

Regulatory Omnibus Framework Adjustment to Modify Reporting Requirements for Electronic Vessel Trip Reports (eVTRs) by Federally-Permitted For-Hire Vessels and Operators in the Mid-Atlantic Region

Including a Regulatory Impact Review

Fishery Management Plan Framework Numbers:
Atlantic Mackerel, Squid, and Butterfish: FW 10;
Bluefish: FW 2;
Summer Flounder, Scup, and Black Sea Bass: FW 10;
Tilefish: FW 3;

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2 Introduction

Federally-permitted for-hire fishing vessels in the Mid Atlantic are required to submit Vessel Trip Reports (VTRs) documenting all fishing activity and catches (.50 CFR 648.7). Electronic Vessel Trip Reports (eVTRs), which allow direct entry of data by the vessel operator using a computer-based system, have been available as an option for some fisheries since 2011 and all fisheries since 2013. In early 2016, the first mobile app-based system for submitting eVTRs was approved by NOAA Fisheries (the Atlantic Coastal Cooperative Statistics Program’s SAFIS eTrips/mobile app for Apple and Android platforms). The Mid-Atlantic Fishery Management Council (Council) explored the use of eVTRs and as part of its 2016 Implementation Plan and elected to develop this omnibus Framework Adjustment to require electronic submission of VTRs by the for-hire sector beginning 6 months after publication of the final rule in the Federal Register. These eVTR requirements would apply to vessels with Federal for-hire (also known as party/charter) permits for species managed under the Mid-Atlantic Fishery Management Council’s FMPs. If a vessel possesses any of these permits, it has to complete VTRs for every trip regardless of species targeted or caught. If the measures proposed in this action are implemented, any such vessel would have to submit VTRs electronically for all trips carrying passengers for-hire.

3 Goals and Objectives for the Action

3.1 Objective of the Action

The objective of this action is to require for-hire vessels with Federal permits for species managed by the Council to submit currently-required VTRs to NOAA through electronic means beginning 6 months after publication of the final rule in the Federal Register and change the reporting timeframe to 48 hours after entering port at the conclusion of the trip. This action does not change any other existing requirements associated with VTRs but is an administrative modification in the method for submitting VTRs.

3.2 Goal for the Action

The goals of this action are to: 1) increase the timeliness (availability) of data submitted through VTRs; 2) reduce the reporting burden on data providers (for-hire operators and/or captains) by eliminating the need of paper-based reporting, and; 3) increase the accuracy and quality of data by reducing recall bias associated with delayed completion and submission of paper forms. According to NOAA Fisheries, “electronic reporting will make the collection of important data on fishing vessel activity more efficient, convenient, and timely” for fishery managers, and other data users.¹

3.3 Timeline for Action

The initial Framework Meeting occurred during the Council meeting June 14, 2016 in Newark, DE. Consultation with for-hire operators on the Council’s Advisory Panels and interested public occurred July 18, 2016. The second Framework Meeting and approval of the Framework

¹ <http://www.greateratlantic.fisheries.noaa.gov/aps/evtr/electronic/index.html>, May 26, 2016.

Adjustment was at the Council’s meeting August 10, 2016 in Virginia Beach, VA. Implementation of the requirements under this action will be 6 months following publication of the final rule in the Federal Register.

4 Background²

In 1992, NOAA Fisheries began mandating reporting of catch, landings, and trip information through Vessel Trip Reports (VTRs) for federally permitted vessels holding summer flounder permits. This requirement was expanded during 1994-96 to include all vessels with federal fishing permits. In 2004, mandatory electronic reporting by federally permitted dealers was implemented for almost all federally-managed species. Requirements for weekly reporting were implemented in 2010 for fisheries under catch shares, with weekly reporting later expanded to herring, mackerel, surf clam/ocean quahog IFQ fisheries. In July 2011, the NOAA Fisheries Greater Atlantic Regional Fisheries Office (GARFO) approved the use of electronic reporting of VTRs on a limited, voluntary basis for a segment of the groundfish fleet, and in 2013 for all vessels issued a Federal Northeast fishing permit.

4.1 Summary of Current Reporting Regulations

Owners and operators of federally permitted vessels possessing any of the permits listed below are required to submit a VTR for every commercial, party, or charter trip taken, regardless of where they fish (state or federal waters) or what they catch. MAFMC-managed species that include a for-hire VTR requirement include bluefish, summer flounder, scup, tilefish, black sea bass, Atlantic mackerel, squid, and butterfish.

Northeast multispecies	Atlantic bluefish*	Spiny dogfish*
Atlantic sea scallop	Atlantic herring	Summer flounder*
Monkfish*	Northeast skate	Scup*
Ocean quahog*	Tilefish*	Surf Clam*
Black sea bass*	Atlantic deep sea red crab	Atlantic mackerel, squid, butterfish*

* Covered by a MAFMC Plan

VTRs must be received or postmarked by the 15th day of the month, following the month in which the trip occurred except for Northeast Multispecies, Herring, Surf Clam & Ocean Quahog, Squid, Mackerel and Butterfish which require weekly reporting where VTRs must be submitted by midnight of the Tuesday following the reporting week (Sunday through Saturday) in which fish were offloaded for any trip, including trips landing other species. If a trip encompasses multiple NOAA statistical areas, a separate VTR must be submitted for each area where fishing activity takes place. If a vessel does not fish for an entire reporting period, a “Did Not Fish” report was initially required but has since been eliminated.³ A separate VTR is required for each

² Some information extracted from: StCyr, J., Conigliari, T., Witzig, J. 2013. Fisheries Dependent Data Collections Vessel and Dealer Reporting. Presentation prepared August 6, 2013. NOAA Fisheries Northeast Regional Office. 41p.

³ Although a “Did Not Fish” report was initially required, this was eliminated August 26, 2015 under the Secretary's authority at section 305(d) of the Magnuson-Stevens Act to promulgate regulations necessary to carry out Councils'

reporting period. If a vessel does not land any fish on a trip, all trip information must be completed and “No Catch” entered in as the species code name. A VTR is required regardless of where fishing occurs, meaning that a vessel subject to these requirements in the Northeast must report even if they fish in the Southeast Region or for Highly Migratory Species (HMS) except for vessels holding only an American lobster permit. Since VTRs are in addition to any other reports which may be required by other Regions or plans, multiple reports may be required. VTRs, and any records upon which the reports were based, must be kept on board the vessel for at least 1 year and retained by the owner/operator for a total of 3 years after the date of the last entry on the report.

Detailed instructions for submitting VTRs are available at <http://www.mafmc.org/briefing/june-2016>.

Operators have the option to submit their VTRs electronically (eVTR). At present, the following software applications are approved to meet the technical requirements of eVTR submissions:⁴

- Fisheries Logbook and Data Recording Software (FLDRS)
- Fishing Activity & Catch Tracking System (FACTS™)
- Ecotrust Canada Electronic Logbook (Elog)
- Dynamic Data Logger (DDL)
- Standard Atlantic Fisheries Information eTrips Mobile (SAFIS eTrips/M)

The SAFIS eTrips application is currently the only approved mobile app-based application for Apple iOS and Android operating platforms while the others are computer-based systems (some of which may be able to operate on Windows 10 tablets). App-based systems are under development by other vendors. All eVTR applications provide the ability for reports to be completed at sea and saved on the computer/tablet for submission at a later time.⁵

4.2 Problems with the Current Reporting Regulations

With the advent and ubiquitous availability of high-speed Internet, paper forms are no longer the most efficient method for permit holders to submit the required information, nor for NOAA Fisheries to process it. As previously stated, NOAA Fisheries considers that electronic reporting “will make the collection of important data on fishing vessel activity more efficient, convenient, and timely” for fishery managers and other data users. At present, paper-based reports often create a substantial time delay between the time when fishing activity occurs and when the data are available to fisheries managers. Reports may not be mailed (or faxed) to NOAA Fisheries for up to six weeks after the fishing activity occurs (if regulations are followed). Following receipt of paper forms, data must be entered into the system and checked for anomalies and errors (creating further delay if contact must be made with the operator for clarification or correction). Paper reports may also suffer from illegible handwriting or messy forms that further impede accurate data entry.

amendments consistently with the Act (Federal Register Vol. 80, No. 165). However, there is some initial discussion generated during a May 2016 ACCSP workshop on whether this requirement should be reinstated.

⁴ <http://www.greateratlantic.fisheries.noaa.gov/aps/evtr/electronic/index.html>, May 26, 2016.

⁵ Barry Clifford, NOAA GARFO, Personal Communication 6/15/16.

Under VTR regulations, operators must submit a separate VTR for each area, gear type, and/or mesh size fished, theoretically requiring multiple paper forms for a single trip. While eVTRs still require reporting of fishing activity in each area fished, eVTRs eliminate the paper associated with such reporting and ease the reporting associated with multiple areas. eVTR wouldn't require the submission of an additional eVTR report, only additional effort and catch records for each area and/or gear/mesh fished. Operators are required to retain VTRs for three years after the date of the last entry on the report. Electronic VTRs alleviate the need to maintain paper-based copies since the original electronic copy will be stored in the system (although additional supporting documentation, if any, may still need to be retained). Additionally, vessel operators may be faced with duplicate reporting if they are fishing in another region or for a species (e.g., HMS) that also requires reporting through a separate system. Several states also require reporting from for-hire vessels with information that is identical, or similar, to that provided through VTRs. As electronic data entry by vessel operators is established, the development of systems to submit multiple reports from a single data entry screen will be facilitated.

