

**SUPPORTING STATEMENT
APPLICATION TO SHUCK SURF CLAMS/OCEAN QUAHOGS AT SEA
OMB CONTROL NO. 0648-0240**

A. JUSTIFICATION

This request is for renewal of this information collection.

1. Explain the circumstances that make the collection of information necessary.

Under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), as amended in 2006, the Secretary of Commerce is authorized to adopt such regulations as may be necessary to carry out the conservation and management objectives of fishery management plans. The regulations governing the Atlantic surfclam and ocean quahog fishery including the collections of information described below are found in 50 CFR part 648, subpart E.

Individual transferable quota

Amendment 8 to the Fishery Management Plan for Atlantic surfclams and ocean quahogs was published on June 14, 1990, with the regulations effective September 30, 1990. The amendment provided for individual transferable quotas (ITQs) by species (surfclam or ocean quahog) for individuals who were qualified to receive an ITQ for either or both species. ITQs were issued in September, 1990 to individual owners, based on their percentage share of the annual allowed quota for harvest.

Allocations are expressed in terms of bushels, but tracked and transferred in terms of the cages in which harvested product is landed and shipped (a cage contains 32 bushels of product). To facilitate enforcement and tracking, sequentially numbered tags are issued to each owner on an annual basis and all cages of product must be tagged, with tag use reported by both the harvesting vessel and the purchasing dealer. Each allocation owner is issued an allocation permit which specifies the amount of their allocation and the tag numbers they are required to use during the harvest of their allocation. Individual allocations are transferable per regulations found at 50 CFR 648.70(b)(1) and (2). Owners may transfer their allocation on a permanent basis or may transfer tags to other vessel owners to use on a temporary (annual) basis. This transferability means that the allocation ownership frequently changes.

The ITQ Allocation Transfer Form is required by National Marine Fisheries Service (NMFS) to process and register ITQ transactions. Information required on the transfer form includes allocation owner name, allocation number (assigned by NMFS for internal tracking), and the numbers of the tags associated with the transfer. Once processed, new allocation permits are issued and all NMFS databases are updated. .

Shucking clams at sea

Because of potential difficulties in disposing of clam shells on shore, Amendment 8 allows for the Regional Administrator to approve requests to shuck product at sea. However, because of

the difficulties involved in converting the volume of shucked clam meats to bushels, the regulations allow shucking at sea only if the vessel carries a NMFS-approved observer. The observer is necessary to certify the amount, in bushels, of unshucked product that the vessel has processed at sea. The regulations authorizing this collection are found at 50 CFR 648.74.

This information collection includes the form to request the transfer of ITQ allocation or cage tags and the application to request authorization to shuck product at sea. The latter collection includes the cost of carrying a NMFS-approved observer if the application is accepted. These two information collections are necessary to the administration and the monitoring of quota for the Atlantic surfclam and ocean quahog ITQ program.

2. Explain how, by whom, how frequently, and for what purpose the information will be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, then explain how the collection complies with all applicable Information Quality Guidelines.

The information on the ITQ transfer form is used by NMFS to maintain a proper accounting of an individual or corporation's quota share. Allocation permits, which are mailed to the allocation holder after each transaction, serve as receipts showing the allocation holder's current account balance. The allocation permits are used by Law Enforcement agents in the field to verify that individual harvesters are authorized to use the tags they possess, and to ensure that individual allocations are not exceeded since overfishing of individual allocations would lead to overfishing of the overall species quota. Specific questions on the form include the type of transfer requested (permanent or temporary), the name and ITQ allocation numbers of the transferor and the transferee, and the cage tags requested to be transferred. These data fields are necessary in order to identify the companies or individuals and ITQ tags involved in the transaction. Omission of any one of these fields would leave ambiguity and the opportunity for error in processing the request.

