



BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 170322299-8284-01]

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: Proposed rule; request for comments.

SUMMARY: NMFS proposes to implement management measures described in the For-hire Reporting Amendment, as prepared and submitted by the South Atlantic Fishery Management Council (South Atlantic Council) and Gulf of Mexico (Gulf) Fishery Management Council (Gulf Council). 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 the Snapper-Grouper Fishery of the South Atlantic Region (Snapper-Grouper FMP). If implemented, this

proposed rule would establish new, and revise existing, electronic reporting requirements for federally permitted charter vessels and headboats (for-hire vessels), respectively. This proposed rule 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 proposed rule would also reduce the time allowed for headboats to submit an electronic fishing report. The purpose of this proposed rule 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 proposed rule must be received by [*insert date 30 calendar days after date of publication in the FEDERAL REGISTER*].

ADDRESSES: You may submit comments on the proposed rule, 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

<http://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).

Written comments regarding the burden-hour estimates
or other aspects of the collection-of-information
requirements contained in this proposed rule may be
submitted to Adam Bailey, NMFS Southeast Regional Office
(see mailing address above), by email to
OIRA_Submission@omb.eop.gov, or fax to 202-395-5806.

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 (RFA) 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 CMP fishery in the Atlantic region is managed under the CMP FMP jointly by the Gulf Council and South Atlantic Council. The South Atlantic Council manages the dolphin and wahoo fishery under the Dolphin Wahoo FMP in the Atlantic and the snapper-grouper fishery under the Snapper-Grouper FMP in the South Atlantic. All of these FMPs are implemented by NMFS through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (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, NMFS collected fishing

reports from selected for-hire vessels on paper logbook forms.

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 (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. This proposed rule would

shorten the time to report and would require 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, this proposed rule 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 charter vessels in Atlantic CMP, 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 catch information from charter vessels 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 this proposed rule, 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 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.

Management Measures Contained in this Proposed Rule

This proposed rule would 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.

Electronic Reporting by Federally Permitted Charter Vessels

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. This proposed rule 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 were caught or harvested, as explained below. A weekly electronic fishing report would be required to be submitted using NMFS-approved hardware and software by the Tuesday following each reporting week.

Through this proposed rule, 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 even 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, an owner or operator of a charter vessel with a Federal charter vessel/headboat permit, and with 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 they are fishing. The NMFS Greater Atlantic Regional Fisheries Office (GARFO) has implemented an electronic reporting requirement for owners and operators of a charter vessel or a 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 a 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 the CMP FMP and the FMP for Reef Fish Resources of the Gulf of Mexico to address for-hire electronic reporting. The amendments have been submitted for review and implementation by the Secretary of Commerce. The Gulf Council's recommendations of for-hire electronic reporting

are more stringent than those reporting requirements contained in this proposed rule. The 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 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 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 standards in effect based on where they are fishing, *e.g.*, in the Atlantic or the Gulf. Because the Gulf Council's for-hire reporting amendments are proposing trip-level reporting prior to offloading fish from the vessel, the Gulf requirements for electronic reporting would be more restrictive and vessels with both South Atlantic and Gulf

Federal charter vessel/headboat permits would be required to report to the Gulf electronic reporting program. If NMFS approves the For-hire Reporting Amendment and implements this proposed rule before approving and implementing the Gulf Council's amendments for their for-hire electronic reporting program, a vessel issued the applicable Federal charter vessel/headboat permits in the Atlantic and in the 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, a vessel issued the applicable Federal charter vessel/headboat permits in the Atlantic and in the Gulf would be required to comply with the Gulf electronic reporting program.

This proposed rule would also extend other provisions to federally permitted charter vessels that currently apply to headboats for reporting during catastrophic conditions and if delinquent reporting occurs. 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.

Timing of Electronic Reporting by Federally Permitted Headboats

This proposed rule 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 due by the Sunday following a reporting week that runs from Monday through Sunday; in other words, reports are due within 7 days after a reporting week ends.

This proposed rule 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 rule would make the reporting deadline for headboats consistent with the proposed reporting deadline for charter vessels. Other than changing the deadline for submitting the fishing

reports, no other aspect of the headboat reporting program would be changed by this proposed rule.

Management Measure Contained in the For-hire Reporting Amendment but not Codified Through this Proposed Rule

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 coordination with the South Atlantic Council.

If approved by the Secretary of Commerce, the For-hire Reporting Amendment would require an owner or operator of a federally permitted charter vessel 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.

