



BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Doc. No. 170113076-7772-02]

RIN 0648-BG60

Omnibus Framework Adjustment Requiring Electronic Vessel Trip Reporting for Federally-Permitted Party and Charter Vessel Operators in the Mid-Atlantic Region

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: This action approves and implements regulations submitted by the Mid-Atlantic Fishery Management Council in an Omnibus Framework Adjustment to all of its fishery management plans. The Electronic Vessel Trip Report Framework implements a requirement for charter and party vessels that hold a permit to fish for Atlantic bluefish, black sea bass, scup, summer flounder, tilefish, squid, Atlantic mackerel, and/or butterfish, while on a trip carrying passengers for hire, to submit required vessel trip reports by electronic means. This action is intended to increase the timeliness, accuracy, and quality of fisheries data submitted to NMFS while also reducing the burden on the charter and party fishing fleets.

DATES: This rule is effective [*insert date 180 days after date of publication in the FEDERAL REGISTER*].

ADDRESSES: Copies of supporting documents used by the Mid-Atlantic Fishery Management

Council, including the Framework Adjustment with Regulatory Impact Review (RIR) is available from: John K. Bullard, Regional Administrator, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930. The Framework/RIR is accessible via the Internet at <http://www.greateratlantic.fisheries.noaa.gov>. These documents are also accessible via the Federal eRulemaking Portal: <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Daniel Luers, Fishery Management Specialist, (978) 282-8457, fax (978) 281-9135.

SUPPLEMENTARY INFORMATION:

Background

For the past 25 years, NMFS has mandated reporting of catch, landings, and trip information through vessel trip reports (VTR). Between 1992 and 1996, NMFS implemented this requirement for most vessels holding Federal fishing permits in Northeast Atlantic fisheries. In 2004, mandatory electronic reporting by federally permitted dealers was implemented for almost all federally-managed species. Requirements for weekly submissions of VTRs were implemented in 2010 for fisheries under catch shares, with weekly reporting later expanded to herring, mackerel, and surf clam/ocean quahog individual fishing quota fisheries. In July 2011, the NMFS Greater Atlantic Regional Fisheries Office (GARFO) approved the use of electronic reporting of VTRs on a limited and voluntary basis for a segment of the groundfish fleet, and, in 2013, NMFS made electronic vessel trip reports (eVTR) available as an alternative to submitting handwritten hardcopies for all fishery management plans (FMP) in the region.

Owners and operators of vessels possessing permits for fisheries managed by Mid-Atlantic Fishery Management Council (MAFMC) FMPs are required to submit a VTR for every

commercial, party, or charter trip taken, regardless of where they fish (state or Federal waters) or what they catch. MAFMC-managed species that include a for-hire VTR requirement include black sea bass, bluefish, scup, summer flounder, tilefish, Atlantic mackerel, squid, and butterfish.

Current regulations require vessel owners or operators with permits for MAFMC-managed species to submit VTRs monthly to GARFO by the 15th day of the month following the month in which the trip occurred. The Atlantic Mackerel, Squid, and Butterfish FMP requires weekly VTR reporting. If a trip encompasses multiple NMFS statistical areas, a separate VTR must be submitted for each statistical area where fishing activity takes place. A separate VTR is also required for each reporting period. If a vessel does not land any fish on a trip, all trip information must be completed and “No Catch” entered in as the species code name. A VTR is required regardless of where fishing occurs, meaning that a vessel subject to these requirements in the Greater Atlantic must report even if they fish in the Southeast or any other region (does not apply to vessels holding only an American lobster permit). Because VTRs are in addition to any other reports which may be required by other Regions, states, or plans, multiple reports may be required. VTRs, and any records upon which the reports were based, must be kept on board the vessel for at least one year and retained by the owner/operator for a total of three years after the date of the last entry on the report.

Approved Measures

The Omnibus eVTR Framework requires charter and party vessels that hold a permit for species managed by MAFMC FMPs, while on a trip carrying passengers for hire, to submit VTRs by electronic means. These vessels are required to submit these eVTRs through a NOAA-approved software application within 48 hours following the completion of a fishing trip.

Federally permitted vessel owners and operators on commercial fishing trips will maintain the option to submit VTRs through hardcopy by mail or through electronic means.

Comments and Responses on Measures Proposed in the eVTR Omnibus Framework

We received six comments on the proposed rule (May 24, 2017, 82 FR 23770): five from fishing industry members and one from a company that specializes in marine electronic reporting technology. All comments supported adopting this framework. We consolidated responses to similar comments and our responses are below.

Comment 1: All six commenters suggested that this action would improve the timeliness and accuracy of data used for management of the affected fisheries, and supported the implementation of this framework.

Response: We agree. This Framework was designed to result in more accurate and more timely data for use in better management of the fisheries affected by this action.

Comment 2: Four commenters suggested that eVTRs are more accurate and timely than the Marine Recreational Information Program (MRIP), which is the primary recreational data collection program.

Response: NMFS is mandated to use the best available science in making management decisions. Since 2005, Northeast VTR data has been incorporated into the effort estimate for the for-hire fleet at the end of the year. Recently, MRIP began incorporating VTR effort data into the preliminary in-season estimates. This framework will further increase the timeliness and accuracy of data used in future management decisions.

Comment 3: Two commenters suggested that some members of the charter/party fleet may have difficulty with electronic reporting due to lack of technological knowledge. They

suggested that these industry members may need training in the use of this technology, and also suggested a delayed implementation of this rule to allow these industry members time to acclimate to the new requirements before the rule went into effect.

Response: We have incorporated a delay in implementation into this action, such that it will not take effect until six months after this rule is published. This is to allow the industry adequate time to update software and/or receive the training necessary to fulfill the requirements of this action. In addition, we will work with MAFMC and approved contractors to provide training sessions for vessel operators on creating and submitting eVTRs, which will provide the industry with the knowledge and ability to meet the reporting requirements of this Framework.

Comment 4: One commenter suggested that similar actions making eVTRs mandatory should be adopted in Southern Atlantic and Gulf of Mexico fisheries.

Response: Although we cannot modify another region's regulations, we are aware that the Gulf of Mexico Fishery Management Council is currently working with NMFS on a similar regulation for charter vessels and headboats in the Gulf of Mexico and Atlantic Region. We encourage providing such comments to the South Atlantic Fishery Management Council (1-(866)-SAFMC-10, cameron.rhodes@safmc.net), the Gulf of Mexico Fishery Management Council (1-(888)-833-1844, gulfcouncil@gulfcouncil.org), and/or the NOAA Southeast Regional Office (1-(727)-824-5301).

Changes from the Proposed Rule

The final rule for the eVTR Omnibus Framework contains a minor clarification to the proposed rule. Specifically, NMFS revised § 648.7(b)(1)(iii) of the proposed rule to include the stipulation that vessels must submit eVTR reports through a NOAA-approved software

application. This clarification was necessary to match the MAFMC's intent for this action.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the NMFS Assistant Administrator has determined that this final rule is consistent with the Atlantic Mackerel, Squid, and Butterfish FMP; the Bluefish FMP; the Summer Flounder, Scup, and Black Sea Bass FMP; the Tilefish FMP; other provisions of the Magnuson-Stevens Act; and other applicable law.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

This action contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA) that have been approved by the Office of Management and Budget (OMB) under Control Number 0648-0212.

Public reporting burden for the new eVTR requirement is estimated to average 3 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection information. NMFS estimates that this action will reduce time and cost burdens from what was previously approved. Specifically, NMFS estimates that this action will result in a 2-minute reduction from the previous time burden of 5 minutes per response for paper VTRs submitted by mail. Thus, the sum of the total burden on vessels impacted by this rule would be reduced by 642 hr to 10,866 annually. Additionally, the sum of reporting costs for impacted vessels would be reduced by \$9,000 to \$52,000 annually. Send comments regarding these burden estimates or any other aspects of the collection of information, including suggestions for reducing the burden,

to the Regional Administrator (see **ADDRESSES**), and e-mail to *OIRA_Submission@omb.eop.gov*, or fax to (202) 395-5806.

Notwithstanding any other provisions of the law, no person is required to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number. All currently approved NOAA collections of information may be viewed at: http://www.cio.noaa.gov/services_programs/prasubs.html.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small entities. The factual basis for this determination was published in the proposed rule and is not repeated here. No public comments were received on the proposed rule regarding the certification, and NMFS has not received any new information that would affect its determination. As a result, a final regulatory flexibility analysis was not required and none has been prepared.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: September 6, 2017.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

PART 648--FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 648.7, paragraphs (b)(1)(iii) and (f)(2)(iii) are added to read as follows:

§ 648.7 Recordkeeping and reporting requirements.

* * * * *

(b) * * *

(1) * * *

(iii) *Charter/Party vessel permit owners and operators.* The owner or operator of any fishing vessel that holds a Federal charter/party (for-hire) permit to fish for Atlantic bluefish, black sea bass, scup, summer flounder, tilefish, Atlantic mackerel, squid, and/or butterfish, when on a trip carrying passengers for hire, must submit the required Vessel Trip Report by electronic means. This report must be submitted through a software application approved by NMFS, and must contain all applicable information outlined in paragraph (b)(1)(i) of this section.

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(f) * * *

(2) * * *

(iii) Charter/Party vessel electronic log reports, required by paragraph (b)(1)(iii) of this section, must be submitted within 48 hours after entering port at the conclusion of a trip.

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[FR Doc. 2017-19137 Filed: 9/8/2017 8:45 am; Publication Date: 9/11/2017]