

**Fishery Conservation and Management**

**§ 648.10**

prohibited. Tampering includes any activity that is likely to affect the unit's ability to operate properly, signal, or accuracy of computing the vessel's position fix.

[61 FR 34968, July 3, 1996, as amended at 62 FR 14646, Mar. 27, 1997; 63 FR 58329, Oct. 30, 1998; 64 FR 54745, Oct. 7, 1999; 65 FR 77466, Dec. 11, 2000; 69 FR 22946, Apr. 27, 2004; 69 FR 67796, Nov. 19, 2004; 70 FR 21941, Apr. 28, 2005; 70 FR 48867, Aug. 22, 2005; 70 FR 76426, Dec. 27, 2005; 71 FR 33224, June 8, 2006; 72 FR 11274, Mar. 12, 2007]

EFFECTIVE DATE NOTE: At 72 FR 51702, Sept. 11, 2007, § 648.9 was amended by revising paragraphs (c)(2)(i)(B) and (e), effective Jan. 1, 2008. For the convenience of the user, the revised text is set forth as follows:

**§ 648.9 VMS requirements.**

\* \* \* \* \*

(c) \* \* \*

(2) \* \* \*

(i) \* \* \*

(B) For vessels fishing with a valid NE multispecies limited access permit, or a valid surfclam and ocean quahog permit specified at § 648.4(a)(4), the vessel owner signs out of the VMS program for a minimum period of 30 consecutive days by obtaining a valid letter of exemption pursuant to paragraph (c)(2)(ii) of this section, the vessel does not engage in any fisheries until the VMS unit is turned back on, and the vessel complies with all conditions and requirements of said letter; or

\* \* \* \* \*

**VMS DEMARCATION LINE**

Description	N. Lat.	W. Long.
1. Northern terminus point (Canada landmass) .....	45°03'	66°47'
2. A point east of West Quoddy Head Light .....	44°48.9'	66°56.1'
3. A point east of Little River Light .....	44°39.0'	67°10.5'
4. Whistle Buoy "8BI" (SSE of Baker Island) .....	44°13.6'	68°10.8'
5. Isle au Haut Light .....	44°03.9'	68°39.1'
6. Pemaquid Point Light .....	43°50.2'	69°30.4'
7. A point west of Halfway Rock .....	43°38.0'	70°05.0'
8. A point east of Cape Neddick Light .....	43°09.9'	70°34.5'
9. Merrimack River Entrance "MR" Whistle Buoy .....	42°48.6'	70°47.1'
10. Halibut Point Gong Buoy "1AHP" .....	42°42.0'	70°37.5'
11. Connecting reference point .....	42°40'	70°30'
12. Whistle Buoy "2" off Eastern Point .....	42°34.3'	70°39.8'
13. The Graves Light (Boston) .....	42°21.9'	70°52.2'
14. Minots Ledge Light .....	42°16.2'	70°45.6'
15. Farnham Rock Lighted Bell Buoy .....	42°05.6'	70°36.5'
16. Cape Cod Canal Bell Buoy "CC" .....	41°48.9'	70°27.7'
17. A point inside Cape Cod Bay .....	41°48.9'	70°05'
18. Race Point Lighted Bell Buoy "RP" .....	42°04.9'	70°16.8'
19. Peaked Hill Bar Whistle Buoy "2PH" .....	42°07.0'	70°06.2'
20. Connecting point, off Nauset Light .....	41°50'	69°53'
21. A point south of Chatham "C" Whistle Buoy .....	41°38'	69°55.2'
22. A point in eastern Vineyard Sound .....	41°30'	70°33'
23. A point east of Martha's Vineyard .....	41°22.2'	70°24.6'

