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Replacement of Historical Captain Permits with Standard Federal Charter/Headboat Permits

Draft Abbreviated Framework Action to the Fishery Management Plans for the Reef Fish Fishery and Coastal Migratory Pelagic Resources of the of the Gulf of Mexico and South Atlantic

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FRAMEWORK ACTION: Replacement of Historical Captain Permits with Standard Federal Charter/Headboat Permits

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ABBREVIATIONS USED IN THIS DOCUMENT

CMP	Coastal migratory pelagic
Council	Gulf of Mexico Fishery Management Council
EEZ	Exclusive economic zone
FMP	Fishery management plan
Gulf	Gulf of Mexico
NMFS	National Marine Fisheries Service
SERO	Southeast Regional Office
USCG	United States Coast Guard

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CHAPTER 1. INTRODUCTION

1.1 Purpose and Need

The purpose of this action is to replace reef fish and coastal migratory pelagic (CMP) Historical Captain endorsements[1] held by approximately 32 for-hire operators in the Gulf of Mexico (Gulf) with standard Gulf charter/headboat (for-hire) permits. The need is to reduce the regulatory and potential economic burden on Historical Captain permitholders.

1.2 Background

The Historical Captain Endorsement was established in June 2003 when Amendment 20 to the Fishery Management Plan (FMP) for the Reef Fish Resources of the Gulf of Mexico and Amendment 14 to the FMP for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (Reef Fish Amendment 20/CMP Amendment 14) was implemented. Recreational fishing comprises a substantial proportion of landings for many species in the Gulf (Coleman et al., 2004), and passengers who fish from for-hire fishing vessels are an important component of the recreational sector. During the 1980s and 1990s, the number of for-hire vessels operating in the Gulf increased rapidly, creating concern about the viability of the industry and the sustainability of the fish stocks they were harvesting (GMFMC 2002).

The Gulf of Mexico Fishery Management Council (Council) was concerned about the rapid increase in the number of for-hire vessels and trips, and the increased proportion of the catch harvested by the for-hire fleet, particularly because of the requirement under the Magnuson Stevens Act to end overfishing and rebuild overfished stocks. A January 2001 Report to Congress on the Status of U.S. Fisheries stated that several important reef fish and CMP species were overfished and/or experiencing overfishing including red snapper, red grouper, gag, vermillion snapper, king mackerel, and greater amberjack.

For-Hire permit moratorium

The joint Reef Fish Amendment 20/CMP Amendment 14 (GMFMC 2003) was initially implemented in June 2003. This amendment established a 3-year moratorium on the issuance of new recreational for-hire permits in the Reef Fish and CMP fisheries in the Gulf exclusive economic zone (EEZ). The amendment determined eligibility for the moratorium permits and was implemented on July 29, 2002, with the moratorium originally scheduled to become effective on December 26, 2002. However, on December 17, 2002, the National Marine Fisheries Service (NMFS) published an emergency rule that deferred the date when "moratorium" for-hire permits were required from December 26, 2002, until June 16, 2003. This action was required because NMFS and the Council determined that the implementing regulations for the for-hire permit moratorium contained an error regarding eligibility criteria that needed to be resolved before the moratorium could take effect.

[1] Historical captain endorsements function as standalone permits. Therefore, the terms endorsement and permit are used interchangeably in this document.

The purpose of the moratorium was to cap the number of permitted vessels at the then existing level (1,693 permits) while the Council monitored the impact of the moratorium and considered the need for a more comprehensive effort management system in the for-hire component of the recreational sector. The Council set a qualifying cutoff date of March 29, 2001, in order to include all current permitted vessels and vessels which had applied for a permit as of that date.

Reef Fish Amendment 20/CMP Amendment 14 (GMFMC 2003) established a fully transferable permit to eligible operators, hereafter referred to as a standard permit. To determine initial eligibility, the following requirements were established to receive a standard permit:

- Any person who held a valid permit on March 29, 2001, or held a valid permit during the preceding year, or had applied for such a permit received in the NMFS office by March 29, 2001, or

- Any person who could demonstrate to NMFS they had a for-hire vessel under construction prior to March 29, 2001, with a copy of the contract and/or receipts for expenditures of at least $5,000.

