

# **Modification of For-Hire Vessel Trip Declaration Requirements**



## **Abbreviated Framework Action under the Fishery Management Plans for the Reef Fish Resources of the Gulf of Mexico and Coastal Migratory Pelagic Resources in the Gulf of Mexico and Atlantic Region**

**Including Regulatory Impact Review and  
Regulatory Flexibility Act Analysis**

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# FRAMEWORK ACTION: MODIFICATION OF FOR-HIRE VESSEL TRIP DECLARATION REQUIREMENTS

Abbreviated Framework Action to the Fishery Management Plans for the Reef Fish Resources of the Gulf of Mexico and Coastal Migratory Pelagic Resources in the Gulf of Mexico and Atlantic Region: Modification of For-Hire Vessel Trip Declaration Requirements including Regulatory Impact Review, Regulatory Flexibility Act Analysis.

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## ABBREVIATIONS USED IN THIS DOCUMENT

AP	Advisory Panel
CFR	Code of Federal Regulations
CMP	Coastal Migratory Pelagic (species or Fishery Management Plan)
Council	Gulf of Mexico Fishery Management Council
FMP	Fishery Management Plan
NMFS	National Marine Fisheries Service
NOAA	National Oceanic and Atmospheric Administration
OLE	Office of Law Enforcement (NOAA)
PRA	Paperwork Reduction Act
RIR	Regulatory Impact Review
RFAA	Regulatory Flexibility Act Analysis
SEFHIER	Southeast For-Hire Integrated Electronic Reporting (Program)
SRHS	Southeast Region Headboat Survey
VMS	Vessel Monitoring System

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# CHAPTER 1. INTRODUCTION

## 1.1 Background

Electronic technologies have been used in fisheries management to collect data from fishermen to improve accuracy and timeliness of reported data. Available reporting programs may also provide improvements to data quality, accessibility, and integration of data for fisheries management. Although electronic trip reporting is not new, its use by those participating in the federally permitted for-hire component of the recreational sector (i.e., charter vessels and headboats) is more recent than its use in the commercial fleet.

The final rule to implement an amendment to the Fishery Management Plans (FMPs) for the Reef Fish Resources of the Gulf of Mexico (Reef Fish FMP) and Coastal Migratory Pelagic (CMP) Resources of the Gulf of Mexico and Atlantic Region (CMP FMP) modifying reporting requirements for charter vessels and headboats became effective on January 5, 2021. This final rule requires charter vessel/headboat (for-hire) permit holders with Gulf of Mexico (Gulf) Reef Fish or Coastal Migratory Pelagic (CMP) species permits to make trip declarations prior to leaving the dock, submit electronic logbooks to report harvest from fishing activity, and install Vessel Monitoring Systems (VMS) to report location data every hour (GMFMC 2017; 85 FR 44005, July 21, 2020). This electronic reporting is implemented through the National Marine Fisheries Service (NMFS) Southeast For-Hire Integrated Electronic Reporting (SEFHIER) program. The purpose of the SEFHIER program is to provide more accurate and reliable fisheries information about for-hire catch, effort, and discards. Data are collected directly from for-hire fishermen through NMFS-approved software programs. Compliance checks, data validation, and final estimation calculations utilize declarations, VMS positioning, and dockside intercepts. Prior to departure, program participants must make a trip declaration or “hail-out” indicating that they intend to move their vessel on the water. The declaration notifies NMFS Office of Law Enforcement (OLE) and identifies the type of trip being taken (i.e., fishing or non-fishing trip), start date/time of the trip, and assists in determining if a logbook should be expected for the trip. Fishing trip declarations require an estimated return time and a landing location. Estimated times aid law enforcement, port agents, and Validation Survey staff in knowing when to meet the vessel upon return. Both the estimated return time and landing location are critical components to validation of information collected by the SEFHIER program. Current regulations require vessels with for-hire federal permits for Gulf Reef Fish or Gulf CMP species to submit a trip declaration prior to the vessel moving on the water:

§ 622.26 *Recordkeeping and reporting.*

***Trip declaration requirements.*** *For purposes of this paragraph (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. Prior to departure for each trip, the owner or operator of a vessel for which a charter vessel/headboat permit for Gulf reef fish has been issued must notify NMFS and report the type of trip, the U.S. Coast Guard vessel documentation number or state vessel registration number, and whether the vessel will be operating as a charter vessel or headboat, or is departing on another type of trip, such as a commercial trip. If the vessel will be operating as a charter vessel*

