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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 200127-0032]

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: Final rule.

SUMMARY: NMFS implements 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). This final rule establishes new, and revises existing, electronic reporting requirements for federally permitted charter vessels and headboats (for-hire vessels), respectively, in certain Atlantic fisheries. The purpose of this final 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: This final rule is effective on September 1, 2020.

ADDRESSES: Electronic copies of the For-hire Reporting Amendment may be obtained from *www.regulations.gov* or the Southeast Regional Office website at

https://www.fisheries.noaa.gov/southeast/southeast-electronic-reporting-technologies.

The For-hire Reporting Amendment includes an environmental assessment, regulatory impact review, Regulatory Flexibility Act analysis, and fishery impact statement.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted to Adam Bailey, NMFS Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701, or to the Office of Management and Budget (OMB) by email to *OIRA_Submission@omb.eop.gov* or by fax to 202-395-5806.

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

SUPPLEMENTARY INFORMATION: The For-hire Reporting Amendment amends 3 fishery management plans, and 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).

The CMP fishery in the Atlantic region is managed under the CMP FMP, an FMP jointly managed 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).

On March 14, 2018, NMFS published a notice of availability (NOA) for the For-hire Reporting Amendment and requested public comment (83 FR 11164). On April 4, 2018, NMFS published a proposed rule for the For-hire Reporting Amendment and requested public comment (83 FR 14400). On June 12, 2018, the Secretary of Commerce (Secretary) approved the For-hire Reporting Amendment under section 304(a)(3) of the Magnuson-Stevens Act. The proposed rule and the For-hire Reporting Amendment outline the rationale for the actions contained in this final rule. A summary of the management measures described in the For-hire Reporting Amendment and implemented by this final rule is provided below.

Management Measures Contained in this Final Rule

This final rule establishes weekly electronic reporting for owners or operators of federally permitted charter vessels and changes the electronic reporting deadline for owners and operators of federally permitted headboats in the previously described Atlantic fisheries managed by the Gulf Council and South Atlantic Council. Further in this preamble, for ease of comprehension an owner or operator of a charter vessel with a Federal permit for Atlantic CMP species, Atlantic dolphin and wahoo, or South Atlantic snapper-grouper is referred to as a “South Atlantic charter vessel permittee.”

Electronic Reporting by Federally Permitted Charter Vessels

The South Atlantic Council identified the need for increased data collection from federally permitted charter vessels, such as reporting landings and discards more frequently, compared to information that the Marine Recreational Information Program

(MRIP) survey currently provides. The South Atlantic Council determined that weekly electronic reporting by federally permitted charter vessels will allow data to become available for the science and management process more quickly while also improving data accuracy. This rule requires a South Atlantic charter vessel permittee to submit an electronic fishing report to NMFS weekly, or at intervals shorter than a week if notified by NMFS, regardless of where they were fishing, or what species were caught or harvested. A reporting week is Monday through Sunday, and a weekly electronic fishing report is required to be submitted using NMFS-approved hardware and software by the Tuesday following each reporting week, which is 2 days after the end of a reporting week.

Through this final rule, a South Atlantic charter vessel permittee is 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, computer-tablets (hereinafter referred to as “tablets”), and smartphones that allow for internet access and are capable of operating approved software. Hardware and software that meet the NMFS type-approval are posted on the NMFS Southeast Region website

<https://www.fisheries.noaa.gov/southeast/et>.

An electronic fishing report is required from a South Atlantic charter vessel permittee regardless of where fishing occurs, *e.g.*, state, Federal, or foreign waters, or which species are caught or harvested. If a charter vessel is not used to fish during a reporting week, submission of a “no-fishing” report is required by the Tuesday of the following week. As explained in the proposed rule, the NMFS Southeast Fisheries

Science Center (SEFSC), which operates and manages the Southeast Region Headboat Survey (SRHS), allows a headboat owner or operator to submit an advance no-fishing report for up to a 30-day period if the vessel will not be fishing during that time. The electronic reporting program implemented in this rule will also allow a South Atlantic charter vessel permittee to submit an advance no-fishing report for up to a 30-day period. A South Atlantic charter vessel permittee who fishes during the time period specified in a submitted no-fishing report, must report such fishing activities as required in this final rule.

The South Atlantic Council's intent is to reduce or eliminate duplicative reporting in certain circumstances for a South Atlantic charter vessel permittee who also holds a for-hire permit issued for a Federal fishery other than those covered in this rule (dually permitted fishermen). The South Atlantic Council explained that reports would be duplicative if a South Atlantic charter vessel permittee is subject to more stringent reporting requirements through another Federal permit, and the data reported under those requirements include the core data elements also required to be reported under the South Atlantic permits. Therefore, a South Atlantic charter vessel permittee who is also subject to electronic reporting requirements in other regions is required to comply with the Federal electronic reporting program that is more stringent, regardless of where they are fishing.

NMFS notes that the NMFS Greater Atlantic Regional Fisheries Office (GARFO) has implemented an electronic vessel trip report system for an owner and operator of a charter vessel or a party boat (headboat) issued a Federal for-hire permit for species managed by the Mid-Atlantic Fishery Management Council (Mid-Atlantic Council).

