§ 648.76 Closed areas.

(a) Areas closed because of environmental degradation. Certain areas are closed to all surfclam and ocean quahog fishing because of adverse environmental conditions. These areas will remain closed until the Regional Administrator determines that the adverse environmental conditions no longer exist. If additional areas are identified by the Regional Administrator as being contaminated by the introduction or presence of hazardous materials or pollutants, they may be closed by the Regional Administrator in accordance with paragraph (c) of this section. The areas closed are:

(1) Boston Foul Ground. The waste disposal site known as the “Boston Foul Ground” and located at 42°25'36" N. lat., 70°35'00" W. long., with a radius of 1 nm (1.61 km) in every direction from that point.

(2) New York Bight. The polluted area and waste disposal site known as the “New York Bight” and located at 40°25'04" N. lat., 73°42'38" W. long., and with a radius of 6 nm (9.66 km) in every direction from that point, extending further northwestward, westward and southwestward between a line from a point on the arc at 40°31'00" N. lat., 73°43'38" W. long., directly northward toward Atlantic Beach Light in New York to the limit of the state territorial waters of New Jersey at 40°14'00" N. lat., 73°55'42" W. long.

(b) Areas closed because of small surfclams. Areas may be closed because they contain small surfclams.

(1) Closure. The Regional Administrator may close an area to surfclams and ocean quahog fishing if he/she determines, based on logbook entries, processors’ reports, survey cruises, or other information, that the area contains surfclams of which:

(i) Sixty percent or more are smaller than 4.5 inches (11.43 cm); and

(ii) Not more than 15 percent are larger than 5.5 inches (13.97 cm) in size.

(2) Reopening. The Regional Administrator may reopen areas or parts of areas closed under paragraph (b)(1) of this section if he/she determines, based on survey cruises or other information, that:

(i) The average length of the dominant (in terms of weight) size class in the area to be reopened is equal to or greater than 4.75 inches (12.065 cm); or

(ii) The yield or rate of growth of the dominant shell-length class in the area to be reopened would be significantly enhanced through selective, controlled, or limited harvest of surfclams in the area.

(c) Procedure. (1) The Regional Administrator may hold a public hearing on the proposed closure or reopening of any area under paragraph (a) or (b) of this section. The Regional Administrator shall publish notification in the Federal Register of any proposed area closure or reopening, including any restrictions on harvest in a reopened area. Comments on the proposed closure or reopening must be submitted to the Regional Administrator within 30 days after publication. The Regional Administrator shall consider all comments and publish the final notification of closure or reopening, and any restrictions on harvest, in
§ 648.77 Cage identification.

Except as provided in §648.78, the following cage identification requirements apply to all vessels issued a Federal fishing permit for surfclams and ocean quahogs:

(a) Tagging. Before offloading, all cages that contain surfclams or ocean quahogs must be tagged with tags acquired annually under provisions of paragraph (b) of this section. A tag must be fixed on or as near as possible to the upper crossbar of the cage. A tag is required for every 60 ft³ (1,700 L) of cage volume, or portion thereof. A tag or tags must not be removed until the cage is emptied by the processor, at which time the processor must promptly remove and retain the tag(s) for 60 days beyond the end of the calendar year, unless otherwise directed by authorized law enforcement agents.

(b) Issuance. The Regional Administrator will issue a supply of tags to each individual allocation owner qualifying for an allocation under §648.74 prior to the beginning of each fishing year, or he/she may specify, in the Federal Register, a vendor from whom the tags shall be purchased. The number of tags will be based on the owner’s initial allocation as specified in §648.74(a). Each tag represents 32 bu (1,700 L) of allocation.

(c) Expiration. Tags will expire at the end of the fishing year for which they are issued, or if rendered null and void in accordance with 15 CFR part 904.

(d) Return. Tags that have been rendered null and void must be returned to the Regional Administrator, if possible.

(e) Loss. Loss or theft of tags must be reported by the owner, numerically identifying the tags to the Regional Administrator by telephone as soon as the loss or theft is discovered and in writing within 24 hours. Thereafter, the reported tags shall no longer be valid for use under this part.

(f) Replacement. Lost or stolen tags may be replaced by the Regional Administrator if proper notice of the loss is provided by the person to whom the tags were issued. Replacement tags may be purchased from the Regional Administrator or a vendor with a written authorization from the Regional Administrator.

(g) Transfer. See §648.74(b)(2).

(h) Presumptions. Surfclams and ocean quahogs found in cages without a valid state tag are deemed to have been harvested in the EEZ and to be part of an individual’s allocation, unless the individual demonstrates that he/she has surrendered his/her Federal vessel permit issued under §648.4(a)(4) and conducted fishing operations exclusively within waters under the jurisdiction of any state. Surfclams and ocean quahogs.