

(4) The prohibition on sale of Gulf reef fish after a quota or ACL closure.

(b) Other provisions of this part notwithstanding, a dealer in a Gulf state is exempt from the requirement for a Gulf and South Atlantic dealer permit to receive Gulf reef fish harvested from the Gulf EEZ by a vessel trawling for Gulf groundfish.

[79 FR 19494, Apr. 9, 2014]

**§ 622.26 Recordkeeping and reporting.**

(a) *Commercial vessel owners and operators.* (1) The owner or operator of a vessel for which a commercial permit for Gulf reef fish has been issued, as required under § 622.20(a)(1), or whose vessel fishes for or lands reef fish in or from state waters adjoining the Gulf EEZ, who is selected to report by the SRD must maintain a fishing record on a form available from the SRD. These completed fishing records must be submitted to the SRD postmarked no later than 7 days after the end of each fishing trip. If no fishing occurred during a calendar month, a report so stating must be submitted on one of the forms postmarked no later than 7 days after the end of that month. Information to be reported is indicated on the form and its accompanying instructions.

(2) *Advance notice of landing—(i) General requirement.* For the purpose of this paragraph (a)(2), landing means to arrive at a dock, berth, beach, seawall, or ramp. The owner or operator of a vessel landing Gulf reef fish not managed under an IFQ program or Florida Keys/East Florida hogfish harvested in the Gulf is responsible for ensuring that NMFS is contacted at least 3 hours, but no more than 24 hours, in advance of landing to report the time, date, and location of landing, and the vessel identification number (*e.g.*, Coast Guard registration number or state registration number). The vessel must land at an approved landing location and within 1 hour after the time given in the landing notification, except as provided in paragraph (a)(2)(iii) of this section. A vessel landing Gulf reef fish managed under an IFQ program must also comply with the requirements in §§ 622.21 and 622.22, as applicable.

(ii) *Submitting an advance landing notification.* Authorized methods for contacting NMFS and submitting a com-

pleted landing notification include the VMS unit, or another contact method approved by NMFS.

(iii) *Landing prior to the notification time.* The owner or operator of a vessel that has completed a landing notification and submitted it to NMFS may land prior to the notification time, only if an authorized officer is present at the landing site, is available to meet the vessel, and has authorized the owner or operator of the vessel to land prior to the notification time.

(iv) *Changes to a landing notification.* The owner or operator of a vessel who has submitted a landing notification to NMFS may make changes to the notification by submitting a superseding notification. If the initial superseding notification makes changes to the time of landing that is later than the original time in the notification, the vessel does not need to wait an additional 3 hours to land. If the initial superseding notification makes changes to the landing location, the time of landing is earlier than previously specified, or more than one superseding notification is submitted on a trip, the vessel must wait an additional 3 hours to land, except as provided in paragraph (a)(2)(iii) of this section.

(v) *Approved landing locations.* Gulf reef fish not managed under an IFQ program, and Florida Keys/East Florida hogfish harvested in the Gulf, must be landed at an approved landing location. Landing locations must be approved by the NOAA Office of Law Enforcement prior to a vessel landing these species at these sites. Proposed landing locations may be submitted to NMFS; however, new landing locations will be approved only at the end of each calendar-year quarter. To have a landing location approved by the end of the calendar-year quarter, it must be submitted at least 45 days before the end of the calendar-year quarter. NMFS will evaluate the proposed sites based on, but not limited to, the criteria at §§ 622.21(b)(5)(v) and 622.22(b)(5)(v).

(b) *Charter vessel/headboat owners and operators—(1) General reporting requirement.* The owner or operator of a charter vessel or headboat for which a charter vessel/headboat permit for Gulf reef fish has been issued, as required under

§ 622.20(b), and whose vessel is operating as a charter vessel or headboat, regardless of fishing location, must submit an electronic fishing report of all fish harvested and discarded, and any other information requested by the SRD for each trip within the time period specified in paragraph (b)(2) of this section. The electronic fishing report must be submitted to the SRD via NMFS approved hardware and software, as posted on the NMFS Southeast Region website. If selected by the SRD, the owner or operator of a vessel for which a charter vessel/headboat permit for Gulf reef fish has been issued must report via the NMFS approved software for the Southeast Region Headboat Survey.

(2) *Reporting deadlines.* Completed electronic fishing reports required by paragraph (b)(1) of this section must be submitted to the SRD prior to removing any fish from the vessel. If no fish were retained by any person on the vessel during a trip, the completed electronic fishing report must be submitted to the SRD within 30 minutes of the completion of the trip, *e.g.*, arrival at the dock.