Those for-hire vessels must submit an electronic vessel trip report using software approved by GARFO within 48 hours of completing a for-hire fishing trip (82 FR 42610, September 11, 2017). While the reporting frequency is more stringent than is required in this final rule, the data elements required to be reported through the GARFO system are slightly different from those in the South Atlantic reporting program, and as such, the programs are not interchangeable and all requirements of both programs apply. However, to reduce multiple reporting and the burden on those fishermen who have been issued both a Federal for-hire permit for species managed by the Mid-Atlantic Council and a Federal for-hire permit for species managed by the South Atlantic Council, software approved by the Southeast Regional Office (SERO) will allow, but not require, fishermen with Federal for-hire permits in both the Mid-Atlantic and South Atlantic regions to submit one report within 48 hours of completing a for-hire fishing trip that will meet the requirements of both programs.

The Gulf Council also developed amendments to the CMP FMP and the FMP for Reef Fish Resources of the Gulf of Mexico to address for-hire electronic reporting. (Notice of availability published in the **Federal Register** on June 21, 2018, at 83 FR 28797; proposed rule published in the **Federal Register** on October 26, 2018, at 83 FR 54069, with the public comment period extended on November 20, 2018, at 83 FR 58522.) The Secretary approved the amendments under section 304(a)(3) of the Magnuson-Stevens Act on September 19, 2018, and NMFS is developing the final rule to implement the Gulf Council's for-hire reporting amendments. The Gulf Council's for-hire electronic reporting requirements are more stringent than the South Atlantic Council's requirements. For example, the Gulf for-hire electronic reporting program

would require a pre-trip notification to NMFS, vessel location information monitored by a global positioning system (GPS), and reporting after each trip prior to offloading catch, among other requirements. Therefore, 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 meet the reporting requirements under this rule if that owner or operator reports under the Gulf Council's more stringent for-hire electronic reporting program requirements. However, NMFS expects this final rule to implement the South Atlantic Council's reporting program will be effective prior to the final rule to implement the Gulf Council's for-hire electronic reporting program. Therefore, such dually-permitted owners or operators would be initially required to report under the South Atlantic Council's program, and then be required to change and report under the Gulf Council's reporting program upon the effective date of the Gulf Council's final rule. NMFS has determined that changing reporting programs in such a short period of time would create unnecessary disruption, confusion, and hardship for these dually-permitted owners and operators. Therefore, NMFS has determined that such owners or operators are not required to comply with the South Atlantic electronic reporting program until NMFS implements the Gulf electronic reporting program, regardless of where the for-hire trips occur. Once NMFS implements the Gulf for-hire electronic reporting program, which is expected to occur in 2020, such owners or operators will be required to comply with the South Atlantic Council's reporting program by reporting under the Gulf Council's electronic reporting program.

This rule also extends 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. Additionally, 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

To further improve the accuracy and timeliness of data reported through the SRHS, this final rule changes the reporting deadline for a federally permitted headboat owner or operator currently reporting through the SRHS to submit an electronic fishing report after the end of a reporting week. A headboat owner or operator issued a Federal charter vessel/headboat permit for the applicable Atlantic fisheries covered in this rule will continue to be required to submit an electronic fishing report for each trip at weekly intervals, or at intervals shorter than a week if notified by NMFS. However, this rule requires the electronic fishing reports to be submitted by the Tuesday following a reporting week that runs from Monday through Sunday, 2 days after the end of a reporting week. This rule makes the reporting deadline for headboats consistent with the reporting deadline for charter vessels.

Management Measures Contained in the For-hire Reporting Amendment but not Codified Through this Final 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 in the future as determined by NMFS in coordination with the South Atlantic Council.

The For-hire Reporting Amendment also requires a South Atlantic charter vessel permittee to report their locations fished by either entering 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 has been collected for headboats in the SRHS.

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

In addition to the measures described in the For-hire Reporting Amendment, this final rule corrects 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 that 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 cited in two other places in 50 CFR part 622. The name of the Dolphin Wahoo FMP as it appears 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 final rule corrects the inconsistency between the regulations and the original name of the Dolphin Wahoo FMP

and inserts “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 rule removes certain regulatory reporting requirements applicable to the owner or operator of a non-federally permitted charter vessel or headboat that does not fish in the exclusive economic zone (EEZ) but only harvests or possesses species from state waters adjoining the EEZ. As explained in the proposed rule, this rule removes those regulatory reporting requirements from 50 CFR 622.176(b)(1)(i) through (iii) (snapper-grouper species in the South Atlantic), 622.271(b)(1)(i) and (ii) (dolphin and wahoo in the Atlantic), and 622.374(b)(1) (coastal migratory pelagic species in the Atlantic). NMFS has determined that it does not have authority to request this information from non-federally permitted fishermen who do not fish in the EEZ. For the same reason, NMFS also removes this regulatory reporting requirement from 50 CFR 622.374(b)(1) for coastal migratory pelagic species in the Gulf. This is consistent with the revisions to § 622.374(b)(1) NMFS made in the proposed rule to implement the Gulf Council’s for-hire electronic reporting amendments to their FMPs (83 FR 54069, October 26, 2018).

