NOTICE OF OFFICE OF MANAGEMENT AND BUDGET ACTION

Date 07/20/2015

Department of Commerce
National Oceanic and Atmospheric Administration

FOR CERTIFYING OFFICIAL: Jennifer Jessup
FOR CLEARANCE OFFICER: Jennifer Jessup

In accordance with the Paperwork Reduction Act, OMB has taken action on your request received 06/29/2015

ACTION REQUESTED: Revision of a currently approved collection
TYPE OF REVIEW REQUESTED: Regular
ICR REFERENCE NUMBER: 201506-0648-020
AGENCY ICR TRACKING NUMBER:
TITLE: Surfclam /Ocean Quahog Individual Transfer Quota (ITQ) Administration
LIST OF INFORMATION COLLECTIONS: See next page

OMB ACTION: Approved without change
OMB CONTROL NUMBER: 0648-0240
The agency is required to display the OMB Control Number and inform respondents of its legal significance in accordance with 5 CFR 1320.5(b).

EXPIRATION DATE: 12/31/2015 DISCONTINUE DATE:

BURDEN:	RESPONSES	HOURS	COSTS
Previous	6,932	2,433	111,346
New	7,395	2,538	111,763
Difference			
Change due to New Statute	0	0	0
Change due to Agency Discretion	378	97	186
Change due to Agency Adjustment	85	8	231
Change due to PRA Violation	0	0	0

TERMS OF CLEARANCE:

OMB Authorizing Official: Dominic J. Mancini
Acting Deputy Administrator,
Office Of Information And Regulatory Affairs

List of ICs			
IC Title	Form No.	Form Name	CFR Citation
Application to Shuck Surf Clams/Ocean Quahogs at Sea	NA	Application to Shuck Surfclams/Ocean Quahogs at Sea	
ITQ Transfer Request Form	NA	Request for Atlantic Surfclam or Ocean Quahog ITQ Allocation or Cage Tag Transfer	
Protocol - submission of concurrence from state of landing			
Protocol - maintain and submit harvest records			
Protocol - compile and submit laboratory test results			
Protocol - Create and maintain a written onboard lot segregation plan			
Protocol - provide notification prior to unloading			
ITQ permit application	NA	ITQ Permit Application	
ITQ Ownership Form - new entrant	NA	ITQ Ownership Form	
ITQ Ownership Form - renewal	NA	ITQ Ownership Form	

PAPERWORK REDUCTION ACT SUBMISSION

Please read the instructions before completing this form. For additional forms or assistance in completing this form, contact your agency's Paperwork Clearance Officer. Send two copies of this form, the collection instrument to be reviewed, the supporting statement, and any additional documentation to: Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.

1. Agency/Subagency originating request
DOC/NOAA/NMFS

2. OMB control number b. [ ] None
a. 0648 - 0240

3. Type of information collection (*check one*)
a. [ ] New Collection
b. [✔] Revision of a currently approved collection
c. [ ] Extension of a currently approved collection
d. [ ] Reinstatement, without change, of a previously approved collection for which approval has expired
e. [ ] Reinstatement, with change, of a previously approved collection for which approval has expired
f. [ ] Existing collection in use without an OMB control number
For b-f, note Item A2 of Supporting Statement instructions

4. Type of review requested (*check one*)
a. [✔] Regular submission
b. [ ] Emergency - Approval requested by ____/____/____
c. [ ] Delegated

5. Small entities
Will this information collection have a significant economic impact on a substantial number of small entities? [ ] Yes [✔] No

6. Requested expiration date
a. [ ] Three years from approval date b. [ ] Other Specify: 12 / 2015

7. Title Northeast Region Surfclam and Ocean Quahog Individual Transferable Quota (ITQ) Administration

8. Agency form number(s) (*if applicable*) N/A

9. Keywords Fishery

10. Abstract

Per RIN 0648-BD64, the National Oceanic and Atmospheric Administration's (NOAA) National Marine Fisheries Service (NMFS) is requesting a revision of Office of Management and Budget (OMB) approval of the information collections described in OMB Control No. 0648-0240 to continue management of the Atlantic Surfclam and Ocean Quahog Fishery Management Plan (FMP). This revision would enable NMFS to collect additional information about individual transferable quota (ITQ) allocation holders to aid the Mid-Atlantic Fishery Management Council in developing an excessive shares cap in this fishery.

11. Affected public (*Mark primary with "P" and all others that apply with "x"*)
a. x Individuals or households d. ___ Farms
b. x Business or other for-profit e. x Federal Government
c. ___ Not-for-profit institutions f. x State, Local or Tribal Government

12. Obligation to respond (*check one*)
a. [ ] Voluntary
b. [ ] Required to obtain or retain benefits
c. [✔] Mandatory

13. Annual recordkeeping and reporting burden
a. Number of respondents 189
b. Total annual responses 7,395
1. Percentage of these responses collected electronically 50 %
c. Total annual hours requested 2,538
d. Current OMB inventory 2,433
e. Difference 105
f. Explanation of difference
1. Program change 97
2. Adjustment 8

14. Annual reporting and recordkeeping cost burden (*in thousands of dollars*)
a. Total annualized capital/startup costs
b. Total annual costs (O&M) 112
c. Total annualized cost requested 112
d. Current OMB inventory 111
e. Difference 1
f. Explanation of difference
1. Program change 0
2. Adjustment 1