If an entity is a new entrant to the fishery, an ITQ allocation number needs to be assigned. This is a one-time requirement per entity. Section 4 of the application requests standard contact information (name, address, fishing vessel, and telephone number) as well as verification that the entity is eligible to own a documented vessel under the terms of 46 U.S.C. 12102(a). This section of the United States Code outlines the U.S. citizenship requirements for documenting a vessel with the U.S. Coast Guard. Since the ITQ program conveys certain ownership rights over a natural resource of the Northeastern U.S., it is required that the allocation owner meet the same citizenship requirements as that required to document a fishing vessel. This requirement is authorized at § 648.70(b)(1). Both parties involved in the transfer, or their authorized agents, are required to sign the form.

The information contained in the application to shuck product at sea is used by the NMFS to evaluate if the process used to shuck at sea allows for the proper accounting of the harvest in terms of unshucked bushels, which is the measure used to monitor the quota. The NMFS-approved observer is necessary to certify the information reported in the vessel's shellfish logbook. Information requested includes the applicant's contact information (name, address, and ITQ allocation number), specifications of the harvesting vessel, and accommodations for the observer. Specifications on the harvesting vessel and the harvesting process are required in order to evaluate if the operations facilitate the proper accounting of harvested unshucked product. As

mentioned previously, the quotas are monitored and enforced using unshucked bushels. Thus any authorization to deviate from this method of accounting needs to be thoroughly evaluated. Since a NMFS-approved observer is required to certify the vessel's shellfish logbook, NMFS requires that suitable accommodations for the observer are available on the vessel.

As explained in the preceding paragraphs, the information gathered has utility. NMFS will retain control over the information and safeguard it from improper access, modification, and destruction, consistent with National Oceanic and Atmospheric Administration (NOAA) standards for confidentiality, privacy, and electronic information. See response to Question 10 of this Supporting Statement for more information on confidentiality and privacy. The information collection is designed to yield data that meet all applicable information quality guidelines. Although the information collected is not expected to be disseminated directly to the public, results may be used in scientific, management, technical or general informational publications. Should NOAA Fisheries Service decide to disseminate the information, it will be subject to the quality control measures and pre-dissemination review pursuant to Section 515 of Public Law 106-554.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.

Because the form is used to transfer individual property rights, NMFS General Counsel requires a hard copy of the ITQ Transfer Form with an original signature. The fillable printable ITQ Tag Transfer Form is available online for respondents through the NMFS forms portal at http://www.nmfs.noaa.gov/gpea_forms/forms.htm.

The application to shuck at sea is not currently available through the NMFS forms portal due to its infrequent use, but it will be available online in the next few months. In the meantime, the form would be obtained by contacting the Sustainable Fisheries Division, Atlantic Surfclam and Ocean Quahog Policy Analyst.

4. Describe efforts to identify duplication.

The information requested is unique to this fishery; thus, there is no duplication of items in this collection with other collections. Since NMFS is the lead agency implementing the Magnuson-Stevens Act, NMFS is very aware of all information collections required from fishermen.

5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.

Small businesses are the primary respondents of the data collection. The form used to gather data on ITQ transfers is designed to be simple and easy to complete, thus saving time for both the respondents and managers of the system. The ability to make timely transfers gives these businesses the flexibility to make rational business decisions.

6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.

The frequency of submission is dependant upon how often the allocation holder desires to transfer quota. If the information collection was not conducted, NMFS could not properly monitor and enforce the quota restrictions in the Atlantic surfclam and ocean quahog ITQ program. If the application and the requirement to carry and observer for operations where product is shucked at sea were removed, then there would not exist a means to verify the quantity of product harvested by the vessel. The consequences from the removal of either of these information collections would compromise the ability of NMFS to conserve and manage a public trust resource.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.

This information collection is consistent with OMB guidelines.

8. Provide information on the PRA Federal Register Notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

A Federal Register Notice published on July 25, 2008 (73 FR43409) solicited public comment on this renewal. No comments were received.