Historical Captain Permit

Reef Fish Amendment 20/CMP Amendment 14 (GMFMC 2003) also established a permit for historical captains. Persons who met the eligibility requirements to qualify as a historical captain (listed below), and submitted evidence of eligibility within 90 days of the implementation of the final rule implementing the amendment, were issued a letter of eligibility, which could be used to obtain a historical captain permit, valid only on the vessel that was operated by the historical captain. The eligibility criteria for the historical captain endorsement included any U.S. Coast Guard (USCG) licensed captain, who:

- demonstrated to NMFS they were licensed by the USCG and operated, (as a captain), a for-hire permitted vessel prior to March 29, 2001, but did not have a for-hire permit issued in their name,

- qualified for the permit within 90 days of implementation of the final rule, and

- demonstrated at least 25% of their earned income came from recreational for-hire fishing in 1 of the last 4 years ending with March 29, 2001.

Captains who were issued a historical captain endorsement were able to continue participating in for-hire fishing. The historical captain endorsements were issued as standalone permits rather than as true endorsements (which would require issuance of both the standard permit and an endorsement to the permit) to reduce paperwork. However, unlike the standard for-hire permit, the historical captain endorsement cannot be transferred to another entity and requires the endorsement holder to be present on the vessel while it is operating as a for-hire vessel (Table 1.2.1).

Table 1.2.1. A comparison of characteristics of reef fish and CMP for-hire standard permits and the historical captain endorsements that were established in Reef Fish Amendment 20/CMP Amendment 14 (GMFMC 2003) and extended indefinitely in Reef Fish Amendment 25/CMP Amendment 17 (GMFMC 2005).

-	For-Hire Permit	Historical Captain Endorsement
Transferrable to another entity	Yes	No
Resale value	Yes	No
Permitholder required to be aboard vessel on for-hire trips	No	Yes
Passenger capacity	Varies by permit	Varies by endorsement

The permit moratorium established in Reef Fish Amendment 20/CMP Amendment 14 (GMFMC 2003) was set to expire on June 16, 2006. In 2005, the Council developed Reef Fish Amendment 25/CMP Amendment 17 (GMFMC 2005) that established a limited access program that extended the permit moratorium indefinitely. The moratorium had the intended effect of a gradual reduction in the number of for-hire vessels operating in the federal waters of the Gulf. Between 2009 and 2018 (as of September 4, 2018), the number of federal for-hire reef fish permits decreased from 1,417 to 1,275 or by 10.0% (Figure 1.2.1.).