15. Purpose of information collection (*Mark primary with "P" and all others that apply with "X"*)
a. ___ Application for benefits e. ___ Program planning or management
b. ___ Program evaluation f. ___ Research
c. ___ General purpose statistics g. x Regulatory or compliance
d. ___ Audit

16. Frequency of recordkeeping or reporting (*check all that apply*)
a. [✔] Recordkeeping b. [ ] Third party disclosure
c. [✔] Reporting
1. [✔] On occasion 2. [ ] Weekly 3. [ ] Monthly
4. [ ] Quarterly 5. [ ] Semi-annually 6. [ ] Annually
7. [ ] Biennially 8. [✔] Other (describe)

17. Statistical methods
Does this information collection employ statistical methods
[ ] Yes [✔] No

18. Agency Contact (person who can best answer questions regarding the content of this submission)
Name: Douglas Potts
Phone: 978-281-9341

19. Certification for Paperwork Reduction Act Submissions

On behalf of this Federal Agency, I certify that the collection of information encompassed by this request complies with 5 CFR 1320.9

NOTE: The text of 5 CFR 1320.9, and the related provisions of 5 CFR 1320.8(b)(3), appear at the end of the instructions. *The certification is to be made with reference to those regulatory provisions as set forth in the instructions.*

The following is a summary of the topics, regarding the proposed collection of information, that the certification covers:

(a) It is necessary for the proper performance of agency functions;

(b) It avoids unnecessary duplication;

(c) It reduces burden on small entities;

(d) It used plain, coherent, and unambiguous terminology that is understandable to respondents;

(e) Its implementation will be consistent and compatible with current reporting and recordkeeping practices;

(f) It indicates the retention period for recordkeeping requirements;

(g) It informs respondents of the information called for under 5 CFR 1320.8(b)(3):

- (i) Why the information is being collected;
- (ii) Use of information;
- (iii) Burden estimate;
- (iv) Nature of response (voluntary, required for a benefit, mandatory);
- (v) Nature and extent of confidentiality; and
- (vi) Need to display currently valid OMB control number;

(h) It was developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected (see note in Item 19 of instructions);

(i) It uses effective and efficient statistical survey methodology; and

(j) It makes appropriate use of information technology.

If you are unable to certify compliance with any of the provisions, identify the item below and explain the reason in Item 18 of the Supporting Statement.

Signature of Senior Official or designee	Date

Agency Certification (signature of Assistant Administrator, Deputy Assistant Administrator, Line Office Chief Information Officer, head of MB staff for L.O.s, or of the Director of a Program or StaffOffice)	
Signature signed by Alan Risenhoover	Date 7/23/2014
Signature of NOAA Clearance Officer	
Signature BRABSON.SARAH.1365710488 Digitally signed by BRABSON.SARAH.1365710488 DN: c=US, o=U.S. Government, ou=DoD, ou=PKI, ou=OTHER, cn=BRABSON.SARAH.1365710488 Date: 2015.11.16 10:49:35 -05'00'	Date

SUPPORTING STATEMENT
SURF CLAM/OCEAN QUAHOG ITQ ADMINISTRATION
OMB CONTROL NO. 0648-0240

A. JUSTIFICATION

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

This is a resubmission of a revision request, with the Final Rule 0648-BD64. The National Oceanic and Atmospheric Administration's (NOAA) National Marine Fisheries Service (NMFS) is requesting a revision of OMB Control No. 0648-0240, to continue management of the Atlantic Surfclam and Ocean Quahog Fishery Management Plan (FMP) developed under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq, Section 303). This revision would enable NMFS to collect additional information about individual transferable quota (ITQ) allocation holders to assist the Mid-Atlantic Fishery Management Council in developing a future management action that would establish an excessive shares cap in this fishery, per RIN 0648-BD64.

There are no changes from the original request due to public comments or for any other reasons. Please see A8 for a description of comments and responses.

Individual transferable quota

Amendment 8 to the Atlantic Surfclam and Ocean Quahog Fishery Management Plan became effective September 30, 1990. he 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 holder is issued a surfclam/ocean quahog ITQ 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 648.74(b). 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.

This action will require the surfclam/ocean quahog ITQ permit be renewed annually. This is necessary to ensure that the information NMFS collects about allocation holders stays up-to-date. In addition to a surfclam/ocean quahog ITQ permit application form, allocation holders will need to submit a surfclam/ocean quahog ITQ ownership form. Both of these forms are necessary to ensure that permit holders are qualified and to identify the individual owners of entities that hold

ITQ allocation. To renew an ITQ permit in the future the applicant would need to review and verify the information on a pre-filled form is still accurate.

The application to transfer ITQ form is required by NMFS to process and register all ITQ transactions. Information required on the transfer form includes ITQ permit holder name, allocation number (assigned by NMFS for internal tracking), and the numbers of tags associated with the transfer. This action will add questions to this form to collect the price paid and any broker fees, whether the transfer is part of a long-term contract, and any other conditions placed on the transfer. This additional information is required to understand the potential control of ITQ allocation that might be subject to an excessive shares cap.

Shucking clams at sea

Because of potential difficulties in disposing of clam shells on shore, Amendment 8 allowed 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 certifythe amount, in bushels, of unshucked product that the vessel has processed at sea. The regulations authorizing this collection are found at 50 CFR 648.75.

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 programs.