Recommendations were made during a May 2016 Atlantic Coastal Cooperative Statistics Program (ACCSP) workshop addressing for-hiring reporting on the Atlantic coast that all federal fisheries reporting programs should investigate means to develop a common reporting system to reduce the burden of duplicate reporting, which could be facilitated through an electronic reporting system.

4.3 Users Affected⁶

Vessels with Federal for-hire permits for species managed by the Council would be impacted by this action. The following numbers were generated by analyzing GARFO VTR data for vessels that had been issued a mid-Atlantic recreational Party-Charter (for-hire) permit and submitted at least one VTR from May 2015 through April 2016:

Number of vessels issued a Mid-Atlantic recreational (for-hire) permit: 869
Number of those vessels that submitted VTRs: 590
Total VTRs submitted: 32,779
Number of those vessels that submitted VTRs for for-hire trips: 473
For-Hire VTRs submitted: 25,426

Approximately 1% of vessels and/or trips were using eVTR during this time period.

4.4 Advisory Panel Input

A webinar/conference call was held with for-hire members of the Council's Advisory Panels and with interested members of the public on July 18th, 2016⁷. In general, AP members are supportive of electronic reporting and improving the timely availability of data. Commonly expressed issues are:

⁶ From Preliminary, Unpublished GARFO Vessel Trip Reports

⁷ Federal Register /Vol. 81, No. 128.

- Some for-hire users may not currently have the electronic capabilities or knowledge to report electronically.
 - Outreach and training will be an essential element to help people transition.
- Some AP members felt that a 48-hour submission deadline (as compared to a 24-hour deadline discussed at the June 14th Council meeting) would provide more leeway for the for-hire operators who needed to check and clean up reports prior to submission.
- A back-up plan needs to be included in case any component of the system goes down.
 - What happens if a part of the system fails (e.g., tablet goes dead on the water; submission is delayed)?
 - Paper VTR for emergency back-up might be necessary.
- We need to work with the for-hire community to improve the use of data over its current applications.
 - Need to add verifiability to the system.
- Need to make sure that duplicate reporting is addressed at roll-out as much as possible
 - States that currently require submitting a copy of the paper VTR (New York?) should be contacted to see if they will also accept the electronic version.
 - Over the longer term, states that require some other form of logbook or paper-based reporting should be encouraged to accept submission of data electronically.
- Enforcement Questions
 - What if users change their VTR after completing it (before hitting the dock) but before submitting?
 - What if a VTR isn't 100% complete before hitting the dock? Some head boats may get accurate count only when offloading.
 - How will enforcement handle a situation where a tablet goes dead on the water or submission is delayed?

4.4.1 Implementation Considerations

Outreach and Communication – outreach to the for-hire community will be paramount to the success of this action. Accordingly, in response to the AP, Council staff and contractors are developing plans to work integrally with the for-hire operators to develop training materials and opportunities. In addition to Council action, Table 1 indicates the available training opportunities which vendors of approved systems have indicated are (or will be) available for their systems. The Council has scheduled workshops to preview the free Standard Atlantic Fisheries Information System eTrips Mobile (SAFIS eTrips/M), for use on tablets operating the Apple iOS or Android platforms. There are also already free training videos available for SAFIS eTrips/M.

Submission Timeline – the initial timeline for submitting reports that was mentioned at the June 14th, 2016 Council meeting was 24 hours following the completion of a fishing trip. Although the consensus of AP members was that they personally were likely to meet this deadline, they offered several scenarios under which vessel operators may need additional time, and suggested that 48 hours would be appropriate. Council staff evaluated these options and agreed that during the initial implementation of this action the benefits of allowing 48 hours after completion of the trip for submission is likely to result in greater compliance and improved data quality without substantial negative effects and this is the timeframe recommended by the Council. As for-hire

operators become accustomed to electronic reporting, the 48-hour timeline can be re-evaluated and, if appropriate, be adjusted in the future.

Issues with System Components and Enforcement - Various scenarios exist which could interfere with individual elements of the recording and submission process of electronic VTRs and which could present a potential violation. However, as Advisory Panel members discussed, glitches occur in any system including the current paper-based VTR submissions which may be subject to lost or destroyed VTRs at-sea or in the mailing process and which already must be considered by law enforcement personnel upon encountering such a situation. Although ideas were discussed to address such potential scenarios with electronic reporting, the circumstances of each situation are likely to be unique and will need to be considered within the discretion of law enforcement personnel just as they must with paper-based VTRs. It is important to note that the Council action deals only with the *submission* of VTRs to NOAA (electronic reporting versus paper), not the at-sea *recording* of data. While it is the intention and belief that this action will (in most cases) translate into electronic recording of data at the time of fishing activity, in an emergency situation such as a dysfunctional or lost electronic device, for-hire operators could temporarily record data on paper VTR forms to comply with the requirement to complete a VTR prior to entering port and later transcribe this for electronic submission. This is envisioned as a temporary emergency application, not a routine procedure. Finally, one benefit of electronic submission is that once submitted, electronic records satisfying the 3-year retention rule would be stored remotely on system servers and could be retrieved even if an individual user's computer/tablet became inoperable or was lost.

Duplicate Reporting – Two forms of duplicate reporting are possible: 1) duplicate submission of VTRs and 2) reporting similar, but slightly different, data to another data collection program (e.g., state logbook). Some Mid-Atlantic states require that copies of VTRs be submitted to their state agency in addition to NOAA. Council members who are representatives of such states are encouraged to review their current regulations as they pertain to the acceptance of electronic reports versus paper and make adjustments accordingly to accept electronic reports. One of the NOAA-approved systems (ACCSP SAFIS eTRIPS/mobile) is a component of a larger state-based data warehousing system and as such, participating states will already have access to electronic VTRs that are submitted using this system. Submission of similar but slightly different data to other data collection programs such as state logbooks can be addressed through modification of existing eVTR systems (in conjunction with the agencies requiring additional reporting) to transmit compatible data to multiple entities. There is also duplicate reporting to NMFS Highly Migratory Species Division in that for-hire vessels also have to report billfish and bluefin tuna landings through NMFS HMS reporting. It is anticipated that as more data are submitted electronically, convergence of disparate data collection systems will be facilitated so that one data submission by for-hire operators will feed data to multiple required reporting systems. ACCSP has indicated they are available to facilitate electronic data transmission to states in order to avoid duplicate reporting, and there is a workshop scheduled for May 11 to develop and create business rules for a functional coastwide Universal Trip Identifier (http://www.accsp.org:8080/accsp_prod/f?p=552:18:::NO:15:P18_CAL_ID:1832).

Issues with Data Use and Collection – The Council recognizes that issues exist with current data collection and use and staff is participating with state and federal agencies, other Councils, and

data collaboratives (e.g. ACCSP) to address these issues. Specifically, for-hire data is used in a very limited way currently (<https://mafmc.squarespace.com/s/For-Hire-Fact-Sheet.pdf>), primarily because it is not validated/verified (for example by cross checking VTRs with dockside intercepts). The Council expects that the improved timeliness and accuracy of VTR data resulting from electronic submission, enhanced with validation measures currently being researched under the Marine Recreational Information Program (<http://www.nmfs.noaa.gov/op/pds/documents/30/133/01/30-133-01-01.pdf>), will improve the usability of VTR data and expand its current applications. Efforts are underway at NOAA and ACCSP to evaluate both the content of data that are collected under various systems, the methods of collection, and data validation/verifiability. Although these evaluations are expected to result in more robust and streamlined data collection, the implementation of the results is a longer-term endeavor.

5 Proposed Management Measures and Alternatives

5.1 Alternative 1: Preferred

The preferred alternative is to modify the administrative requirements to require for-hire fishing vessels with Federal permits for species managed by the Council to submit currently-required VTRs to NOAA through electronic means. No changes are proposed for the data types being collected; this is simply a change in the means of submission. Beginning 6 months after publication of the final rule in the Federal Register, owners/operators of for-hire fishing vessels with Federal permits for species managed by the Council will be required to submit Vessel Trip Reports through one of the NOAA-approved electronic Vessel Trip Report systems. Reports will be required to be submitted within 48 hours following the completion of the fishing trip.

Five options are currently available for submitting VTRs electronically:

- Fisheries Logbook and Data Recording Software (FLDRS)
- Fishing Activity & Catch Tracking System (FACTS™)
- Ecotrust Canada Electronic Logbook (Elog)
- Dynamic Data Logger (DDL)
- Standard Atlantic Fisheries Information System eTrips Mobile (SAFIS eTrips/M), for use on tablets operating the Apple iOS or Android platforms.

Additional systems may be developed and, upon approval by NOAA for submitting VTRs, would automatically be added to this list.

A questionnaire to all approved vendors was sent asking for details of their systems as they apply to for-hire reporting and responses are summarized in Table 1 below, and additional information submitted by the vendors is included following Table 1.

This alternative changes the NOAA-mandated reporting deadlines from the current (generally the 15th of the month following the month in which fishing activity occurs) to 48 hours after the fishing trip is completed.

