

red snapper in the Gulf of Mexico at 4.65 million lb (2.11 million kg) for the current fishing year, January 1 through December 31, 1998. Those regulations split the red snapper commercial fishing season into two time periods, the first commencing at noon on February 1 with two-thirds of the annual quota (3.06 million lb (1.39 million kg)) available, and the second commencing at noon on September 1 with the remainder of the annual quota available. During the commercial season, the red snapper commercial fishery opens at noon on the first of each month and closes at noon on the 15th of each month, until the applicable commercial quotas are reached.

Under 50 CFR 622.43(a), NMFS is required to close the commercial fishery for a species or species group when the quota for that species or species group is reached or is projected to be reached by publishing a notification to that effect in the **Federal Register**. Based on current statistics, NMFS has determined that the annual commercial quota of 4.65 million lb (2.11 million kg) for red snapper was reached on October 15, 1998. The commercial red snapper fishery was closed on October 15, 1998, at noon and was scheduled to reopen on November 1, 1998. However, because NMFS has determined that the commercial red snapper quota was reached on October 15, the commercial red snapper fishery will not reopen on November 1; it will remain closed until noon on February 1, 1999.

During the closure, the bag and possession limits specified in 50 CFR 622.39(b) apply to all harvest or possession of red snapper in or from the EEZ in the Gulf of Mexico, and the sale or purchase of red snapper taken from the EEZ is prohibited. In addition, the bag and possession limits for red snapper apply on board a vessel for which a commercial permit for Gulf reef fish has been issued, without regard to where such red snapper were harvested. However, when the recreational quota for red snapper has been reached and the bag and possession limit has been reduced to zero, such possession during a closed period is prohibited. The recreational red snapper fishery was closed on September 30, 1998 (63 FR 45760).

Classification

This action is taken under 50 CFR 622.43(a) and is exempt from review under E.O. 12866.

Dated: October 26, 1998.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 980715175-8254-02; I.D. 070198B]

RIN 0648-AL35

Fisheries of the Northeastern United States; Vessel Monitoring System Power Down Exemption

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to amend the regulations implementing the Atlantic Sea Scallop and Northeast Multispecies Fishery Management Plans (FMP). This action changes the name "Vessel Tracking System (VTS)" to "Vessel Monitoring System (VMS)" and changes the VMS operating requirements for vessels to allow the VMS unit to be turned off if the vessel is out of the water continuously for more than 72 consecutive hours, provided the owner of the vessel obtains and complies with a letter of exemption issued to the vessel. The change in VMS operating requirements is necessary to address the lack of available power required to keep VMS units operational when vessels are removed from the water for repair and maintenance.

DATES: Effective November 30, 1998.

ADDRESSES: Copies of the Regulatory Impact Review supporting this action may be obtained from Jon C. Rittgers, Acting Regional Administrator, Northeast Regional Office, NMFS, One Blackburn Drive, Gloucester, MA 01930.

Comments regarding burden-hour estimates for collection-of-information requirements contained in this final rule should be sent to Jon C. Rittgers and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20502 (Attention: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: Paul H. Jones, Fishery Policy Analyst, 978-281-9273.

SUPPLEMENTARY INFORMATION: A proposed rule for this action was

published on July 28, 1998 (63 FR 40253). Details of this action are described in the preamble to the proposed rule and will not be repeated here.

Approved Management Measures

Under current regulations, required VTS units, hereinafter referred to as VMS units, in the Atlantic sea scallop fishery must be fully operational at all times and transmit a signal indicating a vessel's accurate position at least every hour, 24 hours a day, without interruption, throughout the year. A vessel out of the water for repair and maintenance may not have an operational power supply available with which to power its VMS unit so that it may transmit hourly position reports. This action amends the operating requirements for a VMS to allow vessels in those fisheries to turn off the VMS unit if the vessel will be out of the water continuously for more than 72 hours. Owners of such vessels must first obtain a letter of exemption issued to the vessel from the Regional Administrator. This amendment is consistent with the primary intent of the original requirement, which was to monitor the at-sea activity of these vessels for compliance with the regulatory requirements.

In addition to the management measure described above, this final rule also changes the names and related definitions for "Vessel Tracking System (VTS)" to "Vessel Monitoring System (VMS)" and "VTS unit" to "VMS unit" to provide consistency with other NMFS Regions.

Comments and Responses

NMFS received written comments on the proposed rule from one individual and one fishing industry association. Specific comments are discussed and responded to here.

Comment: The fishing industry association supports implementation of the amendment that would allow vessels to turn off the VMS unit if the vessel will be out of the water continuously for more than 72 consecutive hours.

Response: The comment has been noted and the regulatory amendment is approved.

