

Modifications to Charter/Headboat Permits with Historical Captain Endorsements



Draft Abbreviated Framework Action to the Fishery Management Plan for the Reef Fish Fishery of the Gulf of Mexico, United States Waters

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FRAMEWORK ACTION: MODIFICATIONS TO CHARTER/HEADBOAT PERMITS WITH HISTORICAL CAPTAIN ENDORSEMENTS

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Administrative Legislative
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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 all reef fish and coastal migratory pelagic (CMP) Historical Captain Permit Endorsements held by approximately 25 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 Permit Endorsement holders.

1.2 Background

The Historical Captain Permit 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 Fishery Management Plan for the Coastal Migratory Pelagic Resource 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 fishery. 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 for-hire permits in the Reef Fish and CMP recreational for-hire fisheries in the Gulf exclusive economic zone (EEZ). The amendment was approved by the Secretary of Commerce, and the provisions to determine eligibility and distribute moratorium permits were 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.

The purpose of the moratorium was to cap the number of permitted vessels at the then current 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 recreational component. 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 could be established by persons the following requirements were established:

- Any person who held valid permits on March 29, 2001, or held a valid permit during the preceding year, or had applied for such permits 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 Endorsement

Reef Fish Amendment 20/CMP Amendment 14 (GMFMC 2003) also established a permit endorsement 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/endorsement valid only on the vessel that was operated by the historical captain. The eligibility criteria for the historical captain 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 fishery permitted vessel prior to March 29, 2001, but did not have a for-hire permit issued in their name, and who qualified for the permit within 90 days of implementation of the final rule and who 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. Those who qualified were issued a letter of eligibility to be replaced by an endorsements to be used only on a vessel that they operate as a captain.

Captains who were issued a historical captain permit 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 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	Yes	No
Resale value	Yes	No
Captain 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. The number of federal for-hire reef fish permits had decreased to 1,376 (or by 15.5%), between 2008 and 2017 (Figure 1.2.1.).

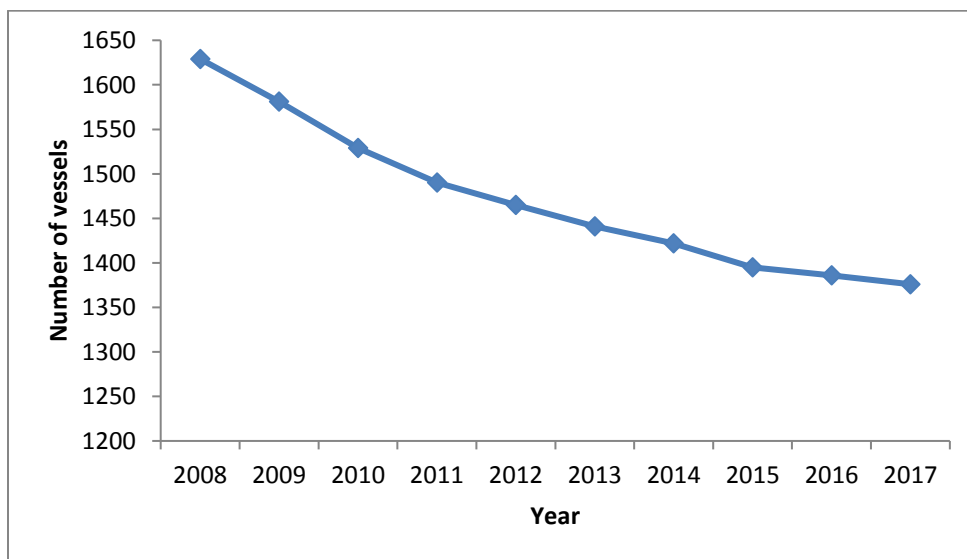


Figure 1.2.1. Number of federally permitted for-hire vessels in the Gulf from 2008 through 2017.

Source: NMFS-SERO 06/22/2018.

