

adopted and follows the Best Practices set forth in paragraph (k)(1) of this section; or

(C) That the video programmer is exempt from the closed captioning rules under one or more properly attained exemptions.

(ii) For programmers certifying exemption from the closed captioning rules, the video programming distributor must obtain a certification from the programmer that specifies the exact exemption that the programmer is claiming. Video programming distributors may satisfy their best efforts obligation by locating a programmer's certification on the programmer's website or other widely available locations used for the purpose of posting widely available certifications. If a video programming distributor is unable to locate such certification on the programmer's website or other widely available location used for the purpose of posting such certification, the video programming distributor must inform the video programmer in writing that it must make widely available such certification within 30 days after receiving the written request. If a video programmer does not make such certification widely available within 30 days after receiving a written request, the video programming distributor shall promptly submit a report to the Commission identifying such non-certifying video programmer for the purpose of being placed in a publicly available database. A video programming distributor that meets each of the requirements of this paragraph shall not be liable for violations of paragraphs (j)(2) and (3) of this section to the extent that any such violations are outside the control of the video programming distributor. Compliance with this paragraph (j)(1) shall not be required as of the compliance date of paragraph (m) of this section. The Commission will publish a document in the **Federal Register** announcing that compliance date and revising this paragraph accordingly.

\* \* \* \* \*

(k) \* \* \* (1) \* \* \*

(iv) *Certification procedures for video programmers.* Video programmers adopting Best Practices will take one of the following actions to certify that they adhere to Best Practices for video programmers.

(A) Prior to the compliance date of paragraph (m) of this section, video programmers adopting Best Practices will certify to video programming distributors that they adhere to Best Practices for video programmers and will make such certifications widely

available to video programming distributors, for example, by posting on affiliate websites.

(B) As of the compliance date of paragraph (m) of this section, video programmers adopting Best Practices will certify to the Commission that they adhere to Best Practices for video programmers, in accordance with paragraph (m) of this section.

\* \* \* \* \*

(m) \* \* \*

(1) On or before the compliance date, or prior to the first time a video programmer that has not previously provided video programming shown on television provides video programming for television for the first time, whichever is later, and on or before July 1 of each year thereafter, each video programmer shall submit a certification to the Commission through a web form located on the Commission's website stating that:

\* \* \* \* \*

(5) Compliance with paragraphs (m)(1) through (4) of this section is not required until the Commission publishes a document in the **Federal Register** announcing the compliance date and revising this paragraph accordingly.

\* \* \* \* \*

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## 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](http://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](http://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](mailto:adam.bailey@noaa.gov), or to [www.reginfo.gov/public/do/PRAMain](http://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](mailto: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](http://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.

**Samuel D. Rauch, III,**

*Deputy Assistant Administrator for  
Regulatory Programs, National Marine  
Fisheries Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 635

[Docket No. 180117042-8884-02; RTID  
0648-XB400]

#### Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries

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

**ACTION:** Temporary rule; quota transfer.

**SUMMARY:** NMFS is transferring 113.8 metric tons (mt) of Atlantic bluefin tuna (BFT) quota from the Reserve category to the General category. This action is intended to account for an accrued overharvest of 53.8 mt from previous time-period subquotas and to provide further opportunities for General category fishermen to participate in the September General category fishery, based on consideration of the regulatory determination criteria regarding inseason adjustments. This action would affect Atlantic tunas General category (commercial) permitted vessels and Highly Migratory Species (HMS) Charter/Headboat permitted vessels with a commercial sale endorsement when fishing commercially for BFT.

**DATES:** Effective September 9, 2021 through September 30, 2021.

**FOR FURTHER INFORMATION CONTACT:** Larry Redd, Jr., 301-427-8503, Nicholas Velseboer, 978-281-9260, or Lauren Latchford, 301-427-8503.