Reopened Portion of the Georges Bank (GB) Closed Area

The GB Closed Area has been closed to the harvest of surfclams and ocean quahogs since 1990 due to red tide blooms that cause paralytic shellfish poisoning (PSP). The closure was implemented based on advice from the U.S. Food and Drug Administration (FDA), after samples tested positive for toxins that cause PSP. Shellfish contaminated with the toxin, if eaten in large enough quantity, can cause illness or death in humans.

Due to inadequate testing or monitoring of this area for the presence of PSP-causing toxins, the closure was made permanent in 1999. NMFS has issued exempted fishing permits (EFPs) since 2008 to surfclam and ocean quahog vessels to conduct research in the closure area. Testing of clams on GB by the FDA in cooperation with NMFS and the fishing industry under the EFPs demonstrate that PSP toxin levels have been well below the regulatory limit established for public health safety. The FDA, the industry, and NMFS also developed a Protocol for Onboard Screening and Dockside Testing in Molluscan Shellfish that is designed to test and verify that clams harvested from the GB continue to be safe. The protocol was formally adopted into the National Shellfish Sanitation Program (NSSP) at the October 2011 Interstate Shellfish Sanitation Conference (ISSC).

In 2013, NMFS reopened a portion of the existing GB Closed Area for the harvest of surfclams and ocean quahogs at the request of the Mid-Atlantic Fishery Management Council and the industry. The reopening is based upon the recent adoption of the protocol and the regulatory authority of the NMFS Greater Atlantic Regional Fisheries Office Regional Administrator to impose harvest restrictions when considering reopening PSP closures. Now that the protocol has been formally adopted, NMFS reopened a portion of the GB Closed Area with the requirement that the protocol be used on all trips into the area. The protocol is necessary to ensure shellfish harvested are safe for human consumption.

2. <u>Explain how, by whom, how frequently, and for what purpose the information will be used</u>.

ITQ permit application form

In order to receive cage tags, an entity will need to have a valid ITQ permit. This application form collects standard contact information (name, address, telephone number, email, date of birth, or taxpayer identification number for businesses, and fishing vessel) as well as verification that the entity is eligible to own a documented vessel under the terms of 46 U.S.C. 12103(b), General Eligibility Requirements. This section of the United States Code outlines the U.S. citizenship requirements for owning a vessel that has been issued a certificate of documentation by the United States Coast Guard (USCG). Because the ITQ program conveys certain rights over a natural resource of the 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 50 CFR 648.74(b)(1). If the entity is renewing an existing ITQ permit, the form will be auto-populated with the information NMFS has on file. The applicant will then just need to review the information to ensure it is still accurate, sign the form, and submit it to NMFS in order for the permit to be renewed.

ITQ ownership form

The information on the ITQ ownership form is used by NMFS to identify individuals who may hold ITQ allocation through multiple businesses or through members of their immediate family. This is necessary in order to determine the current level of potential control any single person or entity can exert on the fishery. Some allocations are held by banks, which have taken possession of the quota share as collateral on a loan. The form includes questions to identify when a bank holds quota share, but does not control how the cage tags are used. In these cases, the detailed ownership information will be collected from the borrower rather than from the bank. Like the ITQ permit application, this form will need to be submitted annually, but after the first year the applicant will only have to identify changes from the information previously submitted. Signatures are required to ensure that the information is complete and accurate. This information is necessary for NMFS to identify and track individuals who hold an exclusive privilege to harvest a natural resource. The information will also be used by the Mid-Atlantic Fishery Management Council for the development and monitoring of an excessive share cap in this fishery. The Magnuson-Stevens Act requires the Council to set an excessive share cap.

ITQ transfer form

The information on the ITQ transfer form is used by NMFS to maintain a proper accounting of an individual or corporation's quota share. 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. Both parties involved in the transfer, or their authorized agents, are required to sign the form.

This action will add additional questions to this form to determine how much was paid for the transfer, whether the transfer is part of a long-term contract, and any other conditions that have been placed on the transfer. This information is needed to accurately track how allocation is controlled in these fisheries. This information is necessary for use by the Mid-Atlantic Fishery Management Council for the development and monitoring of an excessive share cap in this fishery.

Shucking clams at sea

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.

Reopened Portion of the GB Closed Area

The results from the testing protocol will be used regularly by a number of entities including the harvesters, the FDA, laboratories, seafood dealers, the State Shellfish Control Authority (SSCA) in the state of landing, and possibly the general public as well to assist with the coordination, testing, and monitoring of shellfish harvested from the reopened area. Although a number of entities may use the information, they will all essentially be utilizing the data for the same purpose: to determine if shellfish harvested are safe for human consumption. Secondarily, data obtained from test results may also be archived and further analyzed to assist in determining if additional areas are suitable for reopening or if there should be additional closures. The following information is required under the protocol:

- Submission of concurrence from state of landing;
- Maintenance and submission of harvest records;

- Compilation and submission of laboratory test results;
- Creation and maintenance of a written onboard lot segregation plan; and
- Provision of notification prior to unloading.

NMFS retains control over the information and safeguards it from improper access, modification, and destruction, consistent with 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 NMFS 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.

The ITQ permit application, ITQ ownership form, application to shuck at sea, and ITQ transfer form will all be available online in a fillable and printable version through the NMFS forms portal at http://www.nmfs.noaa.gov/gpea_forms/forms.htm.

