Gulf of Mexico Fishery Management Council Meeting June 2020

For-Hire Electronic Reporting Final Rule: Possible Changes from Proposed Rule Based on Public Comment and Internal Review

1. The proposed rule distinguished between satellite and cellular devices by referring to the former as VMS units and the latter as GPS units. However, the NMFS Office of Law Enforcement (OLE) is in the process of modifying the regulations at 50 C.F.R. 600, subpart Q to allow for the testing and type-approval cellular-based vessel tracking devices as that office does for satellite VMS. To make the descriptions of a vessel tracking device consistent with the language used in 50 C.F.R. 600, subpart Q, any cellular- or satellite-based vessel location tracking device is referred as a cellular or satellite VMS.

2. In the proposed rule, NMFS estimated that if it was necessary to submit separate fishing and location reports at the end of each trip, the reporting burden to submit separate location information could be an additional 2 minutes per trip. However, the NMFS OLE proposed rule would require that position reporting by cellular VMS be fully automatic, which is the same specification as position reporting by a satellite VMS. Therefore, an additional reporting burden is no longer anticipated.

3. Revise the name for the required pre-trip declaration and the associated electronic form from the Trip Notification form to the Trip Declaration form. Also, add regulatory text in 50 C.F.R §§ 622.26(b)(6) and 622.374(b)(6) to clarify that the trip declaration is required any time the vessel departs from a dock, berth, beach, seawall, or ramp. In the proposed rule, these paragraphs stated that the declaration is required prior "to the departure of any trip," but did not define trip. The term "trip" is defined 50 CFR 622.2, in part, as "a fishing trip." However, the proposed rule did not refer to this definition and various regulations in 50 C.F.R. part 622 use the term "fishing trip" as opposed to "trip." Therefore, to avoid any confusion about when the trip declaration is required, for the purpose of paragraphs 622.26(b)(6) and 622.374(b)(6), a "trip" begins anytime the vessel departs from a dock, berth, beach, seawall, or ramp, and terminates with return to a dock, berth, beach, seawall, or ramp, regardless of the duration or purpose, including non-fishing activities.

4. In the preamble of the proposed rule, NMFS stated that the VMS power-down exemption form would be accepted by mail or fax, and that NMFS expected an electronic method of submission to available by the effective date. However, NMFS has determined few vessel owners or operators would use fax. Therefore, NMFS will not accept this form by fax. NMFS also continues to work on developing the electronic form, but does not expect it to be available until after the effective date. NMFS can currently accept the VMS power-down exemption request form by mail or email, and will provide vessel owners and operators with any new information about the available methods to submit the form on the NMFS website for the Gulf for-hire reporting program.

5. Minor changes in paragraphs 622.26(b)(1) and (5), and 622.374(b)(1)(i) and (5)(i), to more clearly separate the logbook and VMS requirements, and to make it clear that NMFS approved hardware and software for both the logbook and VMS will be posted on the NMFS Southeast Region website.

6. In response to public comment about whether the owners and operators of headboats will continue to report to the Southeast Region Headboat Survey (SRHS), language in paragraphs 622.26(b)(1) and 622.374(b)(1)(i) will be added to make it clear that, if selected by the NMFS Science Research Director, a Gulf for-hire vessel owner or operator must report via the SRHS software.