

§ 648.74

ITQ allocation in the following fishing year.

(2) Any amount of an ACL overage that cannot be otherwise attributed to an ITQ allocation holder will be deducted from the appropriate ACL in the following fishing year.

(b) *Maine mahogany quahog fishery.* If the ocean quahog ACL is exceeded, and the Maine mahogany quahog fishery is responsible for the overage, then the Maine fishery ACT shall be reduced in the following year by an amount equal to the ACL overage.

[76 FR 60623, Sept. 29, 2011]

§ 648.74 Annual individual allocations.

(a) *General.* (1) Each fishing year, the Regional Administrator shall determine the initial allocation of surfclams and ocean quahogs for the next fishing year for each allocation holder owning an allocation pursuant to paragraph (a)(2) of this section. For each species, the initial allocation for the next fishing year is calculated by multiplying the allocation percentage owned by each allocation owner as of the last day of the previous fishing year in which allocation owners are permitted to permanently transfer allocation percentage pursuant to paragraph (b) of this section (*i.e.*, October 15 of every year), by the quota specified by the Regional Administrator pursuant to § 648.72. The total number of bushels of allocation shall be divided by 32 to determine the appropriate number of cage tags to be issued or acquired under § 648.77. Amounts of allocation of 0.5 cages or smaller created by this division shall be rounded downward to the nearest whole number, and amounts of allocation greater than 0.5 cages created by this division shall be rounded upward to the nearest whole number, so that allocations are specified in whole cages. These allocations shall be made in the form of an allocation permit specifying the allocation percentage and the allocation in cages and cage tags for each species. An allocation permit is only valid for the entity for which it is issued. Such permits shall be issued on or before December 15, to allow allocation owners to purchase cage tags from a vendor specified by the Regional Administrator pursuant to § 648.77(b).

50 CFR Ch. VI (10–1–14 Edition)

(2) The Regional Administrator may, after publication of a fee notification in the FEDERAL REGISTER, charge a permit fee before issuance of the permit to recover administrative expenses. Failure to pay the fee will preclude issuance of the permit.

(b) *Transfers*—(1) *Allocation percentage.* Subject to the approval of the Regional Administrator, part or all of an allocation percentage may be transferred in the year in which the transfer is made, to any person or entity eligible to own a documented vessel under the terms of 46 U.S.C. 12102(a). Approval of a transfer by the Regional Administrator and for a new allocation permit reflecting that transfer may be requested by submitting a written application for approval of the transfer and for issuance of a new allocation permit to the Regional Administrator at least 10 days before the date on which the applicant desires the transfer to be effective, in the form of a completed transfer log supplied by the Regional Administrator. The transfer is not effective until the new holder receives a new or revised annual allocation permit from the Regional Administrator. An application for transfer may not be made between October 15 and December 31 of each year.

(2) *Cage tags.* Cage tags issued pursuant to § 648.77 may be transferred at any time, and in any amount subject to the restrictions and procedure specified in paragraph (b)(1) of this section; provided that application for such cage tag transfers may be made at any time before December 10 of each year. The transfer is effective upon the receipt by the transferee of written authorization from the Regional Administrator.

(3) *Review.* If the Regional Administrator determines that the applicant has been issued a Notice of Permit Sanction for a violation of the Magnuson-Stevens Act that has not been resolved, he/she may decline to approve such transfer pending resolution of the matter.

[76 FR 60623, Sept. 29, 2011]

§ 648.75 Shucking at sea and minimum surfclam size.

(a) *Shucking at sea*—(1) *Observers.* (i) The Regional Administrator may allow the shucking of surfclams or ocean