Because the ITQ transfer form is used to transfer a privilege, NOAA General Counsel has required a hard copy of the ITQ Transfer form with an original signature. However, General Counsel has since revised this decision and has now determined that a unique electronic password and pin are also acceptable forms of verification in lieu of original signatures. NMFS is currently working to allow ITQ permit applications, ITQ ownership forms, and ITQ transfer forms to be completed and submitted electronically through our existing Fish-on-Line web application. This web-based application is currently used in the Greater Atlantic Region for similar leasing programs in other fisheries.

The method of transmitting the collection of information requirements in the protocol is not specifically outlined. The protocol was developed primarily by the industry, the FDA, and the SSCA and was approved by the NSSP at the ISSC. NMFS adopted the protocol as it was approved. Therefore, it is not NMFS's position to further dictate the terms and conditions of the protocol including the methods of transmission outside of what is in the currently approved protocol. Therefore, the method of submission will be worked out by the industry, the FDA, and the SSCA. NMFS is only concerned that the protocol is followed; hence the method of submission will be largely up to the industry's discretion. Due to the nature of the requirements in the protocol, it is likely that the majority of the requirements will likely need to be completed in writing and submitted as such, however it is not required to be hand written and, therefore, could be hand written and could be completed and submitted through a computer. However the notification requirement only requires that a notification be made, and, therefore, it is likely electronic means will be used such as cellular phone or via shipboard electronic equipment such as VHF radio, email, or the vessel's vessel monitoring system.

A copy of the protocol was mailed to all Atlantic surfclam and ocean quahog permit holders. A copy of the protocol is also available online at www.nero.noaa.gov/sfd/clams/ApprovedProtocol.pdf

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. Because 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 forms used to gather the required information are 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. Once the ITQ permit application and the ITQ ownership form have been completed, the allocation holder will only need to verify that the information is still accurate in order to renew their ITQ permit. This will save the applicants time and effort in completing the forms.

The application to shuck product at sea is required only if the entity wishes to shuck product at sea. The authorization to shuck at sea is valid for one year.

Vessels are only required to follow the protocol if they wish to fish in the reopened portion of the GB Closed Area. The protocol was developed by the industry and NMFS did not add any additional reporting requirements that would further increase burden.

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

The ITQ permit application and ownership form must be submitted annually to issue the ITQ permit. For the ITQ transfer form, the frequency of submission is dependant upon how often the allocation holder desires to transfer quota. If these information collections were not conducted, NMFS could not properly monitor and enforce the quota restrictions in the Atlantic surfclam and ocean quahog ITQ program. If the additional ownership data collected through the ITQ ownership form and the ITQ transfer form were not collected the Mid-Atlantic Fishery Management Council would not be able to properly assess the need and impact of a future excessive shares cap that is required by law. If the application and the requirement to carry an observer for operations where product is shucked at sea were removed, then a means to verify the quantity of product harvested by the vessel would not exist. The consequences from the removal of any of these information collections would compromise the ability of NMFS to conserve and manage the resource.

If the collection is not conducted under the protocol, shellfish harvested from the reopened portion of the GB Closed Area would not be adequately monitored and screened for PSP. This could potentially result in toxic shellfish being released to the public for human consumption. This could be harmful to public health as well as it would likely result in long term damage to the industry as the public may purchase and consume less shellfish products if incidences of illness increase as a result of consuming shellfish.

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.

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.

For this most recent revision of this collection, we published a proposed rule in the *Federal Register* on August 7, 2014, and accepted public comments until September 8, 2014. After the comment period closed, the Mid-Atlantic Fishery Management Council requested that we reopen the comment period to allow for additional public comment to be submitted after the proposed action was discussed at a Council meeting. In response, we published an announcement in the *Federal Register* on October 2, 2014, that the comment period was reopened until October 17, 2014. Altogether, we received comments from 23 individuals. Nearly all of the comments received were from the surfclam and ocean quahog industry including dealers, processors, harvesters, and surfclam and ocean quahog consumer product producers and manufacturers. All of these comments generally opposed the information collection program, and raised very similar issues. Related comments have been combined in our responses below. Two comments received generally supported the program, but provided no supporting information. The Mid-Atlantic Fishery Management Council submitted a comment informing us of a motion that was made at the Council meeting on October 7, 2014, regarding the information collected on the ITQ transfer form.

Comment 1: Numerous comments expressed concern that an excessive share cap is not necessary for these fisheries, and, therefore, there is no reason to collect additional information to help determine such caps.

Response: Two sections of the Magnuson-Stevens Act address the need to prevent an individual or corporation from acquiring an excessive share of fishing privileges, National Standard 4 and Section 303A(c)(5)(D). Amendment 8 to the Atlantic Surfclam and Ocean Quahog FMP, which established the ITQ fishery in 1990, cited existing anti-trust laws as being sufficient to meet the requirements of National Standard 4, "that no particular individual, corporation, or other entity acquires an excessive share of such privileges." Section 303A was added to the Magnuson-Stevens Act by the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006. This section contains provisions and requirements for Limited Access Privilege Programs (LAPPS), which include ITQ programs. These added provisions include § 303A(c)(5)(D)(i), which requires LAPPs to ensure limited access privilege holders do not acquire an excessive share of the total limited access privileges in the program, by "establishing 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." Because the FMP does not currently include an excessive share cap expressed as a percentage of the total allocated quota, it is out of compliance with this provision of the Magnuson-Stevens Act.

This information collection program is an important part of the Council's efforts to establish a cap that meets this requirement. See the response to Comment 2 for additional rationale for why this information collection is necessary.