Comment: One individual and one fishing industry association expressed concern over the requirement of requiring VMS units to be fully operational at all times and transmit a signal indicating a vessel's accurate position at least every hour, 24 hours a day, without interruption, throughout the year. They state that most docks do not have shore power hook-ups, and

many do not have generators, making the 24-hours a day requirement impractical.

Response: NMFS understands this problem and may further adjust the VMS power down regulations through a regulatory amendment, if information becomes available to support such a change.

Classification

This final rule has been determined to be not significant for purposes of E.O. 12866.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule would not have a significant economic impact on a substantial number of small entities. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not prepared.

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a currently valid OMB control number.

The rule contains one new collection-of-information requirement subject to the PRA. The collection-of-information requirement has been approved by the Office of Management and Budget, OMB control number OMB 0648-0202.

The estimated response time includes the time needed for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Public comment is sought regarding whether this collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments regarding this burden estimate or any other aspect of this data collection to NMFS and OMB (see ADDRESSES).

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: October 22, 1998.

Gary Matlock,

*Acting Assistant Administrator for Fisheries,
National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 648.2, the definitions for “Vessel Tracking System (VTS)” and “VTS unit” are removed, and the definitions for “Vessel Monitoring System (VMS)” and “VMS unit” are added in alphabetical order to read as follows:

§ 648.2 Definitions.

* * * * *

Vessel Monitoring System (VMS) means a vessel monitoring system as set forth in § 648.9 and approved by NMFS for use by scallop and NE multispecies vessels, as required by this part.

VMS unit means a device installed on board a vessel used for vessel monitoring and transmitting the vessel's position as required by this part.

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3. In § 648.9, the acronym “VTS” in the section heading is replaced with the acronym “VMS” and paragraph (b)(2), the first sentence of paragraph (b)(5), and paragraphs (b)(7) and (c) are revised to read as follows:

§ 648.9 VMS requirements.

* * * * *

(b) * * *

(2) The VMS shall be fully automatic and operational at all times, regardless of weather and environmental conditions, unless exempted under paragraph (c)(2) of this section.

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(5) The VMS shall provide accurate hourly position transmissions every day of the year unless exempted under paragraph (c)(2) of this section. * * *

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(7) The VMS vendor shall be capable of transmitting position data to a NMFS-designated computer system via a modem at a minimum speed of 9600 baud. Transmission shall be in a file format acceptable to NMFS.

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(c) **Operating requirements.** (1) All required VMS units must transmit a signal indicating the vessel's accurate position at least every hour, 24 hours a day, unless such vessel is exempted under paragraph (c)(2) of this section.

(2) **Power Down Exemption.** (i) Any vessel required to have on board a fully operational VMS unit at all times, as specified in paragraph (b)(2) of this section, is exempt from this requirement provided:

(A) The vessel will be continuously out of the water for more than 72 consecutive hours; and

(B) A valid letter of exemption obtained pursuant to paragraph (c)(2)(ii) of this section has been issued to the vessel and is on board the vessel and the vessel is in compliance with all conditions and requirements of said letter.

(ii) **Letter of Exemption—(A) Application.** A vessel owner may apply for a letter of exemption from the operating requirements specified in paragraph (c)(1) of this section for his/her vessel by sending a written request to the Regional Administrator and providing the following: Sufficient information to determine that the vessel will be out of the water for more than 72 continuous hours; the location of the vessel during the time an exemption is sought; and the exact time period for which an exemption is needed (i.e., the time the VMS will be turned off and turned on again).

(B) **Issuance.** Upon receipt of an application, the Regional Administrator may issue a letter of exemption to the vessel if it is determined that the vessel owner provided sufficient information as required under paragraph (c)(2)(ii)(A) of this section and that the issuance of the letter of exemption will not jeopardize accurate monitoring of the vessel's DAS. Upon written request, the Regional Administrator may change the time period for which the exemption was granted.

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4. In addition to the amendments set forth above, the acronym “VTS” is replaced with the acronym “VMS”, and the acronym “VTSs” is replaced with the acronym “VMSs” wherever they appear throughout the following places:

- a. Section 648.4(c)(2)(iii)(A), (c)(2)(iv)(B), and (e)(1)(iv);
- b. Section 648.7(b)(1)(i) and (b)(1)(iii);
- c. Section 648.9(a), (b) introductory text, (b)(1), (b)(3)-(b)(6), (b)(8)-(b)(9), and (d)-(g);
- d. Section 648.10(a), (b) introductory text, (b)(1), (b)(2), (b)(4), (b)(5), (c) introductory text, (e) introductory text, (e)(1), (e)(1)(ii), and (f)(1); and
- e. Section 648.14(a)(7), (c)(2) introductory text, (c)(2)(i), (c)(2)(ii), (h)(3), and (h)(4).

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