



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 210907-0179]

RIN 0648-BH72

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

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

ACTION: Final rule; effective date.

SUMMARY: NMFS announces the effective date for previously approved vessel location tracking requirements applicable to an owner or operator of charter vessel or headboat for which NMFS has issued a valid Federal charter vessel/headboat permit for federally managed reef fish or coastal migratory pelagic (CMP) species in the Gulf of Mexico (Gulf). The purpose of this final rule is to announce the effective date for vessel location tracking requirements for reef fish and CMP in the Gulf that NMFS previously delayed indefinitely on July 21, 2020.

DATES: The effective date for amendments to §§ 622.26(b) (5) and 622.374(b) (5) (ii) through (v), published July 21, 2020 (85 FR 44005), is December 13, 2021.

ADDRESSES: Electronic copies of the Gulf For-hire Reporting Amendment may be obtained from *www.regulations.gov* or the Southeast Regional Office website at *https://www.fisheries.noaa.gov/southeast/et*.

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

The final rule that published on July 21, 2020 (85 FR 44005), and other related rulemaking documents, may be obtained from *www.regulations.gov*, by searching "RIN 0648-BH72."

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted at any time by email to Adam Bailey, NMFS Southeast Regional Office, *adam.bailey@noaa.gov*, or to *www.reginfo.gov/public/do/PRAMain*.

FOR FURTHER INFORMATION CONTACT: Rich Malinowski, NMFS Southeast Regional Office, telephone: 727-824-5305, or email: *rich.malinowski@noaa.gov*.

SUPPLEMENTARY INFORMATION: This final rule is based on the Gulf For-hire Reporting Amendment, which includes amendments to the Fishery Management Plans (FMPs) for Reef Fish Resources of the Gulf of Mexico (Reef Fish FMP) and the Coastal Migratory Pelagic (CMP) Resources of the Gulf

of Mexico and Atlantic Region (CMP FMP). The CMP fishery in the Gulf is managed under the CMP FMP, an FMP jointly developed by the Gulf of Mexico Fishery Management Council (Gulf Council) and the South Atlantic Fishery Management Council (South Atlantic Council). The Gulf reef fish fishery is managed under the Reef Fish FMP, which is developed by the Gulf Council. 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 July 21, 2020, NMFS published the final rule to implement the Gulf For-hire Reporting Amendment (85 FR 44005). That final rule summarized the management measures described in the Gulf For-hire Reporting Amendment and implemented by NMFS. However, the July 21, 2020, final rule delayed indefinitely the effectiveness of vessel location tracking requirements in 50 CFR 622.26(b)(5) and 622.374(b)(5)(ii) through (v). That final rule stated that NMFS would announce the effective date for those provisions in a subsequent document published in the **Federal Register**.

NMFS delayed the location tracking requirements that apply to a charter vessel or headboat (for-hire vessel) in the Gulf reef fish and Gulf CMP fisheries to allow more time to evaluate and approve hardware and software for use in the Gulf for-hire reporting program. The NMFS Southeast Regional Office posts all approved vessel location tracking

hardware and software for the Gulf for-hire reporting program, including vessel monitoring system (VMS) units approved by the NMFS Office of Law Enforcement (OLE), on the website for the Gulf for-hire reporting program, <https://www.fisheries.noaa.gov/southeast/et>.

This final rule announces the effective date for requirements applicable to an owner or operator of a vessel with a Federal charter vessel/headboat permit for Gulf reef fish or Gulf CMP species (hereafter referred to as a Gulf for-hire vessel owner or operator). On and after December 13, 2021, a Gulf for-hire vessel owner or operator must comply with vessel location tracking requirements in 50 CFR 622.26(b)(5) and 622.374(b)(5)(ii) through (v). NMFS expects that the time between the publication date and effective date of this final rule (see **DATES** section) will allow affected fishery participants to purchase and install approved hardware and software. NMFS also reminds Gulf for-hire vessel owners and operators that they must comply with all of the other requirements of the Gulf for-hire reporting program that are currently in effect.

Upon the effective date in this final rule, a Gulf for-hire vessel must have NMFS-approved hardware and software on board with global positioning system (GPS) location capabilities that, at a minimum, archive vessel position data during a trip for subsequent transmission to NMFS. The vessel location-tracking device must collect a

vessel's position at least hourly, unless the in-port 4-hour position reporting exemption is met, as specified in 50 CFR 622.26(b) (5) (ii) (C) and 622.374(b) (5) (iv) (C).

The vessel location tracking data can be transmitted through a cellular or satellite-based service via a VMS unit. Cellular-based systems collect and store data while a vessel is not within range of a cellular signal, *e.g.*, during the majority of fishing trips in Federal waters, and then transmit the data when the vessel is within cellular range. While a vessel is within cellular range, *e.g.*, nearshore or at the dock, data transmission will be closer to real-time. Satellite-based systems transmit data as they are collected.

Each Gulf for-hire vessel owner or operator is responsible for using an approved cellular or satellite VMS that will automatically transmit vessel location data at some time before offloading fish at the end of each trip, or within 30 minutes after a trip is completed if no fish were landed. The vessel's cellular or satellite VMS must be permanently affixed to the vessel and must have uninterrupted power, unless the owner or operator applies for and is granted an exemption to power-down the unit, as specified in 50 CFR 622.26(b) (5) (ii) (D) and 622.374(b) (5) (iv) (D), *e.g.*, if the vessel is removed from the water for repairs.

Classification

Pursuant to section 304(b) (3) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with the Gulf For-hire Reporting Amendment, the respective FMPs, other provisions of 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 purpose of this final rule are contained in the **SUMMARY** and **SUPPLEMENTARY INFORMATION** sections of this preamble.

Pursuant to 5 U.S.C. 553(b) (B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment are unnecessary and contrary to the public interest. Such procedures are unnecessary because NMFS already provided prior notice and an opportunity for public comment for the vessel monitoring requirements in the July 21, 2020, final rule. This final rule does not change any provision of the July 21, 2020, final rule but only announces the effective date for the previously delayed requirements (see **DATES** section). Such procedures would also be contrary to the public interest because NMFS has already implemented the majority of the

management measures in the Gulf For-Hire Reporting Amendment and the vessel location tracking requirements will allow NMFS to better validate the accuracy of data that are currently being submitted through the required fishing reports. NMFS expects more accurate and reliable data to improve management of the Gulf for-hire component as well as management of the Gulf reef fish and CMP fisheries generally.

This final rule contains collection-of-information requirements approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). This final rule does not change the existing requirements for the collection of information under OMB Control Number 0648-0016. The public reporting burden for the Southeast Region Logbook Family of Forms, specifically for a trip declaration, is estimated to average 2 minutes to complete and 10 minutes per fishing report. NMFS estimates a VMS power-down exemption request will require an average of 5 minutes to complete per occurrence. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

NMFS invites the public and other Federal agencies to comment on any proposed and continuing information collections, which helps NMFS assess the impact of information collection requirements and minimize the

public's reporting burden. Written comments and recommendations for this information collection should be submitted on the following website:

www.reginfo.gov/public/do/PRAMain. Find this particular information collection by using the search function and entering the title of the collection or the OMB Control Number 0648-0016.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

List of Subjects in 50 CFR Part 622

Atlantic, Charter vessel, Coastal migratory pelagic resources, Fisheries, Fishing, Gulf of Mexico, Headboat, Recordkeeping and reporting, Reef fish, South Atlantic, Vessel monitoring systems.

Dated: September 7, 2021.

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National Marine Fisheries Service.