

§ 622.9

rock shrimp or South Atlantic penaeid shrimp has been issued must carry a NMFS-approved observer, if the vessel's trip is selected by the SRD for observer coverage.

(b) *Notification to the SRD.* When observer coverage is required, an owner or operator must advise the SRD in writing not less than 5 days in advance of each trip of the following:

(1) Departure information (port, dock, date, and time).

(2) Expected landing information (port, dock, and date).

(c) *Observer accommodations and access.* An owner or operator of a vessel on which a NMFS-approved observer is embarked must:

(1) Provide accommodations and food that are equivalent to those provided to the crew.

(2) Allow the observer access to and use of the vessel's communications equipment and personnel upon request for the transmission and receipt of messages related to the observer's duties.

(3) Allow the observer access to and use of the vessel's navigation equipment and personnel upon request to determine the vessel's position.

(4) Allow the observer free and unobstructed access to the vessel's bridge, working decks, holding bins, weight scales, holds, and any other space used to hold, process, weigh, or store fish.

(5) Allow the observer to inspect and copy the vessel's log, communications logs, and any records associated with the catch and distribution of fish for that trip.

[61 FR 43957, Aug. 27, 1996, as amended at 63 FR 57590, Oct. 28, 1998; 68 FR 57378, Oct. 3, 2003; 70 FR 32272, June 2, 2005; 70 FR 73387, Dec. 12, 2005]

EFFECTIVE DATE NOTE: At 71 FR 56047, Sept. 26, 2006, §622.8 was amended by adding paragraph (a)(5), effective Oct. 26, 2006. For the convenience of the user, the added and revised text is set forth as follows:

§ 622.8 At-sea observer coverage.

(a) * * *

(5) *Gulf shrimp.* A vessel for which a Federal commercial vessel permit for Gulf shrimp has been issued must carry a NMFS-approved observer, if the vessel's trip is selected by the SRD for observer coverage.

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Vessel permit renewal is contingent upon compliance with this paragraph (a)(5).

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§ 622.9 Vessel monitoring systems (VMSs).

(a) *Requirement for use.* An owner or operator of a vessel that has been issued a limited access endorsement for South Atlantic rock shrimp must ensure that such vessel has a NMFS-approved, operating VMS on board when on a trip in the South Atlantic. An operating VMS includes an operating mobile transmitting unit on the vessel and a functioning communication link between the unit and NMFS as provided by a NMFS-approved communication service provider.

(b) *Installing and activating the VMS.* Only a VMS that has been approved by NMFS for use in the South Atlantic rock shrimp fishery may be used. When installing and activating the NMFS-approved VMS, or when reinstalling and reactivating such VMS, the vessel owner or operator must—

(1) Follow procedures indicated on an installation and activation checklist, which is available from NMFS, Office of Enforcement, Southeast Region, St. Petersburg, FL; phone: 727-570-5344; and

(2) Submit to NMFS, Office of Enforcement, Southeast Region, St. Petersburg, FL, a statement certifying compliance with the checklist, as prescribed on the checklist.

(c) *Interference with the VMS.* No person may interfere with, tamper with, alter, damage, disable, or impede the operation of the VMS, or attempt any of the same.

(d) *Interruption of operation of the VMS.* When a vessel's VMS is not operating properly, the owner or operator must immediately contact NMFS, Office of Enforcement, Southeast Region, St. Petersburg, FL, and follow instructions from that office. If notified by NMFS that a vessel's VMS is not operating properly, the owner and operator must follow instructions from that office. In either event, such instructions may include, but are not limited to, manually communicating to a location

designated by NMFS the vessel's positions or returning to port until the VMS is operable.

(e) *Access to position data.* As a condition of authorized fishing for or possession of South Atlantic rock shrimp in or from the South Atlantic EEZ, a vessel owner or operator subject to the requirements for a VMS in this section must allow NMFS, the USCG, and their authorized officers and designees access to the vessel's position data obtained from the VMS.

[68 FR 2194, Jan. 16, 2003, as amended at 70 FR 73387, Dec. 12, 2005]

EFFECTIVE DATE NOTE: At 71 FR 45434, Aug. 9, 2006, §622.9 was revised, effective Dec. 7, 2006. For the convenience of the user, the added and revised text is set forth as follows:

§ 622.9 Vessel monitoring systems (VMSs).