Since all eVTR applications provide the ability for reports to be completed at sea and saved on the computer/tablet, reports should be ready for submission upon reaching an area with Internet connectivity since under current regulations they must be completed prior to docking. Vessel operators experiencing problems with their devices or not carrying a tablet or computer onboard would need to record their catches on paper VTR forms at sea (to meet the regulation that reports be completed prior to entering port at the completion of their trip) and later transcribe them to the eVTR system of their choosing for data submission.

The 48-hour allowance is to provide vessel operators/permit holders leeway to review data entry and correct any errors and sufficient time to reach an area with Internet connection (or transcribe paper reports to an eVTR if needed).

This alternative does not change any of the requirements for data elements that are currently-reported through paper-based VTRs. Geographic locations of effort and catch will not change from that required through paper VTRs; permit holders will report by NOAA Chart Area and depending on the system used may be able to choose greater geographic specificity if they desire.

The cost of this alternative is free or minimal. A tablet computer (many basic models available for approximately \$200) or personal computer would be required as well as either a cellular data plan or internet connection for submitting reports. One of the NOAA-approved reporting systems is free to users. Computer based reporting options are available through any computer with an internet connection, which most people have in their homes or businesses or mobile devices and which is available for free through most public libraries.

There would be no increased cost to the government for this alternative. Electronic systems are available and already operational for submitting and receiving eVTRs. It is anticipated that in the long run, administrative costs would be reduced due to the reduction in need for physically entering (scanning) paper-based VTRs and reduction in inaccuracies due to illegible hand writing, messy paper forms, or other obstructions causing delays in processing.

Because this proposed action deals entirely with the administrative mechanisms by which for-hire fishing vessels permit holders submit reports, the alternative would not result in a substantial change in any of the following: Fishing location, timing, effort, authorized gear types, access to fishery resources or harvest levels. Therefore, there would be no impacts from the proposed action on any fishery resources or habitat managed under a Council FMP, or on any associated protected resources.

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Table 1. Comparison of Systems Certified by NOAA to Submit Electronic Vessel Trip Reports (see below for additional information as provided by vendors)

System Name	Organization	Basic Equipment Needed	Optional Equipment	Mobile Version	On-the Water Data Entry/ Storage Without Internet Connection?	Cost	Training
Dynamic Data Logger	Olrac	Tablet or PC		Windows 10 Devices	Yes	\$475 Annual license for basic eVTR; extra features additional.	In-person, On-line Webinars, Skype, etc. Interactive user manuals once the software is installed.
FACTS - Fishing Activity and Catch Tracking System	Electric Edge Systems Group Inc.	Tablet or PC	GPS device to make acquiring coordinates easier and less error prone (PC or laptop); tablets have GPS built-in	Mobile app being developed (Apple iOS, Android, Windows Mobile); web-based data entry if internet connection is available	Yes (desktop version works offline; mobile application in development)	Annual fee which includes basic eVTR submission and premium features (see description below)	Primarily via online video and/or user guide. In person training possible for large groups.
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Table 1. Comparison of Systems Certified by NOAA to Submit Electronic Vessel Trip Reports (see below for additional information as provided by vendors)

System Name	Organization	Basic Equipment Needed	Optional Equipment	Mobile Version	On-the Water Data Entry/ Storage Without Internet Connection?	Cost	Training
eTRIPS/mobile	ACCSP	Tablet	Mounting system ; Power or power converter	Windows 10, Apple iOS, Android, Windows Mobile	Yes	Free	Online video http://accsp.org/electronic-trip-reporting ; In-person training; On-line Webinars
eLog	Ecotrust Canada	PC (Windows), Apple Computer, Tablet, Smart Phone	Ecotrust Canada Electronic Monitoring system required; after mobile app is finished then just a mobile device.	Windows XP, Windows 7, Windows 10, Apple iOS, Android, Windows Mobile (when completed)	Web browser based. The interface on the vessel is served from our EM box as a webpage.	See below. Costs are included in standard electronic monitoring service. Stand-alone cost ~\$1,000 (including cost of tablet); \$100 -\$300 annual after.	In-person training

Table 1. Comparison of Systems Certified by NOAA to Submit Electronic Vessel Trip Reports (see below for additional information as provided by vendors)

System Name	Organization	Basic Equipment Needed	Optional Equipment	Mobile Version	On-the Water Data Entry/ Storage Without Internet Connection?	Cost	Training
FLDRS	NOAA	Windows PC (Win 7 or later)	GPS receiver, depth sounder	Not available	Data entry is required at sea	No cost for software	In-person training during initial software installation, help manual installed with the software, telephone support available during normal business hours

eLog	Ecotrust Canada	PC (Windows), Apple Computer, Tablet, Smart Phone	Ecotrust Canada Electronic Monitoring system required; after mobile app is finished then just a mobile device.	Windows XP, Windows 7, Windows 10, Apple iOS, Android, Windows Mobile (when completed)	Web browser based. The interface on the vessel is served from our EM box as a webpage.	eLog costs are included in standard electronic monitoring service. Stand-alone cost will be finalized after mobile app is complete.	In-person training
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All systems store and can retrieve reports for 3 or more years (an enforcement requirement) and have a reporting function and a “summary report” listing dates, times, confirmation numbers, etc. for reports that are submitted.

The Descriptive Information Below Was Provided by the eVTR Vendors

Olrac DDL

Olrac DDL is a touch-screen ready eLog application that captures any fishing related data in real time and/or after the fishing activity took place. Data collected can be compiled into reports in a variety of formats such as: XML, CSV, text, PDF, HTML, etc. The Olrac eLog verifies and validates all reports before sending them. It keeps a complete log of all collected and sent information and tracks any changes to data entered or reports sent. It also includes complete integration to EM systems if they are installed on board. It includes a variety of added value functionality for fishers utilizing a built in mapper utility (GIS) which allows a user to explore fishing performance under a variety of filtering and grouping scenarios. A version of the software is presently used on 100's of vessels all around the world and is a well tested and mature system. Our eVTR system is already certified by NOAA.

One of the strengths of the Olrac software is its adaptability to the needs of each client; the Olrac software license includes the cost of standard initial customization, which includes setting up user specific data fields. Significant customization will incur an additional fee. For example, adaption of the software to an onboard communication system, email system or authentication and encryption solution not already used by Olrac, the migration of non-Olrac created data into the Olrac database, or the development of a new report form or additional reporting requirements for commercial or scientific reasons.

Onsite services including; installation, training, and technical support are available upon request. These services will incur an additional fee.

Olrac SPS offers two main versions of their vessel based solution, the full Olrac Dynamic Data Logger (OlracDDL) and the basic OlracDDL. Both can send eVTR reports but the basic version of the OlracDDL does not include additional modules such as collection and reporting of additional commercial and scientific information (data not required by the eVTR reports), any GIS mapping component, or customization which adds additional value for fishers and fleet managers.

OlracDDL interfaces with NMEA standard GPS devices to make acquiring location, time and date information easier and less error prone. The OlracDDL can interface with McMurdo (formerly Boatracs), Skymate and other VMS systems. The OlracDDL is also offered as a component of an integrated Electronic Monitoring/Electronic Reporting system offered by Advanced Fishing Monitoring and Observation System (AFMOS). More information at <http://afmos-usa.com/>.

Below is a list of utilities most applicable to the charter for-hire fleet and MAFMC.

- The Form Maker Utility allows any paper-based log-sheet to be scanned, incorporated into, and completed within OlracDDL, and then to be printed out and delivered to the relevant authority. The paper logsheet can be populated automatically by the form maker

utility if data have been entered using Olrac (this utility, will be available on specific request, for specific forms only).

- The Inspector Utility is a small program which can reside on the compliance inspector’s USB drive. This utility allows permitted inspectors to extract certain (predefined) information from the user’s OlracDDL without the need to give them access to the full software.
- Change Control is an administrative, password protected auditing utility, that allows authorities or other authorized users to view/track all changes made to data stored in OlracDDL
- OLSPS also offers the Olrac Dynamic Data Manager (OlracDDM), a database and reports management tool for fleets. The OlracDDM manages reports generated by vessels and allows users to access their sent reports via the internet. The system verifies and validates the vessel reports, sends positive or negative acknowledgment, and automatically forwards landing reports to authorized managers and compliance agents, based on predefined criteria. The OlracDDM can also be customized with other utilities, such as bycatch avoidance and quota tracking. Olrac Dynamic Data Manager together with Olrac Dynamic Data Logger form a complete electronic logbook software solution to monitor and track all vessel and fleet related activities

Cost:

<u>Number of Licenses</u>	<u>Annual License Fee</u>
1-5	\$950
6-20	\$900
21-50	\$850
>50	\$800
1-5	\$475
6-20	\$475
21-50	\$475
>50	\$475

10% annual license fee discount available for clients who purchase a multi-year license (3-year minimum)

How to purchase system: The Olrac Dynamic Data Logger (OlracDDL) can be purchased by contacting Heidi Henninger, Olrac’s U.S. based business development consultant at heidi@olsps.com or 603-267-0583. Additionally, OLSPS has partnered with a U.S. based fisheries management firm and is in the process of building up a sales force for each region. Additional information about OlracDDL electronic logbook and the OLSPS company at www.olsps.com/elog.