**SUPPLEMENTARY INFORMATION:** Atlantic HMS fisheries, including BFT fisheries, are managed under the authority of the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*). The 2006 Consolidated Atlantic HMS Fishery Management Plan (FMP) and its amendments are implemented by regulations at 50 CFR part 635. Section 635.27 divides the U.S. BFT quota recommended by the International Commission for the Conservation of Atlantic Tunas (ICCAT) and as implemented by the United

States among the various domestic fishing categories, per the allocations established in the 2006 Consolidated HMS FMP and its amendments. NMFS is required under the Magnuson-Stevens Act to provide U.S. fishing vessels with a reasonable opportunity to harvest quotas under relevant international fishery agreements such as the ICCAT Convention, which is implemented domestically pursuant to ATCA.

The current baseline General and Reserve category quotas are 555.7 mt and 29.5 mt, respectively. The General category baseline subquota for the September time-period is 147.3 mt. Any unused General category quota rolls forward from one time-period to the next and is available for use in subsequent time-periods. To date for 2021, NMFS has published three actions that resulted in adjustments to the General and Reserve category quotas. The current adjusted quotas are 138 mt for the Reserve category, 75 mt for the General category January through March 2021 subquota period, and 9.4 mt for the December 2021 subquota period (85 FR 83832, December 23, 2020; 86 FR 8717, February 9, 2021; 86 FR 43420, August 9, 2021).

#### Transfer of 113.8 mt From the Reserve Category to the General Category

Under § 635.27(a)(9), NMFS has the authority to transfer quota among fishing categories or subcategories after considering determination criteria provided under § 635.27(a)(8). NMFS has considered all of the relevant determination criteria and their applicability to this inseason quota transfer. These considerations include, but are not limited to, the following:

Regarding the usefulness of information obtained from catches in the particular category for biological sampling and monitoring of the status of the stock (§ 635.27(a)(8)(i)), biological samples collected from BFT landed by General category fishermen and provided by tuna dealers provide NMFS with valuable parts and data for ongoing scientific studies of BFT age and growth, migration, and reproductive status. Additional opportunity to land BFT in the General category would support the continued collection of a broad range of data for these studies and for stock monitoring purposes.

NMFS also considered the catches of the General category quota to date (including during the summer/fall and winter fisheries in the last several years) and the likelihood of closure of that segment of the fishery if no adjustment is made (§ 635.27(a)(8)(ii) and (ix)). Preliminary landings data as of September 8, 2021, indicate that the

General category landed a cumulative total of 406.7 mt through August 31, which exceeds the cumulative adjusted quota available through August 31, *i.e.*, 352.9 mt. Preliminary September landings as of September 8, 2021, are 74.5 mt, which represent 51 percent of the baseline September subquota (147.3 mt). As of September 8, 2021, the General category September time-period subquota has not yet been exceeded, but without a quota transfer at this time, NMFS would likely close the General category fishery shortly, and participants would have to stop BFT fishing activities while commercial-sized BFT remain available in the areas where General category permitted vessels operate at this time of year. Transferring 113.8 mt of quota from the Reserve category would account for 53.8 mt of accrued overharvest from the prior time-periods and result in an additional 60 mt being available for the September 2021 subquota time-period, thus effectively providing limited additional opportunities to harvest the U.S. BFT quota while avoiding exceeding it. NMFS also took into consideration a recently published final rule that would set restricted-fishing days for the General category during the months of September through November 2021 (86 FR 43421, August 9, 2021). That rule would further increase the likelihood that the fishery would remain open throughout the subperiod and year.

Regarding the projected ability of the vessels fishing under the General category quota to harvest the additional amount of BFT quota transferred before the end of the fishing year (§ 635.27(a)(8)(iii)), NMFS considered General category landings over the last several years and landings to date this year. Landings are highly variable and depend on access to commercial-sized BFT and fishing conditions, among other factors, such as the restrictions that some dealers placed on their purchases of BFT from General category participants this year. A portion of the transferred quota covers the 53.8 mt overharvest in the category to date, and NMFS anticipates that General category participants will be able to harvest the remaining 60 mt of transferred BFT quota by the end of the subquota time-period. In the unlikely event that any of this quota is unused by September 30, such quota will roll forward to the next subperiod within the calendar year (*i.e.*, to the October through November period), and NMFS anticipates that it would be used before the end of the fishing year. NMFS also anticipates that some underharvest of the 2020 adjusted U.S. BFT quota will be carried forward