Comment 2: Several comments expressed concern that we are generally collecting too much information and that it is not necessary or applicable in helping determine excessive shares. These comments expressed concern that we should not collect this information because it involves business transactions that should be confidential.

Response: We understand that this information collection includes more specific detail than is collected in other fisheries in the region. However, prior reports and analyses for these fisheries suggest this information is necessary and appropriate to determine current ownership and control of allocations in these fisheries. In the surfclam and ocean quahog fisheries there is a series of complex corporate and business relationships involving control of quota shares. A 2002 GAO report on this ITQ program suggested that NMFS did not gather sufficient ownership information to appropriately characterize the amount of consolidation in the fishery. In 2011, NMFS and the MAFMC contracted an economic consulting firm to examine and report on potential excessive share caps in this fishery (Mitchell, Peterson and Willig. *Recommendations for Excessive Share Limits in the SCOQ Fisheries.* May 3, 2011), and subsequently convened a panel of independent reviewers to evaluate the report (*Summary of Findings by the Center for Independent Experts Regarding Setting Excessive Share Limits for ITQ Fisheries*; www.nefsc.noaa.gov/publications/crd/crd1122/). In a series of public meetings, a special Council workgroup met and considered the recommendations of these reports, reviewed how ownership information is collected in other fisheries around the country, reviewed the information currently collected in this fishery, and then devised a suite of data elements that would provide the information the Council would need when developing an excessive shares cap. These recommendations were detailed in a white paper that was considered and approved by the Council. Without the additional information this action will collect, the Council may not have the information necessary to make informed decisions on excessive share caps. When the Council ultimately establishes an excessive shares cap, it is possible that not all of these data

elements will be necessary to effectively monitor the cap. At that time, this collection will be reevaluated, and data elements may be added, removed, or modified to address the specific information needed to monitor the cap.

We agree that some business transactions are confidential. Pursuant to section 402(b) of the Magnuson-Stevens Act, information submitted in compliance with the Act is confidential, and would not be distributed or made publicly available. These confidentiality requirements of the Magnuson-Stevens Act apply to information collected as a result of this action. Therefore, the collected information may be used to conduct analysis by NMFS, or Council staff who are subject to confidentiality agreements. Results of this analysis could only be presented in an aggregate form, which protects any confidential information.

Comment 3: Nearly all of the comments received against this action were opposed to the provision that ITQ quota share could be considered permanently relinquished if the shareholder's ITQ permit is not renewed before the end of the fishing year. These comments explain that banks and other lending institutions hold much of the ITQ quota share in the surfclam and ocean quahog fisheries. Commenters expressed concern that lenders could view the potential loss of quota share as an unacceptable investment risk. Commenters stated this could result in the banks leaving the industry and discontinuing investment in the Atlantic surfclam and ocean quahog fisheries. These commenters further asserted that it is too easy to make an administrative error of not renewing a permit which would result in unfair loss of valuable ITQ quota share.

Response: NMFS understands that there are concerns with losing the fishing rights associated with ITQ quota share if a permit is not renewed. However, based on the comments received there appears to be a misunderstanding of how this provision would function. While a number of these commentors seemed to be under the impression the rights to a permit would be lost immediately following the permit's expiration date, this is not the case. To clarify, an ITQ permit and quota share are not lost the day the permit expires. Although the permit cannot be used to harvest fish after it has expired, the applicant is eligible to renew the permit for the entire following year before the permit would be considered surrendered. For example, if an ITQ permit expires on December 31, 2015, the applicant has until December 31, 2016, to renew the permit before it is considered surrendered. It would not be lost as soon as it expires on December 31, 2015.

All limited access vessel permits in the Greater Atlantic Region have been subject to these renew-or-lose provisions since they were implemented in the mid-1990s. The Golden Tilefish Individual Fishing Quota program has operated under renew-or-lose provisions for tilefish quota share since the program's inception in 2010. If a permit is not renewed, NMFS makes multiple attempts to notify the permit holder of the need to renew the permit well before the deadline. Permanent loss of fishing rights has occurred only rarely for these other fisheries and we do not have records of individuals losing the right to a permit due to a clerical error such as simply forgetting to renew a permit. We believe such instances are infrequent given the system that provides a year to renew after permit expiration and multiple reminders prior to loss of fishing rights.

Further, the ITQ permit must be current and valid in order for ITQ to be traded or for fishing activity to occur using ITQ. In 2014, there were 41 ocean quahog ITQ permits with quota share and 70 surfclam ITQ permits with quota share. The vast majority of these permit holders transferred allocation, used cage tags to land clams, or otherwise participated in the fishery in a manner that will now require a current valid permit. Therefore, it is likely that most if not all permits will be renewed each year in order for ITQ shareholders to continue participating in the fishery as they have in previous years. As a result, there would be little to no threat of an ITQ shareholder permanently losing his/her quota share.

Certainly, lenders will continue to evaluate investment risk as it relates to these fisheries. We believe it unlikely that investors will find the "renew or lose" provision to be an additional risk that would preclude investment.

Comment 4: The Council submitted a comment informing us of a motion approved at the October 2014 Council meeting to request we remove much of the information to be collected on the ITQ transfer form.

