



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

May 24, 2005

Small Entity Compliance Guide

Dear Limited Access Northeast (NE) Multispecies Days-at-Sea Permit Holder:

This letter clarifies the meaning and effect of two parts of the regulations that appear to be inconsistent as they pertain to the Eastern U.S./Canada Haddock Special Access Program (SAP) (Pilot Program) and the Eastern U.S./Canada Area.

Regulations at 50 CFR §648.85, (a)(1) and (b)(8), allow fishing in the Eastern U.S./Canada Management Area, and allow fishing in the Eastern U.S./Canada Haddock SAP Area, respectively, and specify rules that pertain to each area. According to these regulations, during the time the SAP is open, eligible vessels may choose to fish in the area defined for the SAP under the SAP rules, or may choose not to participate in the SAP, and fish in the Eastern U.S./Canada Area west of Closed Area (CA) II, as described in detail below.

In contrast to these regulations, the prohibitions section of the regulations at 50 CFR § 648.14(a)(143) and (a)(148) seem to prohibit fishing in any part of the SAP unless fishing under the SAP rules. These prohibitions were inadvertently written in a broad way that is inconsistent with 50 CFR § 648.85(a) and (b)(8) and the intent of the Framework Adjustment 40-A document. To correct this apparent inconsistency, the National Marine Fisheries Service (NOAA Fisheries Service) intends to issue regulations as soon as possible.

NOAA Fisheries Service has informed the NOAA Office of Law Enforcement and the U.S. Coast Guard that NOAA Fisheries Service interprets the current regulations at 50 CFR § 648.85(a)(1) and (b)(8) that govern the Eastern U.S./Canada Area and the Eastern U.S./Canada Haddock SAP as they are described below, until such time that a regulatory change is made to further clarify these regulations.

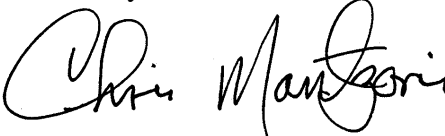
On May 1, 2005, the Eastern U.S./Canada Haddock SAP opened in the area located in the Eastern U.S./Canada Area, west of CA II, including a portion of the northern tip of CA II (see Figure 1). This SAP will be open until December 31, 2005, unless closed by the Regional Administrator. Eligible vessels may choose to fish in the Eastern U.S./Canada Haddock SAP or the Eastern U.S./Canada Area west of CA II under the following scenarios:

1. Declare into the Eastern U.S./Canada Haddock SAP and fish under the SAP rules;
2. Declare into the Eastern U.S./Canada Area (west of CA II) and fish under the rules that pertain to the Eastern U.S./Canada Area; or
3. Declare into the Eastern U.S./Canada Area (west of CA II) and fish under the rules that pertain to the Regular B DAS Pilot Program.



In other words you may choose among several programs to fish in the Eastern U.S./Canada Area. Please see the attached table for a breakdown of some of the Vessel Monitoring System (VMS) codes as they pertain to the Eastern U.S./Canada Area. If you fish in the area defined for the SAP under the Eastern U.S./Canada Area rules (VMS code 2; west of CA II) during the month of May (when the Georges Bank Seasonal Closure occurs) you may not fish north of 41° 30' N. latitude.

Sincerely,


for Patricia A. Kurkul
Regional Administrator

This small entity compliance guide complies with section 212 of the Small Business Regulatory Enforcement and Fairness Act of 1996.

Comparison of Rules When Declared into the Area Defined for the Eastern U.S./Canada Area Haddock SAP under Different Programs

Scenarios	Declared into SAP <i>(Under SAP rules)</i>	Declared into SAP and into Eastern U.S./CA Area (southeast of CA II) <i>(Most restrictive rules apply; see below)</i>	Declared into the Eastern U.S./CA Area, in the geographic area of the SAP or southeast of CA II <i>(US/CA rules; no SAP declaration)</i>	Declared into the Eastern U.S./CA Area and in the Regular B DAS Pilot Program <i>(Regular B DAS Pilot Program rules; no SAP declaration)</i>
VMS code	5	6	2	2 & Regular B DAS Pilot Program
Observer notification	Required	Required	Required	Required
Gear	Separator trawl	Separator trawl in SAP area	Separator trawl or flounder net	Separator trawl or flounder net
Cod limit	1,000 lb/trip	1,000 lb/trip	500 lb/DAS up to 5,000 lb/trip <i>(not to exceed 5% of total catch)</i>	100 lb/DAS up to 1,000 lb/trip
DAS use	A or B	A	A	Regular B or A (after flipping)
Flip	Yes	No	No	Yes
Other	<i>May fish in the northern tip of CA II</i>		<i>May not fish in the northern tip of CA II</i>	
Daily Reporting	Cod, haddock, and yellowtail (caught and discarded)			Cod, haddock, and yellowtail, and stocks of concern

VMS Codes for U.S./Canada Management Area:

Code 1 = CA II Yellowtail Flounder SAP

Code 5 = EUSCA Haddock SAP

Code 2 = EUSCA (not in any SAP)*

Code 6 = EUSCA Haddock SAP and EUSCA (southeast of CA II)

Code 3 = EUSCA and CA II Yellowtail flounder SAP

Code 7 = CA II Yellowtail Flounder SAP and Haddock SAP

*Code 4 = WUSCA**

Code 8 = Both EUSCA SAPs and EUSCA (southeast of CA II)

Reminder: This table is only a summary comparison of a portion of the regulations. You may obtain a complete copy of the regulations by calling (978) 281-9278, or by accessing the Northeast Regional Office's website: <http://www.nero.noaa.gov>.

*EUSCA means Eastern U.S./Canada Area and WUSCA means Western U.S./Canada Area

Eastern U.S. /Canada Area

Including the area defined for the Eastern U.S. Canada Haddock SAP