Additional Proposed Changes to Codified Text not in the For-hire Reporting Amendment

In addition to the measures described in the For-hire Reporting Amendment, this proposed rule would change the FMP title name for the Dolphin Wahoo FMP in 50 CFR part 622. In 2004, NMFS published the final rule implementing the Dolphin Wahoo FMP, and the final rule added the name of the Dolphin Wahoo FMP in Table 1 to § 622.1 (69 FR 30235, May 27, 2004). The Dolphin Wahoo FMP is also named in two other places in 50 CFR part 622. The name of the Dolphin Wahoo FMP in 50 CFR part 622 is inconsistent with the original title of the Dolphin Wahoo FMP submitted by the South Atlantic Council, which is the Fishery Management Plan for the Dolphin and Wahoo Fishery of the Atlantic. Additionally, since NMFS implemented the Dolphin Wahoo FMP, the FMP name referenced by the South Atlantic Council and NMFS has often been the original title submitted by the South Atlantic Council. This proposed rule would correct the inconsistency between the regulations and the original name of the Dolphin Wahoo FMP and insert "FMP for the Dolphin and Wahoo Fishery of the Atlantic" in Table 1 to §

622.1, and where the Dolphin Wahoo FMP is referenced in 50 CFR part 622.

Finally, this proposed rule would remove certain regulatory requirements, in the sections referenced below, applicable to the owner or operator of a non-federally permitted charter vessel or headboat that does not fish in the EEZ but only harvests or possesses Atlantic CMP species from state waters adjoining the Mid-Atlantic and South Atlantic EEZ, or Atlantic dolphin or wahoo from state waters adjoining the Atlantic EEZ, or South Atlantic snapper-grouper species from state waters adjoining the South Atlantic EEZ. This proposed rule would remove the regulatory requirements stated in this paragraph from 50 CFR 622.176(b)(1)(i) through (iii), 622.271(b)(1)(i) and (ii), and 622.374(b)(1)(i) and (ii). NMFS has determined that it does not have the regulatory authority to request this information.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the For-hire Reporting Amendment, the respective FMPs, other provisions of the Magnuson-Stevens Act, and other applicable laws, subject to further consideration after

public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866. This proposed rule is not expected to be an Executive Order 13771 regulatory action because this proposed rule is not significant under Executive Order 12866.

The Magnuson-Stevens Act provides the statutory basis for this proposed rule. No duplicative, overlapping, or conflicting Federal rules have been identified. A description of this proposed rule, why it is being considered, and the objectives of this proposed rule are contained in the preamble and in the **SUMMARY** section of the preamble.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this proposed rule, if implemented, would not have a significant economic impact on a substantial number of small entities. The factual basis for this determination follows.

In 2016, there were 2,182 vessels with at least 1 valid Federal charter vessel/headboat permit to fish for Atlantic CMP species or Atlantic dolphin and wahoo, or South Atlantic snapper-grouper species. This proposed rule, if implemented, would be expected to directly affect all of

these vessels. The for-hire component of the recreational sector is comprised of charter vessels and headboats. Although charter vessels tend to be smaller, on average, and carry fewer passengers than headboats, the key distinction between the two types of vessel operations is how the passenger fee is determined. On a charter vessel trip, the fee charged covers the entire vessel regardless of how many passengers are carried. The fee charged on a headboat trip is paid per individual angler. Although the application for a Federal charter vessel/headboat permit collects information on the primary method of vessel operation (charter vessel or headboat), the permit issued does not identify the vessel as either a charter vessel or headboat and vessels may operate in either capacity on separate trips. As of February 2017, 63 federally permitted for-hire vessels operating in the South Atlantic were identified as primarily operating as headboats and were reporting to the SRHS. It is not known how many headboats in the NMFS Greater Atlantic Region have a Federal charter vessel/headboat permit for Atlantic CMP or Atlantic dolphin and wahoo. Thus, among the 2,182 vessels estimated to be directly affected by this proposed rule, at least 63 of them are expected to primarily operate as headboats and the rest as charter vessels. The average charter vessel

operating in the South Atlantic is estimated to earn approximately \$118,200 in annual revenue and the average charter vessel operating in the Greater Atlantic Region is estimated to earn approximately \$29,300 annually (2016 dollars). For headboats, the comparable annual revenue estimates are approximately \$209,000 and \$226,200, respectively.

The SBA has established size criteria for all major industry sectors in the U.S., including fish harvesters. A business involved in the for-hire fishing industry is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of \$7.5 million (NAICS code 487210, for-hire businesses) for all its affiliated operations worldwide. All for-hire businesses expected to be directly affected by this proposed rule are believed to be small business entities.