Comments and Responses

NMFS received 72 comments during the public comment periods on the NOA and proposed rule for the For-hire Reporting Amendment. The majority of the comments were in support of the For-hire Reporting Amendment and proposed rule. NMFS acknowledges the comments in favor of all or part of the actions in the For-hire Reporting Amendment and the proposed rule, and agrees with them. Many of the supporting comments stated that more accurate and timely data from fishermen on charter

vessels and headboats will lead to better management of the for-hire component of the recreational sector and more sustainable fish populations. Some fishermen supported the electronic reporting requirement only if the data could be used to increase the accuracy of stock assessments and improve management decisions. Many comments in support of the For-hire Reporting Amendment and proposed rule recognized that the for-hire reporting requirements are a first step to improve data, and that adequate program compliance and validation of the data must follow. Sixteen comments were opposed to the proposed electronic reporting requirements. Comments that were beyond the scope of the proposed rule are not responded to in this final rule. In this final rule, NMFS made one change in response to public comment on the For-hire Reporting Amendment and the proposed rule. See the response to Comment 16 below. Comments specifically in opposition to all or some of the actions contained in the For-Hire Reporting Amendment and the proposed rule are summarized below, each followed by NMFS' respective responses.

Comment 1: The requirement of mandatory electronic reporting will be a burden to charter vessel fishermen. Species caught and discarded will be difficult to track and report when multiple customers are catching and releasing fish on a continuous basis during a trip. It will also be difficult to remember accurately what species were caught and discarded on a weekly basis.

Response: While implementation of this final rule will likely increase the time required for reporting fishing activities, the electronic reporting requirements implemented in this final rule are expected to improve management of the federally permitted for-hire component in the Atlantic through improved availability of relevant management information. Multiple years of side-by-side data collection through this

program and the MRIP survey are necessary before this program's data can be used for official catch estimates. NMFS will notify the South Atlantic Council if additional changes to the electronic reporting program are necessary. If certified by NMFS to replace the MRIP survey, NMFS expects these electronic reporting requirements to produce timelier, and more accurate and reliable information for managed fish species, and in particular species with low catches, small annual catch limits (ACLs), and those that are only rarely encountered by fishery participants.

To assist the owners and operators of for-hire vessels, NMFS and the South Atlantic Council have been holding outreach sessions to train those fishermen on the reporting requirements to help ensure compliance, and NMFS will continue with these outreach efforts. Although this final rule requires the reports weekly, fishermen may record or submit their electronic reports more often, and NMFS expects that recording trips before the deadline each week will become a common business practice. Electronic reporting may enable charter vessel owners and operators to store and access their trip-level information electronically, which may be helpful for other business purposes.

The electronic reporting program implemented by this final rule builds off the favorable results of the South Atlantic Council's pilot study on electronic reporting with for-hire fishermen in the South Atlantic, which tested the eTRIPS mobile application developed through the Atlantic Coastal Cooperative Statistics Program (ACCSP) and Harbor Light Software for use in U.S. northeast fisheries.

Comment 2: Weekly reporting does not provide charter vessel fishermen enough time to complete and submit their reports. The amount of time to transmit reports after a fishing week ends should be longer. Additionally, weather or business fluctuations can

prevent fishermen from being able to fish for long periods of time, yet the reporting program requires weekly reporting.

Response: The South Atlantic Council's goal in selecting weekly electronic reporting for federally permitted charter vessels is to improve recreational for-hire fishery data used for management, allow for better monitoring of landings and discards, and allow more accurate assessments of the impacts of regulations. The shorter reporting deadline is expected to reduce recall bias, and to make data available on a timelier basis. The South Atlantic Council determined that weekly reporting will make data available more quickly and could decrease the likelihood of harvest overages for species that have in-season closures.

NMFS estimates that it will take about 10 minutes per fishing trip and 2 minutes for a no-fishing report to be completed and submitted, including time to review instructions, search existing data sources, to gather and maintain necessary data, and to compile, review, and submit the required information. NMFS expects reporting time to decrease as familiarity with the software increases. If no fishing occurs for any reason, no-fishing reports are due by the Tuesday following the fishing week; submission of no-fishing reports will be allowed for up to 30 days in advance, the same as currently allowed for headboats in the SRHS. The requirement for mandatory, weekly reporting, including reporting when no fishing occurred, was recommended by the Gulf and South Atlantic Council's Technical Subcommittee to enhance data validation.

Comment 3: Requiring charter vessel fishermen to report information such as charter fees, gross profits, and fuel costs has nothing to do with fishing regulations and should not be included in this electronic reporting program. Asking vessel operators to

submit their financial information leads to a lack of program acceptance and trust among charter vessel participants. There are other methods available to collect this information such as website surveys, directly surveying permit holders, or simply asking these questions on a random basis rather than on a weekly basis.

