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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

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

SUMMARY: The Gulf of Mexico (Gulf) Fishery Management Council (Gulf Council) and South Atlantic Fishery Management Council (South Atlantic Council) have submitted the Gulf For-hire Reporting Amendment for review, approval, and implementation by NMFS. The Gulf For-hire Reporting Amendment includes amendments to the Fishery Management Plan (FMP) 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). If approved by the Secretary of Commerce, the Gulf For-hire Reporting Amendment would revise reporting requirements for owners and operators of federally permitted charter vessels and headboats (for-hire vessels).

The Gulf For-hire Reporting Amendment would require an owner or operator of a for-hire vessel with a Federal charter vessel/headboat permit for Gulf Reef Fish or Gulf CMP to submit an electronic fishing report for each fishing trip using NMFS-approved hardware and software, before offloading fish from the vessel. The Gulf For-hire Reporting Amendment would also require these owners or operators to notify NMFS prior to departing on any trip. The purpose of the Gulf For-hire Reporting Amendment is to increase and improve fisheries information collected from owners and operators of vessels with a Federal charter vessel/headboat permit for Gulf reef fish or Gulf CMP species. The information is expected to improve recreational fisheries management of the for-hire component in the Gulf.

DATES: Written comments on the Gulf For-hire Reporting Amendment must be received by August 20, 2018.

ADDRESSES: You may submit comments on the Gulf For-hire Reporting Amendment, identified by "NOAA-NMFS-2018-0075," by either of the following methods:

- *Electronic submission:* Submit all electronic comments via the Federal e-Rulemaking Portal. Go to www.regulations.gov/docket?D=NOAA-NMFS-2018-0075, click the

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

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

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

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

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

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

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

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

Background

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

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

In 2014, NMFS implemented management measures contained in a framework action to the Reef Fish FMP and the CMP FMP (Headboat Reporting Framework), which modified recordkeeping and reporting provisions for an owner or operator of a headboat that has been issued a charter vessel/headboat permit for Gulf reef fish or Gulf CMP species (79 FR 6097, February 3, 2014). If selected by NMFS to participate in the Southeast Region Headboat Survey (SRHS), a headboat owner or operator must submit an electronic fishing report weekly, or at shorter intervals if notified by the Science and Research Director (SRD) of NMFS' Southeast Fisheries Science Center (SEFSC). Currently, the selected headboat owners or operators must submit an electronic fishing report to NMFS via the internet by the Sunday following the end of each reporting

week, which runs from Monday through Sunday; in other words, reports are due within 7 days after a reporting week ends. If the reports are not submitted on time, the owner or operator of the vessel is prohibited from harvesting or possessing the applicable species until any delinquent electronic fishing reports are submitted to NMFS. The purpose of the Headboat Reporting Framework was to obtain more timely fishing information from headboats to better monitor recreational annual catch limits (ACLs), improve stock assessments, and improve compliance with reporting in Gulf recreational fisheries.

Currently, landings and discards from federally permitted charter vessels in the Gulf reef fish and CMP fisheries are monitored through the survey of charter vessels by the Marine Recreational Information Program (MRIP). As of January 1, 2018, fishing effort is calculated based on a sample of federally permitted charter vessels through a mail survey. Catch rate observations and catch sampling are provided through dockside monitoring, also conducted by MRIP. This MRIP charter vessel information is then available in 2-month increments known as waves, so that there are six waves during the calendar year, *e.g.*, January through February, March through April, etc.

The Gulf For-hire Reporting Amendment modifies the reporting requirements for both charter vessels and headboats. Owners or operators of for-hire vessels with a Federal charter vessel/headboat permit for Gulf reef fish or Gulf CMP species would have to submit electronic fishing reports to NMFS for each trip prior to offloading fish. This would make the reporting requirements and deadline for charter vessels and headboats consistent.

If NMFS implements the electronic reporting requirements described in the Gulf For-hire Reporting Amendment, the MRIP survey of charter vessels would continue until the proposed electronic reporting program described in the amendment is certified by NMFS, and then the electronic reporting program could replace the MRIP survey of charter vessels.

Accurate and reliable fisheries information about catch, effort, and discards is critical to stock assessment and management evaluations. In addition, catch from federally permitted for-hire vessels may represent a substantial portion of the total recreational catch for Gulf Council managed fish species, such as red snapper, gray triggerfish, greater amberjack, and mutton snapper. The Gulf Council has determined that electronic reporting on a per trip basis for federally permitted for-hire

vessels could provide more timely information than the current MRIP survey and SRHS, and more accurate and reliable information for many species with low catches, low ACLs, or for species that are only rarely encountered by fishery participants. The Gulf Council expects electronic reporting on a per trip basis by owners and operators of all federally permitted for-hire vessels to enhance data collection efforts and contribute to better fisheries management by improving the accuracy of the data and allowing for more data-rich stock assessments.

