



Data Collection Advisory Panel: September 2021

# Modification to Location Reporting Requirements for For-Hire and Commercial Vessels



# Why Are We Here?

**May 2017:** Finalized Generic Amendment: Modifications to Charter Vessel and Headboat Reporting Requirements

Phase I: Electronic trip reporting implemented Jan. 5, 2021

Phase II: Location reporting final rule expected to be published early September and effective early December

Public and Council comment expressed concern about trip cancellation/loss of revenue and/or clients if location reporting equipment fails

- Exemption process requested for unanticipated failures
- Exemption framework action attempting to find workaround for equipment failure but may not be finalized until after the location reporting final rule is effective
- Type-approved units and vendor information on the SEFHIER website: 9 satellite and 2 cellular units approved now



# Overview

- April 2021:
  - Council directed staff to begin a framework action to address equipment failure and possible exemptions for charter, headboat and commercial vessels
- June 2021:
  - Presentation to Council on draft actions
  - Request from Council member to discuss framework action with Data Collection AP
- August 2021:
  - Presentation and draft document with updated actions and alternatives discussed
- October 2021:
  - Updated draft framework action will be presented

# Equipment Failure Concerns

Being unable to “move on the water” or being “tied to the dock” for equipment failure with no exemption is problematic.

This can negatively impact both the commercial and for-hire sectors

- **Commercial sector:** the commercial program is well established but VMS failure can negatively impact personnel, trip cost, weather windows, etc.
- **For-Hire sector:** Location reporting using VMS units is new and unfamiliar to many captains. Being “tied to the dock” will cause trip cancellations and loss of revenue.

Currently exemptions for the different sectors are addressed through separate actions.



# Draft Purpose and Need

- The purpose of this action is to establish a mechanism to report a malfunction with a vessel's location-positioning device and provide an exemption to location-positioning requirements.
- The need is to mitigate trip delays or cancellations and subsequent loss of revenue due to the inability to record and transmit location-positioning information.



# Draft Actions

**Action 1:** Modify requirements for **for-hire vessels with a Charter/Headboat Reef Fish and/or Coastal Migratory Pelagic permit** to allow for an exemption to VMS requirements to address equipment failure.

**Action 2:** Modify requirements for **vessels with a Commercial Reef Fish permit** to allow for an exemption to VMS requirements to address equipment failure.



# Draft Action 1: For-Hire

- **Alternative 1 No Action.** Maintain the requirement that vessels with Charter/Headboat permits for Reef Fish and/or Coastal Migratory Pelagics (CMP) have an approved vessel monitoring system (VMS) unit onboard, operating at all times, unless exempted by National Marine Fisheries Service (NMFS) under a power-down exemption.



# Draft Action 1: For-Hire

- **Alternative 2:** Create an exemption to the VMS requirement to address equipment failure and set a limit on the number of days that the NMFS-approved exemption method is valid, in order to address equipment failure for vessels with Charter/Headboat permits for Reef Fish and/or CMP:
- **Option 2a:** The exemption will be valid for up to 3 days from submittal date.
- **Option 2b:** The exemption will be valid for up to 7 days from submittal date.
- **Option 2c:** The exemption will be valid for up to 10 days from submittal date.





# Draft Action 1: For-Hire

- **Alternative 3:** Create an exemption to the VMS requirement to address equipment failure and set a limit on the number of times a permit holder can request the exemption each calendar year, per vessel:
  - **Option 3a:** The permit holder may not request more than one exemption per vessel per calendar year.
  - **Option 3b:** The permit holder may not request more than two exemptions per vessel per calendar year.
  - **Option 3c:** The permit holder may not request more than three exemptions per vessel per calendar year.



# Draft Action 2: Commercial

- **Alternative 1:** (No Action): Maintain requirement that vessels with Commercial Reef Fish permits have an approved VMS unit operating on board at all times unless exempted by NMFS under a power-down exemption.



# Draft Action 2: Commercial

- **Alternative 2:** Create an exemption to the VMS requirement to address equipment failure and set a limit on the number of days that the NMFS-approved exemption method is valid, in order to address equipment failure for vessels with Commercial Reef Fish permits.
  - **Option 2a:** The exemption will be valid for up to 3 days from submittal date.
  - **Option 2b:** The exemption will be valid for up to 7 days from submittal date.
  - **Option 2c:** The exemption will be valid for up to 10 days from submittal date.



# Draft Action 2: Commercial

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  - **Option 3b:** The permit holder may not request more than two exemptions per vessel per calendar year.
  - **Option 3c:** The permit holder may not request more than three exemptions per vessel per calendar year.



# Potential Considerations

Does an exception need to apply to for-hire and commercial vessels?

## Commercial Reef Fish

- Satellite VMS units have been used in the commercial sector since 2007
- Observed failure rate of satellite VMS is very low.

## For-Hire

- Cellular VMS options for for-hire reporting have not yet been used
- For-hire owners/operators concerned current VMS regulations are too vague



# Potential Considerations

- Is the exemption tied to the vessel or the permit?
  - How to handle dual-permitted vessels
    - Can one form be submitted if applied by vessel and not by permit?
- Alternative 2: Equipment failure on weekends and/or holidays, equipment delays
  - Business days vs calendar days from submittal date
- Alternative 3: How to handle transfer or sale of permit to different vessel
  - Does the annual count restart?



# Potential Considerations

- Implementation timeline
  - If equipment failure exemption is allowed, there may be a gap between implementation of Phase II location-tracking requirements and action(s) within this framework
  - Implementation timeline will likely depend on exemption method:
    - Paperwork Reduction Act
- Response times of NOAA, software, and hardware vendors and average time to fix units
  - SERO public outreach webinars on VMS requirements scheduled in September
  - Council staff scheduled vendor outreach webinars for mid-October



# Questions?