Response: During the development of the For-hire Reporting Amendment, the South Atlantic Council determined that the collection of economic information was essential to the electronic reporting program. The collection of economic data from charter vessels will enhance the ability of the South Atlantic Council and NMFS to monitor and assess the economic effects of fishing regulations and environmental factors. This information will support the use of the best scientific information available for regulatory decision-making; will increase the accuracy of economic impacts and value estimates specific to the charter vessel component of the for-hire industry; and will support further research efforts and programs aimed at increasing net benefits to fishery stakeholders and the U.S. economy. Information reported by individuals and businesses will be confidential and protected in accordance with all applicable law.

Comment 4: Not all fishermen have access to a computer, smartphone, or tablet, nor do they all know how to use them. There should be an option for paper-based reporting or an option for reports that can be submitted via telephone.

Response: NMFS recognizes that there will be an economic cost for those individuals without a computer, tablet, smartphone, or internet access. However, these devices and services are essential to electronically transmit information to NMFS and fulfill the reporting program requirements. The use of computers and the internet has become commonplace and is a vital tool in business management and, according to the

Small Business Administration, in 2010, approximately 94 percent of businesses used computers and 95 percent of these had internet service.

The South Atlantic Council did not consider a paper or telephone call-based reporting system for the federally permitted charter sector, apart from catastrophic conditions discussed below. (Note that reports may be submitted using a smartphone application or “app” if compatible and approved software is available for use.) Compared to paper or telephone call-based reporting, electronic reporting is more efficient, timely, and cost-effective, and results in fewer transmission errors. The South Atlantic Council anticipates that electronic reporting will provide more timely data for use in fisheries management actions. Electronic-based fishery reporting programs have been developed and are used in the NMFS Southeast Region and in other regions with success. To assist charter vessel owners and operators with the transition to an electronic reporting program, NMFS will continue to provide in-person outreach sessions, webinars, and other resources to help fishermen comply with the requirements. Also, all of the approved reporting software will provide help-desk support to answer questions.

An option for paper-based reporting is only available under catastrophic conditions as determined by the NMFS Regional Administrator, such as after a hurricane. If the NMFS Regional Administrator determines that catastrophic conditions exist, NMFS would announce that to the fleet, and then may accept paper reporting forms and may modify or waive reporting requirements.

Comment 5: The electronic reporting program as described requires the collection of too much information. Fishermen should be required to only report the number of hooks in the water and the fish they caught. The electronic reporting requirements should

only apply to fishing in Federal waters and should not include reporting of trips taken in state waters.

Response: In the course of developing and implementing fishery management measures, the South Atlantic Council and NMFS are required to consider many factors in addition to the amount of fish harvested and fishing effort. The South Atlantic Council identified core data elements that for-hire fishermen would report through the program. These include information about the trip, including general location, catch and discard information, as well as limited economic variables. The collection of socio-economic data is expected to improve management, as discussed in the response to *Comment 3*.

This final rule requires a for-hire vessel owner or operator to report all species, regardless of where fishing occurs, to avoid data gaps in catch reporting and to mitigate issues with compliance and enforcement. This information will improve the effectiveness of future management by ensuring that events, such as changes in a species' geographic range, developing fisheries, or species not managed by the South Atlantic Council, would be captured in the data system. Given that recreational fishermen in the South Atlantic for-hire component routinely catch multiple species in both state and Federal waters on the same trip, omitting state water data could result in a significant loss of information necessary for management.

Comment 6: It is unclear how the data collected through this electronic reporting program will be incorporated into stock assessments and how it will reduce uncertainty in fisheries management.

Response: MRIP data are currently the NMFS official estimates of catch and effort that are used in stock assessments. Until NMFS certifies this new electronic

reporting program as statistically valid to replace MRIP, catch and effort from the for-hire component that would be used in stock assessments will continue to come from MRIP. In the short term, the information reported through the electronic reporting program will be used to validate minimum estimates of for-hire fishing effort for the for-hire survey conducted by MRIP. Multiple years of side-by-side comparisons of data collected by the new electronic reporting program and the MRIP survey will be needed before the electronic reporting program can be certified. Furthermore, the SEFSC has suggested that additional steps may be needed to improve the electronic reporting program before it can be certified. These steps could include a requirement for fishermen to inform NMFS when they are leaving on their trip (pre-trip notification) and to report their catch before it is off-loaded from their fishing vessel. Once certified, the data collected through this electronic reporting program would replace the MRIP survey used for official estimates of for-hire catch and effort that can be incorporated into stock assessments.

After certification, NMFS expects the electronic reporting program to facilitate timelier tracking of landings from federally permitted charter vessels, and to reduce uncertainty in the data since landings information would be collected from all federally permitted for-hire vessels, both charter vessels and headboats, rather than from only a portion of vessels. Currently, MRIP collects information from charter vessels randomly sampled through a survey rather than from every charter vessel. Having landings information from all federally permitted vessels under a certified program provides a better basis to prevent ACLs from being exceeded, and for improving information used in stock assessments. Direct, weekly electronic reporting by federally permitted charter

vessels provides an opportunity for monitoring catch over shorter time periods, reducing management uncertainty and fostering more precise and responsive management.

Comment 7: For vessels holding multiple Federal permits, a single electronic report of all fish caught and discarded should suffice for Mid-Atlantic, South Atlantic, Atlantic Highly Migratory Species (HMS), and Gulf reporting requirements. Reporting the same landings to multiple, different systems will result in double reporting and less data accuracy.