*or headboat during the trip, the owner or operator must also report the expected trip completion date, time, and landing location.<sup>1</sup>*

*§ 622.374 Recordkeeping and reporting.*

***Trip declaration requirements in the Gulf.*** *For purposes of this paragraph (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. Prior to departure for each trip, the owner or operator of a vessel for which a charter vessel/headboat permit for Gulf coastal migratory pelagic fish has been issued must notify NMFS and report the type of trip, the U.S. Coast Guard vessel documentation number or state vessel registration number, and whether the vessel will be operating as a charter vessel or headboat, or is departing on another type of trip, such as a commercial trip. If the vessel will be operating as a charter vessel or headboat during the trip, the owner or operator must also report the expected trip completion date, time, and landing location.<sup>2</sup>*

Trip declarations are required each time a vessel departs from a dock, berth, beach, seawall, or ramp. SEFHIER program participants and other industry stakeholders expressed concern that submitting multiple hail-outs for non-fishing activities is an undue burden on vessel owners and operators. Under the Paperwork Reduction Act (PRA), the reporting burden for these requirements is estimated to average 2 minutes for each trip declaration. SEFHIER program participants question the need to submit a trip declaration each time a vessel moves to acquire ice or fuel, or other non-fishing activities because separate trip declarations for each of these type of short duration trips is overly burdensome. In the previous amendment to modify for-hire trip reporting requirements (GMFMC 2017), the alternative to require for-hire vessel operators to declare prior to departing on any type of trip was intended to provide better estimates of effort with an improved validation process than provided through the MRIP for-hire phone survey (charter vessels) and Southeast Region Headboat Survey (SRHS). The declaration was also intended to better inform law enforcement officers when a for-hire vessel leaves the dock as well as the type of trip. More specifically, making the decision to require declarations for every trip was anticipated to provide a greater level of resolution for estimating fishing effort than the other data collection programs for charter vessels and headboats (MRIP For-Hire Telephone Survey and SRHS). After calibration with catch data using the current methodology, the additional resolution brought about by the SEFHIER program requirements could decrease uncertainty in the projected season lengths and aid the Council and NMFS in making better informed management decisions. Even though the addition of trip declarations would increase the burden on vessel operators relative to no trip notification requirements, the Council's selection of trip notifications as the preferred alternative was intended to aid in the prioritization of dock-side intercepts that could further improve catch and effort fishery data from for-hire vessels. Prior to implementation of these for-hire reporting requirements, federally permitted for-hire vessels did not have any trip notification requirements; however, commercial fisheries in the Gulf have had

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<sup>1</sup> [https://www.ecfr.gov/current/title-50/chapter-VI/part-622/subpart-B/section-622.26#p-622.26\(b\)\(6\)](https://www.ecfr.gov/current/title-50/chapter-VI/part-622/subpart-B/section-622.26#p-622.26(b)(6))

<sup>2</sup> [https://www.ecfr.gov/current/title-50/chapter-VI/part-622/subpart-Q/section-622.374#p-622.374\(b\)\(6\)](https://www.ecfr.gov/current/title-50/chapter-VI/part-622/subpart-Q/section-622.374#p-622.374(b)(6))



hail-out requirements for several years. Commercial reef fish permit holders are required to submit trip declarations, although the information submitted differs in key ways from the for-hire forms. The federally permitted reef fish commercial vessels must also submit a pre-landing notification 3 to 24 hours in advance of landing. The declaration for the Gulf federally permitted for-hire fleet combines information from a traditional declaration (e.g., type of trip) with information from pre-landing notifications (e.g., estimated return time, landing location). This combination eliminates the need for an at-sea notification to supply enforcement with an expected return time and location.

