

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



**Draft Abbreviated Framework Action  
to the Fishery Management Plans for  
the Reef Fish 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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## Type of Action

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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<sup>1</sup> 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 permit holders.

## 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 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, which determined eligibility for the moratorium permits, was implemented on July 29, 2002. The moratorium was initially 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.

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<sup>1</sup> 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:

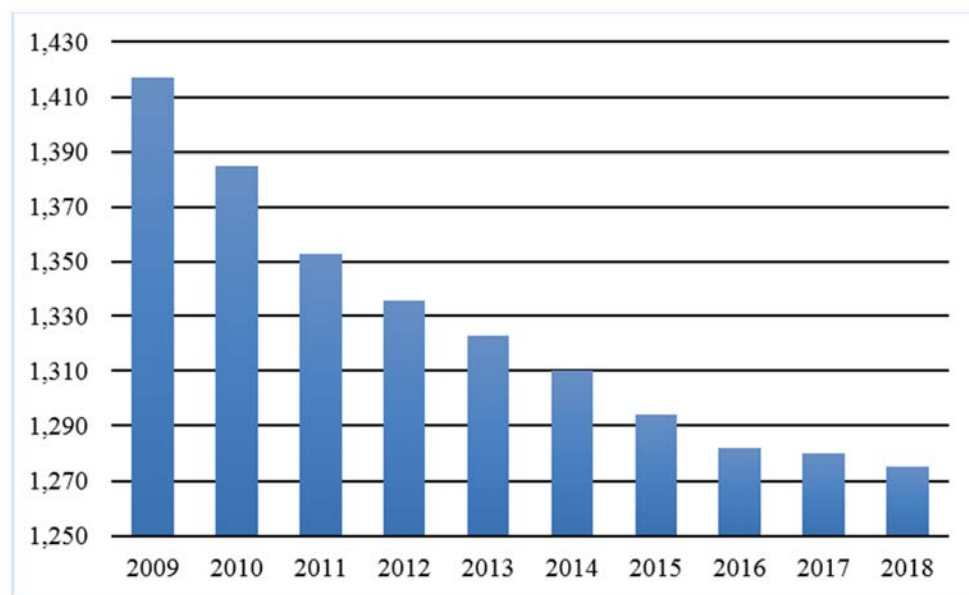
- demonstrated to NMFS they were licensed by the USCG and operated, (as a captain), a for-hire permitted vessel prior to March 29, 2001, but did not have a for-hire permit issued in their name,
- qualified for the permit within 90 days of implementation of the final rule, and
- demonstrated at least 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
Permit holder required to be aboard vessel on for-hire trips	No	Yes

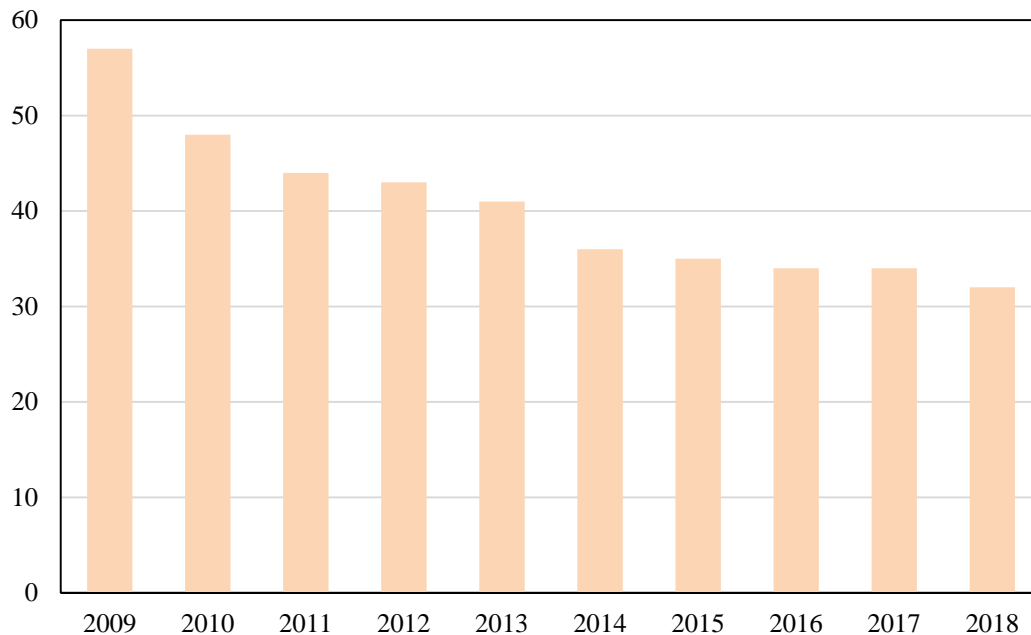
The permit moratorium established in Reef Fish Amendment 20/CMP Amendment 14 (GMFMC 2003) was set to expire on June 16, 2006. In 2005, the Council developed Reef Fish Amendment 25/CMP Amendment 17 (GMFMC 2005) that established a limited access program that extended the permit moratorium indefinitely. 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 a 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
<b>Total</b>	<b>32</b>	<b>31</b>	<b>32</b>