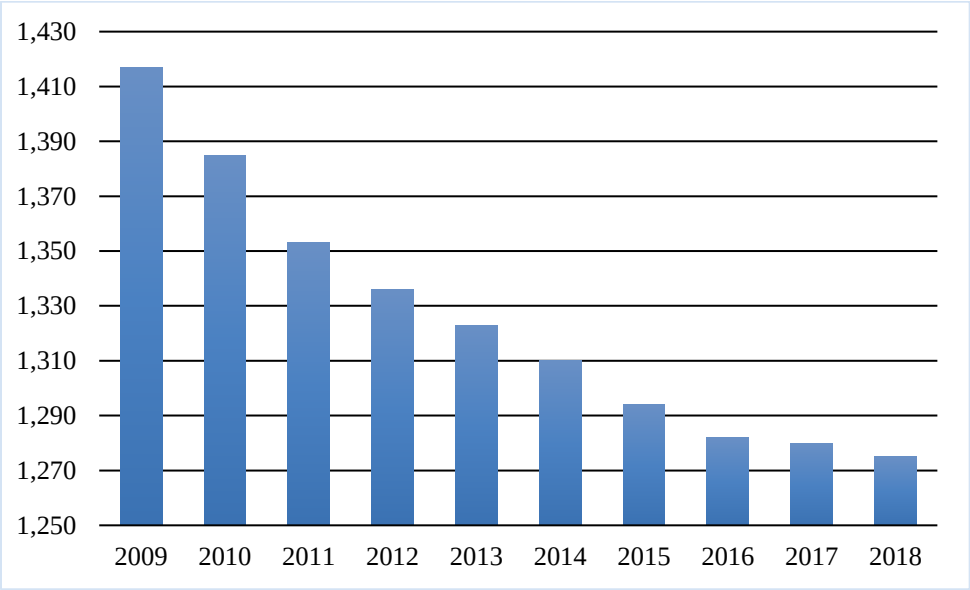

Figure 1.2.1. Number of federal for-hire reef fish permits in the Gulf from 2009 through 2018.
Source: NMFS-SERO Permits Access Database, 9/4/18.

From 2009 through 2018, the number of vessels with historical captain permits declined 43.9% from 57 vessels in 2008 to 32 in 2017 (Figure 1.2.2). Of these 32 vessels, all but one have both a reef fish and a CMP historical captain permit. The remaining vessel has a CMP historical captain permit only. The decline in the number of vessels with historical captain permits is much more pronounced than the decrease in vessels with standard permits and may reflect the limitations in transferability of historical captain permits. The distributions of vessels with a historical captain permit and of CMP and reef fish historical captain permits by state are provided in Table 1.2.2. Florida accounts for about 50% of the historical captain permits and associated vessels.

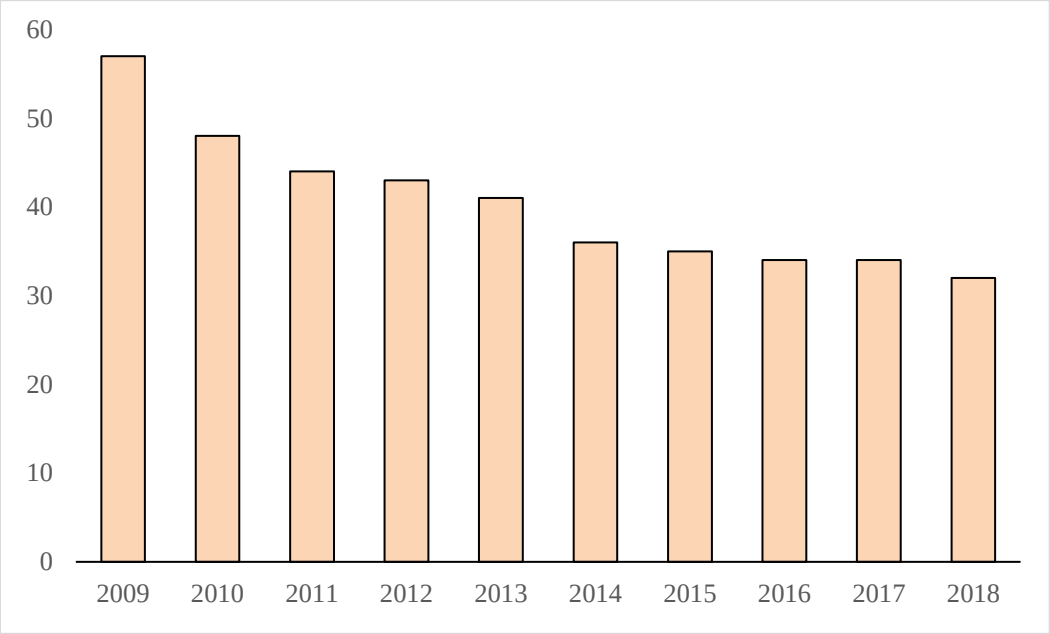

Figure 1.2.2. Number of federally permitted for-hire vessels with an historical captain permit in the Gulf from 2009 through 2018.
Source: NMFS-SERO Permits Access Database, 9/4/18.