**Table 1.1.1.** Examples of fishing and non-fishing trips that require a trip declaration or “hail-out”.

FISHING TRIP	NON-FISHING TRIP
Taking clients on fishing trips	Traveling to a fuel dock to purchase fuel or to the pump-out station
Checking bait traps	Traveling to purchase bait, ice, refreshments from bait shop
Fishing for bait	Traveling to pick up clients
Cast netting for bait	Dolphin or sunset cruise

As a result of stakeholder concern about the requirement to submit multiple trip declarations and discussing alternative options at various Advisory Panel (AP) and Gulf of Mexico Fishery Management Council (Council) meetings, a limited exemption was proposed to decrease the burden of multiple hail-outs. This abbreviated framework action affects reporting requirements for vessels issued Gulf charter vessel/headboat permits under the Reef Fish and CMP FMPs. This action attempts to decrease the burden on vessel owners and/or operators by creating an exemption from the trip declaration requirement under specific circumstances. Vessels with other permit requirements must continue to follow the trip declaration and reporting requirements that apply to the vessel’s other permits. It should also be noted that, from here on in the document, the expression dock to dock covers the language in the regulations that refers to “...vessel departs from a dock, berth, beach, seawall, or ramp, and terminates with return to a dock, berth, beach, seawall, or ramp.”

## 1.2 Purpose and Need

The purpose of this action is to reduce the number of trip declarations required to be submitted by Gulf Reef Fish and CMP permitted for-hire vessels while conducting on-the-water activities, in a manner that maintains the data integrity of the for-hire electronic reporting program in the Gulf. The need for this action is to reduce the burden associated with submitting trip declarations, outside of fishing or chartered trip activity, without negatively impacting data needed to manage these fisheries.

## 1.3 Modifications to For-Hire Vessel Trip Declaration Requirements

Over the course of several AP and Council meetings, stakeholders expressed concern regarding the burden placed upon them by electronic reporting requirements, especially when multiple trip declarations are necessary. Industry members have stated they understand why for-hire electronic reporting was implemented, principally to improve fisheries information collected from Gulf federally permitted for-hire vessels, but indicated that some of the reporting components seem to be excessive. After discussion with NMFS and Council members, NMFS and the NMFS' OLE proposed a solution to ease the burden of multiple trip declarations by allowing an exemption within a set amount of time, to conduct non-fishing activities. With consideration for the current SEFHIER program requirements and the feasibility of several options to decrease trip declaration burdens while maintaining the integrity of for-hire data collection, NMFS recommended a 60-minute exemption window in which vessels may move on the water from dock to dock to conduct non-fishing trips without having to submit a trip declaration. Trip declaration requirements remain unchanged for fishing trips. A trip declaration must be made prior to any fishing trip.

### **Trip Declaration Exemption Options**

At its June 2022 meeting, the Council decided to proceed with an abbreviated framework action to provide options that would exempt for-hire vessel owners and/or operators from the trip declaration requirement for each time the vessel moves on the water (dock to dock) to conduct non-fishing trips. The Council approved the selection of three options to be presented in the abbreviated framework action: 60 minutes, 90 minutes, or 120 minutes. These options were deemed reasonable timeframes in which non-fishing activities may be conducted without placing an undue administrative burden on NMFS or weakening trip validations. NMFS supports a 60-minute exemption in order to best maintain data integrity, as there are paying-passengers on non-fishing trips, such as sunset and dolphin tours, where data may be useful to collect. This information could lead to a better understanding of the socioeconomics of the for-hire fleet as a whole. The exemption window would cover each "trip," as defined by 50 CFR 622.26 and 622.374, which begins when a vessel leaves a dock and ends when a vessel arrives at a dock, regardless of whether it is the same dock from which the vessel departed. For example, if a vessel leaves a slip and travels 30 minutes to a fuel dock, but must wait 60 minutes at the fuel dock to purchase fuel because other vessels are also waiting for fuel, the trip is 30 minutes (dock to dock) and would be covered under this 60-minute exemption. The time the vessel waits to refuel is not considered part of the trip, as the vessel has reached its destination. Once a trip has ended, a new trip would not begin until the vessel leaves the fuel dock. If the vessel leaves the fuel dock and travels 45 minutes to return to its slip, the exemption would apply to that non-fishing trip as well, as it would constitute a new trip that is less than 60 minutes. There is no limit proposed to the number of exemptions that could apply in a single day, so long as each non-fishing trip is completed (dock to dock) within the timeframe selected.

At its August 2022 meeting, the Council discussed adding an option that would pivot away from a time-limited exemption for non-fishing trips to one requiring trip declarations only for trips engaging in any type of fishing or any chartered activity. Fishing activity would include commercial, for-hire, and private recreational fishing activities. Chartered activity would include

any other activity with paying passengers<sup>3</sup> on-board the vessel, such as sunset or dolphin cruises. This alternative would allow NMFS to continue to collect socioeconomic data on the for-hire fleet when paying passengers are onboard, but may not be engaged in fishing activity. More specifically, it aids enforcement in confirming vessels are indeed performing the activity that the trip declared, by providing a trip declaration that differentiates between fishing activity and other chartered activity that does not include fishing. Requiring declarations for trips engaging in fishing or any chartered activity would also assist in determining fleet characteristics (e.g., percentage part-time of other activity like cruises to supplement business or commercial activity), and decreases the administrative burden for the SEFHIER program through use of automation to identify non-compliance.

Option 1: The exemption from the trip declaration requirement would apply to non-fishing trips that are completed in 60-minutes or less.

This 60-minute window was recommended because timeframes exceeding one hour could result in location positions from vessels' VMS unit without defined activity from a trip declaration. VMS units report positions hourly, at random, every 60 minutes and the location information is available to NMFS. OLE indicated that, due to the hourly position reporting from VMS units, 60 minutes or less for a trip declaration exemption would be the best option to maintain data integrity through sufficient trip validations. NMFS also indicated that 60 minutes best balances the need to maintain the integrity of the data, while allowing sufficient time to complete most non-fishing trips. Additionally, this option would not increase the administrative burden on NMFS to analyze data for compliance and accuracy, whereas the other options could potentially increase the administrative burden.

Option 2: The exemption from the trip declaration requirement would apply to non-fishing trips that are completed in 90-minutes or less.

This intermediate option would provide more time to conduct business by allowing vessel owners and/or operators to move on the water from dock to dock without having to declare a non-fishing trip. During Council meeting discussion, industry members indicated that 60-minutes may not be enough time to complete certain activities, especially if a vessel must travel a longer distance for fuel, ice, or passengers, or have to wait at a dock for fuel. However, as explained above, the time a vessel waits at a dock is not part of a "trip" because the trip ends when the vessel arrives at a new dock. Based on industry activity, it is also unlikely that any fishing trip could be completed within a 90-minute window, making it improbable that a vessel could illegally conduct fishing trips without a declaration in this amount of time. NMFS did not recommend this option because it may be more difficult to ensure compliance and verify vessel activity. This option may lead to more VMS location positions that cannot be validated because there would be no way to define vessel activity from a declaration. This would increase the administrative burden for NMFS to analyze data for compliance and accuracy. It is also possible

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<sup>3</sup> In the definition of "charter fishing", the Magnuson-Stevens Fishery and Conservation Management Act (MSA) refers to "passenger for hire" as defined in 46 U.S. Code § 2101. That "means a passenger for whom consideration is contributed as a condition of carriage on the vessel, whether directly or indirectly flowing to the owner, charterer, operator, agent, or any other person having an interest in the vessel." Consideration means "an economic benefit, inducement, right, or profit including pecuniary payment accruing to an individual, person, or entity, but not including a voluntary sharing of the actual expenses of the voyage, by monetary contribution or donation of fuel, food, beverage, or other supplies."

that increased exemption times could result in vessel operators forgetting to submit a trip declaration prior to fishing activities or for non-fishing trips longer than 90 minutes

Option 3: The exemption from the trip declaration requirement would apply to non-fishing trips that are completed in 120-minutes or less.

This option would provide the most time to complete non-fishing trips without the requirement for a for-hire vessel owner and/or operator to submit a trip declaration. This increased time interval may be especially important for vessels that would have to travel longer distances to complete such tasks as obtaining ice, fuel, or traveling to where passengers will board the vessel. However, this option would also be the most cumbersome for NMFS to ensure compliance and verify vessel activity, thereby increasing the administrative burden. This option may lead to even more VMS location positions that cannot be validated, and there would be no way to define vessel activity from a declaration. As a result, this option may weaken data integrity, the ability to determine when illegal fishing activity is taking place, and the overall accuracy and efficacy of the program more than the previous two options. As with Option 2, the increased time durations for an exemption associated with Option 3 would increase the administrative burden for NMFS to analyze data for compliance and accuracy and could result in more potential for vessel operators to forget to make a trip declaration prior to fishing activities.

Option 4: Require federally-permitted for-hire vessel owners and/or operators to submit a trip declaration for trips that will be engaging in any type of fishing or chartered activity.