NMFS has not identified any other small entities that might be directly affected by this proposed rule.

This proposed rule would require an owner or operator of a federally permitted charter vessel to submit an electronic report of their fishing activity weekly, or at shorter intervals if notified by the SRD, via hardware and

software approved by NMFS. This requirement would not be expected to require special professional skills. The use of computers, smartphones, the internet, or other forms of electronic connections and communication is commonplace in the business environment. As a result, all of the charter vessel small businesses expected to be affected by this proposed rule would be expected to already have staff with the appropriate skills to complete the proposed reporting requirements. However, most charter vessel businesses, unlike headboats, have not been subject to mandatory logbook reporting of fishing activity and would be expected to lack experience completing logbooks, beyond the recording of similar information to satisfy the management needs of their businesses. As a result, although the information that would be required to be reported by this proposed rule would not be expected to be substantially different from that recorded for normal business purposes, some familiarization may be necessary before business staff become proficient in the proposed requirements. The hiring of new employees with specialized skills, however, should not be necessary.

This proposed rule would also require federally permitted headboat businesses to submit electronic reports of their fishing activity by the Tuesday following the

reporting week instead of the current requirement to report by the Sunday following the reporting week. Federally permitted headboats in the South Atlantic have been required to submit electronic reports of their fishing activity since January 2014 (78 FR 78779, December 27, 2013). As a result, all headboat businesses affected by this proposed rule would be expected to be proficient with electronic reporting and have staff with the appropriate skills to meet the proposed change in the reporting deadline.

No conflicting Federal rules have been identified. However, some for-hire vessels also have applicable Federal for-hire permits to operate in Federal waters of the Mid-Atlantic, New England, or the Gulf in addition to the South Atlantic. In 2016, 387 vessels held South Atlantic and Gulf Federal charter vessel/headboat permits to harvest species managed by both the South Atlantic Council and the Gulf Council. Among these vessels, it is unknown how many primarily operated as headboats. As of August 2017, it was estimated that approximately 152 vessels were federally permitted to harvest species managed by both the South Atlantic Council and either the Mid-Atlantic or New England Fishery Management Councils. Again, it is unknown how many of these vessels primarily operated as headboats. For-hire

vessels federally permitted to operate in the Mid-Atlantic or New England are required to submit a vessel trip report for each fishing trip taken via electronic or paper form. The Gulf Council has also approved an action to require electronic reporting for federally permitted charter vessels that operate under their jurisdiction and, similar to this proposed rule, modify the reporting frequency of headboats federally permitted to fish for species managed by the Gulf Council. To eliminate duplicate reporting by federally permitted charter vessels, the South Atlantic Council would accept reports submitted under these other programs if the reporting requirements in these other programs are more stringent than those proposed by the South Atlantic Council and meet the core data elements identified by the South Atlantic Council.

This proposed rule would be expected to have minimal impact on the profits of any of the small entities expected to be directly affected. This proposed rule would require weekly electronic reporting of all fishing activity by all charter vessels permitted to fish for federally managed species in the South Atlantic when operating as a for-hire vessel in state or Federal waters. It would also specify alternative reporting provisions during instances of extended periods of non-fishing or when catastrophic

conditions preclude electronic reporting. The charter vessels affected by this proposed rule are not currently required to submit reports of their fishing activity when under hire unless selected by the SRD. To date, the SRD has not selected any of these vessels for trip reporting. Instead, reporting is limited to those charter vessels that are selected to participate in the MRIP survey of charter vessels, which draws a weekly sample of 10 percent of eligible charter vessels in 2-month periods during the calendar year, e.g., January through February, and March through April. The MRIP survey includes all charter vessels in the South Atlantic, including those with only state-issued charter vessel permits, and state and federally permitted vessels, and not just charter vessels with Federal charter vessel/headboat permits. Therefore, because vessels with only state permits are included, the MRIP survey covers less than 10 percent of the federally permitted South Atlantic charter fleet in each 2-month period. Vessels may be selected multiple times during a year and the proportion of the total fleet of federally permitted vessels included in the MRIP survey at least once during the calendar year is unknown. Once selected, reporting is mandatory for vessels with a Federal charter vessel/headboat permit. The MRIP survey collects a limited

amount of information (general area fished, number of anglers who fished, hours fished, method of fishing, and target species) and reporting only captures fishing activity for the single week for which the vessel is selected and not activity for the entire year. The proposed rule would not replace the MRIP survey of charter vessels. Data collected through MRIP would still be collected and used to validate data collected through the proposed electronic reporting program.