Table 1.2.2. Numbers of CMP and Reef Fish historical captain permits, and vessels by state.

State	Historical Captain Permits		Vessels
	CMP	Reef Fish	
Alabama	3	3	3
Florida	17	16	17
Louisiana	6	6	6
Mississippi	2	2	2
Texas	4	4	4
Total	**32**	**31**	**32**

Source: NMFS-SERO Permits Access Database, 9/4/18.

Passenger Capacity

The passenger capacity for each for-hire permit (including historical captain permits) was assigned based on vessel's allowable USCG passenger capacity at the time of issuance. This is referred to as the *permit capacity*. Since the time of issuance, permits may have been transferred to a vessel that differs in passenger capacity from that stated on the permits; this is referred to as the *vessel capacity*. Likewise, operators with historical captain permits may currently operate a vessel with a vessel capacity different from the permit capacity assigned when the endorsement was issued. The smaller of the permit capacity or the vessel capacity applies for the purpose of taking paying passengers fishing for reef fish or pelagic fish. For example, if a for-hire permit was assigned with a 25 passenger permit capacity and was later transferred to a vessel with a vessel capacity of 100, the permit may only be used to carry 25 passengers to fish for reef fish or pelagic fish. If that same permit was transferred to a vessel with a vessel capacity of 6 (which requires no certificate of inspection), the vessel may only be used to carry 6 passengers to fish for reef fish or pelagic fish while the permit is assigned to that vessel. The permit could be transferred to a larger vessel in the future, however, and the permit capacity at the time of issuance would still be effective.

Definitions

Permit capacity – the passenger capacity indicated on the permit that represents the maximum number of paying passengers that may be taken fishing.

Vessel capacity – the passenger capacity specified by the vessel's United States Coast Guard certificate of inspection (COI). If a vessel does not have a COI, it is limited to carrying no more than 6 paying passengers.

Figure 1.2.3 compares the permit capacities of historical captain permits between 2009 and 2018 with the vessel capacities of vessels with historical captain permits. During the 2009-2018 time interval, a faster decline in annual permit capacity (due to the decrease in the number of permits) has resulted in a narrower gap between the aggregate historical captain permit capacity and vessel capacity in the Gulf.

Because 31 out of 32 historical captains own both a CMP and reef fish permit, the following discussion focuses on CMP permits for ease of discussion. Table 1.2.3 provides a distribution of historical captain CMP permits by permit capacity. More than two-thirds of the permits have a permit capacity of 6. Cumulatively, 78.1% of the permits have a permit capacity of 29 or less. Only 3 of the permits have a permit capacity greater than 60.