Response: While the motion was supported by a majority of the Council members present, the vote was not unanimous and there were members who expressed a strong interest in having this information available when they consider an excessive shares cap. Removing these fields from the ITQ transfer form would be contrary to the recommendations in the white paper prepared by the Council's special workgroup and the 2011 report *Economic Guidelines for Excessive Share Limits in the Surfclam and Ocean Quahog Fisheries*. Currently, no information is collected on the financial aspects of allocation transfers in the surfclam and ocean quahog ITQ fishery. Similar programs around the country routinely collect information about the price paid for allocation. This information can provide valuable insight into the market for quota or long-term contracts and agreements that would not otherwise be apparent. These additional details about transfers can illuminate situations where individuals or companies exert effective control over ITQ allocation, even if they do not directly hold the quota share.

As mentioned above in the response to Comment 2, we anticipate that the specific data elements will be reevaluated and revised when an excessive share cap is implemented. For these reasons, we continue to support the inclusion of all of the proposed elements of this information collection program, at least for the short term. Therefore, this action implements the ITQ transfer form as described in the proposed rule.

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

No payments or gifts are made.

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

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.

The information submitted under the PSP testing protocol is also public as it is distributed to state and other Federal agencies with the intent of making it publicly available for analysis. It is in fact beneficial to make this information available to the public as it displays that the product being harvested is safe for human consumption and could potentially lead to other areas being reopened for shellfish harvesting.

The respondents are aware that the data collected with the testing protocol is not confidential, and is available to the public. The industry was involved in developing the protocol, and they know that having the information publicly available for use by the FDA is essential to continuing to monitor the area, in order to ensure shellfish harvested are safe for human consumption. It is in fact advantageous for the industry to make this information publicly available so the public is informed that shellfish harvested are safe for consumption, allowing the industry to maintain the Atlantic surfclam and ocean quahog markets.

Otherwise, as stated on the forms, information submitted to NMFS by any person in compliance with this information collection is confidential pursuant to 16 U.S.C. 1881a.

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. From 2011 to 2013, the average annual number of ITQ allocation holders that either held ITQ quota share or participated in an ITQ transfer was 189. Each ITQ permit application form is estimated to take 5 minutes to complete. **Therefore, the annual burden for the ITQ permit application is 16 hours.** Each ITQ ownership form is estimates to take 1 hour to complete for new entrants and 5 minutes when pre-filled in for renewing entities. All ITQ permit holders will need to fill out the ownership form the first year. However, between 2011 and 2013, on average only 12 entities obtained a new ITQ permit each year. Thus, after the first year, most respondents are expected to renew an existing ITQ permit and will not need to complete the full ownership form. **Therefore, the average annual burden over three years for the ITQ ownership form is 81 hours (71 hours for initial form, 10 hours for renewals).** The average annual number of ITQ transfer requests processed by NMFS from 2011 to 2013 was 472. It is estimated that each ITQ transfer form takes approximately 5 minutes to complete, with a **total annual burden of approximately 40 hours.** NMFS did not receive any applications (30 minutes per application) to shuck at sea from 2011 to 2013. The requirements under the protocol are based on the number of vessels that landed surfclams or ocean quahogs and the number of trips taken into the area in 2011, **with a total annual burden of 2,400 hours**. **The total burden for this collection of information is 2,538 hours.**

Table 1. Cost and Burden Hours

Information Collection	Number of Respondents	Frequency of Responses	Number of Responses	Average Time per Response	Total Response Time	Cost to Public	Cost to Govt.
ITQ Permit Application[1,2]	189[2]	1[2]	189	5 minutes	16 hours	$93	$400
ITQ Ownership Form-New Entrant[2]	71[2]	1[2]	71	60 minutes	71 hours	$35	$1,775
ITQ Ownership Form-Renewal[1,2]	118[2]	1[2]	118	5 minutes	10 hours	$58	$250
ITQ Transfer Form[1,2,3]	174[2]	5[2]	472	5 minutes	40 hours	$231	$1,000
Shuck-at-Sea Application[1]	1	1	1	30 minutes	30 minutes (1 hr)	$109,200	$25
Protocol - Submission of concurrence from state of landing	11	1	11	60 minutes	11 hours	$6	$25
Protocol - Maintain and submit harvest records	47	46[5]	2,162	30 minutes	1,081 hours	$1,059	0
Protocol - Compile and submit laboratory test results	47	46[5]	2,162	30 minutes	1,081 hours	$1,059	0
Protocol - Create and maintain a written onboard lot segregation plan	47	1	47	60 minutes	47 hours	$23	$100
Protocol - Provide notification prior to unloading	47	46[5]	2,162	5 minutes	180 hours	$0	$0
TOTAL	**189 undup.**		**7,395**		**2,538 hours**	**$111,764[4*]**	**$3,575**
PREVIOUS APPROVAL TOTAL	**170**		**6,932**		**2,433 hours**	**$111,346[4]**	**$957**
NET CHANGE	**+19**		**+463**		**+105 hours**	**+$418**	**+$2,618**

[1] Based on 2011 to 2013 annual averages.
[2] The "Number of Respondents" and "Frequency of Responses" treats each surfclam and ocean quahog ITQ allocation permit as separate and distinct entity. This creates a numerical inconsistency because a single entity can hold both types of ITQ permits.
[3] The total number of entities using the ITQ Transfer Request Forms will always be two, a transferor and a transferee. This causes a numerical inconsistency between the "Number of Respondents" "Frequency of Responses" and "Number of Responses" because entities frequently submit multiple forms as either transferors or transferees.
[4] This cost includes the cost to carry a NMFS-approved observer on board the vessel during trips where product is shucked at sea.
[5] Number of total items based on maximum number of trips per vessel that occurred in the area in 2011.