As previously described, this proposed rule would also advance the weekly reporting deadline for federally permitted headboats from the Sunday following the reporting week to the Tuesday following the reporting week.

The reporting program under development is expected to accommodate a range of commonly used electronic devices and transmission methods for program access and report submission. The SBA has estimated that in 2010, approximately 94 percent of businesses used a computer and 95 percent of these had internet service. These utilization rates are expected to be transferable to and/or inclusive of the use of other electronic communication devices, such as tablets and smartphones, expected to be included in the reporting options for electronic reporting. As a result, the majority of the charter vessels expected to be affected

by this proposed rule would be expected to currently utilize one or more of these devices and services and not need to incur new operational expenses to acquire the technology necessary for the proposed electronic reporting. For businesses that do not currently have a suitable device or associated service, the expenses that would need to be incurred would not be expected to constitute a significant increase in operational costs. Basic computer systems under \$300 (2016 dollars) are commonly available, tablets can be purchased for as little as approximately \$120 (2016 dollars), and a basic internet connection is expected to be available for under \$50 per month (2016 dollars), or approximately \$600 per year. Although more expensive models are available, smartphones can be purchased for less than some computers or tablets, and monthly service fees are comparable to those of the other electronic devices. As a result, a complete new system would be estimated to cost approximately \$720 to \$900 for the first year, and approximately \$600 per year thereafter. Alternatively, free computer use and internet access is commonly available at public libraries.

In addition to these potential equipment and connection costs, electronic reporting would require the expenditure of time, with associated labor costs, to record

and submit the reports. Approximately 188,000 individual angler trips were estimated to have been taken in Federal waters in the South Atlantic on charter vessels in 2016. Using this total and assuming an average of 3 to 6 anglers per vessel trip, the average charter vessel is estimated to take 14 to 29 trips per year in Federal waters. However, these estimates do not include activity by the vessels expected to be affected by this proposed rule in Federal waters of other regions (Mid-Atlantic, New England, and the Gulf) or trips taken in state waters in any region. This proposed rule would require electronic reporting of all trips by the charter vessels encompassed by this proposed rule in all regions regardless of whether the trips occurred in state or Federal waters. As a result, these estimates likely underestimate the total fishing activity by the charter vessels expected to be directly affected by this proposed rule. In 2016, approximately 492,700 individual angler trips were estimated to have been taken on charter vessels in the South Atlantic in Federal and state waters combined. Although not all of these trips would be expected to have been taken on federally permitted charter vessels (some charter vessels only possess state permits or licenses and only operate in state waters), this total also does not include trips by the vessels expected

to be affected by this proposed rule taken in other regions where these vessels operate. Thus, the estimate of the total number of individual angler trips taken on charter vessels in 2016 (492,700 trips) both includes and excludes categories of trips relevant to this assessment. However, for the purpose of this assessment, this total is expected to adequately account for trips taken in these other areas and provide an upper bound on the expected costs associated with reporting labor. Therefore, assuming an average of 3 to 6 anglers carried per charter vessel trip, the upper bound estimate of the average number of trips per charter vessel expected to be directly affected by this proposed rule would be approximately 38 to 75 trips.

Electronic reporting (including location reporting) is estimated to take approximately 10 minutes per trip. Using the average annual number of charter trips taken per vessel in South Atlantic Federal waters (14 to 29 trips) as a lower bound and the average annual number of charter trips taken per vessel in state and Federal waters of the South Atlantic combined (38 to 75 trips) as an upper bound, the average annual number of trips per affected vessel would be expected to range from 14 to 75 trips. Consequently, the time burden for electronic reporting would be expected to range from 2.3 hours to 12.5 hours per vessel per year for

the average charter vessel. The mean hourly wage rate in 2016 for fishers and related fishing workers was estimated to be \$14.78 and for first line supervisors in fishing it was estimated to be \$23.47 (2016 dollars; www.bls.gov/oes/current/oes453011.htm and www.bls.gov/oes/current/oes451011.htm). Using these wage rates, the expected time cost of electronic reporting per vessel per year would be expected to range from approximately \$34 (2.3 hours at \$14.78 per hour) to \$293.00 (12.5 hours at \$23.47 per hour). These labor costs, however, would not be expected to be either wholly or substantially new business expenses. Instead, the time and labor associated with these costs would be expected to be borne by the captain, crew, or current shoreside business staff. Some of the effort to complete these reports may be redirected from current operational activities, such as normal trip record-keeping that a vessel completes for standard business purposes. The information reported will be accessible to the reporting vessel and, therefore, would not need to be recorded separately to meet business operational needs. Thus, in effect, the electronic for-hire reporting program may serve as the record repository for this portion of a vessel's business records. In addition to the need to maintain records on the number of trips and