FACTS (Electric Edge)

FACTS is intended to provide for the data collection and reporting around all aspects of a fishing trip. All data reported via FACTS is available in their central website (via reports and in downloadable formats for personal Record keeping) so that it is clear what has been submitted to whom (NMFS or otherwise) and when. Wherever possible we allow for revisions to previously submitted data to allow for easy corrections (as long as those revisions do not break business rules of the fishery). All revisions are identified in our central website, so it is clear what was changed and when. As part of our regular fee, we handle all regulatory changes that require changes to be made to the system for free. When we can work with a group of vessels (which allows for broad discussions about changes/enhancements to FACTS as opposed to individual conversations) we will add/modify reports and make enhancements based on feedback for free. We have a great deal of flexibility in our pricing and use that flexibility to come up with a fee that makes sense for the fishery and the participants. As a side note, Electric Edge has recently completed a report for NOAA that analyzed federal commercial fishery dependent data collection in all regions and suggested ways in which those efforts could be modernized to make data collection far less error prone and reduce the burden of reporting on fishers. We are both fishery and systems experts with over 15 years of experience. At its core, FACTS™ is more than just a data collection tool and is instead a complete data collection, management, and reporting platform. Every eVTR submission is stored in our system and constitutes a "trip". We provide a trip search that allows past submissions to be found and once found, the full trip details can be accessed (including revisions made to the data following NMFS rules on data revisions). FACTS™ is a constantly evolving system based on our own perception of required changes/enhancements and more importantly from feedback from our customers. Although we cannot anticipate every possible useful report, we do add reports to the system for free as part of our annual subscription fee. It is also possible for us to add other useful features such as catch hot spot reporting to all customers and similar information to aid in conducting successful trips. We encourage feedback and prefer to hear complaints so that we can address them as quickly as possible. It is anticipated that reports (which will be viewed in FACTS™ as well as can be downloaded) will be added to provide information to aid in business analysis for charter/head boat operators.

Cost: Electric Edge has not yet conducted the market research required to determine a price. Pricing for FACTS™ has historically been for an entire fishery (or multiple fisheries) as opposed to individual operators. If any charter/head boat groups/associations exist and can provide a single or limited number of individuals to communicate with in terms of our support and their desired changes/enhancements over time, a discounted rate to the members of such groups may be possible. Contact bryan@fisheryfacts.com or 1-250-920-8830.

How to purchase system: Via a secure online subscription form we will add to website (www.fisheryfacts.com) for charter/head boat operators.

eTRIPS/mobile (ACCSP/SAFIS)

eTRIPS/mobile is offered by the Atlantic Coastal Cooperative Statistics Program (ACCSP) developed in conjunction with charter captains in the northeast. Users of this system choose to enter VTR data directly into a mobile device (tablet, although a smart phone based system may be developed) while on the water or to transcribe paper VTRs (completed on the water) into a web-based form using a personal computer once they return to the dock. The SAFIS eTRIPS/mobile (for use with tablets) was the first system certified by NOAA for submitting VTRs from a mobile device. The mobile-based system was built by for-hire captains and incorporates years of feedback and development from them. We continue to get feedback from users and their thoughts and considerations are taken into account making the product better. The system will allow captains to retrieve their own data at any time, and update it either on-line or through the mobile app. Once a user enters their profile prior to the first trip (vessel information, permit numbers, etc.) there is no need to enter it again as long as it does not change – just log in and complete the trip/catch record.

Cost: Free

How to obtain the system: A UserID must be obtained and is based on operator permits. The mechanism for issuing these UserIDs is still being developed, but likely NOAA Port Agents or help desk staff will issue them. Once a UserID is established, a user simply logs in on-line. The app is available via the on-line stores for Windows, android or Apple.

eLog (Ecotrust Canada)

eLog was developed and updated with direct input from the fishermen that use it and we perform updates to continuously improve the usability and user experience. eLog can be used as a personal fishing log – data can be saved/stored as well as being delivered to regulators. Also eLog can be fully integrated into electronic monitoring systems and is interoperable with ThisFish, a traceability system. Designed to be extensible and with features that can be added on demand, we are committed to making an easy to use handheld eLog for on-deck catch tracking.

Cost: Currently the eLog software is integrated into our electronic monitoring systems (which cost between \$2,900 - \$6,000 depending on the number of cameras and sensors needed). We are currently testing an application version of the eLog software that would run on a tablet with cellular capabilities. The tablet with the software installed would cost ~\$1,000.00 and would include a year of service (i.e. assurance of delivery to regulators, software maintenance and technical support). In subsequent years the service costs would be somewhere between \$100 - \$300 depending on amount of tech support.

How to purchase system: To purchase a system contact amanda@ecotrust.ca.

Fisheries Logbook Data Recording System (FLDRS, NEFSC)

The Northeast Fisheries Science Center developed FLDRS to support electronic vessel reporting in the Northeast Region. It was the first such system approved for use in the Northeast. The FLDRS application is the product of over a decade of cooperative partnerships with vessel captains where frequent modifications were made to improve overall usability and add value-added features. FLDRS remains the most widely used eVTR application among federally permitted vessels, though it is better suited for commercial fisheries. Other available eVTR applications may be more appropriate for the for-hire recreational fishery. FLDRS can be loaded onto an on-board personal computer (PC) and optionally integrated into an available GPS and/or depth sounder to assist with the reporting of fishing effort information. Data can either be transmitted to the NEFSC via a WiFi connection or manually uploaded to the NEFSC's Vessel Electronic Reporting Web Portal.

All vessel operators who will be completing an eVTR must obtain a confidential password. This password will serve as an electronic signature and is required to submit an eVTR. To obtain an eVTR password, please contact Alison Ferguson at NOAA Fisheries at 978-281-9188 or nmfs.gar.helpdesk@noaa.gov.

Cost: The application is available free of charge by contacting Joan.Palmer@noaa.gov or Jon.ONeil@noaa.gov. Integration of FLDRS software with a GPS or depth sounder unit may require the service of an electronics technician, which will add costs to the software installation.

5.1.1 Rationale for Proposed Action

As stated previously, the proposed action is expected to increase efficiencies in data submission (reducing reporting burden), improve accuracy in data management, improve timeliness and expedite data availability for all fisheries management purposes. The May 2016 ACCSP Workshop participants identified several desirable aspects to help programs move to electronic reporting that are encompassed in this proposed action, including:

- Multiple ways to access the reporting feature, including smart phones, tablets, and pc-based system;
- Provide incentives to users of the system (including ease of data entry/submission);
- Provide functionality requiring report submission;
- Provide training opportunities to help individuals learn the system;
- Provide for multiple federal and state reporting capabilities through a single application

The proposed action will achieve or facilitate many of these recommendations and meet the desired intent at little or no cost to permit holders and ultimately reduce reporting burden and administrative costs of NOAA Fisheries currently associated with data entry. There will be a cost to the government if vessels opt to use FLDRS software application. While the application is free, the NEFSC technical support could increase substantially. NMFS has noted that the Greater Atlantic Regional Fisheries Office (GARFO) does not have staff resources to provide any technical assistance for FLDRS if the Northeast Fisheries Science Center is unable to support all requests for FLDRS reporting systems and/or support.

5.2 Alternative 2: Require Electronic Submission of VTRs Without Change of Submission Timeframe

This option is similar to the preferred option but does not modify the current reporting timeline (thereby maintaining the time frame for submission generally as the 15th of the month following the month when the fishing activity occurs). Under this option, the same five systems available under Alternative 1 would be available for electronic reporting:

- Fisheries Logbook and Data Recording Software (FLDRS)
- Fishing Activity & Catch Tracking System (FACTS™)
- Ecotrust Canada Electronic Logbook (Elog)
- Dynamic Data Logger (DDL)
- Standard Atlantic Fisheries Information eTrips Mobile (SAFIS eTrips/M), for use on smart phones or tablets operating the Apple iOS or Android platforms

This action would still result in expected increases in efficiencies in data submission, improvements in accuracy of data management, and somewhat expedited data availability for fisheries management purposes, but it would fall significantly short of improving timeliness of data availability as compared to Alternative 1. As outlined in Option 1, vessel operators with onboard PC's/mobile devices should be ready to submit reports electronically very close to the

time of docking (once they reach a wireless Internet connection) or even prior to docking if they are connected to a cellular data network. The 2-6 week time frame for submitting reports after reaching the dock is the status quo with voluntary use of currently available eVTRs, which has had very low adoption rates.

5.3 Alternative 3: No Action

Under this alternative, VTRs would continue to be submitted by paper (mail or fax) or optionally through the use of an available eVTR system. This status quo is not preferred since it would perpetuate the lengthy delay of the availability of VTR data for managers and the burden on permit holders to maintain paper VTR records. Continued use of paper VTRs would not facilitate the development of integrated systems with state agency partners (and other federally mandated reporting programs) to provide a single point of data entry by permit holders to satisfy multiple reporting requirements, thus indefinitely continuing the burden of multiple reporting requirements for some users. The continued use of paper VTRs would necessitate the maintenance of administrative resources to accept, process, and manage paper forms.

5.4 Alternative 4: Vessel Monitoring System (VMS)

This non-preferred alternative would implement electronic reporting through the use of Vessel Monitoring Systems (VMS). VMS is a satellite surveillance system to monitor the location and movement of fishing vessels using on-board transceiver units. These units send position reports that include vessel identification, time, date, and location, and are paired with a catch reporting mechanism to accurately capture catch, effort, and location of fishing activity. While VMS is suitable for larger commercial vessels, it requires installation of equipment that may be logistically unfeasible for some of the smaller for-hire vessels to install and is substantially costlier than the preferred alternative.

