



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
One Blackburn Drive
Gloucester, MA 01930-2298

March 12, 2008

Small Entity Compliance Guide

Dear Limited Access Permit Holder:

This letter is intended to clarify regulations governing the declaration of activity codes via the vessel monitoring system (VMS), and the declaration that a vessel is fishing under a day-at-sea (DAS) under the Interactive Voice Response (IVR), or call-in system, prior to leaving port. Regulations governing both the VMS and DAS notification requirements are specified at 50 CFR 648.10. The following is a summary of these regulations and is intended to help vessels comply with these VMS and DAS requirements. A copy of all of the NE fishing regulations can be found at <http://www.nero.noaa.gov>.

Vessels must conform to the current regulations, as written. A vessel declaring into or out of a fishery, including fishing under a DAS via VMS or the IVR system, must make its declaration prior to leaving port. A vessel may not change its VMS activity code or call into the IVR system under a DAS outside of port, except to fish outside of the Eastern U.S./Canada Area, or change the DAS used, as authorized by the current regulations. The practice of declaring out of a fishery (DOF) by entering a "DOF" activity code via VMS while in port, transiting to a point inside the VMS demarcation line near the intended fishing location, and changing the VMS activity code to begin a fishing trip is not consistent with the current regulations. To change a vessel's VMS activity code or declare that it is fishing under a DAS, a vessel must be in port, not just inside of the VMS demarcation line, except when directed by an enforcement agent as a result of an enforcement action. If you need clarification of how a particular port is defined (*i.e.*, to know when a vessel is inside a port versus outside of port for the purposes of complying with the current regulations), please contact your local NOAA National Marine Fisheries Service (NMFS) law enforcement agent.

Both the VMS and DAS notification requirements, as written, are necessary to ensure that NMFS can accurately monitor and enforce these programs for the duration of a fishing trip (*i.e.*, from the time the vessel leaves port to begin the fishing trip to the time the vessel returns to port to end its trip). They are also consistent with the New England and Mid-Atlantic Fishery Management Councils' original intent of counting DAS from the point of a vessel's departure from port through its return to port upon the completion of a fishing trip. Without these restrictions, the effectiveness of the regulations governing a fishery could be undermined, which could lead to additional management measures to ensure that fishing operations are consistent with the conservation objectives of a particular fishery.

If you have any questions about this letter or other regulations, please contact the Sustainable Fisheries Division at (978) 281-9315.

Sincerely,

Patricia A. Kurkul
Regional Administrator