(e) *New and replacement VMS installations.* The vessel owner/operator required to use a VMS must provide to the NMFS Northeast Region Office of Law Enforcement verification of vendor activation prior to departure on a fishing trip requiring VMS. A VMS certification of installation form is available from the NMFS Regional Administrator. Should a VMS unit require replacement, a vessel owner must submit documentation to the Regional Administrator, within 3 days of installation and prior to the vessel's next trip, verifying that the new VMS unit is an operational, approved system as described under paragraph (a) of this section. Vessel owners required to use a VMS in the Atlantic surfclam and ocean quahog fishery, as specified at § 648.15(b), must confirm the VMS operation and communications service to NMFS by calling 978-281-9213 to ensure that position reports are automatically sent to and received by NMFS Office of Law Enforcement (OLE). For the Atlantic surfclam and ocean quahog fishery, NMFS does not regard the fishing vessel as meeting the VMS requirements until automatic position reports and a manual declaration are received.

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**§ 648.10 DAS and VMS notification requirements.**

(a) *VMS Demarcation Line.* The VMS Demarcation Line is defined by straight lines connecting the following coordinates in the order stated (a copy of a map showing the line is available from the Regional Administrator upon request):

VMS DEMARCATION LINE—Continued

Description	N. Lat.	W. Long.
24. A point east of Great Pt. Light, Nantucket .....	41°23.4'	69°57'
25. A point SE of Sankaty Head, Nantucket .....	41°13'	69°57'
26. A point west of Nantucket .....	41°15.6'	70°25.2'
27. Squibnocket Lighted Bell Buoy "1" .....	41°15.7'	70°46.3'
28. Wilbur Point (on Sconticut Neck) .....	41°35.2'	70°51.2'
29. Mishaum Point (on Smith Neck) .....	41°31.0'	70°57.2'
30. Sakonnet Entrance Lighted Whistle Buoy "SR" .....	41°25.7'	71°13.4'
31. Point Judith Lighted Whistle Buoy "2" .....	41°19.3'	71°28.6'
32. A point off Block Island Southeast Light .....	41°08.2'	71°32.1'
33. Shinnecock Inlet Lighted Whistle Buoy "SH" .....	40°49.0'	72°28.6'
34. Scotland Horn Buoy "S", off Sandy Hook (NJ) .....	40°26.5'	73°55.0'
35. Barnegat Lighted Gong Buoy "2" .....	39°45.5'	73°59.5'
36. A point east of Atlantic City Light .....	39°21.9'	74°22.7'
37. A point east of Hereford Inlet Light .....	39°00.4'	74°46'
38. A point east of Cape Henlopen Light .....	38°47'	75°04'
39. A point east of Fenwick Island Light .....	38°27.1'	75°02'
40. A point NE of Assateague Island (VA) .....	38°00'	75°13'
41. Wachapreague Inlet Lighted Whistle Buoy "A" .....	37°35.0'	75°33.7'
42. A point NE of Cape Henry .....	36°55.6'	75°58.5'
43. A point east of Currituck Beach Light .....	36°22.6'	75°48'
44. Oregon Inlet (NC) Whistle Buoy .....	35°48.5'	75°30'
45. Wimble Shoals, east of Chicamacomico .....	35°36'	75°26'
46. A point SE of Cape Hatteras Light .....	35°12.5'	75°30'
47. Hatteras Inlet Entrance Buoy "HI" .....	35°10'	75°46'
48. Ocracoke Inlet Whistle Buoy "OC" .....	35°01.5'	76°00.5'
49. A point east of Cape Lookout Light .....	34°36.5'	76°30'
50. Southern terminus point .....	34°35'	76°41'

(b) *VMS Notification.* (1) The following vessels must have installed on board an operational VMS unit that meets the minimum performance criteria specified in § 648.9(b), or as modified pursuant to § 648.9(a):

- (i) A scallop vessel issued a Full-time or Part-time limited access scallop permit or a VMS general scallop permit;
- (ii) A scallop vessel issued an Occasional limited access permit when fishing under the Sea Scallop Area Access Program specified under § 648.60;
- (iii) A scallop vessel fishing under the Small Dredge program specified in § 648.51(e);
- (iv) A scallop vessel issued a VMS or a Non-VMS general scallop permit when fishing under the Sea Scallop Area Access Program specified under § 648.60;
- (v) A vessel issued a limited access monkfish, Occasional scallop, or Combination permit, whose owner elects to provide the notifications required by this paragraph (b), unless otherwise authorized or required by the Regional Administrator under paragraph (d) of this section; and
- (vi) A vessel issued a limited access NE multispecies permit that fishes

under a NE multispecies Category A or B DAS.