(a) *Requirements for use of a VMS—(1) South Atlantic rock shrimp.* An owner or operator of a vessel that has been issued a limited access endorsement for South Atlantic rock shrimp must ensure that such vessel has an operating VMS approved by NMFS for use in the South Atlantic rock shrimp fishery on board when on a trip in the South Atlantic. An operating VMS includes an operating mobile transmitting unit on the vessel and a functioning communication link between the unit and NMFS as provided by a NMFS-approved communication service provider.

(2) *Gulf reef fish.* An owner or operator of a vessel that has been issued a commercial vessel permit for Gulf reef fish, including a charter vessel/headboat issued such a permit even when under charter, must ensure that such vessel has an operating VMS approved by NMFS for use in the Gulf reef fish fishery on board at all times whether or not the vessel is underway, unless exempted by NMFS under the power down exemption of the NOAA Enforcement Draft Vessel Monitoring System Requirements as included in Appendix E to Final Amendment 18A to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico. The NOAA Enforcement Draft Vessel Monitoring System Requirements document is available from NMFS, Office of Enforcement, Southeast Region, 263 13th Avenue South, St. Petersburg, FL 33701; phone: 800-758-4833. An operating VMS includes an operating mobile transmitting unit on the vessel and a functioning communication link between the unit and NMFS as provided by a NMFS-approved communication service provider. Unless exempted under the power down exemption, a VMS must transmit a signal indicating the vessel's accurate position at least once an hour, 24 hours a day every day. Prior to departure for each trip, a vessel owner or operator

must report to NMFS any fishery the vessel will participate in on that trip and the specific type(s) of fishing gear, using NMFS-defined gear codes, that will be on board the vessel. This information may be reported to NMFS using the toll-free number, 888-219-9228, or via an attached VMS terminal. The VMS requirements of this paragraph apply throughout the Gulf of Mexico. An owner or operator of a vessel that has been issued a commercial vessel permit for Gulf reef fish with a fish trap endorsement and that fishes exclusively with fish traps is exempt from the VMS requirements of this paragraph through February 7, 2007.

(b) *Installation and activation of a VMS.* Only a VMS that has been approved by NMFS for the applicable fishery may be used, and the VMS must be installed by a qualified marine electrician. When installing and activating the NMFS-approved VMS, or when reinstalling and reactivating such VMS, the vessel owner or operator must—

(1) Follow procedures indicated on a NMFS-approved installation and activation checklist for the applicable fishery, which is available from NMFS, Office of Enforcement, Southeast Region, 263 13th Avenue South, St. Petersburg, FL 33701; phone: 800-758-4833; and

(2) Submit to NMFS, Office of Enforcement, Southeast Region, 263 13th Avenue South, St. Petersburg, FL 33701, a statement certifying compliance with the checklist, as prescribed on the checklist.

(3) Submit to NMFS, Office of Enforcement, Southeast Region, 263 13th Avenue South, St. Petersburg, FL 33701, a vendor-completed installation certification checklist, which is available from NMFS, Office of Enforcement, Southeast Region, 263 13th Avenue South, St. Petersburg, FL 33701; phone: 800-758-4833.

(c) *Interference with the VMS.* No person may interfere with, tamper with, alter, damage, disable, or impede the operation of the VMS, or attempt any of the same.

(d) *Interruption of operation of the VMS.* When a vessel's VMS is not operating properly, the owner or operator must immediately contact NMFS, Office of Enforcement, Southeast Region, 263 13th Avenue South, St. Petersburg, FL 33701, phone: 800-758-4833, and follow instructions from that office. If notified by NMFS that a vessel's VMS is not operating properly, the owner and operator must follow instructions from that office. In either event, such instructions may include, but are not limited to, manually communicating to a location designated by NMFS the vessel's positions or returning to port until the VMS is operable.

(e) *Access to position data.* As a condition of authorized fishing for or possession of fish in a fishery subject to VMS requirements in this section, a vessel owner or operator subject to the requirements for a VMS in this section must allow NMFS, the USCG, and