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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

RIN 0648-BG75

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Electronic Reporting for Federally Permitted Charter Vessels and Headboats in Atlantic Fisheries

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

ACTION: Notice of availability (NOA); request for comments.

SUMMARY: The South Atlantic Fishery Management Council (South Atlantic Council) and Gulf of Mexico (Gulf) Fishery Management Council (Gulf Council) have submitted the For-hire Reporting Amendment for review, approval, and implementation by NMFS. The For-hire Reporting Amendment includes Amendment 27 to the Fishery Management Plan (FMP) for Coastal Migratory Pelagic (CMP) Resources of the Gulf and Atlantic Region (CMP FMP), Amendment 9 to the FMP for the Dolphin and Wahoo Fishery off the Atlantic States (Dolphin Wahoo FMP), and Amendment 39 to the FMP for Snapper-Grouper Fishery of the South Atlantic Region (Snapper-Grouper FMP). If approved by the Secretary of Commerce, the For-hire Reporting Amendment would establish

new, and revise existing, electronic reporting requirements for federally permitted charter vessels and headboats (for-hire vessels), respectively. The For-hire Reporting Amendment would require a charter vessel with a Federal charter vessel/headboat permit for Atlantic CMP, Atlantic dolphin and wahoo, or South Atlantic snapper-grouper species to submit an electronic fishing report weekly, or at shorter intervals if notified by NMFS, through NMFS approved hardware and software. The For-hire Reporting Amendment would also reduce the time allowed for headboats to submit an electronic fishing report. The purpose of the For-hire Reporting Amendment is to increase and improve fisheries information collected from federally permitted for-hire vessels in the Atlantic. The information is expected to improve recreational fisheries management of the for-hire component in the Atlantic.

DATES: Written comments on the For-hire Reporting Amendment must be received by May 13, 2018.

ADDRESSES: You may submit comments on the For-hire Reporting Amendment, identified by "NOAA-NMFS-2017-0152," by either of the following methods:

- *Electronic submission:* Submit all electronic comments via the Federal e-Rulemaking Portal. Go to www.regulations.gov/docket?D=NOAA-NMFS-2017-0152, click the

"Comment Now!" icon, complete the required fields, and enter or attach your comments.

- *Mail:* Submit all written comments to Karla Gore, NMFS Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in required fields if you wish to remain anonymous).

Electronic copies of the For-hire Reporting Amendment may be obtained from www.regulations.gov or the Southeast Regional Office website at http://sero.nmfs.noaa.gov/sustainable_fisheries/gulf_sa/generic/2017/for_hire_reporting/index.html. The For-hire Reporting Amendment includes an environmental assessment,

regulatory impact review, Regulatory Flexibility Act analysis, and fishery impact statement.

FOR FURTHER INFORMATION CONTACT: Karla Gore, NMFS Southeast Regional Office, telephone: 727-824-5305, or email: karla.gore@noaa.gov.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires each regional fishery management council to submit any fishery management plan or amendment to NMFS for review and approval, partial approval, or disapproval. The Magnuson-Stevens Act also requires that NMFS, upon receiving an FMP or amendment, publish an announcement in the *Federal Register* notifying the public that the FMP or amendment is available for review and comment.

The FMPs being revised by the For-hire Reporting Amendment were prepared by the South Atlantic Council and the Gulf Council, and the For-hire Reporting Amendment, if approved, would be implemented by NMFS through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Act.

Background

The Magnuson-Stevens Act requires that NMFS and regional fishery management councils prevent overfishing and achieve, on a continuing basis, the optimum yield from

federally managed fish stocks. These mandates are intended to ensure that fishery resources are managed for the greatest overall benefit to the nation, particularly with respect to providing food production and recreational opportunities, and protecting marine ecosystems. To further this goal, the Magnuson-Stevens Act states that the collection of reliable data is essential to the effective conservation, management, and scientific understanding of the nation's fishery resources.

On July 1, 2012, NMFS implemented management measures contained in Amendment 18A to the Snapper-Grouper FMP, which established a provision that allowed the Science Research Director (SRD) at the NMFS Southeast Fisheries Science Center (SEFSC) to require for-hire vessels fishing for snapper-grouper species, when selected by the SRD, to submit fishing reports electronically on a weekly or daily basis to the SEFSC to better improve data on catch and bycatch (77 FR 32408, June 1, 2012). However, upon implementation of Amendment 18A in 2012, a data system to collect electronic reports had not been developed and no vessels were selected by the SEFSC for electronic reporting. Therefore, both prior to and after the implementation of Amendment 18A, only paper logbook forms

were used to collect fishing reports from selected for-hire vessels.