passengers a vessel takes, the service for-hire vessels sell requires reasonable levels of fishing success. Thus, records of what species a vessel catches, where they are caught, when they are caught, and how these performance variables change over time are vital to managing a successful for-hire business. As a result, the information collected under the proposed electronic reporting should be substantially duplicative of information already recorded by these businesses. Additionally, any new information collected as a result of complying with electronic reporting may improve for-hire businesses' ability to monitor and adjust their fishing practices, supporting more successful operation.

In general, although some redistribution of labor activities may be required to satisfy the proposed electronic reporting requirements, reporting should be able to be completed during transit back to port or within normal business activities when the vessel is shoreside. As such, it would not be expected to constitute a significant labor burden to affected vessels. This would be expected to be particularly true because, although the mandatory reporting requirement would be weekly (*i.e.*, by Tuesday following the reporting week), reporting more frequently, such as after each trip, would be allowed at the discretion

of the vessel. Thus, there would be no requirement to accumulate multiple trip reports and need to dedicate a substantial block of time or labor to complete the required reporting. Whichever reporting strategy is adopted by the charter vessel, however, would be discretionary, and each business would be expected to adopt the strategy most efficient to its staffing and operational characteristics, thus minimizing any resultant implicit or explicit costs.

For headboats, as previously described, electronic reporting has been required since January 2014 and all headboat operations are expected to be proficient with meeting the current reporting requirements. The proposed change in the timing of report submission by headboats would be expected to result in only minor to no direct economic effects on the affected headboat businesses. Because electronic reporting has been a requirement for the past 3 years, the labor and costs associated with reporting have been internalized within each headboat business. Shifting the reporting date to Tuesday following the reporting week from Sunday would not be expected to affect reporting costs unless the shift interferes with other business activities that need to be completed by the earlier date, or labor or other operational costs vary across the week. A longer reporting period provides more

time to assemble the necessary information and allows greater flexibility to allocate labor. Thus, in theory, the proposed shortening of the period within which reports must be submitted would be expected to increase the likelihood that conflict with other labor demands arises. However, because of the experience headboat businesses have with the current electronic reporting requirements, any such conflict would be expected to be either minor or an exception, and not the norm, for most affected businesses.

Based on the explanation above, NMFS determines that this proposed rule, if implemented, would not have a significant adverse economic effect on a substantial number of small entities. As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

This proposed rule contains a collection-of-information requirement subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). This requirement has been submitted to OMB for approval. NMFS is proposing to revise the collection-of-information requirement under OMB Control Number 0648-0016, Southeast Region Logbook Family of Forms. The proposed rule would require owners or operators of charter vessels and headboats with South Atlantic Federal

charter vessel/headboat permits, and when operating as such in state or Federal waters, to submit weekly electronic fishing reports. Public reporting burden for the proposed requirement is estimated to average 10 minutes per fishing trip and 2 minutes for a no-fishing report, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the necessary data, and compiling, reviewing, and submitting the information to be collected.

Public comment is sought regarding: whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to the Southeast Regional Office at the **ADDRESSES** above, and by email to *OIRA_Submission@omb.eop.gov* or fax to 202-395-5806.

Notwithstanding any other provision of the law, no person is required to respond to, and no person will be subject to 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 collections of information may be viewed at http://www.cio.noaa.gov/services_programs/prasubs.html.

List of Subjects in 50 CFR Part 622

Atlantic, Charter vessel, Cobia, Dolphin, Fisheries, Fishing, Gulf of Mexico, Headboat, King mackerel, Recordkeeping and reporting, Snapper-grouper, South Atlantic, Spanish mackerel, Wahoo.

Dated: March 29, 2018.

Alan D. Risenhoover,
Acting Deputy Assistant Administrator for Regulatory
Programs,
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is proposed to be amended as follows:

PART 622--FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC

1. The authority citation for part 622 continues to read as follows:

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

2. In § 622.1, revise the Table 1 entry for "FMP for the Dolphin and Wahoo Fishery off the Atlantic States" to read as follows:

§ 622.1 Purpose and scope.