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 the permitted 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.

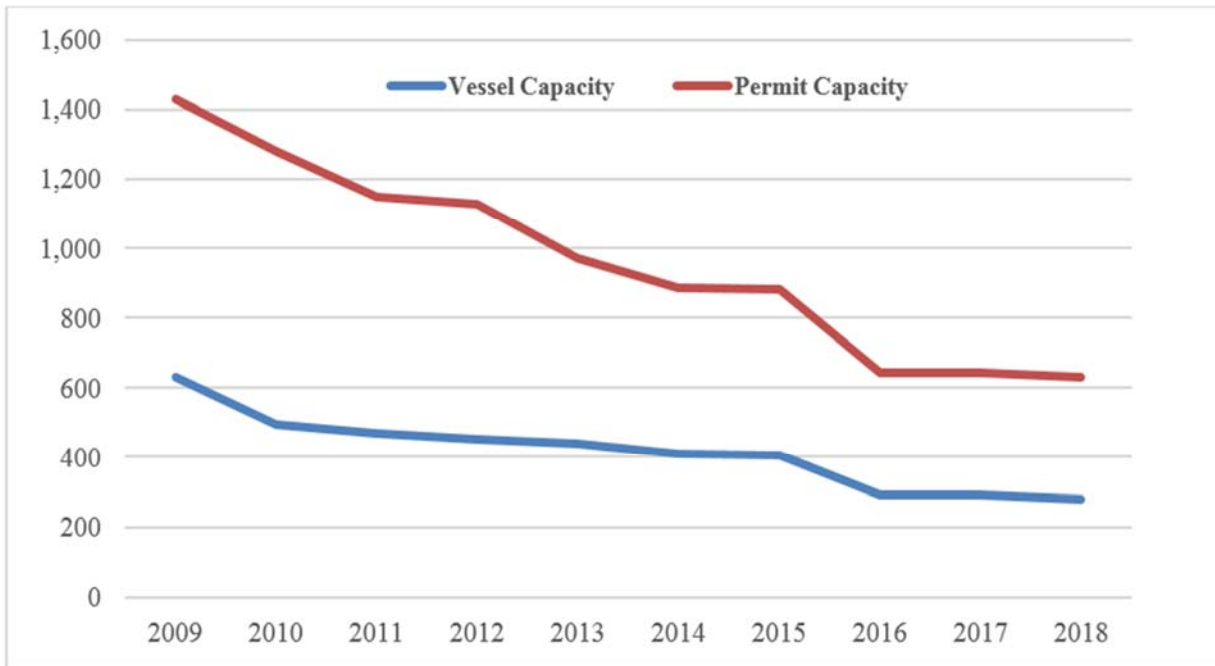
### Definitions

**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. Furthermore, CMP and reef fish permits owned by the same historical captain have the same permit passenger capacity. 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 CMP historical captain permit 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	
<b>6</b>	22	68.7	68.7
<b>7-29</b>	3	9.4	78.1
<b>30-59</b>	4	12.5	90.6
<b>60+</b>	3	9.4	100
<b>Total</b>	<b>32</b>	<b>100</b>	

