

the specified time of publication in the **Federal Register**, the Federal Railroad Administration will publish a notice in the **Federal Register** indicating that no adverse comment was received and confirming that the rule will become effective on the date that was indicated in the direct final rule.

(d) If the Federal Railroad Administration receives any written adverse comment or request for oral hearing within the specified time of publication in the **Federal Register**, a notice withdrawing the direct final rule will be published in the final rule section of the **Federal Register** and, if the Federal Railroad Administration decides a rulemaking is warranted, a notice of proposed rulemaking will be published in the proposed rule section of the **Federal Register**.

(e) An "adverse" comment for the purpose of this subpart means any comment that the Federal Railroad Administration determines is critical of the rule, suggests that the rule should not be adopted, or suggests a change that should be made in the rule.

Issued in Washington, DC, on February 27, 2007.

**Joseph H. Boardman**,  
Administrator.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[Docket No. 060425111-6315-03;I.D. 041906B]

RIN 0648-AN09

#### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Vessel Monitoring Systems; Amendment 18A

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

**ACTION:** Final rule; delay of effective date.

**SUMMARY:** NMFS further delays the December 7, 2006, effective date of two sections of a final rule, published August 9, 2006, until May 6, 2007. The amendments to those sections will require owners/operators of vessels with Gulf reef fish commercial vessel permits to install a NMFS-approved vessel monitoring system (VMS) and will make installation of VMS a prerequisite for

permit renewal or transfer. This delay of the effective date will provide additional time for resolution of an unanticipated technological problem with one of the approved VMS units purchased by significant portion of the fleet and will allow vendors additional time to meet the demand for purchase and installation of VMS units that are currently backlogged.

**DATES:** The effective date of §§ 622.9(a)(2) and 622.4(m)(1) published August 9, 2006 (71 FR 45428), is delayed until May 6, 2007.

**ADDRESSES:** Comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements referred to in this final rule may be submitted in writing to Jason Rueter, NMFS, Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701; telephone 727-824-5305; fax 727-824-5308; email [Jason.Rueter@noaa.gov](mailto:Jason.Rueter@noaa.gov) and to David Rostker, Office of Management and Budget (OMB), by e-mail at [David\\_Rostker@omb.eop.gov](mailto:David_Rostker@omb.eop.gov), or by fax to 202-395-7285.

**FOR FURTHER INFORMATION CONTACT:** Peter Hood, telephone 727-824-5305, fax 727-824-5308, e-mail [Peter.Hood@noaa.gov](mailto:Peter.Hood@noaa.gov).

**SUPPLEMENTARY INFORMATION:**

#### Background

The final rule to implement Amendment 18A to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (Amendment 18A) (71 FR 45428, August 9, 2006) included a provision, § 622.9(a)(2), requiring owners or operators of a vessel with a commercial vessel permit for Gulf reef fish, including charter/headboats with commercial reef fish vessel permits even when under charter, to be equipped with an operating VMS approved by NMFS for the Gulf of Mexico reef fish fishery. Additionally, § 622.4(m)(1) required proof of purchase, installation, activation, and operational status of an approved VMS for renewal or transfer of a commercial vessel permit for Gulf reef fish.

Subsequent to the publication of the final rule, NMFS published a notice listing VMS approved by NMFS for use in the Gulf reef fish fishery (71 FR 54472, September 15, 2006). On October 31, 2006, NMFS published a notice (71 FR 63753), announcing availability of grant funds to reimburse owners and operators of vessels subject to the VMS requirements of Amendment 18A for the equivalent cost of purchasing the least expensive VMS approved by NMFS for the Gulf reef fish fishery. On December

6, 2006, because of concerns that fishers would not have sufficient time to comply with the VMS requirements, NMFS published a notice (71 FR 70680) to delay the effective date of § 622.9(a)(2), the VMS requirement, and § 622.4(m)(1), the provision requiring VMS as a condition of renewing or transferring a commercial vessel permit for Gulf reef fish.

#### Further Delay of Effective Date

NMFS is further delaying, until May 6, 2007, the effective date of § 622.9(a)(2), the VMS requirement, and § 622.4(m)(1), the provision requiring VMS as a condition of renewing or transferring a commercial vessel permit for Gulf reef fish. NMFS recently learned, and has confirmed with the VMS vendor, that there is a technological problem with one of the approved VMS units that has been purchased by a significant portion of the commercial reef fish fleet. This VMS unit, as currently configured, has an excessive power draw. When the vessel is not under power or does not have access to an external power source for longer than about 48 hours, the power draw from this VMS unit can drain all battery power, resulting in failure of electronic equipment including such safety equipment as bilge pumps. The vendor is working with vessel owners to resolve this issue through a reconfiguration of the VMS installation. NMFS has determined that a 60-day delay in implementation of the VMS requirements should be sufficient to resolve this issue. NMFS has also confirmed that providers of approved VMS units have a substantial backlog of orders for approved VMS units. It would not be possible for all affected fishers to acquire, install, and activate the required VMS units prior to the current March 7, 2007 deadline. Therefore, for these reasons, NMFS is delaying the effective date of §§ 622.9(a)(2) and 622.4(m)(1) until May 6, 2007.