(vii)–(viii) [Reserved]

(ix) A limited access monkfish vessel electing to fish in the Offshore Fishery Program in the SFMA, as provided in § 648.95.

(2) The owner of such a vessel specified in paragraph (b)(1) of this section, with the exception of a vessel issued a limited access NE multispecies permit as specified in paragraph (b)(1)(vi) of this section, must provide documentation to the Regional Administrator at the time of application for a limited access permit that the vessel has an operational VMS unit installed on board that meets the minimum performance criteria, unless otherwise allowed under this paragraph (b). If a vessel has already been issued a limited access permit without the owner providing such documentation, the Regional Administrator shall allow at least 30 days for the vessel to install an operational VMS unit that meets the criteria and for the owner to provide documentation of such installation to the Regional Administrator. The owner of a vessel issued a limited access NE multispecies permit that fishes or intends to fish under a Category A or B

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DAS as specified in paragraph (b)(1)(vi) of this section, must provide documentation to the Regional Administrator that the vessel has an operational VMS unit installed on board that meets those criteria prior to fishing under a groundfish DAS. NMFS shall send letters to all limited access NE multispecies DAS permit holders and provide detailed information on the procedures pertaining to VMS purchase, installation, and use.

(i) A vessel that has crossed the VMS Demarcation Line specified under paragraph (a) of this section is deemed to be fishing under the DAS program, unless the vessel's owner or authorized representative declares the vessel out (i.e., not fishing under the applicable DAS program) of the scallop, NE multispecies, or monkfish fishery, as applicable, for a specific time period by notifying the Regional Administrator through the VMS prior to the vessel leaving port, or unless the vessel's owner or authorized representative declares the vessel will be fishing exclusively in the Eastern U.S./Canada Area, as described in §648.85(a)(3)(ii), under the provisions of that program.

(ii) Notification that the vessel is not under the DAS program must be received prior to the vessel leaving port. A vessel may not change its status after the vessel leaves port or before it returns to port on any fishing trip.

(iii) DAS counting for a vessel that is under the VMS notification requirements of this paragraph (b), with the exception of vessels that have elected to fish exclusively in the Eastern U.S./Canada Area on a particular trip, as described in this paragraph (b), begins with the first location signal received showing that the vessel crossed the VMS Demarcation Line after leaving port. DAS counting ends with the first location signal received showing that the vessel crossed the VMS Demarcation Line upon its return to port. For those vessels that have elected to fish exclusively in the Eastern U.S./Canada Area pursuant to §648.85(a)(3)(ii), the requirements of this paragraph (b) begin with the first 30-minute location signal received showing that the vessel crossed into the Eastern U.S./Canada Area and end with the first location signal received showing that the vessel

crossed out of the Eastern U.S./Canada Area upon beginning its return trip to port, unless the vessel elects to also fish outside the Eastern U.S./Canada Area on the same trip, in accordance with §648.85(a)(3)(ii)(A).

(iv) The Regional Administrator may authorize or require the use of the call-in system instead of using the use of VMS, as described under paragraph (d) of this section. Furthermore, the Regional Administrator may authorize or require the use of letters of authorization as an alternative means of enforcing possession limits, if VMS cannot be used for such purposes.

(3)(i) A vessel issued a limited access monkfish, occasional scallop, or Combination permit must use the call-in system specified in paragraph (c) of this section, unless the owner of such vessel has elected to provide the notifications required by this paragraph (b), through VMS as specified under paragraph (b)(3)(iii) of this section.