***Rounded down to $111,763 in ROCIS.**

13. <u>Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection</u>.

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

The cost burden for the ITQ Permit Application, ITQ Ownership Form, ITQ Transfer Form, and the Shuck-at-Sea Application is based on the postage of $0.49 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.

In regard to the protocol, four of the five elements require document submission, two of which are annual submissions and the other two are required on each trip; the fifth requires no document submission. Of the 6,544 responses, 4,382 have postage costs in total of $2,147 (4,382 x $0.49).
The fifth element, the offload notification requirement, does not impose any additional costs as the notification would be completed through a pre-existing email or cellular phone account and is not required to be submitted in writing.

This yields an annual cost of approximately $111,764 for this collection of information.

14. <u>Provide estimates of annualized cost to the Federal government</u>.

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

The cost to the Federal government to process an ITQ Transfer 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 $1,000. The ITQ permit application is expected to take approximately 5 minutes to process at a rate of $25 per hour for an annual cost of $400. The ITQ Ownership form for new entrants is expected to take approximately 20 minutes to process, while processing this form for a renewing applicant is expected to take just 5 minutes. Therefore, at a rate of $25 per hour, the expected annual cost to the Federal government will be $2,025. The application to shuck product at sea takes approximately 30 minutes per application to process at a rate of $25 per hour. This gives an annual cost of $25. Receiving, reviewing, and filing the written onboard lot segregation plan takes 5 minutes per plan received, for a total of 4 hours of burden to the Federal government, at $25 an hour for a total of $100. Receiving and processing the concurrence from the state of landing letter will take 5 minutes, at $25 hour for a total of $25. Thus, the total cost to the Federal government for this collection of information is estimated to $3,575.

15. <u>Explain the reasons for any program changes or adjustments</u>.

Program Changes

The proposed addition of the ITQ permit application and the ITQ ownership form would increase the estimated annual burden of this collection by 378 responses, 97 hours, and $186.

Adjustments

The burden estimate for the current aspects of this collection has been adjusted based on updated information. Using data for the most resent 3 year period, the average number of responses to the ITQ transfer form increased by 85 additional responses, annually. Accounting for these additional responses, plus adjusting for recent changes in cost of first-class postage, resulted in estimated increases of 85 responses, 8 hours and $232 (rounded down to $231 in ROCIS).

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

The list of quota share holders is posted each year on line. This listing will not contain date of birth or tax identification number, or the information collected through the ITQ Ownership form. The results of this collection will be available to the Mid-Atlantic Fishery Management Council staff for the technical analysis needed to assess the impacts of an excessive shares cap. However, this information will only be available to the public in an aggregated form that preserves confidentiality. A list of permanent and temporary transfers has been posted online in the past for use by the public and may be made available in the future, pending a new legal interpretation on the confidentiality of this information.

The results collected under the protocol are not planned for publication; however, it is possible that the data may be published in the future in support of scientific research to reopen or close additional areas on GB. Further, NMFS does not own the information collected under the protocol, so we do not have control over how and if information collected under the protocol will 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 for the forms under this collection, with the exception of the protocol. The requirements in the protocol do not include any forms for the information submitted under this requirement. Further, NMFS is also not able to display the expiration number on the protocol itself. The testing protocol was developed by industry and was formally adopted into the NSSP at the ISSC. Therefore, although NMFS requires vessels to follow the terms and conditions of the protocol, the protocol itself and the requirements within it are not maintained by NMFS and it is not NMFS's position to modify the document. Therefore, NMFS will also not be able to display the expiration date on the testing protocol itself. However, an expiration date will be displayed in the bulletin that will be mailed to each permit holder who may be required to report under the terms and conditions of the protocol.

Further, vessels harvesting under the protocol are also required to obtain a letter of authorization (LOA) from NMFS. The LOA outlines the harvesting requirements for the reopened area, including the protocol, and by obtaining the LOA, a vessel is acknowledging and agreeing to the terms and conditions of the protocol and the LOA. The LOA is created and issued by NMFS and will therefore include an OMB expiration date. The collection of information requirements for

the LOA is being reviewed in conjunction with this package through a revision to the 0202 family of forms.

18. Explain each exception to the certification statement.

There are no exceptions.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not employ statistical methods.

13. <u>Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection</u>.

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

The cost burden for the ITQ Permit Application, ITQ Ownership Form, ITQ Transfer Form, and the Shuck-at-Sea Application is based on the postage of $0.49 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.

In regard to the protocol, four of the five elements require document submission, two of which are annual submissions and the other two are required on each trip; the fifth requires no document submission. Of the 6,544 responses, 4,382 have postage costs in total of $2,147 (4,382 x $0.49).
The fifth element, the offload notification requirement, does not impose any additional costs as the notification would be completed through a pre-existing email or cellular phone account and is not required to be submitted in writing.

This yields an annual cost of approximately $111,764 for this collection of information.