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	
<b>6</b>	27	84.4	84.4
<b>7-29</b>	4	12.5	96.9
<b>30+</b>	1	3.1	100
<b>Total</b>	<b>32</b>	<b>100</b>	

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

### 1.3 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 very small proportion of the for-hire fleet, has significantly declined. They also noted that limitations of the permit (e.g., inability to transfer 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 decided to consider an action to convert existing 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 operating a vessel with a historical captain permit. During the October 2018 Council meeting, the Council explicitly stated that they intended this action to apply only to the historical captain reef fish and CMP permits considered in this document. Thus, only the 32 historical captain CMP and 31 historical captain reef fish permits in the Gulf that were held when the Council considered this action in October 2018, would be eligible for replacement with corresponding standard for-hire permits. The Council chose to limit this action to those individuals, because the intent is to provide additional flexibility to fishermen who have relied on the historical captain's permit for their livelihood and may be negatively impacted by the permit's restrictions. 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.

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 eligible to convert these permits into standard for-hire permits. The procedure to replace a reef fish or CMP historical captain permit with a corresponding standard for-hire permit is detailed below.

The historical captain will submit an application to renew their permit(s) exactly as they have done in previous years. This includes filling out all sections of the application specifically related to the historical captain permit renewal process and providing the appropriate supporting documents and fees. Permit Office staff will verify that the vessel the new for-hire permit will be issued to is either:

- (a) owned by the historical captain applicant and does not have an existing CMP and/or Reef Fish Charter/Headboat Permit associated with it, or
- (b) will be leased to the historical captain applicant to attach their permit(s) to and does not have any other federal permit(s) associated with it in another permit holder's name.

If the vessel is to be leased, a fully executed lease agreement, of at least seven months, between the vessel owner and permit holder will need to be included with the application. Once the application has been approved, the historical captain permit(s) will be converted to a fully-transferable CMP or Reef Fish Charter/Headboat Permit. Due to the uniqueness of the historical captain permit number, the new for-hire permit(s) will keep the existing permit number, e.g., HRCG-9999 will convert to RCG-9999. All permit history related to the historical captain permit(s) will stay with the new for-hire permit(s). The permit(s) will be issued and mailed to the mailing address identified by the applicant.



## CHAPTER 2. REGULATORY IMPACT REVIEW

### 2.1 Introduction

The National Marine Fisheries Service (NMFS) requires a Regulatory Impact Review (RIR) for all regulatory actions that are of public interest. The RIR does three things: 1) it provides a comprehensive review of the level and incidence of impacts associated with a proposed or final regulatory action; 2) it provides a review of the problems and policy objectives prompting the regulatory proposals and an evaluation of the major alternatives that could be used to solve the problem; and, 3) it ensures that the regulatory agency systematically and comprehensively considers all available alternatives so that the public welfare can be enhanced in the most efficient and cost-effective way. The RIR also serves as the basis for determining whether the regulations are a “significant regulatory action” under the criteria provided in Executive Order (E.O.) 12866. This RIR analyzes the impacts this action would be expected to have on the for-hire component of the Gulf of Mexico (Gulf) reef fish and coastal migratory pelagic (CMP) fisheries.

### 2.2 Problems and Objectives

The problems and objectives addressed by this action are discussed in Section 1.2.

### 2.3 Description of Fisheries

A description of the affected components in the Gulf is provided, by fishery, in Sections 2.3.1 (Reef fish) and 2.3.2 (CMP).

