



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 201103-0287]

RIN 0648-BI15

Magnuson-Stevens Fishery Conservation and Management Act Provisions;

Fisheries of the Northeastern United States

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

ACTION: Final rule.

SUMMARY: This rule announces the approval of, and regulations to implement, an action to require commercially permitted vessels in both the New England and Mid-Atlantic Fishery Management Council regions to submit vessel trip reports electronically within 48 hours of the end of a trip. This action will also require for-hire vessels with permits for species managed by the New England Fishery Management Council to submit vessel trip reports electronically within 48 hours of the end of a trip. Document retention requirements will be removed with this action. This action is intended to increase data quality and timeliness of vessel trip reports.

DATES: This rule is effective [*INSERT DATE 365 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER*].

ADDRESSES: Copies of the Joint Omnibus Electronic Vessel Trip Reporting Framework Adjustment prepared by the Mid-Atlantic and New England Fishery Management Council in support of this action are available from Dr. Christopher Moore, Executive Director, Mid-Atlantic Fishery Management Council, 800 North Street, Suite 201, Dover, DE 19901. The supporting documents are also accessible via the Internet at:

<https://www.mafmc.org/actions/commercial-evtr-framework>,

<https://www.nefmc.org/library/omnibus-commercial-evtr-framework>, or

<http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Moira Kelly, Senior Fishery Program Specialist, phone: 978-281-9218; e-mail: Moira.Kelly@noaa.gov.

SUPPLEMENTARY INFORMATION: Currently, commercial vessels are required to submit vessel trip reports (VTR) either on paper or electronically following each trip. Several fishery management plans require weekly submission of commercial vessel trip reports; others require monthly submission. Vessels issued a for-hire permit for a Mid-Atlantic Council fishery are required to submit vessel trip reports electronically within 48 hours of the end of a fishing trip (September 11, 2017; 82 FR 42610). Vessels issued a for-hire permit for a New England Council fishery are subject to the same requirements as that FMP's commercial permit.

A detailed summary of the development of this action can be found in the supporting documentation (see **ADDRESSES**) and the proposed rule (July 17, 2020; 85 FR 43528).

Approved Measures

With this action, vessels issued a commercial or for-hire permit for all Mid-Atlantic and New England Council-managed fisheries will be required to submit vessel trip reports electronically within 48 hours of the end of a fishing trip. This action is applicable to all commercial and for-hire permits issued pursuant to the following Fishery Management Plans: Atlantic Herring; Atlantic Mackerel, Squid, Butterfish; Northeast Multispecies; Surfclam and Ocean Quahog; Atlantic Bluefish; Atlantic Deep-Sea Red Crab; Atlantic Sea Scallop; Summer Flounder, Scup, Black Sea Bass; Monkfish; Northeast Skate Complex; Spiny Dogfish; and Tilefish. This requirement does not apply

to vessels issued *only* a Federal lobster permit or to federally permitted private recreational tilefish vessels (July 16, 2020; 85 FR 43149).

In addition to the method and submission timeframe changes, document retention requirements that are no longer necessary with electronic reporting will be removed. Specifically, the requirement to retain copies of the previously submitted vessel trip reports on board the vessel will no longer be applicable. Owners will have access to trip reports submitted electronically on the device from which they were submitted and on the Fish Online website.

There are no other changes to the vessel trip reporting requirements, including the requirement that vessel operators are obligated to fill out the vessel trip report with all information ascertainable prior to entering port.

Implementation

Electronic Vessel Trip Reporting Systems

There are several applications available to vessel owners for electronic vessel trip reporting. Information about approved application platforms are available on our website (<https://www.fisheries.noaa.gov/new-england-mid-atlantic/resources-fishing/vessel-trip-reporting-greater-atlantic-region#electronic-vessel-trip-reporting>). Vessel owners and operators should determine which application is appropriate for their vessel and operations.

Training and Implementation Timing

In order to ensure adequate time for all vessel owners to transition to electronic vessel trip reporting systems, there will be several training opportunities available prior to the delayed implementation date (see DATES). Training opportunities and recordings will be available on the Mid-Atlantic Council's website (<https://www.mafmc.org/commercial-evtr>).

Comments and Responses

Four comments were received during the public comment period. One comment was unrelated to the proposed action and is not considered further.

Comment: Two comments were received from for-hire vessel operators in the mid-Atlantic suggesting that 48 hours was an insufficient amount of time for operators to submit vessel trip reports following the end of a trip. In addition, these comments suggested that the reports were redundant, difficult to fill out, and that filling out the report at sea was unsafe.