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The cost to the Federal government to process an ITQ Transfer 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 $1,000. The ITQ permit application is expected to take approximately 5 minutes to process at a rate of $25 per hour for an annual cost of $400. The ITQ Ownership form for new entrants is expected to take approximately 20 minutes to process, while processing this form for a renewing applicant is expected to take just 5 minutes. Therefore, at a rate of $25 per hour, the expected annual cost to the Federal government will be $2,025. The application to shuck product at sea takes approximately 30 minutes per application to process at a rate of $25 per hour. This gives an annual cost of $25. Receiving, reviewing, and filing the written onboard lot segregation plan takes 5 minutes per plan received, for a total of 4 hours of burden to the Federal government, at $25 an hour for a total of $100. Receiving and processing the concurrence from the state of landing letter will take 5 minutes, at $25 hour for a total of $25. Thus, the total cost to the Federal government for this collection of information is estimated to $3,575.

15. <u>Explain the reasons for any program changes or adjustments</u>.
Program Changes

The proposed addition of the ITQ permit application and the ITQ ownership form would increase the estimated annual burden of this collection by 378 responses, 97 hours, and $186.

Adjustments

The burden estimate for the current aspects of this collection has been adjusted based on updated information. Using data for the most resent 3 year period, the average number of responses to the ITQ transfer form increased by 85 additional responses, annually. Accounting for these additional responses, plus adjusting for recent changes in cost of first-class postage, resulted in estimated increases of 85 responses, 8 hours and $232 (rounded down to $231 in ROCIS).

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

The list of quota share holders is posted each year on line. This listing will not contain date of birth or tax identification number, or the information collected through the ITQ Ownership form. The results of this collection will be available to the Mid-Atlantic Fishery Management Council staff for the technical analysis needed to assess the impacts of an excessive shares cap. However, this information will only be available to the public in an aggregated form that preserves confidentiality. A list of permanent and temporary transfers has been posted online in the past for use by the public and may be made available in the future, pending a new legal interpretation on the confidentiality of this information.

The results collected under the protocol are not planned for publication; however, it is possible that the data may be published in the future in support of scientific research to reopen or close additional areas on GB. Further, NMFS does not own the information collected under the protocol, so we do not have control over how and if information collected under the protocol will be published.

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18. <u>Explain each exception to the certification statement</u>.

There are no exceptions.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not employ statistical methods.

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.

Signature:	Date:

Print Name:

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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.	
Signature:	Date:
Print Name:	

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

DRAFT

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 16 U.S.C. 1881 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 USC 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 USC 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

DRAFT

OMB Control No. 0648-0240; Expiration Date: 12/31/2015

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:
City / State / Zip Code	Email address (optional):

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:

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 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.

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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.	
Applicant Signature:	Date:
Print Name:	

To avoid delay in processing, please include all information requested.
Any information submitted by any person to obtain a permit is not confidential, and may be disclosed upon request.

DRAFT

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 16 U.S.C. 1881 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 USC 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

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OMB Control No. 0648-0240; Expiration Date: 12/31/2015

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 ☐ Joint Ownership ☐ Partnership ☐ Corporation ☐ 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.

Signature:

Date:

Printed Name:

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

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

Owners of a business from Section D - Part 1 above must be listed down to the level of individual persons that 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	Business Mailing Address (Street or PO Box, City, State, Zip code)	% Interest Held
Business Name 1 from Part 1			
		Total Ownership of Business 1	%
Business Name 2 from Part 1			
		Total Ownership of Business 2	%
Business Name 3 from Part 1			
		Total Ownership of Business 3	%

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Section E – Identification of Family

List all immediate family members of individuals listed in Sections D who also have ownership interest in any other surfclam or ocean quahog ITQ permit. 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	Business Mailing Address (Street or PO Box, City, State, Zip code)	Relationship (ex. brother 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.

Signature:	Date:
Print Name:	

To avoid delay in processing, please include all information requested.
Any information submitted by any person to obtain a permit is not confidential, and may be disclosed upon request.

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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 16 U.S.C. 1881 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.

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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	Business Mailing Address	% Held
Jane Doe	02/29/1962	1 Shellfish Ln, Cape May, NJ 08204	60 %
John Public	01/01/1970	2 Clam Way New Bedford, MA 02740	40 %
		Total Ownership =	100%
		Number of shareholders with less than 10% ownership interest	0

Part 2

Name		TIN/DOB	Business Mailing Address	% Held
Business name 1 from Part 1				
List individual names				
			Total Ownership of Business 1 =	%

Not Required

Example B: An individual and a business

Part 1

Name	TIN/DOB	Business Mailing Address	% Held
Jane Doe	02/29/1962	1 Shellfish Ln, 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	Business Mailing Address	% Held
Business name 1 from Part 1 Clam Dredge, Inc.				
List individual names				50%
				25%
				15%
				10%
			Total Ownership of Business 1 =	100%

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

Part 1

Name	TIN/DOB	Business Mailing Address	% Held
Clam Dredge, Inc.	10-1234567	1 Shellfish Ln, Cape May, NJ 08204	30%
OK Chowder, Co.	12-9876543		62%
		Total Ownership =	92 %
Number of shareholders with less than 10% ownership interest			1

Part 2

	Name	TIN/DOB	Business Mailing Address	% Held
Business name 1 Part 1	Clam Dredge, Inc.			
List individual names				
			Total Ownership of Business 1 =	100%
Business name 2 from Part 1	OK Chowder, Co.			
List individual names				
			Total Ownership of Business 2 =	100%

SECTION E – Identification of Family

List any immediate family members of the individuals identified in Section D that also have an ownership interest in any other surfclam or ocean quahog ITQ permit. 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 John Doe in Example A above, has a brother who has an ownership interest in another ITQ permit, his name, DOB, address, "brother of John Doe", 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.

For questions, please call 978-282-8483

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