6 Impacts of the Proposed Action and Alternatives

As described below, this action is administrative in nature and will not result in a substantial change in any of the following: Fishing location, timing, effort, authorized gear types, access to fishery resources or harvest levels. As such, it qualifies for a categorical exclusion from NEPA requirements to conduct an Environmental Assessment (EA) or Environmental Impact Assessment (EIS)

6.1 Impacts on Fishery Resources (including non-Target species)

Because the alternatives deal entirely with the administrative mechanisms by which Federal permit holders in Council-managed for-hire fisheries would report currently-required VTRs, and would not affect fishing vessel effort, operations, species targeted, or areas fished, there would be no direct impacts of the proposed action on any fishery resources managed under a Council FMP. This action may have indirect, low (not significant, individual or cumulative) positive impacts on the management capabilities for fishery resources by improving data available to fishery scientists and managers. There are no differences between the alternatives as far as direct

impacts on fishery resources. Alternatives 1 and 4 are more likely to produce improved data compared to alternatives 2 and 3 due to the reduction of reporting lag.

6.2 Impacts on Habitat

Similar to the impacts on fishery resources, due to the administrative nature of the measures under consideration, there would be no impacts on habitat, including essential fish habitat (EFH). The alternatives would not result in a substantial change in any of the following: Fishing location, timing, effort, authorized gear types, access to fishery resources or harvest levels. There are no differences between the alternatives as far as impacts on habitat/ EFH.

6.3 Impacts on Protected Resources

Similar to the impacts on fishery resources, due to the administrative nature of the measures under consideration, there would be no impact on protected resources. The alternatives would not result in a substantial change in any of the following: Fishing location, timing, effort, authorized gear types, access to fishery resources or harvest levels. There are no differences between the alternatives as far as impacts on any protected resources.

6.4 Economic Impacts

The non-preferred VMS option (Alternative 4) would have higher implementation and usage costs compared to any other alternative but Alternatives 1-3 (including the preferred alternative) have similar, minimal impacts. A variety of systems and options are available to for-hire captains for submitting electronic VTRs (see Table 1). Complying with eVTR submission requirements can be accomplished for no cost using one of these available options (SAFIS eTRIPS) with only a personal computer and internet connection. The ubiquitous nature of computers and internet availability in private homes and businesses, as well as free access to both in most public libraries and other locations, provides a free to minimal cost means for permit holders to access eVTRs. Therefore, at its most basic level, there is little to no direct negative economic impact to permit holders. Although a low-cost option is available, for-hire captains may voluntarily choose a different reporting mechanism, additional services, or upgraded hardware options that would increase their costs to varying degrees at their discretion. There may be some minor and temporary increased reporting burden as permit holders transition to electronic submission, but in the long run electronic submission should reduce reporting burden because reports can be pre-configured with some data fields automatically filled-in. Also, electronic reporting may help reduce duplicate reporting because the reporting applications can be configured to submit data to multiple agencies (as Rhode Island has already done).

6.4.1 Reporting Systems

NOAA-approved systems encompass a range of subscription fees and/or equipment costs. Not all vendors of NOAA-approved systems provided exact pricing structures (or are only able to provide approximate anticipated pricing) since their business models were built around bulk sales to cover many users in entire fisheries (or sales of complete systems to organizations and

government agencies). In addition to the free option, subscription fees for other systems where pricing data were available range from approximately \$100 annually (following initial system purchase of approximately \$1,000) to \$975 annually.

6.4.2 Optional Enhanced Equipment

Likewise, equipment costs could vary depending on which system a user chose and other amenities. As previously mentioned, PC-based systems (including the free PC-based SAFIS eTRIPS) require a personal computer and internet connection which are ubiquitous and widely available in businesses and homes today. Any of the PC-based data systems would require that users record their catches on paper VTR logs while on the water (to satisfy NOAA requirements for recording while on the water) that were later transcribed into electronic systems for submission. For direct, on-the-water data entry, larger vessels with protected wheel houses could mount personal computers that could also link with navigational equipment if desired. More likely, most users would choose a mobile device such as a tablet computer to pair with one of the mobile-based reporting systems. Several models of tablet computers are available for approximately \$200 (wi-fi access but not cellular data capability). With wi-fi enabled tablet computers, users would enter and save their data on the computer and submit it within the required timeframe once they reached port or another area where internet connection was available. Tablets with cellular capability (the same technology as cell phones) would require a subscription with a commercial cellular company and allow transmission of the VTRs at any time that a user desired, if they were within range of a cellular signal. A vast array of companies and plans are available for cellular plans; one large consumer company offers data plans for as little as \$12.50/month (plus taxes) for very limited data usage.

Additional hardware that users may desire would add to their final cost. For example, it is reasonable to assume that users who choose a mobile-based option for on-the-water data entry (necessitating a tablet computer) would invest in a waterproof case that can commonly be purchased from \$30-\$150. Some users with protected wheel houses may also desire mounting hardware (unique to device models) or other options that would add to their optional costs.

Table 2 provides a hypothetical comparison using best available information to compare the start-up and annual recurring costs associated with the various NOAA-approved systems and optional costs (water proof cases and cellular plans). This table reflects the minimum cost of the various scenarios (i.e., users may choose to purchase a higher end tablet, cellular data plan, or other equipment than reflected here).

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Table 2. Expected costs for various NOAA-approved eVTR systems and necessary equipment.

	System Cost	Minimum Equipment Cost	Optional Cost for water proof case	Approximate Total Start Up Cost	Ongoing License Cost	Optional Cellular Data	Assumptions / Comments
SAFIS eTRIPS for PC	\$0	\$0	n/a	\$0	\$0	n/a	Assumes user has access to a computer and internet
SAFIS eTRIPS Mobile	\$0	\$200	\$100	\$300	\$0	\$15/month	
Dynamic Data Logger	\$475/ year	\$200	\$100	\$775	\$475/ year	\$15/month	Windows 10 version
FACTS	Unknown	\$0	\$0	Unknown	Unknown		Assumes user has access to a computer and internet
eLog	\$1,000	\$1,000	\$100	\$1,100	\$100-\$300/ year	\$15/month	Mobile version
FLDRS	\$0	0-\$400 (if a PC needs to be purchased)	n/a	\$0/<\$500 (if GPS and/or depth sounder integration is done by marine electronics technician)	\$0	\$15/month	

Note: All costs are approximate and reflect typical lower cost options; higher end equipment and data plans are available and likely vary by area. PC systems assume that users have pre-existing access to a personal computer and internet connection in their home, office, or publicly-available location.

6.4.3 Cost Savings

The ability to use electronic reporting programs to automatically fill in some reporting fields may reduce the reporting burden and save time and cost over mailing in paper forms. In the long term, government costs for administering this program are expected to be reduced resulting from efficiencies gained in data processing. Improved and expedited availability of the data is

expected to expand the utility of the data currently collected to fisheries management, research, and law enforcement purposes.

7 Consistency with Applicable Laws⁸

7.1 Magnuson-Stevens Fishery Conservation and Management Act

7.1.1 Compliance with the National Standards

National Standard 1. Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the OY from each fishery for the U.S. fishing industry.

The proposed action is limited to a modification of the mechanisms by which federally permitted for-hire owners/operators report their fishing activity. The management measures associated with this action would have no direct impacts on overfishing or obtaining optimum yield in any fishery. However, the proposed action should provide higher resolution and more timely data on fish landings and effort, which should assist conservation and management.

National Standard 2. Conservation and management measures shall be based upon the best scientific information available.

The analyses conducted in support of the proposed action were conducted using information from the most recent complete fishing year May 2015-April 2016. The data used in the analyses provide the best available information on the number of federally permitted vessels in the mid-Atlantic, the number of vessels submitting VTRs, the number of VTRs submitted by those vessels, and the extent of use of electronic VTRs.

National Standard 3. To the extent practicable, an individual stock of fish shall be managed as a unit throughout its range, and interrelated stocks of fish shall be managed as a unit or in close coordination.

The proposed action has no effect on the management units of any stocks of fish included in a Mid-Atlantic FMP.

National Standard 4. Conservation and management measures shall not discriminate between residents of different states. If it becomes necessary to allocate or assign fishing privileges among various U.S. fishermen, such allocation shall be: (1) Fair and equitable to all such fishermen. (2) Reasonably calculated to promote conservation. (3) Carried out in such manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.

The proposed action does not allocate or assign fishing privileges among various U.S. fishermen. The management measures associated with the proposed action would apply equally

⁸ Some material on Consistency with Applicable Laws modified from: Regulatory Amendment to Modify Seafood Dealer Recordkeeping and Reporting Requirements Including a Regulatory Impact Review and Initial Regulatory Flexibility Analysis. Prepared by NOAA Fisheries Northeast Regional Office Gloucester, MA and Northeast Fisheries Science Center Woods Hole, MA December 2003

to all federally permitted for-hire vessels in the Mid-Atlantic, regardless of the state in which they operate.

National Standard 5. Conservation and management measures shall, where practicable, consider efficiency in the utilization of fishery resources; except that no such measure shall have economic allocation as its sole purpose.