(ii) [Reserved]

(iii) A vessel issued a limited access monkfish or Occasional scallop permit may be authorized by the Regional Administrator to provide the notifications required by this paragraph (b) using the VMS specified in this paragraph (b). For the vessel to become authorized, the vessel owner must provide documentation to the Regional Administrator at the time of application for a limited access permit that the vessel has installed on board an operational VMS as provided under §648.9(a). A vessel that is authorized to use the VMS in lieu of the call-in requirement for DAS notification shall be subject to the requirements and presumptions described under paragraphs (b)(2)(i) through (v) of this section. Vessels electing to use the VMS do not need to call in DAS as specified in paragraph (c) of this section. A vessel that calls in is exempt from the prohibition specified in §648.14(c)(2).

(4) *Atlantic sea scallop vessel VMS notification requirements.* Less than 1 hr prior to leaving port, the owner or authorized representative of a scallop vessel that is required to use VMS as specified in paragraph (b)(1) of this section must notify the Regional Administrator by entering the appropriate

VMS code that the vessel will be participating in the scallop DAS program, Area Access Program, or general category scallop fishery. VMS codes and instructions are available from the Regional Administrator upon request.

(c) *Call-in notification.* The owner of a vessel issued a limited access monkfish or red crab permit who is participating in a DAS program and who is not required to provide notification using a VMS, and a scallop vessel qualifying for a DAS allocation under the Occasional category and who has not elected to fish under the VMS notification requirements of paragraph (b) of this section, and any vessel that may be required by the Regional Administrator to use the call-in program under paragraph (d) of this section, are subject to the following requirements:

(1) Less than 1 hour prior to leaving port, for vessels issued a limited access NE multispecies DAS permit or, for vessels issued a limited access NE multispecies DAS permit and a limited access monkfish permit (Category C, D, F, G, or H), unless otherwise specified in this paragraph (c)(1), and, prior to leaving port for vessels issued a limited access monkfish Category A or B permit, the vessel owner or authorized representative must notify the Regional Administrator that the vessel will be participating in the DAS program by calling the Regional Administrator and providing the following information: Owner and caller name and phone number; vessel name and permit number; type of trip to be taken; port of departure; and that the vessel is beginning a trip. A DAS begins once the call has been received and a confirmation number is given by the Regional Administrator, or when a vessel leaves port, whichever occurs first, unless otherwise specified in paragraph (b)(2)(iii) of this section. Vessels issued a limited access monkfish Category C, D, F, G, or H permit that are allowed to fish as a Category A or B vessel in accordance with the provisions of § 648.92(b)(2)(i), are subject to the call-in notification requirements for limited access monkfish Category A or B vessels specified under this paragraph (c)(1) for those monkfish DAS where there is not a concurrent NE multispecies DAS.

(2) The vessel's confirmation numbers for the current and immediately prior NE multispecies, monkfish or red crab fishing trip must be maintained on board the vessel and provided to an authorized officer upon request.

(3) At the end of a vessel's trip, upon its return to port, the vessel owner or owner's representative must call the Regional Administrator and notify him/her that the trip has ended by providing the following information: Owner and caller name and phone number, vessel name, permit number, port of landing, and that the vessel has ended its trip. A DAS ends when the call has been received and confirmation has been given by the Regional Administrator, unless otherwise specified in paragraph (b)(2)(iii) of this section.

(4) The Regional Administrator will furnish a phone number for DAS notification call-ins upon request.

(5) Any vessel that possesses or lands per trip more than 400 lb (181 kg) of scallops; any vessel issued a limited access NE multispecies permit subject to the NE multispecies DAS program requirements that possesses or lands regulated NE multispecies, except as provided in §§ 648.10(b)(2)(iii), 648.17, and 648.89; any vessel issued a limited access monkfish permit subject to the monkfish DAS program and call-in requirement that possess or lands monkfish above the incidental catch trip limits specified in § 648.94(c); and any vessel issued a limited access red crab permit subject to the red crab DAS program and call-in requirement that possesses or lands red crab above the incidental catch trip limits specified in § 648.263(b)(1) shall be deemed to be in its respective DAS program for purposes of counting DAS, regardless of whether the vessel's owner or authorized representative provides adequate notification as required by paragraphs (b) or (c) of this section.