The ITQ management system was developed under the Magnuson-Stevens Act, and was the subject of extensive public hearing and public comment. As the ITQ management system has evolved operationally, comment has been obtained on an ongoing basis through the Mid-Atlantic Fishery Management Council's Industry Advisors and Surfclam/Ocean Quahog Subcommittee.

9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.

No payments or gifts are made.

10. Describe any assurance or confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.

The NMFS General Counsel has ruled that allocation information is public information because the ITQ system assigns shares of a public resource to the allocation holders. Industry participants are well aware of this fact, and they are among the primary requesters of this information as they seek to transfer or obtain allocation.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

No sensitive questions are asked.

12. Provide an estimate in hours of the burden of the collection of information.

Table 1 below summarizes the burden hours estimated for this collection.

The average annual number of ITQ transfer requests processed by NMFS from 2005 to 2007 was 525. It is estimated that each form takes approximately 5 minutes to complete. Thus, the annual burden for the ITQ Transfer Request Form is approximately 44 hours. NMFS received 2 applications for shuck at sea authorization in 2005, and no applications in 2006 and 2007. It is estimated that the time to gather the necessary information pertaining to the shuck at sea application takes 30 minutes per submission. Averaging the three years provides less than 1 hour annual burden for the shuck at sea application. Thus the total burden for the Shuck-at-Sea Application, rounded up, is 1 hour. The total burden for this collection of information is 45 hours.

Table 1. Cost and burden hours

Information Collection	No. of Entities Responding	Avg. No. of Collections per Entity	Total No. of Collections per Year	Hrs per Collection	Total Hours	Cost to Public	Cost to Government
ITQ Transfer Request Form	205 ¹	3	525	5 minutes	44	\$221	\$1,100
Shuck At Sea Application	1	1	1	30 minutes	1	\$109,200. ²	\$50
TOTAL	206		526		45	\$109,421	\$1,150

¹ 205 unduplicated respondents.

² This cost includes the cost to carry a NMFS-approved observer on board the vessel during trips where product is shucked at sea.

13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection (excluding the value of the burden hours in #12 above).

The annual cost burden of this collection of information is summarized in Table 1.

The cost burden for the ITQ Transfer Request Form or the Shuck-at-Sea Application is based on the postage of \$0.42 per first-class stamp. The cost to carry an observer as part of the authorization to shuck product at sea is based upon a rate of \$700 per day at sea to carry the observer, for an average of 156 sea days per vessel. This yields a total annual cost of approximately \$109,421.

14. Provide estimates of annualized cost to the Federal government.

The annual cost to the Federal government is summarized in Table 1.

The cost to the Federal government to process an ITQ Transfer Request Form is based on a rate of \$25 per hour and a processing time of 12 transfers per hour. This gives an annual cost of \$1,100. The application to shuck product at sea takes approximately 1 hour per application to process at a rate of \$25 per hour. This gives an annualized cost of \$50. Thus, the total cost to the Federal government for this collection of information is estimated to \$1,150. There are virtually no mailing costs, as the ITQ form is available online, and there are so few requests for the Shuck at-Sea application.

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB 83-I.

Adjustments made to this renewal reflect: 1) a decrease of 75 responses and 6 hours, based on 2005-2007 annual transfer and shuck-at-sea activity, and a related decrease in postal costs of \$31.50 (\$32); 2) an estimated one, rather than two, vessels requiring an observer, resulting in observer costs of \$109,200 rather than \$218,400. NOTE: Because ROCIS rounded down the current costs from \$219,400 to \$219,000, the difference appears to be smaller: \$109,579 rather than the actual difference of \$109, 979.

16. For collections whose results will be published, outline the plans for tabulation and publication.

The results will not be published.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.

The expiration date will be displayed.

18. Explain each exception to the certification statement identified in Item 19 of the OMB 83-I.

There are no exceptions.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not employ statistical methods.