Improving the efficiency of the submission of VTRs by for-hire operators and the processing of the resulting data by NOAA Fisheries is the primary objective of this action. The intent is that this action would also improve the efficiency of NOAA Fisheries in monitoring and managing all fisheries. Economic allocation was not a factor in the development of this action, nor of the selection of the proposed action from among the alternatives.

National Standard 6. Conservation and management measures shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches.

The proposed action has no direct impact on any fishery, fishery resource, or catch. Variations among, and contingencies in, fisheries, fishery resources, and catches were considered to the extent that the development of the proposed action addressed the ways in which these variations and contingencies affect for-hire operators and their submission of VTRs, and the use of resulting landings data by NOAA Fisheries and cooperating state fishery management agencies.

National Standard 7. Conservation and management measures shall, where practicable, minimize costs and avoid unnecessary duplication.

By providing several options for how federally permitted for-hire operators may report their VTRs including a free application, NOAA Fisheries has strived to minimize the costs to for-hire operators associated with complying with the proposed action.

National Standard 8. Conservation and management measures shall, consistent with the conservation requirements of the Magnuson-Stevens Act (including the prevention of overfishing and rebuilding of overfished stocks), take into account the importance of fishery resources to fishing communities in order to: (1) Provide for the sustained participation of such communities; and (2) To the extent practicable, minimize adverse economic impacts on such communities.

None of the measures in the proposed actions are likely to diminish in any way the sustained participation of any fishing community. The economic impacts of the proposed action on fishing communities is minimized by the nature of the action itself: The proposed action applies only to for-hire operators, and only on the mechanisms and frequency by which they report their fishing activity. There are no measures proposed that would directly affect fishing harvest.

National Standard 9. Conservation and management measures shall, to the extent practicable: (1) Minimize bycatch; and (2) To the extent bycatch cannot be avoided, minimize the mortality of such bycatch.

The proposed action has no bearing or relevance regarding the minimization of bycatch, as it is concerned solely with the administrative mechanisms by which federally-permitted for-hire operators in the Mid-Atlantic report fishing activity to NOAA Fisheries.

National Standard 10. Conservation and management measures shall, to the extent practicable, promote the safety of human life at sea.

The proposed action is focused entirely on the administrative mechanisms by which federally-permitted for-hire operators in the Mid-Atlantic report fishing activity to NOAA Fisheries. The safety of human life at sea is not affected by this action.

7.1.2 Compliance with Other Requirements of the Magnuson-Stevens Act

Section 303 of the Magnuson-Stevens Act contains 15 additional required provisions for FMPs, which are discussed below. Any FMP prepared by any Council, or by the Secretary, with respect to any fishery, must comply with these provisions.

(1) contain the conservation and management measures, applicable to foreign fishing and fishing by vessels of the United States, which are-- (A) necessary and appropriate for the conservation and management of the fishery to prevent overfishing and rebuild overfished stocks, and to protect, restore, and promote the long-term health and stability of the fishery; (B) described in this subsection or subsection (b), or both; and (C) consistent with the National Standards, the other provisions of this Act, regulations implementing recommendations by international organizations in which the United States participates (including but not limited to closed areas, quotas, and size limits), and any other applicable law

The proposed action is focused entirely on the administrative mechanisms by which federally-permitted for-hire operators in the Mid-Atlantic report fishing activity to NOAA Fisheries. For a description of the proposed measures and management alternatives intended to improve the management of the fisheries affected by this action, see section 5 of this document. For a discussion of consistency with the National Standards, see section 7.1.1. For a discussion of the consistency with other applicable law, see sections 7.2-7.10. Previous Amendments to the relevant FMPs, available at <http://www.mafmc.org/fishery-management-plans>, and the current regulations (<http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&SID=1e9802ffddb05d0243d9c657fade956c&rgn=div5&view=text&node=50:12.0.1.1.5&idno=50>) can be consulted for the relevant conservation and management measures.

(2) contain a description of the fishery, including, but not limited to, the number of vessels involved, the type and quantity of fishing gear used, the species of fish involved and their location, the cost likely to be incurred in management, actual and potential revenues from the fishery, any recreational interest in the fishery, and the nature and extent of foreign fishing and Indian treaty fishing rights, if any.

For a description of the vessels affected, see Sections 4.3 and 7.3. The proposed action does not directly affect quantity of fishing gear used; therefore, a description of these aspects of the fishery is not applicable. Recreational interests (non-for hire aspects), foreign fishing, and Indian treaty fishing rights are not affected by this action. Previous Amendments to the relevant FMPs, available at <http://www.mafmc.org/fishery-management-plans>, provide additional fishery descriptions.

(3) assess and specify the present and probable future condition of, and the maximum sustainable yield and optimum yield from, the fishery, and include a summary of the information utilized in making such specification.

The proposed action is limited to a modification of the existing mechanisms by which federally permitted for-hire operators in the Mid-Atlantic report their fishing activity. Maximum sustainable yield and optimum yield of any fishery for which these reporting requirements are addressed in this action are not affected by the proposed management measures, but have been addressed in previous Amendments (<http://www.mafmc.org/fishery-management-plans>).

(4) assess and specify--(A) the capacity and the extent to which fishing vessels of the United States, on an annual basis, will harvest the optimum yield specified under paragraph (3); (B) the portion of such optimum yield which, on an annual basis, will not be harvested by fishing vessels of the United States and can be made available for foreign fishing; and (C) the capacity and extent to which United States fish processors, on an annual basis, will process that portion of such optimum yield that will be harvested by fishing vessels of the United States.

The proposed action does not affect the capacity or extent to which fishing vessels of the U.S. would harvest the optimum yield of any fishery, the portion of such optimum yield which would not be harvested by U.S. fishing vessels and could be made available for foreign fishing, or the capacity and extent to which U.S. processors would process that portion of such optimum yield harvested by U.S. fishing vessels; therefore, a description of these aspects of the fisheries is not applicable to this action, but have been addressed in previous Amendments (<http://www.mafmc.org/fishery-management-plans>).

(5) specify the pertinent data which shall be submitted to the Secretary with respect to commercial, recreational, and charter fishing in the fishery, including, but not limited to, information regarding the type and quantity of fishing gear used, catch by species in numbers of fish or weight thereof, areas in which fishing was engaged in, time of fishing, number of hauls, and the estimated processing capacity of, and the actual processing capacity utilized by, United States fish processors.

For a discussion of the reporting requirements associated with this action, see the description of the proposed action in section 5.1.

(6) consider and provide for temporary adjustments, after consultation with the Coast Guard and persons utilizing the fishery, regarding access to the fishery for vessels otherwise prevented from harvesting because of weather or other ocean conditions affecting the safe conduct of the fishery; except that the adjustment shall not adversely affect conservation efforts in other fisheries or discriminate among participants in the affected fishery.

The proposed action does not affect the access of any fishing vessel to any fishery because of weather, ocean conditions, or any other potential concern; therefore, this element of the Magnuson-Stevens Act does not apply, but has been addressed in previous Amendments (<http://www.mafmc.org/fishery-management-plans>).

(7) describe and identify essential fish habitat for the fishery based on the guidelines established by the Secretary under section 305(b)(1)(A), minimize to the extent practicable adverse effects on such habitat caused by fishing, and identify other actions to encourage the conservation and enhancement of such habitat

EFH is described and identified for the affected fisheries in prior FMPs and amendments to those FMPs. The proposed action makes no changes to any EFH of any species. Section 6.2 describes the effects the proposed action, and the alternatives to the proposed action, is likely to have on the habitat, including EFH, of any fishery resources managed under a Mid-Atlantic FMP. Due to the administrative nature of the measures in the proposed action, there would be no direct impacts on any habitat or EFH; therefore, an EFH consultation is not required.

(8) in the case of a fishery management plan that, after January 1, 1991, is submitted to the Secretary for review under section 304(a) (including any plan for which an amendment is submitted to the Secretary for such review) or is prepared by the Secretary, assess and specify the nature and extent of scientific data which is needed for effective implementation of the plan.

All the FMPs covered by this action identify landings information as key data needed for effective monitoring and implementation of said FMPs. The proposed action is intended to improve the quality, timeliness, and reliability of data collected from for-hire operators. For a complete description of the need for these data, see sections 4.2 and 5.1.1.

(9) include a fishery impact statement for the plan or amendment (in the case of a plan or amendment thereto submitted to or prepared by the Secretary after October 1, 1990) which shall assess, specify, and describe the likely effects, if any, of the conservation and management measures on--(A) participants in the fisheries and fishing communities affected by the plan or amendment; and (B) participants in the fisheries conducted in adjacent areas under the authority of another Council, after consultation with such Council and representatives of those participants.

For a description of the participants in the fisheries affected by the proposed action, see sections 4.3 and 7.3.

(10) specify objective and measurable criteria for identifying when the fishery to which the plan applies is overfished (with an analysis of how the criteria were determined and the relationship of the criteria to the reproductive potential of stocks of fish in that fishery) and, in the case of a fishery which the Council or the Secretary has determined is approaching an overfished condition or is overfished, contain conservation and management measures to prevent overfishing or end overfishing and rebuild the fishery.

The proposed action makes no changes or has any effect on the approved overfishing definitions for any fishery managed under a Mid-Atlantic FMP.

