

Fishery Conservation and Management

§ 648.70

(B) NMFS will make the final determination as to what proposals are approved and which vessels are authorized to take scallops in excess of possession limits or additional trips. Authorization to increase possession limits and/or number of trips will be provided to the vessel by Letter of Authorization issued by the Regional Administrator which must be kept on board the vessel.

(v) *Project Report Procedure.* Upon completion of his/her sea scallop research, the researcher of approved projects must provide the Council with a report of his/her findings, which include:

(A) A detailed description of methods of data collection and analysis;

(B) A discussion of results and any relevant conclusions presented in a format that is understandable to a non-technical audience; and

(C) A detailed final accounting of all funds used to conduct the sea scallop research.

(f) *Termination of the Sea Scallop Area Access Program—(1) Fishing year 2001 area access program—(i) Hudson Canyon Sea Scallop Access Area.* The Hudson Canyon Sea Scallop Access Area fishery for fishing year 2001 shall be terminated as of the date the Regional Administrator projects that 6,204 mt of sea scallops (the TAC less the observer and research set-asides) will be caught by vessels fishing in the Hudson Canyon Sea Scallop Access Area described in this section. NMFS shall publish notification of the termination in the FEDERAL REGISTER.

(ii) *Virginia Beach Sea Scallop Access Area.* The Virginia Beach Sea Scallop Access Area fishery for fishing year 2001 shall be terminated as of the date the Regional Administrator projects that 277 mt of sea scallops (the TAC less the observer and research set-asides) will be caught by vessels fishing in the Virginia Beach Sea Scallop Access Area described in this section. NMFS shall publish notification of the termination in the FEDERAL REGISTER.

(2) *Fishing year 2002 area access program.* (i) *Hudson Canyon Sea Scallop Access Area.* The Hudson Canyon Sea Scallop Access Area fishery for fishing year 2002 shall be terminated as of the date the Regional Administrator

projects that 6,287 mt of sea scallops (the TAC less the observer and research set-asides) will be caught by vessels fishing in the Hudson Canyon Sea Scallop Access Area described in this section. NMFS shall publish notification of the termination in the FEDERAL REGISTER.

(ii) *Virginia Beach Sea Scallop Access Area.* The Virginia Beach Sea Scallop Access Area fishery for fishing year 2002 shall be terminated as of the date the Regional Administrator projects that 268 mt of sea scallops (the TAC less the observer and research set-asides) will be caught by vessels fishing in the Virginia Beach Sea Scallop Access Area described in this section. NMFS shall publish notification of the termination in the FEDERAL REGISTER.

(g) *Transiting.* Limited access sea scallop vessels fishing under a scallop DAS that have not declared a trip into the Sea Scallop Area Access Program may not fish in the areas known as the Hudson Canyon and Virginia Beach Sea Scallop Access Areas described in §648.57, and may not enter or be in such areas unless the vessel is transiting the area and the vessel's fishing gear is unavailable for immediate use as defined in §648.23(b), or there is a compelling safety reason to be in such areas without all such gear being unavailable for immediate use.

(h) *VMS Polling.* For the duration of the Sea Scallop Area Access Program, as described under this section, all sea scallop limited access vessels equipped with a VMS unit will be polled twice per hour, regardless of whether the vessel is enrolled in the Sea Scallop Area Access Program.

[66 FR 24057, May 11, 2001]

Subpart E—Management Measures for the Atlantic Surf Clam and Ocean Quahog Fisheries

§ 648.70 Annual individual allocations.

(a) *General.* (1) For each fishing year, the Regional Administrator shall determine the allocation of surf clams and ocean quahogs for each vessel owner issued an allocation for the preceding fishing year, by multiplying the quotas specified for each species by the Regional Administrator under §648.71

by the allocation percentage, specified for that owner on the allocation permit for the preceding fishing year, adjusted to account for any transfer pursuant to paragraph (b) of this section. These allocations shall be made in the form of an allocation permit specifying for each species the allocation percentage and the allocation in bushels. Such permits shall be issued on or before December 15, to the registered holders who were assigned an allocation by November 1. 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 § 648.75. Amounts of allocation 0.5 or smaller created by this division shall be rounded downward to the nearest whole number and amounts of allocation greater than 0.5 created by this division shall be rounded upward to the nearest whole number so that allocations are specified in whole cages. An allocation permit is only valid for the entity for which it is issued.

(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 amounts equivalent to not less than 160 bu (8,500 L) (i.e., 5 cages) in the year in which the transfer is made, to any person 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 § 648.75 may be transferred in quantities of not less than 5 tags at any one time, 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 and 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 Act that has not been resolved, he/she may decline to approve such transfer pending resolution of the matter.

§ 648.71 Catch quotas.

(a) *Surf clams*. The amount of surf clams that may be caught annually by fishing vessels subject to these regulations will be specified by the Assistant Administrator, on or about December 1 of each year, within the range of 1.85 to 3.4 million bu (98.5 to 181 million L).

(1) *Establishing quotas*. (i) Prior to the beginning of each year, the MAFMC, following an opportunity for public comment, will recommend to the Assistant Administrator quotas and estimates of DAH and DAP within the ranges specified. In selecting the quota, the MAFMC shall consider current stock assessments, catch reports, and other relevant information concerning:

(A) Exploitable and spawning biomass relative to the OY.

(B) Fishing mortality rates relative to the OY.

(C) Magnitude of incoming recruitment.

(D) Projected effort and corresponding catches.

(E) Geographical distribution of the catch relative to the geographical distribution of the resource.

(F) Status of areas previously closed to surf clam fishing that are to be opened during the year and areas likely to be closed to fishing during the year.

(ii) The quota shall be set at that amount that is most consistent with the objectives of the Atlantic Surf