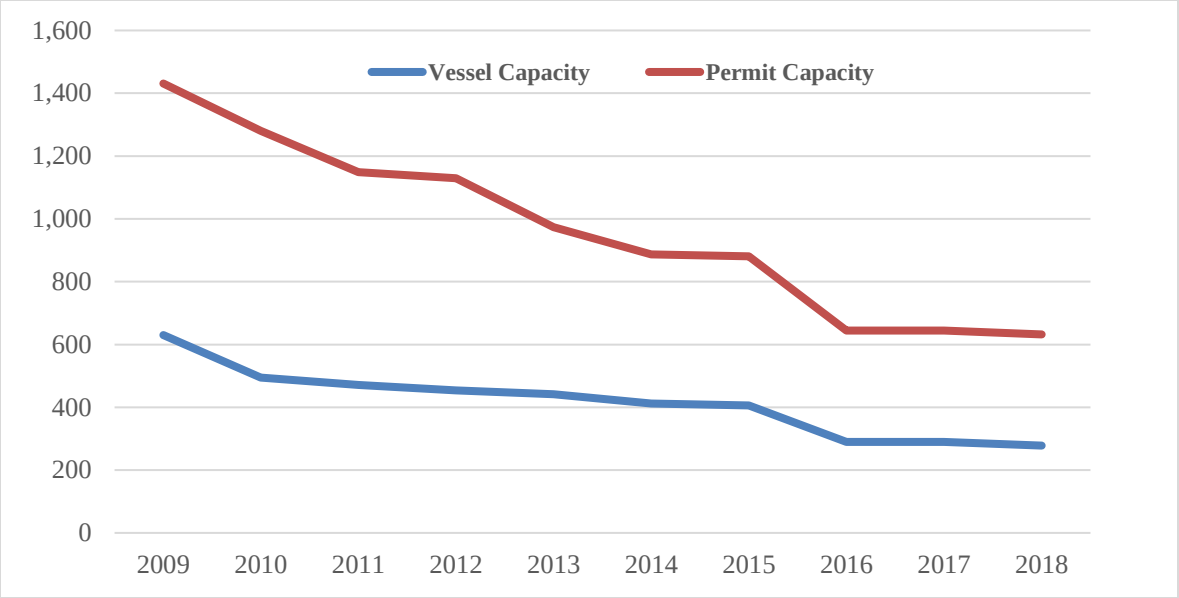

Figure 1.2.3. Aggregate permit capacity and vessel capacity for vessels with a historical captain permit (as of 09/04/18) in the Gulf from 2009 through 2018.
Source: NMFS-SERO, 9/4/18.

Table 1.2.3. Number and distribution of historical captain CMP permits by permit capacity.

Permits			Cumulative Frequency
Permit Capacity	Number	Percent	
6	22	68.7	68.7
7-29	3	9.4	78.1
30-59	4	12.5	90.6
60+	3	9.4	100
Total	**32**	**100**	

Source: NMFS-SERO, 9/4/18.

The distribution of permits by vessel capacity provided in Table 1.2.4 indicates that 84.4% of the permits are tied to 6-pack vessels. Cumulatively, about 97% of the permits are tied to vessels with a vessel capacity of 29 passengers or less. A comparison between the historical captain permit capacity and the vessel capacity indicates that for 23 out of 32 permits (or about 72% of the permits), the permit capacity and the vessel capacity are equal.

Table 1.2.4. Number and distribution of historical captain CMP permits by vessel capacity.

Permits			Cumulative Frequency
Vessel Capacity	Number	Percent	
6	27	84.4	84.4
7-29	4	12.5	96.9
30+	1	3.1	100
Total	**32**	**100**	**-**

Source: NMFS-SERO, 9/4/18.

Modifications to Historical Captain Permits

At the January 2018 Council meeting, several stakeholders expressed concerns relative to the limitation on the transferability of historical captain permits, and stated that the number of historical captain permits, which constitutes a small proportion of the for-hire fleet, has significantly declined. They also noted that limitations of the permit (e.g., inability to sell permit, must be present on vessel) can impede the continued operation of the historical captain's business and are no longer necessary to meet conservation and management objectives of the reef fish and CMP fisheries.

In response, this Council action would convert historical captain endorsements to standard for-hire permits. This action would extend the same rights and responsibilities of existing reef fish and CMP for-hire permits to captains with a historical captain permit. This action would affect 32 historical captain CMP and 31 historical captain reef fish permits in the Gulf and allow them to become fully-transferable CMP or Reef Fish Charter/Headboat Permit, without the requirement for the permit holder to be on board. Because 31 captains possess both a historical captain CMP and a historical captain reef fish permit, this action would potentially affect 32 captains.