(11) establish a standardized reporting methodology to assess the amount and type of bycatch occurring in the fishery, and include conservation and management measures that, to the extent practicable and in the following priority--(A) minimize bycatch; and (B) minimize the mortality of bycatch which cannot be avoided.

This action deals only with the administrative mechanisms through which for-hire operators report their fishing activity; therefore, this provision of the Magnuson-Stevens Act does not apply to this action.

(12) assess the type and amount of fish caught and released alive during recreational fishing under catch and release fishery management programs and the mortality of such fish, and include conservation and management measures that, to the extent practicable, minimize mortality and ensure the extended survival of such fish.

This action proposes no related measures.

(13) include a description of the commercial, recreational, and charter fishing sectors which participate in the fishery and, to the extent practicable, quantify trends in landings of the managed fishery resource by the commercial, recreational, and charter fishing sectors.

The only sector of the fisheries affected by this proposed action is the for-hire (charter) sector. A description of those affected by this proposed action is provided in sections 4.3 and 7.3. Additional details on the fishing sectors is available in previous Amendments (<http://www.mafmc.org/fishery-management-plans>).

(14) to the extent that rebuilding plans or other conservation and management measures which reduce the overall harvest in a fishery are necessary, allocate any harvest restrictions or recovery benefits fairly and equitably among the commercial, recreational, and charter fishing sectors in the fishery.

The proposed action includes no management measures that could reduce the overall harvest in a fishery. Therefore, the allocation of harvest restrictions or recovery benefits among the commercial, recreational, and charter fishing sectors, beyond any allocations of such already made in the FMPs, is not necessary.

(15) establish a mechanism for specifying annual catch limits in the plan (including a multiyear plan), implementing regulations, or annual specifications, at a level such that overfishing does not occur in the fishery, including measures to ensure accountability.

The proposed action includes no measures related to catch limits and only relates to the administrative mechanism through which for-hire operators submit already required Vessel Trip reports.

7.2 National Environmental Policy Act

Due to the administrative nature of the proposed action, it is categorically excluded from the requirement to prepare an environmental assessment, in accordance NOAA Administrative Order 216-6A. The proposed action would be a change to a fishery management regulation which does not individually or cumulatively have a significant effect on the quality of the human environment or involve on the extraordinary circumstances identified in Section 4(A) of the NAO 216-6A Companion Manual.

7.3 Initial Regulatory Flexibility Analysis and Regulatory Impact Review

The Regulatory Flexibility Act (RFA), first enacted in 1980, and codified at 5 U.S.C. 600-611, was designed to place the burden on the government to review all regulations to ensure that, while accomplishing their intended purposes, they do not unduly inhibit the ability of small entities to compete. The RFA recognizes that the size of a business, unit of government, or nonprofit organization frequently has a bearing on its ability to comply with a Federal regulation. Major goals of the RFA are: 1) to increase agency awareness and understanding of the impact of their regulations on small business; 2) to require that agencies communicate and explain their findings to the public; and 3) to encourage agencies to use flexibility and to provide regulatory relief to small entities.

The RFA emphasizes predicting significant adverse impacts on small entities as a group distinct from other entities and on the consideration of alternatives that may minimize the impacts, while still achieving the stated objective of the action. When an agency publishes a proposed rule, it must either, (1) “certify” that the action will not have a significant adverse impact on a substantial number of small entities, and support such a certification declaration with a “factual basis”, demonstrating this outcome, or, (2) if such a certification cannot be supported by a factual basis, prepare and make available for public review an Initial Regulatory Flexibility Analysis (IRFA) that describes the impact of the proposed rule on small entities.

This document provides the factual basis supporting consideration of a certification that the proposed regulations will not have a “significant impact on a substantial number of small entities” and that an IRFA is not needed in this case. Certifying an action must include the following elements, and each element is subsequently elaborated upon below:

- A. A statement of basis and purpose of the rule
- B. A description and estimate of the number of small entities to which the rule applies
- C. Description and estimate of economic impacts on small entities, by entity size and industry
- D. An explanation of the criteria used to evaluate whether the rule would impose significant economic impacts
- E. An explanation of the criteria used to evaluate whether the rule would impose impacts on a substantial number of small entities
- F. A description of, and an explanation of the basis for, assumptions used

A – Basis and purpose of the rule

The bases of the rules proposed in this action are the provisions of the MSA for federal fishery management to prevent overfishing, achieve optimum yield, reduce bycatch to the extent practicable, and conserve non-target species. Optimum yield is defined as the amount of fish which will achieve the maximum sustainable yield, as reduced by any relevant economic, social, or ecological factor. The purpose of the rules associated with the preferred alternatives is to: 1) increase the timeliness (availability) of data submitted through VTRs; 2) reduce the reporting burden on data providers (for-hire operators and/or captains) by eliminating the need of paper-based reporting, and; 3) increase the accuracy and quality of data by reducing recall bias associated with delayed completion and submission of paper forms. To assist with further evaluation of the measures proposed in this document, a summary of the preferred alternatives is provided below. A full description of all alternatives is provided in Section 5.

Proposed Action:

The proposed action is to modify the administrative requirements to require for-hire fishing vessels with Federal permits for species managed by the Council to submit currently-required VTRs to NOAA through electronic means. No changes are proposed for the data types being collected; this is simply a change in the means of submission. Beginning 6 months after publication of the final rule in the Federal Register, owners/operators of for-hire fishing vessels with Federal permits for species managed by the Council will be required to submit Vessel Trip Reports through one of the NOAA-approved electronic Vessel Trip Report systems. Reports will be required to be submitted within 48 hours following the completion of the fishing trip.

Non-preferred alternatives included requiring electronic submission of for-hire VTRs without a change of timing for submission, no action (continue the current paper reporting), and implementing electronic reporting with Vessel Monitoring Systems (VMS).

B – Description and estimate of the number of small entities to which the rule applies

The measures proposed in this action apply to the vessels that hold for-hire federal permits for species managed by the Council. For-hire permits are required for summer flounder, scup, black sea bass, mackerel, squid, butterfish, bluefish, golden tilefish, and blueline tilefish. The table

below describes the numbers of vessels possessing for-hire permits for species managed by the Mid-Atlantic Council.

Table 3. 2015 MID-ATLANTIC RECREATIONAL FOR-HIRE VESSELS BY HOME PORT STATE FROM VESSEL TRIP REPORT AND PERMIT DATABASES.

VESSELS ISSUED A 2015 MID-ATLANTIC RECREATIONAL PERMIT		
HOME PORT STATE	NO. OF VESSELS	NO. SUBMITTING VTRS
CT	19	11
DE	39	27
FL	10	2
MA	217	60
MD	30	12
ME	45	20
NC	23	4
NH	45	21
NJ	171	103
NY	166	110
PA	4	4
RI	63	37
SC	1	1
TX	2	0
VA	34	14
TOTALS	869	426

The SBA threshold for a small business is \$7.5 million for for-hire entities and \$11 million for commercial fishing entities. In 2015 the above 869 for hire permits were owned by 785 entities, 171 categorized as commercial fishing entities, 394 categorized as for-hire entities, and 220 with no revenue in 2015 but considered small businesses for the purposes of this analysis. All of the commercial and for-hire entities fall under their respective small business definitions based on their revenues.

C – Description and estimate of economic impacts on small entities

For the for-hire, commercial fishing, or no-revenue entities, complying with the proposed eVTR submission requirements can be accomplished for no cost using one of the available options (e.g. SAFIS eTRIPS) with only a personal computer (or tablet) and internet connection. The ubiquitous nature of computers and internet availability in private homes and businesses, as well as free access to both in most public libraries and other locations, provides a free to minimal cost means for permit holders to access eVTRs. Therefore, at its most basic level, there is little to no direct negative economic impact to permit holders. Although this low-cost option is available, for-hire captains may voluntarily choose a different reporting mechanism, additional services, or upgraded hardware options that would increase their costs to varying degrees, but those would be voluntary and not a direct result of the proposed eVTR submission requirements.

D/E – An explanation of the criteria used to evaluate whether the rule would impose significant economic impacts/ An explanation of the criteria used to evaluate whether the rule would impose impacts on a substantial number of small entities

For the for-hire, commercial fishing, or no-revenue entities, since the eVTR submission requirements can be accomplished at low/no cost, no adverse impacts are expected from the proposed measures, other than there may be some temporary reporting burden increase as permit holders are switching to electronic reporting. In the long run, electronic reporting should reduce reporting burden.

F – A description of, and an explanation of the basis for, assumptions.

The primary assumption is that the free SAFIS eTRIPS reporting mechanism continues to function. It has been approved for use by NMFS and is currently in use, and there are no indications that it will not be available in the future.

REGULATORY IMPACT REVIEW

INTRODUCTION

Executive Order 12866 requires a Regulatory Impact Review (RIR) to enhance planning and coordination with respect to new and existing regulations. This Executive Order requires the Office of Management and Budget (OMB) to review regulatory programs that are considered to be “significant.” Section 6 assesses the costs and benefits of the Proposed Action and found the impacts to be minimal. The analysis included in this RIR further demonstrates that this action is not a “significant regulatory action” because it will not affect in a material way the economy or a sector of the economy.

Executive Order 12866 requires a review of proposed regulations to determine whether the expected effects would be significant, where a significant regulatory action is one that may:

- 1* Have an annual effect on the economy of \$100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;
- 2* Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- 3* Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
- 4* Raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in the Executive Order.