* * * * *

Table 1 to § 622.1--FMPs Implemented Under Part 622

| FMP title | Responsible fishery management council(s) | Geographical area |
|---|---|-------------------|
| * * * * * | | |
| FMP for the Dolphin and Wahoo Fishery of the Atlantic | SAFMC | Atlantic. |
| * * * * * | | |

* * * * *

3. In § 622.13, revise paragraph (g) to read as follows:

§ 622.13 Prohibitions--general.

* * * * *

(g) Harvest or possess fish if the required charter vessel or headboat reports have not been submitted in accordance with this part.

* * * * *

4. In § 622.176, revise paragraph (b) to read as follows:

§ 622.176 Recordkeeping and reporting.

* * * * *

(b) *Charter vessel/headboat owners and operators--(1) General reporting requirement--(i) Charter vessels.* The owner or operator of a charter vessel for which a charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, as required under § 622.170(b)(1), and whose vessel is operating as a charter vessel in state or Federal waters, must record all fish harvested and discarded, and any other information requested by the SRD for each trip in state or Federal waters, and submit an electronic fishing report within the time period specified in paragraph (b)(2)(i) of this section. The electronic

fishing report must be submitted to the SRD via NMFS-approved hardware and software, as specified in paragraph (b) (5) of this section.

(ii) *Headboats.* The owner or operator of a headboat for which a charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, as required under § 622.170(b) (1), and whose vessel is operating as a headboat in state or Federal waters, must record all fish harvested and discarded, and any other information requested by the SRD for each trip in state or Federal waters, and submit an electronic fishing report within the time period specified in paragraph (b) (2) (i) of this section. The electronic fishing report must be submitted to the SRD via NMFS-approved hardware and software, as specified in paragraph (b) (5) of this section.

(iii) *Electronic logbook/video monitoring reporting.* The owner or operator of a vessel for which a charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, as required under § 622.170(b) (1), and whose vessel fishes for or lands such snapper-grouper in or from state or Federal waters, who is selected to report by the SRD must participate in the NMFS-sponsored electronic logbook and/or video monitoring program as directed by the SRD. Compliance with the reporting requirements of

paragraph (b) (2) (ii) of this section is required for permit renewal.

(2) *Reporting deadlines--(i) Charter vessels and headboats.* Completed electronic fishing reports required by paragraph (b) (1) of this section must be submitted to the SRD by the Tuesday following each previous reporting week of Monday through Sunday, or at shorter intervals if notified by the SRD. If no fishing activity occurred during a reporting week, an electronic report so stating must be submitted by the Tuesday following that reporting week, or at a shorter interval if notified by the SRD.

(ii) Completed fishing reports required by paragraph (b) (1) (iii) of this section for charter vessels or headboats may be required weekly or daily, as directed by the SRD. Information to be reported is indicated on the form and its accompanying instructions.

(3) *Catastrophic conditions.* During catastrophic conditions only, NMFS provides for use of paper forms for basic required functions as a backup to the electronic reports required by paragraphs (b) (1) (i) and (ii) of this section. The RA will determine when catastrophic conditions exist, the duration of the catastrophic conditions, and which participants or geographic areas are deemed affected by the catastrophic conditions. The RA will provide timely

notice to affected participants via publication of notification in the *Federal Register*, and other appropriate means such as fishery bulletins or NOAA weather radio, and will authorize the affected participants' use of paper forms for the duration of the catastrophic conditions. The paper forms will be available from NMFS. During catastrophic conditions, the RA has the authority to waive or modify reporting time requirements.

(4) *Compliance requirement.* Electronic reports required by paragraphs (b) (1) (i) and (ii) of this section must be submitted and received by NMFS according to the reporting requirements under this section. A report not received within the applicable time specified in paragraph (b) (2) (i) of this section is delinquent. A delinquent report automatically results in the owner and operator of a charter vessel or headboat for which a charter vessel/headboat permit for South Atlantic snapper-grouper has been issued being prohibited from harvesting or possessing such species, regardless of any additional notification to the delinquent owner and operator by NMFS. The owner and operator who are prohibited from harvesting or possessing such species due to delinquent reports are authorized to harvest or possess such species only after all required and delinquent reports have been submitted and

received by NMFS according to the reporting requirements under this section.

(5) *Hardware and software requirements for electronic reporting.* Owners and operators must submit electronic reports using NMFS-approved hardware and software.