(3) *Catastrophic conditions.* During catastrophic conditions only, NMFS provides for use of paper forms for basic required functions as a backup to the electronic reports required by paragraph (b) of this section. The RA will determine when catastrophic conditions exist, the duration of the catastrophic conditions, and which participants or geographic areas are deemed affected by the catastrophic conditions. The RA will provide timely notice to affected participants via publication of notification in the FEDERAL REGISTER, and other appropriate means, such as fishery bulletins or NOAA weather radio, and will authorize the affected participants' use of paper forms for the duration of the catastrophic conditions. The paper forms will be available from NMFS. During catastrophic conditions, the RA has the authority to waive or modify reporting time requirements.

(4) *Compliance requirement.* Electronic reports required by paragraph (b)(1) of this section must be submitted and received by NMFS according to the reporting requirements under this sec-

tion. A report not received within the applicable time specified in paragraph (b)(2) of this section is delinquent. A delinquent report automatically results in the owner and operator of a charter vessel or headboat for which a charter vessel/headboat permit for Gulf reef fish has been issued being prohibited from harvesting or possessing such species, regardless of any additional notification to the delinquent owner and operator by NMFS. The owner and operator who are prohibited from harvesting or possessing such species due to delinquent reports are authorized to harvest or possess such species only after all required and delinquent reports have been submitted and received by NMFS according to the reporting requirements under this section.

(5) *Hardware and software requirements for vessel location tracking.* An owner or operator of a vessel for which a charter vessel/headboat permit for Gulf reef fish has been issued must ensure that the vessel is equipped with NMFS-approved hardware and software with a minimum capability of archiving GPS locations as posted on the NMFS Southeast Region website. The vessel location tracking device can be either a cellular or satellite VMS unit, and must be permanently affixed to the vessel and have uninterrupted operation.

(i) *Use of a NMFS-approved satellite VMS.* An owner or operator of a vessel for which a charter vessel/headboat permit for Gulf reef fish has been issued, and who uses a NMFS-approved satellite VMS to comply with the reporting and recordkeeping requirements of this section, must adhere to the VMS requirements specified in § 622.28, except for the trip declaration requirements specified in § 622.28(e). For trip declaration requirements, see paragraph (b)(6) of this section.

(ii) *Use of NMFS-approved cellular VMS.* An owner or operator of a vessel for which a charter vessel/headboat permit for Gulf reef fish has been issued, and who uses NMFS-approved cellular VMS to comply with the reporting and recordkeeping requirements of this section must comply with the following—

(A) *Cellular VMS unit operation and replacement.* Ensure that such vessel has

an operating cellular VMS unit approved by NMFS on board at all times whether or not the vessel is underway, unless exempted by NMFS under the power-down exemption specified in paragraph (b)(5)(ii)(D) of this section. An operating cellular VMS unit includes an operating mobile transmitting unit on the vessel and a functioning communication link between the unit and NMFS as provided by a NMFS-approved communication service provider. NMFS maintains a current list of approved cellular VMS units and communication providers, which is available at <https://www.fisheries.noaa.gov/southeast/about-us/sustainable-fisheries-division-gulf-mexico-branch>. If NMFS OLE removes a cellular VMS unit from the approved list, a vessel owner who purchased and installed such a unit prior to its removal from the approved list will still comply with the requirement to have an approved unit, unless otherwise notified by NMFS OLE. At the end of a cellular VMS unit's service life, it must be replaced with a currently approved unit.

(B) *Hourly position reporting requirement.* An owner or operator of a vessel using a NMFS-approved cellular VMS unit as specified in paragraph (b)(5)(ii)(A) of this section must ensure that the required cellular VMS unit archives the vessel's accurate position at least once per hour, 24 hours a day, every day of the year, unless exempted from this requirement under paragraphs (b)(5)(ii)(C) or (D) of this section.

(C) *In-port exemption.* While in port, an owner or operator of a vessel with a NMFS-approved cellular VMS unit configured with the 4-hour position reporting feature may utilize the 4-hour reporting feature rather than comply with the hourly position reporting requirement specified in paragraph (b)(5)(ii)(B) of this section. Once the vessel is no longer in port, the hourly position reporting requirement specified in paragraph (b)(5)(ii)(B) of this section applies. For the purposes of this section, "in port" means secured at a land-based facility, or moored or anchored after the return to a dock, berth, beach, seawall, or ramp.