OBJECTIVES

The overall goals of the Council's FMPs are to conserve the managed resources in order to achieve optimum yield. Detailed goals and objectives for each FMP are available at the Council's website: <http://www.mafmc.org/fishery-management-plans>.

AFFECTED ENTITIES

A description of the entities affected by this action is provided above.

PROBLEM STATEMENT

The purpose of this action is to require for-hire vessels with Federal permits for species managed by the Council to submit currently-required VTRs to NOAA through electronic means beginning 6 months after publication of the final rule in the Federal Register and change the reporting timeframe to 48 hours after entering port at the conclusion of the trip. This action does not change any other existing requirements associated with VTRs but is an administrative modification in the method for submitting VTRs.

This action is needed to: 1) increase the timeliness (availability) of data submitted through VTRs; 2) reduce the reporting burden on data providers (for-hire operators and/or captains) by eliminating the need of paper-based reporting, and; 3) increase the accuracy and quality of data by reducing recall bias associated with delayed completion and submission of paper forms. According to NOAA Fisheries, "electronic reporting will make the collection of important data on fishing vessel activity more efficient, convenient, and timely" for fishery managers, and other data users.

ANALYSIS OF ALTERNATIVES

Executive Order 12866 mandates that proposed measures be analyzed below in terms of: (1) changes in net benefits and costs to stakeholders, (2) changes to the distribution of benefits and costs within the industry, (3) changes in income and employment, (4) cumulative impacts of the regulation, and (5) changes in other social concerns. This action is administrative in nature with negligible impacts on permit holders, which supports a determination that this action is not significant for purposes of Executive Order 12866.

There should not be substantial distributional issues (all for-hire permit holders are impacted similarly), and impacts on income and employment should be negligible. As described in Section 6, the Council has concluded that this action is administrative in nature. There are no other expected social concerns.

DETERMINATION OF EXECUTIVE ORDER 12866 SIGNIFICANCE

Given the analysis in Section 6 and summary information above, the action overall should have neutral impacts on participants in the Council's fisheries. In addition, there should be no interactions with activities of other agencies and no impacts on entitlements, grants, user fees, or loan programs. Similar electronic reporting has been required in both dealer reporting and for commercial vessels (via VMS), and as such does not raise novel legal or policy issues. As such, the Proposed Action is not considered significant as defined by Executive Order 12866.

7.4 Executive Order (E.O.) 12866 (Regulatory Planning and Review)

To enhance planning and coordination with respect to new and existing regulations, this Executive Order requires the Office of Management and Budget (OMB) to review regulatory programs that are considered to be significant. This section includes the Regulatory Impact Review, which includes an assessment of the costs and benefits of the proposed action, in accordance with the guidelines established by Executive Order 12866. The analysis shows that this action is not a significant regulatory action because it will not affect in a material way the economy or a sector of the economy.

7.5 Executive Order (E.O.) 13132 (Federalism)

This Executive Order established nine fundamental federalism principles for Federal agencies to follow when developing and implementing actions with federalism implications. The Executive Order also lists a series of policy making criteria to which Federal agencies must adhere when formulating and implementing policies that have federalism implications. However, no federalism issues or implications have been identified relative to the proposed measures. This action does not contain policies with federalism implications sufficient to warrant preparation of an assessment under Executive Order 13132. The affected states have been closely involved in the development of the proposed management measures through their representation on the Council (all affected states are represented as voting members on the Council). No comments were received from any state officials relative to any federalism implications that may be associated with this action

7.6 Endangered Species Act

Section 7 of the ESA requires Federal agencies conducting, authorizing, or funding activities that affect threatened or endangered species to ensure that those effects do not jeopardize the continued existence of listed species. Based on the administrative nature of the action, the Council has concluded is that there would be no direct or indirect impacts on protected resources, including endangered or threatened species or critical habitats.

7.7 Marine Mammal Protection Act (MMPA)

Based on the administrative nature of the action, the Council has concluded that there would be no direct or indirect impacts on marine mammals, that the proposed action is consistent with the provisions of the MMPA, and that the proposed action would not alter existing measures to protect the species likely to inhabit the management units of the subject fisheries. None of the proposed specifications are expected to significantly alter fishing methods or activities or result in substantially increased effort that would impact species afforded protection under the Marine Mammal Protection Act of 1972 (MMPA).

7.8 Administrative Procedures Act (APA) and Paperwork Reduction Act (PRA)

Section 553 of the Administrative Procedure Act establishes procedural requirements applicable to informal rulemaking by Federal agencies. The purpose of these requirements is to ensure public access to the Federal rulemaking process, and to give the public adequate notice and opportunity for comment. The Council is not requesting any abridgement of the rulemaking process for this action at this time.

The purpose of the Paperwork Reduction Act (PRA) is to control paperwork requirements imposed on the public by the Federal Government. The authority to manage information and recordkeeping requirements is vested with the Director of the Office of Management and Budget (OMB). This authority encompasses establishment of guidelines and policies, approval of information collection requests, and reduction of paperwork burdens and duplications.

This proposed action likely contains collection of information requirements subject to the PRA, including changes to the mechanism by which federally permitted dealers are required to report fish purchases and the frequency of such reports. The PRA package prepared in support of this action and the information collection identified above, including the required 83-I forms and supporting statements, is under review and will be submitted to OMB for approval

7.9 Coastal Zone Management Act

Section 307(c)(1) of the Federal Coastal Zone Management Act of 1972 requires that all Federal activities that directly affect the coastal zone be consistent with approved state coastal zone management programs to the maximum extent practicable. Pursuant to the Coastal Zone Management Act regulations at 15 CFR 930.35, a negative determination may be made if there are no coastal effects and the subject action: (1) Is identified by a state agency on its list, as described in ' 930.34(b), or through case-by-case monitoring of unlisted activities; or (2) which is the same as or is similar to activities for which consistency determinations have been prepared in the past; or (3) for which the Federal agency undertook a thorough consistency assessment and developed initial findings on the coastal effects of the activity. This action would have no effect on any coastal use or resources of any state.

7.10 Data Quality Act

Pursuant to NOAA guidelines implementing section 515 of Public Law 106-554 (the Data Quality Act), all information products released to the public must first undergo a Pre-Dissemination Review to ensure and maximize the quality, objectivity, utility, and integrity of the information (including statistical information) disseminated by or for Federal agencies. The following section addresses these requirements.

7.10.1 Utility

The information presented in this document should be helpful to the intended users (the affected public) by presenting a clear description of the purpose and need of the proposed action, the measures proposed, and the impacts of those measures. A discussion of the reasons for selecting the proposed action is included so that intended users may have a full understanding of the proposed action and its implications, as well as the Council's rationale.

Until a proposed rule is prepared and published, this document is the principal means by which the information contained herein is available to the public. The information provided in this document is based on the most recent available information from the relevant data sources. The development of this document and the decisions made by the Council to propose this action are the result of a multi-stage public process. Thus, the information pertaining to management measures contained in this document has been improved based on comments from the public, the fishing industry, members of the Council, and NMFS.

The Federal Register notice that announces the proposed rule and the final rule and implementing regulations will be made available in printed publication, on the website for the Greater Atlantic Regional Fisheries Office, and through the Regulations.gov website. The Federal Register documents will provide metric conversions for all measurements.

7.10.2 Integrity

Prior to dissemination, information associated with this action, independent of the specific intended distribution mechanism, is safeguarded from improper access, modification, or destruction, to a degree commensurate with the risk and magnitude of harm that could result from the loss, misuse, or unauthorized access to or modification of such information. All electronic information disseminated by NOAA Fisheries adheres to the standards set out in Appendix III, Security of Automated Information Resources, of OMB Circular A-130; the Computer Security Act; and the Government Information Security Act. All confidential information (e.g. Vessel Trip Reports) is safeguarded pursuant to the Privacy Act; Titles 13, 15, and 22 of the U.S. Code (confidentiality of census, business, and financial information); the Confidentiality of Statistics provisions of the Magnuson-Stevens Act; and NOAA Administrative Order 216-100, Protection of Confidential Fisheries Statistics.

7.10.3 Objectivity

For purposes of the Pre-Dissemination Review, this document is considered to be a Natural Resource Plan. Accordingly, the document adheres to the published standards of the Magnuson-Stevens Act; the Operational Guidelines, FMP Process; the EFH Guidelines; the National Standard Guidelines; and NOAA Administrative Order 216-6, Environmental Review Procedures for Implementing the National Environmental Policy Act.

This information product uses information of known quality from sources acceptable to the relevant scientific and technical communities. The policy choices are clearly articulated in the management alternatives considered in this action. The supporting data upon which the policy choices are based, are described in Section 4 of this document. All supporting materials, information, data, and analyses within this document have been, to the maximum extent practicable, properly referenced according to commonly accepted standards for scientific literature to ensure transparency.

The review process used in preparation of this document involves the responsible Council and the Greater Atlantic Regional Fisheries Office. Review by staff at the Regional Office is conducted by those with expertise in fisheries management and policy, fisheries data collection (and electronic data collection), and compliance with the applicable law. Final approval of the action proposed in this document and clearance of any rules prepared to implement resulting regulations is conducted by staff at NOAA Fisheries Headquarters, the Department of Commerce, and the U.S. Office of Management and Budget.

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