#### Classification

The Administrator, Southeast Region, NMFS, (RA) has determined that delaying the effective date of VMS requirements for vessels with commercial vessel permits for Gulf reef fish is necessary for management of the fishery and to minimize adverse social and economic impacts. The RA has also determined that this rule is consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

Pursuant to 5 U.S.C. 533(b)(B), there is good cause to waive prior notice and opportunity for public comment on this action as notice and comment would be impracticable and contrary to the public interest. This final rule merely delays the effective date of the VMS requirements and VMS-related permit renewal requirements set forth in the regulations implementing Amendment 18A. Delaying the effective date of these provisions will provide VMS vendors time to resolve a technological problem with one of the approved VMS units that could potentially affect vessel safety. The delay would also provide vendors additional time to meet the demand for delivery and installation of approved units, which NMFS has confirmed is currently backlogged. For these reasons, there is good cause to waive the 30-day delayed effectiveness provision of the APA for these measures pursuant to 5 U.S.C. 553(d)(3). Failure to waive prior notice and opportunity for public comment or failure to waive the 30-day delayed effectiveness provision of the APA for these measures would result in these measures becoming effective on March 7, 2007, rather than providing the additional time necessary to resolve these unanticipated issues.

This final rule is exempt from the procedures of the Regulatory Flexibility Act because the rule is issued without opportunity for prior notice and opportunity for public comment.

This rule refers to collection-of-information requirements subject to the Paperwork Reduction Act (PRA) and which have been approved by OMB under Control Number 0648-0544. Public reporting for these requirements is estimated to average 4 hours for VMS installation, 15 minutes for completion and submission of certification of VMS installation and activation, 24 seconds for transmission of position reports, 2 hours for annual maintenance of VMS, 10 minutes for submission of requests for power-down exemptions, and 15 minutes for annual renewal of all permits. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding these burden estimates or any other aspect of this data collection, including suggestions for reducing burden hours, to NMFS (see ADDRESSES) and by email to [David\\_Rostker@omb.eop.gov](mailto:David_Rostker@omb.eop.gov), or fax to 202-395-7285.

Notwithstanding any other provision of law, no person is required to respond to, and no person shall be subject to

penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

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

Dated: February 28, 2007.

**Samuel D. Rauch III,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[Docket No. 001005281-0369-02; I.D. 022207A]

#### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Trip Limit Reduction

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

**ACTION:** Temporary rule; inseason adjustment.

**SUMMARY:** NMFS reduces the trip limit in the commercial hook-and-line fishery for king mackerel in the southern Florida west coast subzone to 500 lb (227 kg) of king mackerel per day in or from the exclusive economic zone (EEZ). This trip limit reduction is necessary to protect the Gulf king mackerel resource.

**DATES:** This rule is effective 12:01 a.m., local time, March 3, 2007, through June 30, 2007, unless changed by further notification in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Steve Branstetter, telephone 727-824-5305, fax 727-824-5308, e-mail [steve.branstetter@noaa.gov](mailto:steve.branstetter@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The fishery for coastal migratory pelagic fish (king mackerel, Spanish mackerel, cero, cobia, little tunny, and, in the Gulf of Mexico only, dolphin and bluefish) is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) and is implemented under the authority of the Magnuson-Stevens Fishery

Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

On April 27, 2000, NMFS implemented the final rule (65 FR 16336, March 28, 2000) that divided the Florida west coast subzone of the eastern zone into northern and southern subzones, and established their separate quotas. The quota for the hook-and-line fishery in the southern Florida west coast subzone is 520,312 lb (236,010 kg)(50 CFR 622.42(c)(1)(i)(A)(2)(i)).

In accordance with 50 CFR 622.44(a)(2)(ii)(B)(2), from the date that 75 percent of the southern Florida west coast subzone's quota has been harvested until a closure of the subzone's fishery has been effected or the fishing year ends, king mackerel in or from the EEZ may be possessed on board or landed from a permitted vessel in amounts not exceeding 500 lb (227 kg) per day.

NMFS has determined that 75 percent of the quota for Gulf group king mackerel from the southern Florida west coast subzone has been reached. Accordingly, a 500-lb (227-kg) trip limit applies to vessels in the commercial fishery for king mackerel in or from the EEZ in the southern Florida west coast subzone effective 12:01 a.m., local time, March 3, 2007. The 500-lb (227-kg) trip limit will remain in effect until the fishery closes or until the end of the current fishing year (June 30, 2007), whichever occurs first.

The Florida west coast subzone is that part of the eastern zone located south and west of 25°20.4' N. lat. (a line directly east from the Miami-Dade County, Florida, boundary) along the west coast of Florida to 87°31.067 prime; W. long. (a line directly south from the Alabama/Florida boundary). The Florida west coast subzone is divided into northern and southern subzones. From November 1 through March 31, the southern subzone is designated as the area extending south and west from 25°20.4' N. lat. to 26°19.8' N. lat. (a line directly west from the Lee/Collier County, Florida, boundary), i.e., the area off Collier and Monroe Counties. Based on the current total allowable catch and the allocation ratios, the quota for the southern Florida west coast subzone is 1,040,625 lb (472,020 kg). The subzone's quota is further divided into two equal 520,312-lb (236,010-kg) quotas for vessels fishing with either run-around gillnets or hook-and-line gear.

#### Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA,