

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

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

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FRAMEWORK ACTION: TITLE

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.

Responsible Agencies and Contact Persons

| | |
|---|--|
| Gulf of Mexico Fishery Management Council (Council) | 813-348-1630 |
| 4107 W. Spruce Street, Suite 200 | 813-348-1711 (fax) |
| Tampa, Florida 33607 | gulfcouncil@gulfcouncil.org |
| Carly Somerset (carly.somerset@gulfcouncil.org) | http://www.gulfcouncil.org |

| | |
|--|---|
| National Marine Fisheries Service (Lead Agency) | 727-824-5305 |
| Southeast Regional Office | 727-824-5308 (fax) |
| 263 13 th Avenue South | https://www.fisheries.noaa.gov/region/southeast |
| St. Petersburg, Florida 33701 | |
| Rich Malinowski (rich.malinowski@noaa.gov) | |

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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. Beyond accuracy and timeliness, available reporting programs may provide improvements to data quality, accessibility, and integration of data for fisheries management. Although electronic trip reporting is not new, its use in the federally permitted for-hire component of the recreational sector (i.e., charter vessels and headboats) is more recent than its use in other fleets.

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 and/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 installation of 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 for vessels with for-hire federal permits for Gulf Reef Fish and/or Gulf CMP species require submittal of 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.¹

§ 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.²

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/or operators, considering there must also be a trip declaration prior to departing for a fishing trip. Under the Paperwork Reduction Act (PRA), the reporting burden for these requirements is estimated to average 2 minutes to complete 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 kind of short duration trips is overly burdensome. In the previous amendment to modify for-hire trip reporting requirements (GMFMC 2017), the alternatives to require for-hire vessel operators to declare the type of trip they intended to take, were chosen as preferred anticipating that the action would provide better estimates of effort with an improved validation process compared to the MRIP for-hire phone survey (charter vessels) and Southeast Region Headboat Survey (SRHS). It was also anticipated to better inform law enforcement officers when a for-hire vessel leaves the dock as well as the type of trip based on the information given by the hail-out. More specifically, making the decision to require trip declarations 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

¹ [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))

² [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))

requirements, federally permitted for-hire vessels did not have any trip notification requirements; however, commercial fisheries in the Gulf have had hail-out requirements for several years. Commercial reef fish permit holders are required to submit trip declarations, although they vary somewhat in the information submitted. 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 industry stakeholders expressing concern over 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, for vessels moving on the water to complete a non-fishing trip, within a limited period of time. Vessels with other permit requirements must continue to follow those trip declaration and reporting requirements by abiding by the strictest declaration requirements for that vessel’s 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 non-fishing trip declarations required to be submitted by Gulf Reef Fish and/or 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 non-fishing trip declarations 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.

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 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.

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, there 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