In 2013, an electronic logbook reporting requirement for federally permitted headboats fishing for Atlantic CMP, dolphin and wahoo, and snapper-grouper species was implemented by the final rule for Amendment 22 to the CMP FMP, Amendment 6 to the Dolphin Wahoo FMP, and Amendment 31 to the Snapper-Grouper FMP (collectively referred to as the Headboat Reporting Amendment) to improve the quality and timeliness of catch data (78 FR 78779, December 27, 2013). The final rule for the Headboat Reporting Amendment required all headboats with a Federal charter vessel/headboat permit for Atlantic CMP, Atlantic dolphin and wahoo, or South Atlantic snapper-grouper species to report landings electronically on a weekly basis to the SEFSC. The final rule also implemented a provision that authorizes NMFS to require reporting more frequently than weekly if notified by the SRD, and prohibits headboats from continuing to fish if they are delinquent in submitting reports. This headboat reporting program, called the Southeast Region Headboat Survey (SRHS), is managed and operated by the SEFSC. Currently, headboats submit an electronic fishing report to NMFS via the internet by the Sunday following the end of each reporting week, which runs

from Monday through Sunday. The For-hire Reporting Amendment would shorten the time to report and proposes that headboats submit electronic fishing reports to NMFS by the Tuesday following the end of a reporting week, which would make the reporting deadline for headboats consistent with the proposed reporting deadline for federally permitted charter vessels. The South Atlantic Council believes that changing the timing of reporting would achieve consistency between federally permitted headboats and the proposed charter vessel reporting requirements. In addition, the South Atlantic Council believes that the shortened window for reporting could reduce recall bias and improve the timeliness of data availability.

Similarly, the For-hire Reporting Amendment also would require that information from a federally permitted charter vessel be reported weekly, through the submission of electronic fishing reports on Tuesday following a reporting week. Currently, landings and discards from federally permitted charter vessels in Atlantic CMP, Atlantic dolphin wahoo, and South Atlantic snapper-grouper fisheries are monitored through the survey of charter vessels by the Marine Recreational Information Program (MRIP). Fishing effort is calculated based on a monthly phone sample of federally permitted charter vessels, though the phone

survey is transitioning to a new mail survey. Catch rate observations and catch sampling are provided through dockside monitoring, also conducted by MRIP. This MRIP charter vessel information is then available in 2-month increments known as waves, so that there are six waves during the calendar year, e.g., January through February, March through April, etc. If NMFS implements the electronic reporting requirements described in the For-hire Reporting Amendment, the MRIP survey of charter vessels would continue until the proposed electronic reporting program described in the For-hire Reporting Amendment is certified by NMFS, and then the electronic reporting program replaces the MRIP survey of charter vessels.

Accurate and reliable fisheries information about catch, effort, and discards is critical to stock assessment and management evaluations. In addition, catch from federally permitted charter vessels represents a substantial portion of the total recreational catch for some South Atlantic Council managed fish species, such as king mackerel, black sea bass, dolphin, and wahoo. The South Atlantic Council believes that weekly electronic reporting for federally permitted charter vessels could provide more timely information than the current MRIP survey, and more accurate and reliable information for many

species with low catches, low annual catch limits, or for species that are only rarely encountered by fishery participants. However, the South Atlantic Council recognizes that before the electronic reporting program described in this amendment could replace the MRIP survey program, the individual states would have to implement a similar for-hire electronic reporting requirement. The South Atlantic Council has determined that weekly electronic reporting by all federally permitted charter vessels would be expected to enhance data collection efforts for potentially better fisheries management, such as through more data-rich stock assessments.

Actions Contained in the For-hire Reporting Amendment

The For-hire Reporting Amendment includes actions to establish weekly electronic reporting for federally permitted charter vessels in the previously described Atlantic fisheries, and change the electronic reporting deadline for federally permitted headboats. The For-hire Reporting Amendment would also require an owner or operator of a federally permitted charter vessel to report their fishing locations to the nearest square nautical mile, or in degrees and minutes.

Electronic Reporting by Federally Permitted Charter Vessels

In the For-hire Reporting Amendment, the South Atlantic Council has stated their need for increased data collection from federally permitted charter vessels, such as reporting fishing locations, compared with what the MRIP survey currently provides, as well as more timely data submission. The South Atlantic Council has determined that weekly reporting by federally permitted charter vessels could make data available to the science and management process more quickly and could improve data accuracy, as reports would be completed shortly after each trip. The For-hire Reporting Amendment would require an owner or operator of a charter vessel with a Federal charter vessel/headboat permit for Atlantic CMP species, Atlantic dolphin and wahoo, or South Atlantic snapper-grouper to submit an electronic fishing report to NMFS weekly, or at intervals shorter than a week if notified by the SRD, regardless if they were fishing in state or Federal waters, or what species they caught. The use of NMFS approved hardware and software would be required to submit weekly electronic fishing reports by the Tuesday following each reporting week.

If the For-hire Reporting Amendment is approved and implemented, a federally permitted charter vessel fishing for Atlantic CMP, or dolphin and wahoo, or South Atlantic

snapper-grouper species would be required to submit an electronic fishing report using hardware and software that meets NMFS technical requirements and has been type approved by NMFS. NMFS approved hardware could include electronic devices such as computers, tablets, and smartphones that allow for internet access and are capable of operating approved software. NMFS is currently evaluating potential software applications for the electronic for-hire reporting program and is considering the use of existing software applications already being used by partners in the region, including e-trips online and e-trips mobile, which are products developed by the Atlantic Coastal Cooperative Statistics Program. Hardware and software that meet the NMFS type approval would be posted on the NMFS Southeast Region website upon publication of any final rule to implement the for-hire electronic reporting program.

An electronic fishing report would be required from a charter vessel regardless of where fishing occurs or which species are caught or harvested. For example, a vessel subject to these proposed requirements under a Federal charter vessel/headboat permit for Atlantic CMP, Atlantic dolphin wahoo, or South Atlantic snapper-grouper must report if they fish in state waters, in the Gulf, or in any

other area. If a charter vessel does not fish during a week, submission of a "no-fishing" report would be required by the Tuesday of the following week. The SEFSC would allow an advance submission of a no-fishing report for up to 30 days, as they currently allow for headboats.

In an effort to reduce duplicative reporting by charter vessels, fishermen with Federal charter vessel/headboat permits subject to electronic reporting requirements in other regions, such as the Mid-Atlantic and as proposed by the Gulf Council for the Gulf, would be required to comply with the electronic reporting program that is more restrictive, regardless of where fishermen are fishing. For example, the NMFS Greater Atlantic Regional Fisheries Office (GARFO) has implemented an electronic reporting requirement for owners and operators of a charter vessel or party boat (headboat) issued a Federal for-hire permit for species managed by Mid-Atlantic Fishery Management Council to submit an electronic vessel trip report using NMFS-approved software within 48 hours of completing a for-hire fishing trip (82 FR 42610, September 11, 2017). Because NMFS GARFO requires more restrictive reporting than what is proposed in the For-hire Reporting Amendment, owners and operators of a vessel issued a Federal for-hire permit for species in both the Mid-

Atlantic and South Atlantic would be required to report under the electronic reporting program managed by GARFO, regardless of where fishing occurs or what species are caught.

The Gulf Council has also recommended amendments to their Gulf CMP FMP and their FMP for Reef Fish Resources of the Gulf of Mexico to address for-hire electronic reporting. The Gulf Council has submitted these amendments for review and implementation by the Secretary of Commerce. The Gulf Council's recommendations of for-hire electronic reporting for charter vessels are more stringent than those reporting requirements contained in the For-hire Reporting Amendment. The proposed Gulf for-hire electronic reporting program would require trip-level reporting, a pre-trip notification to NMFS, and location information monitored by a vessel monitoring system, among other requirements. Thus, an owner or operator of a charter vessel that has been issued Federal charter vessel/headboat permits for applicable fisheries in both the Atlantic and the Gulf would be required to comply with the Gulf Council's more stringent for-hire electronic reporting program requirements, if the Gulf Council's amendments to address for-hire electronic reporting are approved and implemented. The intent of the South Atlantic Council is to prevent a