During the October 2018 Council meeting, the Council explicitly stated that only historical captain reef fish and CMP permits discussed in this document would be eligible for replacement with corresponding standard for-hire permits. In addition, the Council reiterated that each newly issued standard for-hire permit would have the same permit capacity as the historical captain permit it would replace. Historical captain reef fish and CMP permits eligible for replacement with standard for-hire permits are listed in Appendix A. To allow for an orderly conversion of historical captain permits into standard for-hire permits, eligible historical captain permits must be replaced with a standard for-hire permit and associated with a vessel within two years from the implementation date of this action. [TEXT FROM PERMIT OFFICE]

The Council was notified that some of the letters of eligibility sent to historical captains in 2003 have not been redeemed but are still valid. Approximately 67 historical captains could still redeem their letters of eligibility and receive historical captain permits. The Council approved a

motion that renders eligibility letters for historical captains invalid as of the implementation date of this regulatory action. Furthermore, the Council indicated that if historical captains redeem outstanding letters of eligibility before the implementation date of this action, they would receive historical captain permits but would not be allowed to convert these permits into standard for-hire permits.

CHAPTER 2. REGULATORY IMPACT REVIEW

(TO BE COMPLETED)

CHAPTER 3. REGULATORY FLEXIBILITY ACT ANALYSIS

(TO BE COMPLETED)

CHAPTER 4. REFERENCES

Coleman, F., W.F. Figueira, J.S. Ueland, L.B. Crowder. 2004. The impact of United States recreational fisheries on marine fish populations. Science 305: 1958:1960.

GMFMC. 2003. Corrected amendment for a charter vessel/headboat permit moratorium amending the FMPs for: Reef Fish (Amendment 20) and Coastal Migratory Pelagics (Amendment 14) including environmental assessment, regulatory impact review, and initial regulatory flexibility analysis, Gulf of Mexico Fishery Management Council. Tampa, Florida. http://archive.gulfcouncil.org/Beta//GMFMCWeb/downloads/CBAmendmentFINAL-corrected.pdf.

GMFMC. 2005. Final Amendment to the FMPs for Reef Fish (Amendment 25) and Coastal Migratory Pelagics (Amendment 17) for extending the charter vessel/headboat permit moratorium including supplemental environmental impact statement, regulatory impact review, and initial regulatory flexibility analysis, Gulf of Mexico Fishery Management Council. Tampa, Florida. http://archive.gulfcouncil.org/Beta//GMFMCWeb/downloads/CHBAmend%2062305%20AS.pdf

APPENDIX A: HISTORICAL CAPTAIN PERMITS ELIGIBLE FOR REPLACEMENT WITH A STANDARD FOR-HIRE PERMIT

Permit numbers for historical captain CMP permits eligible for replacement with standard CMP for-hire permits.

Permit Number
HCHG-1704
HCHG-1788
HCHG-1786
HCHG-1369
HCHG-1783
HCHG-1708
HCHG-1694
HCHG-1701
HCHG-1598
HCHG-1705
HCHG-1487
HCHG-1326
HCHG-1568
HCHG-1331
HCHG-1419
HCHG-1777
HCHG-1362
HCHG-1784
HCHG-1571
HCHG-1747
HCHG-1274
HCHG-1634
HCHG-1338
HCHG-1482
HCHG-1227
HCHG-1339
HCHG-1171
HCHG-1416
HCHG-1324
HCHG-1661
HCHG-1723
HCHG-1277

Source: NMFS SERO website (accessed 11/01/2018)
https://portal.southeast.fisheries.noaa.gov/reports/foia/HCHG.htm

Permit numbers for historical captain Reef Fish permits eligible for replacement with standard Reef Fish for-hire permits.

Permit Number
HRCG-1615
HRCG-1695
HRCG-1693
HRCG-1313
HRCG-1691
HRCG-1619
HRCG-1604
HRCG-1612
HRCG-1520
HRCG-1616
HRCG-1423
HRCG-1271
HRCG-1497
HRCG-1276
HRCG-1361
HRCG-1685
HRCG-1306
HRCG-1692
HRCG-1500
HRCG-1221
HRCG-1550
HRCG-1283
HRCG-1418
HRCG-1272
HRCG-1284
HRCG-1115
HRCG-1358
HRCG-1269
HRCG-1577
HRCG-1633
HRCG-1224

Source: NMFS SERO website (accessed 11/01/2018)
https://portal.southeast.fisheries.noaa.gov/reports/foia/HRCG.htm