Response: For-hire vessel operators with Mid-Atlantic Council-managed permits have been required to submit vessel trip reports electronically within 48 hours of the end of a trip since March 2018. Since then, the majority of these reports (70 percent) have been submitted within 1 day, with nearly 80 percent of reports submitted within the required 48 hours. The requirement to have vessel trip reports filled out with all information that is ascertainable prior to entering port is a long-standing requirement and is not being changed in this action. Finally, many of the electronic reporting applications use favorites, frequently used responses, auto-population, and drop-down features to streamline reporting and minimize the number of fields that need to be individually key-punched. Vessel operators should review all available applications to determine which is easiest for them to use.

Comment: A comment was received from the Atlantic Offshore Lobstermen's Association supporting the shift to electronic reporting and encouraging ample outreach and training opportunities prior to the rule becoming effective. The Association also recommends that electronic reporting should not require expensive software or additional hardware that vessel owners are required to obtain.

Response: As noted above, we intend to offer many training opportunities and have delayed implementation of the requirements until [INSERT DATE 365 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. In addition, most

approved electronic reporting applications can be used on a mobile phone or a variety of tablets (both iOS and Android options are available). As such, vessel owners will likely be able to download their desired application onto a device that they already own.

Classification

NMFS is issuing this rule pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, which provides specific authority for implementing this action. Section 304(b)(1)(A) authorizes NMFS to issue regulations to implement approved Council recommendations. NMFS is extending the requirements of this action to vessels issued for-hire permits for New England Council fisheries pursuant to 305(d) of the Magnuson-Stevens Act. This action is necessary to carry out the intention of the Councils to make reporting requirements across all fishery management plans and sectors consistent and to minimize confusion among industry stakeholders. The NMFS Assistant Administrator has determined that this final rule is consistent with the Joint Omnibus Electronic Vessel Trip Reporting Framework Adjustment; the Fishery Management Plans for (1) Atlantic herring, (2) Mackerel, Squid, Butterfish, (3) Northeast Multispecies, (4) Surfclam and Ocean Quahog, (5) Atlantic Bluefish, (6) Atlantic Deep-Sea Red Crab, (7) Atlantic Sea Scallop, (8) Summer Flounder, Scup, Black Sea Bass, (9) Monkfish, (10) Northeast Skate Complex, (11) Spiny Dogfish, and (12) Tilefish; other provisions of the Magnuson-Stevens Act; and other applicable law.

This final rule has been determined to be not significant for purposes of Executive Order (E.O.) 12866. This final rule is considered an Executive Order 13771 deregulatory action.

This proposed rule does not contain policies with Federalism or takings implications as those terms are defined in E.O. 13132 and E.O. 12630, respectively.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed

rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

This final rule does not contain a change to a collection of information requirement for purposes of the Paperwork Reduction Act of 1995. The existing collection of information requirements would continue to apply under the following OMB Control Number(s): 0648-0202, Greater Atlantic Region Permit Family of Forms.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping, and reporting requirements.

Dated: November 3, 2020.

Samuel D. Rauch III,
Deputy Assistant Administrator for Regulatory Programs,
National Marine Fisheries Service.

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

PART 648--FISHERIES OF THE NORTHEASTERN UNITED STATES

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

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

2. In § 648.7, revise paragraphs (b)(1), (c), and (d), remove and reserve paragraph (e)(2), and revise paragraph (f)(2) to read as follows:

§ 648.7 Recordkeeping and reporting requirements.

* * * * *

(b) * * *

(1) *Fishing Vessel Trip Reports*. The owner or operator of any vessel issued a valid permit, or eligible to renew a limited access permit under this part must maintain on board the vessel, and submit, an accurate fishing log report for each fishing trip, regardless of species fished for or taken, by electronic means. This report must be entered into and submitted through a software application approved by NMFS. The reporting requirements specified in paragraph (b)(1)(i) of this section for an owner or operator of a vessel fishing for, possessing, or landing Atlantic chub mackerel are effective through December 31, 2020.

(i) *Vessel owners or operators*. With the exception of those vessel owners or operators fishing under a surfclam or ocean quahog permit, at least the following information as applicable and any other information required by the Regional Administrator must be provided:

(A) Vessel name;

(B) USCG documentation number (or state registration number, if undocumented);

(C) Permit number;

(D) Date/time sailed;

(E) Date/time landed;

(F) Trip type;

(G) Number of crew;

(H) Number of anglers (if a charter or party boat);

(I) Gear fished;

(J) Quantity and size of gear;

(K) Mesh/ring size;

(L) Chart area fished;

(M) Average depth;

(N) Latitude/longitude;

(O) Total hauls per area fished;

(P) Average tow time duration;

(Q) Hail weight, in pounds (or count of individual fish, if a party or charter vessel), by species, of all species, or parts of species, such as monkfish livers, landed or discarded; and, in the case of skate discards, “small” (*i.e.*, less than 23 inches (58.42 cm), total length) or “large” (*i.e.*, 23 inches (58.42 cm) or greater, total length) skates;

(R) Dealer permit number;

(S) Dealer name;

(T) Date sold, port and state landed; and

(U) Vessel operator's name, signature, and operator's permit number (if applicable).