(D) *Power-down exemption.* An owner or operator of a vessel subject to the

requirement to have a cellular VMS unit operating at all times as specified in paragraph (b)(5)(ii)(A) of this section can be exempted from that requirement and may power down the required cellular VMS unit if—

(1) The vessel will be continuously out of the water or in port, as defined in paragraph (b)(5)(ii)(C) of this section, for more than 72 consecutive hours;

(2) The owner or operator of the vessel applies for and obtains a valid letter of exemption from NMFS. The letter of exemption must be maintained on board the vessel and remains valid for the period specified in the letter for all subsequent power-down requests conducted for the vessel consistent with the provisions of paragraphs (b)(5)(ii)(D)(3) and (4) of this section.

(3) Prior to each power down, the owner or operator of the vessel files a report using a NMFS-approved form that includes the name of the person filing the report, vessel name, U.S. Coast Guard vessel documentation number or state vessel registration number, charter vessel/headboat reef fish permit number, vessel port location during cellular VMS power down, estimated duration of the power-down exemption, and reason for power down; and

(4) Prior to powering down the cellular VMS unit, the owner or operator of the vessel receives a confirmation from NMFS that the information was successfully delivered.

(E) *Installation and activation of a cellular VMS unit.* Only a cellular VMS unit that has been approved by NMFS for the Gulf reef fish fishery may be used, and the cellular VMS unit must be installed by a qualified marine electrician. When installing and activating or when reinstalling and reactivating the NMFS-approved cellular VMS unit, the vessel owner or operator must—

(1) Follow procedures indicated on the VMS installation and activation form, which is available from NMFS; and

(2) Submit a completed and signed VMS installation and activation form to NMFS as specified on the form.

(F) *Interference with the cellular VMS.* No person may interfere with, tamper with, alter, damage, disable, or impede

the operation of the cellular VMS, or attempt any of the same.

(G) *Interruption of operation of the cellular VMS.* If a vessel's GPS is not operating properly, the vessel owner or operator must immediately contact NMFS and follow NMFS' instructions. If notified by NMFS that a vessel's cellular VMS is not operating properly, the vessel owner or operator must follow NMFS' instructions. In either event, such instructions may include, but are not limited to, manually communicating to a location designated by NMFS the vessel's positions, or returning to port until the cellular VMS is operable.

(iii) *Access to position data.* As a condition of authorized fishing for or possession of Gulf reef fish subject to the reporting and recordkeeping requirements in this section, a vessel owner or operator subject to the hardware and software requirements in this section must allow NMFS, the U.S. Coast Guard, and their authorized officers and designees access to the vessel's position data obtained from the cellular VMS.

(6) *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.

(c) *Dealers.* (1) A dealer who first receives Gulf reef fish must maintain records and submit information as specified in § 622.5(c).

(2) The operator of a vehicle that is used to pick up from a fishing vessel

Gulf reef fish must maintain a record containing the name of each fishing vessel from which reef fish on the vehicle have been received. The vehicle operator must provide such record for inspection upon the request of an authorized officer.

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#### § 622.27 At-sea observer coverage.

(a) *Required coverage.* A vessel for which a Federal commercial vessel permit for Gulf reef fish or a charter vessel/headboat permit for Gulf reef fish has been issued must carry a NMFS-approved observer, if the vessel's trip is selected by the SRD for observer coverage. Vessel permit renewal is contingent upon compliance with this paragraph (a).

(b) *Notification to the SRD.* When observer coverage is required, an owner or operator must advise the SRD in writing not less than 5 days in advance of each trip of the following:

(1) Departure information (port, dock, date, and time).

(2) Expected landing information (port, dock, and date).

(c) *Observer accommodations and access.* An owner or operator of a vessel on which a NMFS-approved observer is embarked must:

(1) Provide accommodations and food that are equivalent to those provided to the crew.

(2) Allow the observer access to and use of the vessel's communications equipment and personnel upon request for the transmission and receipt of messages related to the observer's duties.

(3) Allow the observer access to and use of the vessel's navigation equipment and personnel upon request to determine the vessel's position.

(4) Allow the observer free and unobstructed access to the vessel's bridge, working decks, holding bins, weight scales, holds, and any other space used to hold, process, weigh, or store fish.

(5) Allow the observer to inspect and copy the vessel's log, communications logs, and any records associated with the catch and distribution of fish for that trip.