* * * * *

5. Revise the heading of Subpart M to read as follows:

Subpart M--Dolphin and Wahoo Fishery of the Atlantic

6. In § 622.271, revise paragraph (b) to read as follows:

§ 622.271 Recordkeeping and reporting.

* * * * *

(b) *Charter vessel/headboat owners and operators--(1) General reporting requirement--(i) Charter vessels.* The owner or operator of a charter vessel for which a charter vessel/headboat permit for Atlantic dolphin and wahoo has been issued, as required under § 622.270(b)(1), and whose vessel is operating as a charter vessel in state or Federal waters, must record all fish harvested and discarded, and any other information requested by the SRD for each trip in state or Federal waters, and submit an electronic fishing report within the time period specified in paragraph (b)(2) of this section. The electronic fishing report must be submitted to the SRD via NMFS-approved hardware and

software, as specified in paragraph (b) (5) of this section.

(ii) *Headboats*. The owner or operator of a headboat for which a charter vessel/headboat permit for Atlantic dolphin and wahoo has been issued, as required under § 622.270(b) (1), and whose vessel is operating as a headboat in state or Federal waters, must record all fish harvested and discarded, and any other information requested by the SRD for each trip in state or Federal waters, and submit an electronic fishing report within the time period specified in paragraph (b) (2) of this section. The electronic fishing report must be submitted to the SRD via NMFS-approved hardware and software, as specified in paragraph (b) (5) of this section.

(2) *Reporting deadlines for charter vessels and headboats*. Completed electronic fishing reports required by paragraph (b) (1) of this section must be submitted to the SRD by the Tuesday following each previous reporting week of Monday through Sunday, or at shorter intervals if notified by the SRD. If no fishing activity occurred during a reporting week, an electronic report so stating must be submitted by the Tuesday following that reporting week, or at a shorter interval if notified by the SRD.

(3) *Catastrophic conditions*. During catastrophic conditions only, NMFS provides for use of paper forms for

basic required functions as a backup to the electronic reports required by paragraphs (b) (1) (i) and (ii) of this section. The RA will determine when catastrophic conditions exist, the duration of the catastrophic conditions, and which participants or geographic areas are deemed affected by the catastrophic conditions. The RA will provide timely notice to affected participants via publication of notification in the *Federal Register*, and other appropriate means such as fishery bulletins or NOAA weather radio, and will authorize the affected participants' use of paper forms for the duration of the catastrophic conditions. The paper forms will be available from NMFS. During catastrophic conditions, the RA has the authority to waive or modify reporting time requirements.

(4) *Compliance requirement.* Electronic reports required by paragraphs (b) (1) (i) and (ii) of this section must be submitted and received by NMFS according to the reporting requirements under this section. A report not received within the applicable time specified in paragraph (b) (2) of this section is delinquent. A delinquent report automatically results in the owner and operator of a charter vessel or headboat for which a charter vessel/headboat permit for Atlantic dolphin and wahoo has been issued being prohibited from harvesting or possessing

such species, regardless of any additional notification to the delinquent owner and operator by NMFS. The owner and operator who are prohibited from harvesting or possessing such species due to delinquent reports are authorized to harvest or possess such species only after all required and delinquent reports have been submitted and received by NMFS according to the reporting requirements under this section.

(5) *Hardware and software requirements for electronic reporting.* Owners and operators must submit electronic reports using NMFS-approved hardware and software.

* * * * *

7. In § 622.281, revise the introductory text to read as follows:

§ 622.281 Adjustment of management measures.

In accordance with the framework procedures of the FMP for the Dolphin and Wahoo Fishery of the Atlantic, the RA may establish or modify the following items specified in paragraph (a) of this section for Atlantic dolphin and wahoo.

* * * * *

8. In § 622.374, revise paragraph (b) to read as follows:

§ 622.374 Recordkeeping and reporting.

* * * * *

(b) *Charter vessel/headboat owners and operators--(1) General reporting requirement--(i) Gulf of Mexico--(A) Charter vessels.* The owner or operator of a charter vessel for which a charter vessel/headboat permit for Gulf coastal migratory pelagic fish has been issued, as required under § 622.370(b)(1), or whose vessel fishes for or lands Gulf coastal migratory fish in or from state waters adjoining the Gulf EEZ, who is selected to report by the SRD must maintain a fishing record for each trip, or a portion of such trips as specified by the SRD, on forms provided by the SRD and must submit such record as specified in paragraph (b)(2)(i)(A) of this section.