Actions Contained in the Gulf For-hire Reporting Amendment

The Gulf For-hire Reporting Amendment includes actions to establish electronic reporting on a per trip basis before offloading fish from federally permitted charter vessels and headboats in the Gulf reef fish and CMP fisheries. The Gulf For-hire Reporting Amendment would also require vessel owners or operators to submit fishing reports via NMFS-approved hardware and software with global positioning system (GPS) capabilities that, at a minimum, archive vessel position data during a trip for subsequent transmission to NMFS. Lastly, prior to departing for any trip, the owner or operator of a federally permitted charter vessel or headboat would be required to notify NMFS and declare whether they are departing on a for-hire trip,

or on another trip type. If the vessel will be operating as a charter vessel or headboat during the specified trip, the vessel owner or operator must also report expected return time and landing location.

Electronic Reporting by Federally Permitted Charter Vessels and Headboats

The Gulf For-hire Reporting Amendment would require an owner or operator of a charter vessel or headboat with a Federal charter vessel/headboat permit for Gulf reef fish or Gulf CMP species, and is operating as a for-hire vessel, to submit an electronic fishing report for each trip before offloading fish from the vessel. The electronic fishing report would include any species that were caught or harvested in or from any area, e.g., in state or Federal waters in the Gulf or Atlantic, as well as information about the permit holder, vessel, location fished, fishing effort, discards, and socio-economic data. In the future, other information that could further benefit the management of federally permitted for-hire vessels included under the Gulf For-hire Reporting Amendment may also be subject to collection, as determined by NMFS, in collaboration with other data collection partners and in coordination with the Gulf Council. If no fish were retained on a trip,

submission of an electronic fishing report would be required within 30 minutes after the trip ends.

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

NMFS recently published a proposed rule in the **Federal Register** to implement electronic reporting requirements

contained in the South Atlantic For-Hire Reporting Amendment applicable to the for-hire component of recreational fisheries in the Atlantic (83 FR 14400, April 4, 2018). As proposed for the Atlantic, an owner or operator of a for-hire vessel issued a Federal charter vessel/headboat permit for Atlantic CMP species, Atlantic dolphin and wahoo, or South Atlantic snapper-grouper species, and is operating as a for-hire vessel, would have to submit an electronic fishing report using NMFS-approved hardware and software on a weekly basis. However, the South Atlantic Council does not intend for a vessel with Federal for-hire permits from multiple jurisdictions to report to multiple electronic reporting programs. Therefore, an owner or operator of a for-hire vessel with a Federal charter vessel/headboat permit for an applicable fishery in the Atlantic, who is required to report under another Council's program that has more stringent requirements, such as the proposed Gulf For-hire Reporting Amendment, would not also need to report under the South Atlantic's program.

This means that if NMFS implements the measures in the South Atlantic For-hire Reporting Amendment before implementing measures established through the Gulf For-hire Reporting Amendment, for-hire vessels issued the applicable Federal charter vessel/headboat permits in both the Gulf

and Atlantic would be required to comply with the Atlantic electronic reporting program until a Gulf electronic reporting program is implemented, even if the for-hire trips only occur in the Gulf. Then, if NMFS subsequently implements the Gulf For-hire Reporting Amendment, fishermen on for-hire vessels issued Gulf for-hire permits would need to comply with the Gulf electronic reporting program requirements.

The Gulf For-hire Reporting Amendment also contains provisions addressing reporting during catastrophic conditions, such as after a hurricane, and delinquent reporting. During NMFS-declared catastrophic conditions, NMFS may accept paper reporting forms, and can modify or waive reporting requirements. Also, a delinquent report would result in a prohibition on the harvest or possession of the applicable species by the for-hire vessel permit holder until all required and delinquent reports have been submitted and received by NMFS according to the reporting requirements.

Location Tracking and Reporting

The Gulf For-hire Reporting Amendment specifies that a for-hire vessel owner or operator submit fishing reports via NMFS-approved hardware and software with GPS capabilities that, at a minimum, archive vessel position

data during a trip for subsequent transmission to NMFS. The location information would be transmitted electronically to NMFS. The GPS portion of the hardware would have to be permanently affixed to the vessel. The purpose of this requirement is verify whether a vessel is at the dock. Therefore, the GPS portion must have uninterrupted power unless the owner or operator applies for and is granted an exemption.

Trip Notification

The Gulf For-hire Reporting Amendment would require an owner or operator of a federally permitted charter vessel or headboat to submit a trip notification to NMFS before departing for any trip. The trip notification would include whether the vessel will be departing on a for-hire vessel or as another trip type, such as commercial. If the vessel will be departing on a for-hire trip, the owner or operator must also report the expected trip completion date, time, and landing location. The Gulf Council determined that a trip notification would improve effort estimation for charter vessels and headboats, and the ability of port agents and law enforcement to meet a vessel at end of a trip for biological sampling and landings validation.

Proposed Rule for the Gulf For-hire Reporting Amendment

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

Consideration of Public Comments

The Gulf Council has submitted the Gulf For-hire Reporting Amendment for Secretarial review, approval, and implementation. Comments on the Gulf For-hire Reporting Amendment must be received by August 20, 2018. Comments received will be considered by NMFS in the decision to approve, disapprove, or partially approve the Gulf For-hire Reporting Amendment. Comments received after the comment period will not be considered by NMFS in this decision. All comments received by NMFS on the amendment or the proposed rule during their respective comment periods will be addressed in the final rule.

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

Dated: June 15, 2018.

Jennifer M. Wallace,
Acting Director,
Office of Sustainable Fisheries,
National Marine Fisheries Service.

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