This option would eliminate trip declarations for for-hire vessel owners and/or operators on federal for-hire vessels with Gulf reef fish or CMP charter vessel/headboat permits except when on trips engaging in fishing or chartered activities. Trips with paying passengers on board would require a trip declaration, even if passengers do not engage in fishing activity. This option is similar to Options 1-3 in that it would require trip declarations when engaging in fishing activity (e.g., taking clients on fishing trips, checking bait traps even without clients on board), but also specifies that trip declarations would be required for vessels engaging in chartered activity such as sunset or dolphin cruises. This option does not specify any time limit for non-fishing and non-chartered activities, which would not require a declaration. Vessels would have an unlimited amount of time to engage in non-fishing activities (e.g., traveling to pick up clients, traveling to fuel the vessel). Option 4 differs from Options 1-3 by specifically including trip declaration requirements for chartered activity. Options 1-3 do not explicitly require a trip declaration for chartered activity, but it is unlikely that chartered activity could be completed within the time limits set forth in the first three options. Option 4 would eliminate the need for program participants to keep track of transit time and would also allow program administrators to more specifically distinguish vessel activity, for analytical needs, into fishing vs. chartered activity. However, this option would make it more difficult for law enforcement to associate vessel movement with activity type, and potentially hinder validation efforts, by not restricting non-fishing activities with no declaration requirement to a certain time frame. Vessel movement is monitored by the type-approved VMS units that only ping hourly at most.

## CHAPTER 2. REFERENCES

GMFMC. 2017. Final generic amendment to the fishery management plans for the reef fish resources of the Gulf of Mexico and coastal migratory pelagic resources in the Gulf of Mexico and Atlantic region: Modifications to charter vessel and headboat reporting requirements, including environmental assessment, fishery impact statement, regulatory impact review, and regulatory flexibility act analysis. Gulf of Mexico Fishery Management Council, Tampa, Florida. 185 pp.  
<http://gulfcouncil.org/wp-content/uploads/Electronic-Reporting-for-For-Hire-Vessels-5-23-17.pdf>

## APPENDIX A. TRIP DECLARATION EXAMPLES

Screenshot of a trip declaration example using the VESL application. The user must fill out each field and click save before submitting the declaration.

The screenshot shows the 'New Trip' form in the VESL application. The form is titled 'New Trip' and contains a section for 'Trip Details / Declaration'. The fields are as follows:

Field	Value
Vessel *	Gulf Vessel
Capt.	Capt. Mark Parson
Trip Activity	Fishing Trip wi...x
Trip Type	Charterboat
Trip Start (EDT) *	08/12/22 12:00 PM
Estimated Trip End (EDT)	08/12/22 06:00 PM
Landing Location	MAXIMO PARK BOAT R...

At the bottom of the form are two buttons: 'SAVE' (dark blue) and 'SUBMIT' (green).

Screenshot of a trip declaration example using the eTrips application. The user must fill out each field before submitting the declaration.

12:12 PM Fri Aug 12 100%

☰ ← Create New Trip Declaration - Hail Out

Trip Type  
Charter

Vessel  
NMFSS TEST BOAT

Permit  
(NMFS-SER) 13302 (Operator)

End Port  
FL > PINELLAS > MAXIMO MOORINGS MARINA

Trip Start Date

CANCEL SUBMIT

12:12 PM Fri Aug 12 100%

☰ ← Create New Trip Declaration - Hail Out

Trip Start Date  
Fri 8/12/2022

Trip Start Time  
12:00 PM

Time Zone  
The single Time Zone that will be used for all values of time reported on this notification.  
EST

Trip End Date  
Intended trip end date  
Fri 8/12/2022

CANCEL SUBMIT

12:12 PM Fri Aug 12 100%

☰ ← Create New Trip Declaration - Hail Out

Intended trip end time  
6:00 PM

Intending to Fish?  
Is the vessel leaving the dock with intention to fish? (Y/N)  
YES

Landing Location  
Please enter the landing location (VMS) code.  
316 - MAXIMO PARK BOAT RAMP

Gear Type  
Fishing gear intended for this trip. Required of all vessels with a valid Commercial Gulf Reef Fish permit.  
HOOK AND LINE, ELECTRIC

CANCEL SUBMIT