From 2008 through 2017, the number of vessels with historical captain endorsements also declined 45.2% from 62 vessels in 2008 to 34 in 2017 (Figure 1.2.2). The decline in historical captain endorsement permitted vessels was much more rapid than vessels with for-hire permits and may reflect the limitations in transferability of the vessel operators.

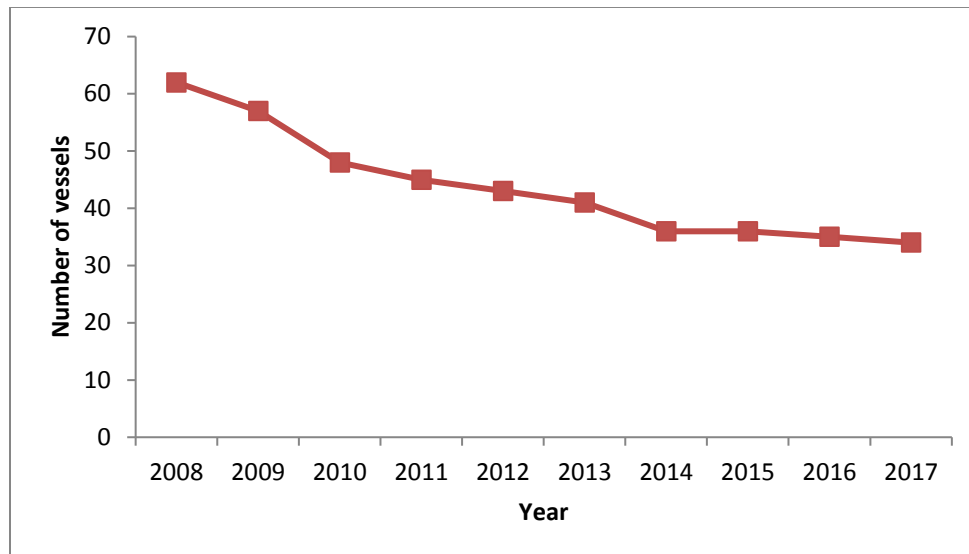


Figure 1.2.2. Number of federally permitted for-hire vessels with an historical captain exemption in the Gulf from 2008 through 2017.

Source: NMFS-SERO 06/22/2018.

Passenger Capacity

The passenger capacity for each for-hire permit (including permits with an historical captain endorsement) was assigned based on vessel’s allowable USCG passenger capacity at the time of issuance. Since the time of issuance, permits may have been transferred to a vessel that differs in passenger capacity from the permits (Figure 1.2.3). Likewise, operators with historical captain endorsements may currently operate a vessel with a different capacity than the capacity assigned with endorsement was issued. The smaller of the permit’s passenger capacity or the vessel’s USCG passenger 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 capacity and was later transferred to a vessel with a USCG passenger 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 USCG passenger capacity of 6 (no certificate of inspection), the permit may only be used to carry 6 passengers to fish for reef fish or pelagic fish while assigned to that vessel. The permit could be transferred to a larger vessel in the future, however, and the permit’s passenger capacity at the time of issuance would still be effective. At the April 2018 Council meeting, the Council decided to retain the existing passenger capacity associated with each historical captain endorsement, and not to allow for an increase in passenger capacity.