Response: This final rule requires South Atlantic charter vessel permittees subject to electronic reporting requirements in other regions to comply with the electronic reporting program that is more stringent, regardless of where they are fishing. A single Federal reporting option may apply between different programs, such as with a for-hire permittee in Mid-Atlantic and South Atlantic fisheries; however, in some cases fishermen may still need to submit separate reports to different programs.

As discussed previously, because the Gulf Council's for-hire reporting program is more stringent than that for the South Atlantic, an owner or operator of a charter vessel issued the applicable Federal charter vessel/headboat permits in both the Atlantic and in the Gulf will submit their report through the Gulf system, and will not be required to submit a separate report through the South Atlantic reporting system. In addition, such an owner or operator of a charter vessel would not be required to comply with the South Atlantic electronic reporting program until the Gulf electronic reporting program is implemented, regardless of where for-hire trips occur, and can then comply by reporting through the Gulf program.

The NMFS GARFO electronic vessel trip report system collects information from for-hire vessels every 48 hours, but it does not require reporting of the same information as required to be collected through the South Atlantic program. NMFS recognizes the need to reduce duplication and the potential for double counting fish, and has developed NMFS-approved software for use in the South Atlantic that will allow fishermen with Federal for-hire permits for both the Mid-Atlantic and South Atlantic fisheries to submit one report, which meets all the different requirements of both programs, within 48 hours of completing a for-hire fishing trip. However, reporting in this manner is not required, and fishermen with Federal for-hire permits for both the Mid-Atlantic and South Atlantic fisheries may report separately under each program if they choose.

The NMFS Atlantic HMS program also has its own electronic reporting requirements. However, the Atlantic HMS regulations only require reporting of certain species by an owner or operator of a federally permitted HMS charter vessel or headboat. HMS charter vessel/headboat permit holders are required to report any dead discards of bluefin tuna, and any landings of bluefin tuna, swordfish, or billfish within 24 hours of landing at the dock through a mobile application, by calling the dedicated tuna or billfish reporting telephone numbers, or by submitting a report at the website www.hmspermits.noaa.gov. At this time, fishery participants with both South Atlantic and HMS for-hire permits would be required to report bluefin tuna, swordfish, or billfish harvests both through the HMS reporting mechanisms (within 24 hours) and through the South Atlantic electronic reporting program (weekly). Other species of Atlantic HMS (*e.g.*, smooth dogfish shark) and any other species caught would only be reported through the South Atlantic reporting program, because this reporting program requires the

reporting of all species that are caught or harvested. The NMFS HMS program is actively exploring options for reporting efficiency with the other reporting programs including future electronic logbooks, which could be based on existing systems, or the inclusion of HMS data elements within preexisting systems.

Comment 8: Having different reporting requirements for charter vessels and headboats will cause a problem for those vessels that may operate as a charter vessel during one trip and a headboat vessel during another.

Response: NMFS disagrees, because a federally permitted vessel that operates as both a charter vessel and a headboat during separate trips will continue to report based on whether the vessel owner or operator currently reports to the SRHS. In other words, if an owner or operator of a for-hire vessel has already been reporting to the SRHS, they will continue to report to the SRHS, regardless if they operate as a charter vessel or headboat on separate trips. Conversely, if an owner or operator of a for-hire vessel has not already been reporting to the SRHS, then they will report according to the requirements of the new South Atlantic electronic reporting program set forth in this final rule.

The South Atlantic Council's intent throughout the development of the For-hire Reporting Amendment was for electronic reporting requirements to be as consistent as possible between charter vessels and headboats. Therefore, the required data elements in the new South Atlantic electronic reporting program will be as similar as possible to those already collected through the SRHS, and this final rule requires both charter vessels and headboats to report by 2 days following the end of a fishing week (*i.e.*, by Tuesday).

Comment 9: Electronic reporting should be designed to minimize the complexity of these reports and to be as efficient as possible.

Response: NMFS agrees with the comment. NMFS evaluated potential software applications for the electronic reporting program, and specified approved software applications, including eTRIPS online and eTRIPS mobile, which are products of the ACCSP used by partner organizations in the region. NMFS will continue to conduct in-person outreach sessions and webinars, and on-line resources will be available to help ensure understanding of the program and compliance, such as, how to file electronic reports using NMFS-approved software. All NMFS-approved software vendors for the South Atlantic electronic reporting program will have help-desk support. In addition, although this final rule requires electronic reports to be submitted weekly, fishermen may submit their electronic reports more frequently.

Comment 10: The electronic reporting requirements for federally permitted for-hire vessels in the For-hire Reporting Amendment are a first step to a limited entry permit program, sector separation, or a catch share program, none of which are needed in the South Atlantic.

Response: NMFS disagrees that this final rule is intended to be a first step towards a limited entry permit program, sector separation, or a catch share program in the South Atlantic. As previously discussed in the response to *Comment 1*, the electronic reporting program implemented by this final rule is designed to collect better fishery management data from South Atlantic federally permitted for-hire owners and operators.