vessel with multiple Federal for-hire permits from having to report to multiple reporting programs. A headboat with Federal charter vessel/headboat permits for applicable fisheries in both the Atlantic and the Gulf would continue to be required to comply with the electronic reporting requirements in effect based on where they are fishing, e.g., in the Atlantic or the Gulf. If NMFS implements the measures in the For-hire Reporting Amendment before approving and implementing the Gulf Council's amendments for the for-hire electronic reporting program, vessels issued the applicable Federal charter vessel/headboat permits in the Atlantic and Gulf would be required to comply with the Atlantic electronic reporting program until a Gulf electronic reporting program is implemented, even if the for-hire trips only occur in the Gulf. Then, if NMFS implements the Gulf for-hire electronic reporting program, fishermen on for-hire vessels would need to comply with the Gulf electronic reporting program.

The For-hire Reporting Amendment also extends other provisions to federally permitted charter vessels that currently apply to headboats for reporting during catastrophic conditions, delinquent reporting, and video monitoring. During catastrophic conditions, NMFS may accept paper reporting forms, and can modify or waive reporting

requirements. A delinquent report results in a prohibition on the harvest or possession of the applicable species by the charter vessel permit holder until all required and delinquent reports have been submitted and received by NMFS according to the reporting requirements. Finally, charter vessels must participate in a video monitoring program if selected by the SRD.

Location Reporting

The For-hire Reporting Amendment specifies core data elements to be collected through the for-hire electronic reporting program. These core data elements include, but are not limited to, information about the permit holder, vessel, location fished, catch, discards, fishing effort, and socio-economic data. Other information that could further benefit the management of federally permitted for-hire vessels included under the For-hire Reporting Amendment may also be subject to collection as determined by NMFS in the future.

If approved by the Secretary of Commerce, the For-hire Reporting Amendment would require charter vessels to report their locations fished by either inputting their latitude and longitude in an electronic reporting program or by selecting their fishing locations on a geographic grid in an electronic reporting program. The location accuracy of

either reporting method would be to the nearest square nautical mile, or degrees and minutes. This location reporting requirement is consistent with what is collected currently for headboats in the SRHS.

Timing of Electronic Reporting by Federally Permitted Headboats

The For-hire Reporting Amendment also revises the reporting deadline for federally permitted headboats to submit electronic fishing reports to further improve the accuracy and timeliness of data reported through the SRHS. Headboats currently submit an electronic fishing report for each trip at weekly intervals, or at intervals shorter than a week if notified by the SRD. Electronic fishing reports are currently due by the Sunday following a reporting week, where the reporting week runs from Monday through Sunday; in other words, reports are due within 7 days after a reporting week ends.

The For-hire Reporting Amendment would change the deadline for headboats to submit an electronic fishing report after a reporting week ends. Headboats would continue to submit electronic fishing reports through the SRHS on a weekly basis with reports due on each Tuesday following a reporting week; in other words, reports would be due within 2 days after a reporting week ends. This

proposed change would make the reporting deadline for headboats consistent with the proposed reporting deadline for charter vessels.

Headboats with applicable Federal charter vessel/headboat permits in both Atlantic and Gulf fisheries would continue to be required to comply with the electronic reporting standards in effect based on where they are fishing, e.g., in the Atlantic or the Gulf. Other than changing the deadline for submitting the fishing reports, no other aspect of the headboat reporting program would be changed by the For-hire Reporting Amendment.

Proposed Rule for the For-hire Reporting Amendment

A proposed rule that would implement the For-hire Reporting Amendment has been drafted. In accordance with the Magnuson-Stevens Act, NMFS is evaluating the proposed rule to determine whether it is consistent with the FMPs, the Magnuson-Stevens Act, and other applicable laws. If that determination is affirmative, NMFS will publish the proposed rule in the *Federal Register* for public review and comment.

Consideration of Public Comments

The South Atlantic Council has submitted the For-hire Reporting Amendment for Secretarial review, approval, and implementation. Comments on the For-hire Reporting

Amendment must be received by May 13, 2018. Comments received during the respective comment periods, whether specifically directed to the For-hire Reporting Amendment or the proposed rule will be considered by NMFS in the decision to approve, disapprove, or partially approve the For-hire Reporting Amendment. Comments received after the comment periods will not be considered by NMFS in this decision. All comments received by NMFS on the amendment or the proposed rule during their respective comment periods will be addressed in the final rule.

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

Dated: March 9, 2018.

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