#### 2.3.1 Reef Fish For-Hire Component

##### Permits

For-hire vessels in the Gulf are required to have a limited access Gulf Charter/Headboat for Reef Fish permit (Gulf reef fish for-hire permit) to fish for or possess managed reef fish species in or from the Gulf EEZ (a similar, but separate, permit is required for coastal migratory pelagic species). On Dec 4, 2018, there were 1,276 valid (non-expired) or renewable<sup>2</sup> Gulf reef fish for-hire permits and 31 valid or renewable Gulf reef fish historical captain for-hire permits. Although the for-hire permit application collects information on the primary method of operation, the permit itself does not identify the permitted vessel as either a headboat or a charter vessel and vessels may operate in both capacities. However, only federally permitted headboats are required to submit harvest and effort information to the NMFS Southeast Region Headboat Survey (SRHS). Participation in the SRHS is based on determination by the SEFSC that the vessel primarily operates as a headboat. As of June 11, 2018, 70 Gulf headboats were registered in the SRHS (K. Fitzpatrick, NMFS SEFSC, pers. comm.). The majority of these headboats

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<sup>2</sup> A renewable permit is an expired permit that may not be actively fished, but is renewable for up to one year after expiration.

were located in Florida (41), followed by Texas (16), Alabama (8), and Mississippi/Louisiana (5).

There are no specific federal permitting requirements for recreational anglers to fish for or harvest reef fish. Instead, anglers are required to possess either a state recreational fishing permit that authorizes saltwater fishing in general, or be registered in the federal National Saltwater Angler Registry system, subject to appropriate exemptions. As a result, it is not possible to identify with available data how many individual anglers would be expected to be affected by this proposed amendment.

## **Angler Effort**

Recreational effort derived from the MRIP database can be characterized in terms of the number of trips as follows:

- Target trips - The number of individual angler trips, regardless of duration, where the intercepted angler indicated that the species, or a species in the species group, was targeted as either the first or the second primary target for the trip. The species did not have to be caught.
- Catch trips - The number of individual angler trips, regardless of duration and target intent, where the individual species or a species in the species group was caught. The fish did not have to be kept.
- Total recreational trips - The total estimated number of recreational trips in the Gulf, regardless of target intent or catch success.

A target trip may be considered an angler's revealed preference for a certain species, and thus may carry more relevant information when assessing the economic effects of regulations on the subject species than the other two measures of recreational effort. The following discussion focuses on target trips for reef fish species in the Gulf.

The majority of estimated target trips for reef fish species in the Gulf, on average (2013 through 2017), were taken in Florida and the predominant mode of fishing on these trips was the private/rental mode (Table 2.3.1). The total number of trips targeting reef fish species in the Gulf decreased by 28% from 2013 through 2017, with fluctuations during those five years (Table 2.3.1). It is important to note that in 2018, MRIP transitioned from the old Coastal Household Telephone Survey (CHTS) to a new mail-based fishing effort survey (FES). The estimates presented in Table 2.3.1 are based on the CHTS and have not been calibrated to the FES; however, it is expected that such calibration would result in greater estimates.

**Table 2.3.1.1.** Gulf reef fish recreational target trips, by mode and state, 2013-2017.\*

	Alabama	Florida	Louisiana**	Mississippi	Total
<b>Shore Mode</b>					
2013	1,612	155,702	0	0	157,314
2014	2,064	241,095	N/A	0	243,159
2015	8,665	158,377	N/A	0	167,042
2016	14,331	197,430	N/A	0	211,761
2017	2,758	235,796	N/A	0	238,554
Average	5,886	197,680	0	0	203,566
<b>Charter Mode</b>					
2013	26,953	133,038	9,793	38	169,822
2014	14,444	94,693	N/A	0	109,137
2015	27,299	158,214	N/A	366	185,879
2016	38,975	158,450	N/A	1,287	198,712
2017	36,258	149,085	N/A	2,990	188,333
Average	28,786	138,696	9,793	936	170,377
<b>Private/Rental Mode</b>					
2013	232,280	1,456,836	36,961	21,713	1,747,790
2014	68,919	1,086,201	N/A	8,864	1,163,984
2015	140,490	844,223	N/A	4,199	988,912
2016	199,875	915,111	N/A	36,126	1,151,112
2017	219,031	827,766	N/A	20,030	1,066,827
Average	172,119	1,026,027	36,961	18,186	1,223,725
<b>All Modes</b>					
2013	260,844	1,745,575	46,754	21,752	2,074,925
2014	85,426	1,421,989	N/A	8,864	1,516,279
2015	176,453	1,160,814	N/A	4,565	1,341,832
2016	253,182	1,270,992	N/A	37,413	1,561,587
2017	258,047	1,212,646	N/A	23,020	1,493,713
Average	206,790	1,362,403	46,754	19,123	1,597,667