Comment 11: It is unclear how NMFS will protect data that are being reporting to them.

Response: NMFS will protect this data in accordance with applicable law. For example, under section 402(b)(1) of the Magnuson-Stevens Act, the data submitted to

NMFS under the For-hire Reporting Amendment shall be confidential and shall not be disclosed, except under limited circumstances, as provided for in section 402(b) of the Magnuson-Stevens Act. Additionally, all data reported through the electronic reporting program will be collected through software that meets standards set out by NMFS, including data confidentiality and protection of personal information online, and will be treated as confidential in accordance with NOAA Administrative Order 216-100, Protection of Confidential Fisheries Statistics. The release of data in aggregate or summary form that does not directly or indirectly disclose the identity or business of any person who submits the information is a circumstance authorized under section 402(b)(3) of the Magnuson-Stevens Act.

Comment 12: The census approach to data collection is unworkable and does not provide data usable in fisheries management. The electronic reporting program needs to be enhanced to provide a reliable and usable tool for management. The electronic reporting program should include pre and post-trip notification requirements, and an education plan for charter captains to explain the value of participation and compliance.

Response: The South Atlantic Council considers the data collection program implemented by this final rule to be a first step towards better data collection in the federally permitted for-hire component of the recreational sector, and expects the electronic reporting program to provide data that can be used for effort validation and economic analysis. The South Atlantic Council intends to improve federally permitted charter vessel reporting, while requiring the collection of data similar to what the SRHS already collects. NMFS acknowledges that future modifications to the South Atlantic electronic reporting program, such as incorporating a pre-trip notification requirement

and a requirement to report catch before off-loading from a vessel, may enhance the survey design, increase the robustness of catch estimates, and improve validation, which could decrease the overall cost of the program. However, the South Atlantic Council did not include such measures in the electronic reporting program or in the recommended core data elements. In addition, as stated in the response to *Comment 9*, NMFS will continue to hold in-person outreach sessions and webinars, and on-line resources will be available to help ensure understanding of the program and compliance.

Comment 13: Discard data, including the amount, a detailed disposition of discarded fish, and whether fish were vented or released to depth with a descending device, should be collected through this electronic reporting program. Refined disposition information of discarded fish can help fine-tune discard mortality estimates by quantifying what happened to fish upon their release.

Response: During the development of the For-hire Reporting Amendment, the South Atlantic Council identified core data elements that would be required to be reported through the program. These include information about the trip, including general location, catch and discard information, as well as limited economic variables. The specific discard information identified in the comment were not included as core data elements, and the SEFSC does not recommend the collection of discard disposition, because assessment of the condition of a released fish varies among fishermen and the mortality of a discarded fish is rarely instantaneous. However, NMFS, in coordination with the South Atlantic Council, may consider modifying the list of data elements in the future.

Comment 14: The for-hire reporting program recommended by the Gulf Council was inaccurately summarized in the proposed rule for the South Atlantic for-hire reporting program. The proposed rule incorrectly stated that the Gulf for-hire reporting program would require location information monitored by a vessel monitoring system (VMS), among other requirements. The Gulf for-hire reporting program would provide flexibility for other NMFS-approved electronic devices to be used to monitor location information.

Response: NMFS agrees that the proposed rule described some of the measures recommended for the Gulf in error, and NMFS became aware of this after the proposed rule for the South Atlantic for-hire reporting program published in the **Federal Register**. The Gulf for-hire reporting program as recommended by the Gulf Council would require NMFS-approved hardware and software with GPS capabilities that, at a minimum, archive vessel position data during a trip for subsequent transmission to NMFS. NMFS-approved hardware could include VMS, and owners and operators of vessels already equipped with VMS may elect to utilize it if the VMS unit is approved for use in the Gulf electronic reporting program. However, NMFS anticipates approving other devices that may be used to meet the requirements of the Gulf electronic reporting program.

Comment 15: Implementation and evaluation of the electronic reporting program will be necessary before the new information can be used to support management decisions. This will require additional funds to support more staff time and improvements to data collection platforms. NMFS should carefully balance the need for funding of new electronic reporting programs, while ensuring that adequate financial and human resources continue to be allocated for managing South Atlantic fish populations that

reflect the economic and ecological value of the region's diverse ecosystems and coastal communities.

Response: NMFS agrees that the electronic reporting program should be evaluated after it is implemented to make sure it properly supports management decisions. As noted in the response to *Comment 1*, additional steps will be required before the data collected through this program can replace the MRIP survey and be used for official estimates of for-hire catch and effort. NMFS expects that the certification process through MRIP will not begin until the data collected through this program can be independently validated, and validation will require funding. NMFS strives to meet all of the mandates under the Magnuson-Stevens Act, and finds the need for more timely and improved management data to be obtained through the electronic reporting program in balance and consistent with the management needs of South Atlantic fisheries.

Comment 16: The proposed regulations did not codify the intent to reduce duplicative reporting, but it could be used for enforcement purposes and will have to be changed if the Gulf Council changes their reporting requirements. The regulations for the South Atlantic and Gulf electronic reporting programs should be effective on the same day to avoid confusion and promote compliance.

