as required by the PSP testing protocol; and
(C) Prior to leaving port at the start of a fishing trip, the vessel’s owner or operator must declare its intent to fish in the area through the vessel’s vessel monitoring system.

(ii) [Reserved]

(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 the Federal Register. Any adjustment to harvest restrictions in a reopened area shall be made by notification in the Federal Register. The Regional Administrator shall send notice of any action under this paragraph (c)(1) to each surf clam and ocean quahog processor and to each surf clam and ocean quahog permit holder.

(2) If the Regional Administrator determines, as the result of testing by state, Federal, or private entities, that a closure of an area under paragraph (a) of this section is necessary to prevent any adverse effects fishing may have on the public health, he/she may close the area for 60 days by publication of notification in the Federal Register, without prior comment or public hearing. If an extension of the 60-day closure period is necessary to protect the public health, the hearing and notice requirements of paragraph (c)(1) of this section shall be followed.

(d) **Areas closed due to the presence of paralytic shellfish poisoning toxin.**—(1) **Maine mahogany quahog zone.** The Maine mahogany quahog zone is closed to fishing for ocean quahogs except in those areas of the zone that are tested by the State of Maine and deemed to be within the requirements of the National Shellfish Sanitation Program and adopted by the Interstate Shellfish Sanitation Conference as acceptable limits for the toxin responsible for PSP. Harvesting is allowed in such areas during the periods specified by the Maine Department of Marine Resources during which quahogs are safe for human consumption. For information regarding these areas contact the State of Maine Division of Marine Resources.

(2) [Reserved]

[76 FR 60624, Sept. 29, 2011, as amended at 78 FR 49971, Aug. 16, 2013]

§ 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 ft$^3$ (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.

§648.78 Maine mahogany quahog zone.

(a) Landing requirements. (1) A vessel issued a valid Maine mahogany quahog permit pursuant to §648.4(a)(4)(i), and fishing for or possessing ocean quahogs within the Maine mahogany quahog zone, must land its catch in the State of Maine.

(b) ACT monitoring and closures—(1) Catch quota. (i) The ACT for harvest of mahogany quahogs from within the Maine mahogany quahog zone is 100,000 Maine bu (35,239 hL). The ACL may be revised annually within the range of 17,000 and 100,000 Maine bu (5,991 and 35,239 hL) following the procedures set forth in §§648.72 and 648.73, if applicable.

(ii) All mahogany quahogs landed for sale in Maine by vessels issued a Maine mahogany quahog permit and not fishing for an individual allocation of ocean quahogs under §648.74 shall be applied against the Maine mahogany quahog ACT, regardless of where the mahogany quahogs are harvested.

(iii) All mahogany quahogs landed by vessels fishing in the Maine mahogany quahog zone for an individual allocation of quahogs under §648.74 will be counted against the ocean quahog allocation for which the vessel is fishing.