(B) *Headboats.* The owner or operator of a headboat for which a charter vessel/headboat permit for Gulf coastal migratory fish has been issued, as required under §622.370(b)(1), or whose vessel fishes for or lands Gulf coastal migratory pelagic fish in or from state waters adjoining the Gulf EEZ, who is selected to report by the SRD must submit an electronic fishing record for each trip of all fish harvested within the time period specified in paragraph (b)(2)(i)(B) of this section, via the Southeast Region Headboat Survey.

(ii) *Atlantic--(A) Charter vessels.* The owner or operator of a charter vessel for which a charter

vessel/headboat permit for Atlantic coastal migratory pelagic fish has been issued, as required under § 622.370(b)(1), and whose vessel is operating as a charter vessel in state or Federal waters, must record all fish harvested and discarded, and any other information requested by the SRD for each trip in state or Federal waters, and submit an electronic fishing report within the time period specified in paragraph (b)(2)(ii) of this section. The electronic fishing report must be submitted to the SRD via NMFS-approved hardware and software, as specified in paragraph (b)(5) of this section.

(B) *Headboats*. The owner or operator of a headboat for which a charter vessel/headboat permit for Atlantic coastal migratory pelagic fish has been issued, as required under § 622.370(b)(1), and whose vessel is operating as a headboat in state or Federal waters, must record all fish harvested and discarded, and any other information requested by the SRD for each trip in state or Federal waters, and submit an electronic fishing report within the time period specified in paragraph (b)(2)(ii) of this section. The electronic fishing report must be submitted to the SRD via NMFS-approved hardware and software, as specified in paragraph (b)(5) of this section.

(2) *Reporting deadlines--(i) Gulf of Mexico--(A)*

Charter vessels. Completed fishing records required by paragraph (b) (1) (i) (A) of this section for charter vessels must be submitted to the SRD weekly, postmarked no later than 7 days after the end of each week (Sunday).

Information to be reported is indicated on the form and its accompanying instructions.

(B) *Headboats.* Electronic fishing records required by paragraph (b) (1) (i) (B) of this section for headboats must be submitted at weekly intervals (or intervals shorter than a week if notified by the SRD) by 11:59 p.m., local time, the Sunday following a reporting week. If no fishing activity occurred during a reporting week, an electronic report so stating must be submitted for that reporting week by 11:59 p.m., local time, the Sunday following a reporting week.

(ii) *Atlantic.* Completed electronic fishing reports required by paragraph (b) (1) (ii) of this section must be submitted to the SRD by the Tuesday following each previous reporting week of Monday through Sunday, or at shorter intervals if notified by the SRD. If no fishing activity occurred during a reporting week, an electronic report so stating must be submitted by the Tuesday following that reporting week, or at a shorter interval if notified by the SRD.

(3) *Catastrophic conditions.* During catastrophic conditions only, NMFS provides for use of paper forms for basic required functions as a backup to the electronic reports required by paragraphs (b) (1) (i) and (ii) of this section. The RA will determine when catastrophic conditions exist, the duration of the catastrophic conditions, and which participants or geographic areas are deemed affected by the catastrophic conditions. The RA will provide timely notice to affected participants via publication of notification in the *Federal Register*, and other appropriate means such as fishery bulletins or NOAA weather radio, and will authorize the affected participants' use of paper-based components for the duration of the catastrophic conditions. The paper forms will be available from NMFS. During catastrophic conditions, the RA has the authority to waive or modify reporting time requirements.

(4) *Compliance requirement.* Electronic reports required by paragraphs (b) (1) (i) and (ii) of this section must be submitted and received by NMFS according to the reporting requirements under this section. A report not received within the applicable time specified in paragraphs (b) (2) (i) or (ii) is delinquent. A delinquent report automatically results in the owner and operator of a charter vessel or headboat for which a charter

vessel/headboat permit for Gulf or Atlantic coastal migratory pelagic fish has been issued, as required under § 622.370(b)(1), being prohibited from harvesting or possessing such species, regardless of any additional notification to the delinquent owner and operator by NMFS. The owner and operator who are prohibited from harvesting or possessing such species due to delinquent reports are authorized to harvest or possess such species only after all required and delinquent reports have been submitted and received by NMFS according to the reporting requirements under this section.

(5) *Hardware and software requirements for electronic reporting.* Owners and operators must submit electronic reports using NMFS-approved hardware and software. In the Gulf, the NMFS-approved hardware and software must have a minimum capability of archiving GPS locations.

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[FR Doc. 2018-06794 Filed: 4/3/2018 8:45 am; Publication Date: 4/4/2018]