Response: NMFS has determined that codifying measures to address the duplicative reporting circumstances discussed in the For-hire Reporting Amendment and proposed rule is appropriate and NMFS has added it to this final rule. If the Gulf Council changes its for-hire reporting requirements, NMFS and the South Atlantic Council will review the revised Gulf requirements and determine if changes are needed to the regulations for the applicable Atlantic fisheries. In addition, approximately 373 charter

vessels have been issued both a Federal permit in the South Atlantic and in the Gulf, and will be subject to the reporting requirements in the South Atlantic and in the Gulf. As explained earlier in this final rule, NMFS has determined that initially requiring dually permitted Gulf and South Atlantic for-hire vessel owners and operators to report under the South Atlantic electronic reporting program, and then change and report under the Gulf electronic reporting program upon implementation of the Gulf program in such a short period of time would create unnecessary disruption, confusion, and hardship. Therefore, NMFS has determined that because the final rules to implement the two reporting programs will not be effective on the same date, such dually permitted owners or operators are not required to comply with the South Atlantic electronic reporting program until NMFS implements the Gulf electronic reporting program, regardless of where for-hire trips occur.

Changes From the Proposed Rule

This final rule clarifies a sentence in the preamble to the proposed rule on page 14403 in the left column that stated 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 (83 FR 14400, April 4, 2018). As correctly stated earlier in this final rule, an owner or operator of a federally permitted headboat in both the Atlantic and the Gulf, who currently reports to the SRHS, is required to comply with the electronic reporting requirements in effect based on the permits issued to the vessel regardless of where they were fishing. Because the Gulf Council's for-hire reporting amendments require trip-level reporting prior to offloading fish from the vessel,

among other requirements, the Gulf electronic reporting program would be more restrictive, and fishermen on such vessels would be required to report to standards of the Gulf electronic reporting program. NMFS did not change the regulatory language in the proposed rule as a result of this clarification.

In an effort to reduce multiple reporting, NMFS-approved software for the South Atlantic Council-managed fisheries will allow, but not require, fishermen with Federal for-hire permits in both the Mid-Atlantic and South Atlantic to submit one report within 48 hours of completing a for-hire fishing trip that will meet the reporting requirements of both the Mid-Atlantic and South Atlantic programs. The preamble to the proposed rule stated, on page 14402 in the right hand column, that because the program implemented by GARFO is more stringent, permit holders with both GARFO and South Atlantic permits would be required to report to the GARFO reporting program. This is incorrect. While the GARFO requirements are more stringent on the timing of the reports, the South Atlantic program requires more data elements to be reported.

Further, in the preamble to the proposed rule on page 14403 in the left and center columns that explained if NMFS approves the South Atlantic For-hire Reporting Amendment and implements the 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 South 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 such permits would be required to comply with the Gulf

electronic reporting program.

NMFS has determined that a charter vessel owner or operator issued the applicable Federal charter vessel/headboat permits in both the Atlantic and in the Gulf will not be required to comply with the South Atlantic electronic reporting program implemented through this final rule until the date on which the Gulf electronic reporting program is implemented. Those owners and operators must then comply with the South Atlantic Council's reporting program by reporting under the Gulf Council's electronic reporting program. This is necessary to avoid confusion between the South Atlantic and proposed Gulf requirements, reduce the administrative burden on the agency, and eliminate an unnecessary economic burden on the fishermen holding both South Atlantic and Gulf permits.

Changes to Regulatory Text From the Proposed Rule

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 must submit an electronic fishing report regardless of where they were fishing, *i.e.*, not only if fishing occurs in state or Federal waters. The modifications to §§ 622.176(b)(1), 622.271(b)(1), and 622.374(b)(1)(ii) more accurately reflect the applicability of reporting under this final rule. Additionally, in response to a comment on the implementation of the Gulf and South Atlantic electronic reporting programs, NMFS has determined that it is appropriate to codify the circumstance discussed earlier regarding avoiding duplicate reporting requirements if a federally permitted vessel is subject to more stringent reporting requirements through another Federal permit. NMFS has added language to the codified text in this final rule to explain that situation and

references the NMFS SERO website for additional information on more stringent reporting requirements. NMFS discussed avoiding duplicate reporting requirements in the preamble to the proposed rule on page 14402 in the right hand column and has determined that adding it to the codified text will help clarify the reporting requirements.

NMFS revised language in §§ 622.176(b)(4), 622.271(b)(4), and 622.374(b)(4) to clarify the consequences of not complying with the reporting requirements.

In addition, reference to the NMFS SERO website was added to §§ 622.176(b)(5), 622.271(b)(5), and 622.374(b)(5) for additional information on approved hardware and software, and NMFS also modifies the language in § 622.374(b)(5), to remove a sentence referencing NMFS-approved hardware and software requirements in the Gulf that is inapplicable to the electronic reporting program in the South Atlantic and that is implemented by this final rule.

