are a variety of reasons not to have people in the processing facility (safety, slow operations, not enough folks to do any monitoring, EM (cameras) but must have someone review). Lots of challenges there. Other fisheries also have crosschecks between VTRs, and dealer records.

The group discussed the electronic monitoring project – the result from that will be about 1.5 years out. This could do the electronic id as materials come down the belt prior to going into the cages.