(ii) *Atlantic mackerel owners or operators.* The owner or operator of a vessel issued a limited access Atlantic mackerel permit must report catch (retained and discarded) of Atlantic mackerel daily via VMS, unless exempted by the Regional Administrator. The report must include at least the following information, and any other information required by the Regional Administrator: Fishing Vessel Trip Report serial number; month, day, and year Atlantic mackerel was caught; total pounds of Atlantic mackerel retained and total pounds of all fish retained. Daily Atlantic mackerel VMS catch reports must be submitted in 24-hr intervals for each day and must be submitted by 0900 hr on the following day. Reports are required even if Atlantic mackerel caught that day have not yet been landed. This report does not exempt the owner or operator from other applicable reporting requirements of this section.

(iii) *Surfclam and Ocean Quahog owners or operators.* The owner or operator of any vessel conducting any surfclam and ocean quahog fishing operations must provide at

least the following information and any other information required by the Regional Administrator:

- (A) Name and permit number of the vessel;
- (B) Total amount in bushels of each species taken;
- (C) Date(s) caught;
- (D) Time at sea;
- (E) Duration of fishing time;
- (F) Locality fished;
- (G) Crew size;
- (H) Crew share by percentage;
- (I) Landing port;
- (J) Date sold;
- (K) Price per bushel;
- (L) Buyer;
- (M) Tag numbers from cages used;
- (N) Quantity of surfclams and ocean quahogs discarded; and
- (O) Allocation permit number.

(iv) *Private tilefish recreational vessel owners and operators.* The owner or operator of any fishing vessel that holds a Federal private recreational tilefish permit, must report for each recreational trip fishing for or retaining blueline or golden tilefish in the Tilefish Management Unit. The required Vessel Trip Report must be submitted by electronic means. This report must be submitted through a NMFS-approved electronic reporting system within 24 hours of the trip returning to port. The vessel operator may keep paper records while onboard and upload the data after landing. The report must contain the following information:

- (A) Vessel name;

- (B) USCG documentation number (or state registration number, if undocumented);
- (C) Permit number;
- (D) Date/time sailed;
- (E) Date/time landed;
- (F) Trip type;
- (G) Number of anglers;
- (H) Species;
- (I) Gear fished;
- (J) Quantity and size of gear;
- (K) Soak time;
- (L) Depth;
- (M) Chart Area;
- (N) Latitude/longitude where fishing occurred;
- (O) Count of individual golden and blueline tilefish landed or discarded; and
- (P) Port and state landed.

* * * * *

(c) *When to fill out a vessel trip report.* Vessel trip reports required by paragraph (b)(1)(i) of this section must be filled out with all required information, except for information not yet ascertainable, prior to entering port. Information that may be considered unascertainable prior to entering port includes dealer name, dealer permit number, and date sold. Vessel trip reports must be completed as soon as the information becomes available. Vessel trip reports required by paragraph (b)(1)(iii) of this section must be filled out before landing any surfclams or ocean quahogs.

(d) *Inspection.* Upon the request of an authorized officer or an employee of NMFS designated by the Regional Administrator to make such inspections, all persons

required to submit reports under this part must make immediately available for inspection reports, and all records upon which those reports are or will be based, that are required to be submitted or kept under this part.

* * * * *

(f) * * *

(2) *Fishing vessel trip reports--(i) Timing requirements.* For any vessel issued a valid commercial or charter/party permit, or eligible to renew a limited access permit under this part, fishing vessel trip reports, required by paragraph (b)(1) of this section, must be submitted within 48 hours at the conclusion of a trip.

(ii) *Commercial trips.* For the purposes of paragraph (f)(2) of this section, the date when fish are offloaded from a commercial vessel will establish the conclusion of a commercial trip.

(iii) *Charter/party trips.* For the purposes of paragraph (f)(2) of this section, the date a charter/party vessel enters port will establish the conclusion of a for-hire trip.

(iv) *Private recreational tilefish trips.* Private recreational tilefish electronic log reports, required by paragraph (b)(1)(iv) of this section, must be submitted within 24 hours after entering port at the conclusion of a trip.

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