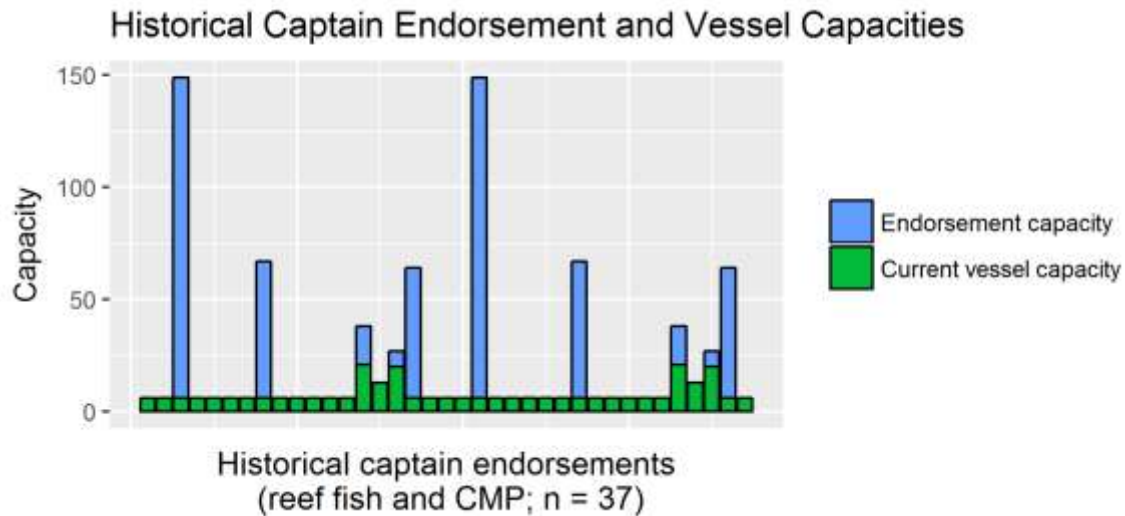


Figure 1.2.3. Historical captain endorsement and vessel capacities for operators with historical captain endorsement. Source: NMFS-SERO 2018.

Modifications to Historical Captain Endorsements

At the January 2018 Council meeting, several stakeholders stated that they had concerns about the limitation on the transferability of historical captain endorsement permits, and that the number of historical captain endorsements has declined and constitutes a small proportion of the for-hire fleet. They also stated 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, the Council is considering action to convert all 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 endorsement permit. This action would modify approximately active 37 historical captain endorsements in the Gulf and allow them to become a fully-transferable Reef Fish and CMP Charter/Headboat Permit, without the requirement for the permit holder to be on board. The historical captain endorsements include 19 reef fish endorsements and 18 CMP endorsements and would affect 19 historical captains (i.e., all captains but one have both endorsements). There are 6 reef and CMP endorsements that are expired but remain within the renewal period; thus, those historical captains could be included in this action if they renew their endorsement within one year of the expiration date (Table 1.2.2).

Table 1.2.2. Number of historical captain endorsements in the Gulf. Expired endorsements are subject to renewal within one year but are terminated if not renewed. Eighteen captains possess both reef fish and CMP endorsements, and one captain only has the reef fish endorsement.

Permits	Active	Expired
Reef Fish	19	6
CMP	18	6

Since implementation of Reef Fish Amendment 20/CMP Amendment 14, the number of vessels and for-hire permits has declined in the Gulf, and this is consistent with the objectives outlined in these amendments to reduce the number of vessels and passenger capacity of the for-hire fleet. Captains with historical captain endorsement permits comprise a small proportion of the for-hire fleet, so converting the endorsement into a standard for-hire permit, with the existing passenger capacity, may offer additional value and flexibility to the permit holders and simplify management of this fleet without compromising the objective of limiting growth of the for-hire fleet.

CHAPTER 2. REGULATORY IMPACT REVIEW

2.1 Introduction

2.2. Problems and Objectives

2.3 Description of the Fishery

2.6 Determination of Significant Regulatory Action

CHAPTER 3. REGULATORY FLEXIBILITY ACT ANALYSIS

3.1 Introduction

3.2 Statement of the need for, objective of, and legal basis for the proposed action

3.3 Identification of federal rules which may duplicate, overlap, or conflict with the proposed rule

3.4 Description and estimate of the number of small entities to which the proposed action would apply

3.5 Description of the projected reporting, record-keeping and other compliance requirements of the proposed rule

3.6 Significance of economic impacts on a substantial number of small entities

CHAPTER 4. REFERENCES

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