Finally, this final rule removes certain regulatory reporting requirements in the section 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 Gulf CMP species from state waters adjoining the Gulf EEZ. As stated earlier in this final rule, NMFS proposed to remove this language in the proposed rule for the Gulf electronic reporting program. However, for consistency with changes to requirements for Atlantic CMP species in this final rule, NMFS also removes the regulatory requirements stated in this paragraph from 50 CFR 622.374(b)(1)(i)(A) and (B). These reporting requirements were implemented early in the management of these species, and NMFS is not currently collecting this information. NMFS has determined

that it does not now have the regulatory authority under the FMPs affected by this final rule to request this information.

Classification

The Regional Administrator for the NMFS Southeast Region has determined that this final rule is consistent with the For-hire Reporting Amendment, the respective FMPs, the Magnuson-Stevens Act, and other applicable laws.

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

The Magnuson-Stevens Act provides the statutory basis for this final rule. No duplicative, overlapping, or conflicting Federal rules have been identified. A description of this final rule, why it is being implemented, and the purposes of this final rule are contained in the **SUMMARY** and **SUPPLEMENTARY INFORMATION** sections of this preamble.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) during the proposed rule stage that this final rule would 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.

On July 18, 2019, the SBA issued an interim final rule (84 FR 34261) effective August 19, 2019, that adjusted the monetary-based industry size standards (*i.e.*, receipts- and assets-based) for inflation for many industries. For fisheries, for-hire businesses, and marinas, the rule changes the small business size standard from \$7.5 million in annual

gross receipts to \$8 million. *See* 84 FR at 34273 (adjusting NAICS 487210 (Scenic and Sightseeing Transportation, Water) and 713930 (Marinas)).

Pursuant to the Regulatory Flexibility Act, and prior to SBA's July 18, 2019, interim final rule, a certification was developed for this action using SBA's former size standards. NMFS has reviewed the analyses prepared for this final rule in light of the new size standards. Under the former SBA size standards, all entities subject to this action were considered small entities, and they all would continue to be considered small under the new standards. NMFS has determined that the new size standards do not affect analyses prepared for this final rule. The economic effects discussed in the factual basis for the certification determination, as published in the proposed rule, remain unchanged.

Public comments relating to socio-economic implications and potential impacts on small businesses are addressed in the responses to *Comment 1 through Comment 4* in the **Comments and Responses** section of this final rule. No comments were received 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 was prepared.

This final rule contains collection-of-information requirements that have been submitted for approval to OMB under the Paperwork Reduction Act (PRA), Control Number 0648-0016, Southeast Region Logbook Family of Forms. Public reporting burden for compliance with a weekly electronic fishing report is estimated to average 10 minutes per trip and 2 minutes for a no-fishing report, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection information.

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 or <https://www.reginfo.gov/public/do/PRASearch#>.

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: February 10, 2020.

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 622 is 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, remove the Table 1 entry for “FMP for the Dolphin and Wahoo Fishery off the Atlantic States” and add in its place the entry “FMP for the Dolphin and Wahoo Fishery of the Atlantic” 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, must record all fish harvested and discarded, and any other information requested by the SRD for each trip, 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. If the owner or operator subject to this paragraph (b)(1)(i) has been issued a Federal permit that requires more restrictive reporting requirements, as determined by NMFS and posted on the NMFS Southeast Region website, reporting under those more restrictive regulations will meet the requirements of this paragraph (b)(1)(i).

(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)(i) of this section is required for permit renewal.

(2) *Reporting deadlines for charter vessels and headboats.* (i) 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 as a charter vessel or headboat 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 modify or waive 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 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 automatically, with no additional requirement for NMFS to provide notice to the owner and operator of their delinquency. 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 as posted on the NMFS Southeast Region website.

* * * * *

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, must record all fish harvested and discarded, and any other information requested by the SRD for each trip, 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. If the owner or operator subject to this paragraph (b)(1)(i) has been issued a Federal permit that requires more restrictive reporting requirements, as determined by NMFS and posted on the NMFS Southeast Region website, reporting under those more restrictive regulations will meet the requirements of this paragraph (b)(1)(i).

(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 as a charter vessel or headboat 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 paragraph (b)(1) 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 requirements.* Electronic reports required by paragraph (b)(1) 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 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 automatically, with no additional requirement for NMFS to provide notice to the owner and operator of their delinquency. 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 as posted on the NMFS Southeast Region website.

* * * * *

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 requirements--(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), 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), 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, must record all fish harvested and discarded, and any other information requested by the SRD for each trip, 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. If the owner or operator subject to this paragraph (b)(1)(ii)(A) has been issued a Federal permit that requires more restrictive reporting requirements, as determined by NMFS and posted on the NMFS Southeast Region website, reporting under those more restrictive regulations will meet the requirements of this paragraph (b)(1)(ii)(A).

(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 as a charter vessel or headboat 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)(B) and (b)(1)(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 requirements.* Electronic reports required by paragraphs (b)(1)(i)(B) and (b)(1)(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)(B) or (b)(2)(ii) of this section is delinquent. A delinquent report 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 automatically, with no additional requirement for NMFS to provide notice to the owner and operator of their delinquency. 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.* An owner or operator of a vessel for which a charter vessel/headboat permit for Atlantic coastal migratory pelagic fish has been issued must submit electronic reports using NMFS-approved hardware and software as posted on the NMFS Southeast Region website.

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