



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

September 21, 2007

Dear Atlantic Surfclam and/or Ocean Quahog Permit Holder:

This letter is to inform you that on September 11, 2007, the final rule implementing Framework Adjustment 1 (FW 1) to the Atlantic Surfclam and Ocean Quahog Fishery Management Plan (FMP) was published in the Federal Register. This final rule requires the use of a vessel monitoring system (VMS) for Atlantic surfclam and ocean quahog individual transferable quota (ITQ) fishing vessels beginning **January 1, 2008**. The VMS requirement for the Federal limited access Maine mahogany quahog vessels becomes effective **January 1, 2009**. The VMS requirement in this fishery will: (1) Replace the requirement to notify NMFS Office of Law Enforcement (OLE) via telephone prior to beginning a fishing trip; (2) facilitate the monitoring of areas closed to fishing due to environmental degradation (e.g., harmful algal blooms and former dump sites); and (3) facilitate the monitoring of borders between state and Federal fishing jurisdictions.

There are three commercial fishing vessel permit categories for these fisheries: An open access Atlantic surfclam permit, an open access ocean quahog permit, and a limited access Maine mahogany quahog permit. The surfclam and ocean quahog permits are for use in the ITQ program that utilizes cage tags. An open access permit may be applied for, or cancelled, at the vessel owner's discretion and without loss of eligibility to be reissued in future years due to not having been issued the permit in the previous fishing year. The Maine mahogany quahog permit is a limited access permit that must have been issued to the vessel in the previous year, or be confirmed in permit history (CPH), in order to be re-issued to a vessel in the following fishing year.

ATLANTIC SURFCLAM AND OCEAN QUAHOG ITQ VESSELS

All vessels issued a Federal open access surfclam and/or ocean quahog permit must purchase and install a VMS unit by January 1, 2008. If a VMS unit is not purchased and installed by January 1, 2008, your vessel's surfclam and/or ocean quahog permits will not be reissued for the 2008 permit year (May 1 – April 30). If, at a later time, you wish to participate in the surfclam and/or ocean quahog fishery, you will need to re-apply for the vessel permit and certify that you have an operational VMS on board the vessel. For information on turning off, or powering down you VMS unit, please see the "power-down" section of this letter.

MAINE MAHOGANY QUAHOG LIMITED ACCESS VESSELS

FW 1 delays, by one year, the VMS requirement for the Federal limited access Maine mahogany quahog permitted vessels. Vessels fishing under the ITQ program in the Maine mahogany quahog zone are not be eligible for this deferment. Furthermore, once the VMS requirement for Maine mahogany quahog vessels is in effect, vessel owners would not be required to install the VMS unit until they elect to participate in the fishery. Once a vessel elects to participate in the fishery, the vessel owner must comply with the VMS requirement for an operational unit as long as the permit is issued to the vessel. For information on turning off, or powering down your VMS unit, please see the "power-down" section of this letter.

PURCHASE AND INSTALLATION OF VMS

There are currently 3 companies that are approved by NOAA's National Marine Fisheries Service (NMFS), Northeast Region, as VMS vendors:



Boatrac's, Inc.
9155 Brown Deer Road
Suite 8
San Diego, CA 92121
Tel: 858-458-8100
Fax: 858-458-8116
www.boatrac's.com
Contact: Debbie Foste
858-458-8105

Skymate, Inc.
4230 Lafayette Center Drive
Suite A
Chantilly, VA 20151
Tel: 866-759-6283
Fax: 703-814-8585
www.skymate.com
Contact: Peter Hunt
703-961-5800

Thrane & Thrane, Inc.
509 Viking Drive
Virginia Beach, VA 23452
Tel: 757-463-9557
Fax: 757-463-9581
www.us.thrane.com
Contact: Lauri Paul
757-753-9450

Please contact these companies to determine which type of VMS unit meets your needs, and for additional information on purchase and installation.

VERIFICATION OF INSTALLATION

The vessel owner/operator must complete the enclosed "NMFS Northeast Vessel Monitoring Program" VMS certification form certifying that the vessel has a properly installed and operational VMS unit. The form is mailed to the Office of Law Enforcement, Northeast Division, or may be faxed to (978) 281-9317.

NOTE ON OTHER FEDERAL PERMITS WITH VMS REQUIREMENTS

Please note that for a vessel with a Federal surfclam and/or ocean quahog permit in addition to another type of permit that has VMS requirements (e.g., scallop, Northeast (NE) multispecies, monkfish, herring), the applicable VMS rules and restrictions may be different and more involved and/or more restrictive than those described in this letter. **Please note that when different VMS requirements apply, the vessel will be subject to the most restrictive rules.** Please call the Sustainable Fisheries Division at (978) 281-9315 or Northeast Office of Law Enforcement at (978) 281-9213 if you have any questions regarding the VMS restrictions applicable to a vessel issued multiple permits (containing VMS requirements).

ACTIVATION OF UNIT

Once a unit has been installed on the vessel and a certification form has been submitted to NMFS, the vessel may activate its unit with the VMS vendor and depart on a fishing trip. A properly operating VMS unit must transmit location signals every 60 minutes, unless otherwise required by a different Federal permit requiring VMS, and must indicate a vessel's position 24 hours a day, 7 days a week. Surfclam and ocean quahog permitted vessels must have an operational VMS turned on at all times unless powered down (turned off) in accordance with the power-down rules, explained below.