(d) *Temporary authorization for use of the call-in system.* The Regional Administrator may authorize or require, on a temporary basis, the use of the call-in system of notification specified in paragraph (c) of this section, instead of the use of the VMS. If use of the call-in system is authorized or required, the

Regional Administrator shall notify affected permit holders through a letter, notification in the FEDERAL REGISTER, e-mail, or other appropriate means.

(e) *Scallop vessels fishing under exemptions.* Vessels fishing under the exemptions provided by §648.54 (a) and/or (b)(1) must notify the Regional Administrator by VMS notification or by call-in notification as follows:

(1) *VMS notification.* (i) Notify the Regional Administrator, via their VMS, prior to the vessel's first trip under the state waters exemption program, that the vessel will be fishing exclusively in state waters; and

(ii) Notify the Regional Administrator, via their VMS, prior to the vessel's first planned trip in the EEZ, that the vessel is to resume fishing under the vessel's DAS allocation.

(2) *Call-in notification.* (i) Notify the Regional Administrator by calling the Regional Administrator and providing the following information at least 7 days prior to fishing under the exemption: Owner and caller name and address, vessel name and permit number, and beginning and ending dates of the exemption period.

(ii) Remain under the exemption for a minimum of 7 days.

(iii) If, under the exemption for a minimum of 7 days and wishing to withdraw earlier than the designated end of the exemption period, notify the Regional Administrator of early withdrawal from the program by calling the Regional Administrator, providing the vessel's name and permit number and the name and phone number of the caller, and stating that the vessel is withdrawing from the exemption. The vessel may not leave port to fish in the EEZ until 48 hours after notification of early withdrawal is received by the Regional Administrator.

(iv) The Regional Administrator will furnish a phone number for call-ins upon request.

(v) Such vessels must comply with the VMS notification requirements specified in paragraph (b) of this section by notifying the Regional Administrator by entering the appropriate VMS code that the vessel is fishing outside of the scallop fishery. VMS codes and instructions are available

from the Regional Administrator upon request.

(f) *Additional NE multispecies call-in requirements—*(1) *Spawning season call-in.* With the exception of a vessel issued a valid Small Vessel category permit or the Handgear A permit category, vessels subject to the spawning season restriction described in §648.82 must notify the Regional Administrator of the commencement date of their 20-day period out of the NE multispecies fishery through the IVR system (or through VMS, if required by the Regional Administrator) and provide the following information: Vessel name and permit number, owner and caller name and phone number, and the commencement date of the 20-day period.

(2) *Gillnet call-in.* A vessel subject to the gillnet restriction described in §648.82 must notify the Regional Administrator of the commencement of its time out of the NE multispecies gillnet fishery using the procedure described in paragraph (f)(1) of this section.

[61 FR 34968, July 3, 1996]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §648.10, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

EFFECTIVE DATE NOTE: At 72 FR 51702, Sept. 11, 2007, §648.10 was amended by adding paragraphs (b)(1)(vii) and (b)(1)(viii), and paragraph (b)(2) was revised, effective Jan. 1, 2008. For the convenience of the user, the added and revised text is set forth as follows:

**§ 648.10 DAS and VMS notification requirements.**

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(vii) A vessel issued a surfclam (SF 1) or an ocean quahog (OQ 6) open access permit;

(viii) Effective January 1, 2009, a vessel issued a Maine mahogany quahog (OQ 7) limited access permit, unless otherwise exempted under paragraph §648.4(a)(4)(ii)(B)(I);

\* \* \* \* \*

(2) The owner of a vessel as specified in paragraph (b)(1) of this section, with the exception of a vessel issued a limited access NE multispecies permit as specified in paragraph (b)(1)(vi) of this section, must provide