

For the reasons set out in the preamble, 50 CFR part 622 is proposed to be amended as follows:

**PART 622--FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND  
SOUTH ATLANTIC**

1. The authority citation for part 622 continues to read as follows:

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

2. In § 622.26, revise paragraph (b) (5) to read as follows:

**§ 622.26 Recordkeeping and reporting.**

\* \* \* \* \*

(b) \* \* \*

(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 unless exempted by NMFS under the power-down exemption or equipment failure exemption. See §

622.28(d) for the power-down exemption for satellite VMS, § 622.26(b) (ii) (D) for the power-down exemption for cellular VMS, and § 622.26(b) (5) (iv) for the equipment failure exemption for both satellite and cellular VMS.

(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 as follows.

(A) For the VMS equipment failure exemption, see paragraph (b) (5) (iv) of this section.

(B) For trip declaration requirements, see paragraph (b) (6) of this section.

(ii) \* \* \* *(Use of NMFS-approved cellular VMS.)*

(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) or the equipment failure exemption specified in paragraph (b) (5) (iv) 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/sustainable-fisheries-gulf-mexico>. 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), or (b) (5) (iv) of this section.

\* \* \* \* \*

(G) \* \* \* (*Interruption of operation of the cellular VMS.*)

(iii) \* \* \* (*Access to position data.*)

(iv) *Equipment failure exemption to vessel location tracking requirements.* The temporary exemption described in this paragraph applies only to the requirements specified in paragraph (b) (5) of this section.

(A) *Scope.* A permit holder issued a valid charter vessel/headboat permit for Gulf reef fish may submit a request for an exemption to the vessel location tracking requirements specified in paragraph (b) (5) of this section if a malfunction occurs with the VMS unit on the vessel.

(B) *Request an exemption.* To request an equipment failure exemption, the permit holder must provide the requested information about the malfunction to NMFS at [NMFS website]. After validating that the permit holder and vessel are eligible for the exemption, NMFS will grant provisional approval of the exemption pending the submission of further documentation of the malfunction of the VMS such as the repair receipt or VMS installation checklist for a replacement unit as specified by NMFS at <https://www.fisheries.noaa.gov/southeast/sustainable-fisheries-gulf-mexico>. The provisional approval exempts the vessel from the location tracking requirements under paragraph 622.26(b) (5). NMFS will notify the permit holder of final approval of the equipment failure exemption after

reviewing the required documentation.

(C) *Equipment failure documentation.* Failure to submit documentation to NMFS of documentation as specified in § 622.26(b) (5) (iv) (B) within the established time frame will invalidate the provisional approval of the exemption and result in a referral to law enforcement.

(D) *Exemption duration.* An equipment failure exemption is valid for up to 10 calendar days from the date of provisional approval, but the VMS unit must be operational as soon as possible.

(E) *Exemption frequency.* NMFS may grant a permit holder up to two equipment failure exemptions per vessel per calendar year. The two exemption periods may be consecutive in the same calendar year. NMFS will apply an exemption that spans across two calendar years to the year of the start date of the exemption.

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3. In § 622.374, revise paragraph (b) to read as follows:

**§ 622.374 Recordkeeping and reporting.**

\* \* \* \* \*

(b) \* \* \*

(5) \* \* \* (*Hardware and software requirements for electronic reporting--(i) Owner or operator applicability.*)

(ii) \* \* \* (*Vessel applicability.*)

(iii) *Use of a NMFS-approved satellite VMS.* An owner or operator of a vessel for which a charter vessel/headboat permit for Gulf coastal migratory pelagic 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 for the Gulf reef fish fishery specified in § 622.28, except as follows.

(A) For the VMS equipment failure exemption, see paragraph (b) (5) (vi) of this section.

(B) For trip declaration requirements, see paragraph (b) (6) of this section.

(iv) \* \* \* (*Use of NMFS-approved cellular VMS.*)

(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) (iv) (D) or the equipment failure exemption specified in paragraph (b) (5) (vi) 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/sustainable-fisheries-gulf-mexico>. 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. 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) (iv) (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) (iv) (C) or (D), or (b) (5) (vi) of this section.

\* \* \* \* \*

(G) \* \* \* (*Interruption of operation of the cellular VMS.*)

(v) \* \* \* (*Access to position data.*)

(vi) *Equipment failure exemption to vessel location*

*tracking requirements.* The temporary exemption described in this paragraph applies only to the requirements specified in paragraph (b) (5) of this section.

(A) *Scope.* A permit holder issued a valid charter vessel/headboat permit for Gulf CMP species may submit a request for an exemption to the vessel location tracking requirements specified in paragraph (b) (5) of this section if a malfunction occurs with the VMS unit on the vessel.

(B) *Request an exemption.* To request an equipment failure exemption, the permit holder must provide the requested information about the malfunction to NMFS at [NMFS website]. After validating that the permit holder and vessel are eligible for the exemption, NMFS will grant provisional approval of the exemption pending the submission of further documentation of the malfunction of the VMS such as the repair receipt or VMS installation checklist for a replacement unit as specified by NMFS at <https://www.fisheries.noaa.gov/southeast/sustainable-fisheries-gulf-mexico>. The provisional approval exempts the vessel from the location tracking requirements under paragraph 622.374(b) (5). NMFS will notify the permit holder of final approval of the equipment failure exemption after reviewing the required documentation.

(C) *Equipment failure documentation.* Failure to submit

documentation to NMFS of documentation as specified in § 622.374(b) (5) (vi) (B) within the established time frame will invalidate the provisional approval of the exemption and result in a referral to law enforcement.

(D) *Exemption duration.* An equipment failure exemption is valid for up to 10 calendar days from the date of provisional approval, but the VMS unit must be operational as soon as possible.

(E) *Exemption frequency.* NMFS may grant a permit holder up to two equipment failure exemptions per vessel per calendar year. The two exemption periods may be consecutive in the same calendar year. NMFS will apply an exemption that spans across two calendar years to the year of the start date of the exemption.

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