TRIP DECLARATION

Surfclam and/or ocean quahog vessel owners or operators must declare their intention to fish via the VMS prior to leaving from port on each trip, unless otherwise notified, regardless of the fishing activity. An activity code must be selected anew prior to every trip, whether it is a fishing trip or other activity away from the dock or mooring such as transiting. Sailing without declaring an activity code prior to leaving port is in violation of the Northeast fisheries regulations and may result in enforcement action. In general, surfclam and/or ocean quahog vessel owner/operators will choose from four activity code declaration options prior to leaving port: (1) SURFCLAM ITQ TRIP; (2) QUAHOG ITQ TRIP; (3) MAINE MAHOGANY QUAHOG TRIP (effective January 1, 2009); and (4) DECLARE OUT OF FISHERY.

POWER-DOWN RULES

A vessel owner issued a surfclam or ocean quahog permit may power down the VMS unit if such a vessel will be out of the water for more than 72 consecutive hours, or if the vessel does not participate in any fisheries for a minimum period of 30 consecutive days. To receive permission to power down, the vessel owner must apply for and obtain a letter of exemption from the Regional Administrator, as discussed below. Please note that a surfclam or ocean quahog vessel holding another permit with VMS requirements, such as scallop, is not allowed to power down except when the vessel will be out of the water for more than 72 consecutive hours, because it is subject to the most restrictive VMS requirement.

The enclosed "VMS Power Down Exemption Request" form must be sent to the Office of Law Enforcement (OLE), One Blackburn Drive, Gloucester, MA 01930, or faxed to (978) 281-9317, and the request must contain the following information:

- Location of the vessel during the exemption period for which an exemption is sought;
- The exact time period for which the exemption is sought, i.e., the times/dates the VMS signal will be turned off and turned on again; and
- If requesting an exemption because the vessel will be out of the water for more than 72 consecutive hours, sufficient information to determine that the vessel will be out of the water for that time period.

Upon receipt of the written request, the Regional Administrator may issue a Letter of Exemption if it is determined that the vessel has provided sufficient information and, in the case where a vessel may also hold a permit that utilizes DAS, that the exemption will not jeopardize accurate monitoring of the vessel's DAS. The letter of exemption must be on board the vessel at all times and **the VMS cannot be turned off until the letter has been received**. Therefore, a vessel owner requesting an exemption letter should provide the Regional Administrator ample time to review the request and respond. The dates of exemption may be revised if requested by the vessel owner in writing and approved by the Regional Administrator.

VMS REIMBURSEMENT PROGRAM

VMS units purchased by owners of surfclam and ocean quahog permitted vessels after December 13, 2006, the date the Council adopted the motion to recommend implementation of FW 1 to NMFS, are eligible for reimbursement of the purchase price of the VMS unit. Currently, VMS units are reimbursable up to \$3,095, the price considered to be the least expensive unit for purposes determining the maximum amount for reimbursement. Only the cost of the VMS equipment itself is reimbursable. Any additional equipment, such as a personal computer, is not reimbursable through this program.

In order to receive reimbursement, a vessel owner and/or operator must have the unit properly installed on the vessel and activated utilizing one of the above listed VMS vendors. After the unit is properly installed and activated, the vessel owner and/or operator must contact the VMS Support Center, NOAA Fisheries Headquarters, Office of Law Enforcement, by phone at 888-219-9228, or fax 301-427-0049, to ensure the vessel is properly registered in the VMS system. The Office of Law Enforcement does not consider a vessel in compliance until a signal has been received from the unit and processed by the Office of Law Enforcement.

Once a vessel owner and/or operator has validated compliance with the VMS Support Center, the owner and/or operator must contact the Pacific States Marine Fisheries Commission (PSMFC) (tel: 503-595-3100 or fax: 503-595-3232) to obtain a reimbursement application. The application is also available from the PSMFC's website: <http://www.psmfc.org>. Once completed, the application must be returned to PSMFC along with (1) proof of a valid commercial fishing permit for the fishery requiring VMS, (2) proof of purchase and the purchase price of the unit, and (3) a valid compliance confirmation code issued by the Headquarters Office of Law Enforcement.

As a further requirement, the vessel owner and/or operator must not be in arrears with any payment owed to the Agency for a civil monetary penalty. If a reimbursement request is denied for failure to pay a penalty, the applicant may become eligible for the reimbursement by paying the penalty in full within 30 days of the denial of the reimbursement. After payment, the owner and/or operator must contact the VMS Support Center and provide documentation that payment has been received by the agency to receive a confirmation code for reimbursement purposes.

If you have any questions regarding FW 1 or the VMS requirement for the surfclam and ocean quahog fishery, please call the Sustainable Fisheries Division at 978-281-9315. For questions regarding VMS requirements and usage, you may also contact the Northeast VMS Team within the Office of Law Enforcement at (978) 281-9213.

Sincerely,

A handwritten signature in black ink, appearing to read "Patricia A. Kurkul". The signature is stylized and cursive, with a large loop at the end of the last name.

Patricia A. Kurkul
Regional Administrator