Source: MRIP database, SERO, NMFS.

\* These estimates are based on the MRIP CHTS. Directed effort estimates that are calibrated to the new MRIP mail-based FES may be greater than what are presented here.

\*\* MRIP estimates for Louisiana are not available after 2013. The Louisiana Department of Wildlife and Fisheries did collect target effort data beginning in 2016; however, those data are not currently calibrated with the MRIP data and therefore are not useful for direct comparison.

Note: Texas and headboat information is unavailable.

Similar analysis of recreational effort is not possible for the headboat mode because headboat data are not collected at the angler level. Estimates of effort by the headboat mode are provided in terms of angler days, or the total number of standardized full-day angler trips.<sup>3</sup> Florida experienced a 12% increase overall in the number of headboat angler days from 2013 through 2017 and Alabama experienced a 23% increase (Table 2.3.1.2). The other Gulf states experienced minor decreases during this time period. On average (2013 through 2017), Florida accounted for the majority of headboat angler days reported, followed by Texas and Alabama, whereas Mississippi through Louisiana accounted for only a small percentage (Table 2.3.1.2).

**Table 2.3.1.2.** Gulf headboat angler days and percent distribution by state (2013 through 2017).

Angler Days					Percent Distribution			
	FL	AL	MS-LA**	TX	FL	AL	MS-LA	TX
<b>2013</b>	160,346	14,454	3,406	55,749	68.54%	6.18%	1.46%	23.83%
<b>2014</b>	174,599	16,766	3,257	51,231	71.02%	6.82%	1.32%	20.84%
<b>2015</b>	176,375	18,008	3,587	55,135	69.68%	7.11%	1.42%	21.78%
<b>2016</b>	183,147	16,831	2,955	54,083	71.26%	6.55%	1.15%	21.04%
<b>2017</b>	178,816	17,841	3,189	51,575	71.12%	7.10%	1.27%	20.51%
<b>Average</b>	174,657	16,780	3,279	53,555	70%	7%	1%	22%

Source: NMFS SRHS.

\*\*Headboat data from Mississippi and Louisiana are combined for confidentiality purposes.

Headboat effort in terms of angler days for the entire Gulf was concentrated most heavily during the summer months of June through August on average (2013 through 2017) (Table 2.3.1.3). The monthly trend in angler days was mostly similar across years, building gradually from January through May, rising sharply to a peak in June and July, dropping rapidly through September, increasing slightly in October, then tapering through December.

**Table 2.3.1.3.** Gulf headboat angler days (in thousands) and percent distribution by month (2013 – 2017).

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
<b>Headboat Angler Days (in thousands)</b>												
<b>2013</b>	8.6	9.6	16.8	16.4	17.2	47.8	38.3	27.6	12.7	21.3	8.7	9.1
<b>2014</b>	7.1	12.4	18.6	18.7	21.3	44.3	46.2	30.9	12.1	17.4	7.6	9.2
<b>2015</b>	9.4	10.6	22.8	20.7	21.0	44.7	45.2	26.6	15.1	17.2	9.8	9.9
<b>2016</b>	8.0	13.2	21.8	18.7	21.7	50.3	49.9	21.8	13.6	15.8	11.8	10.4
<b>2017</b>	9.0	14.0	21.0	19.4	19.2	47.7	54.0	23.0	10.3	11.1	11.3	11.5
<b>Avg</b>	8.4	12.0	20.2	18.8	20.1	47.0	46.7	26.0	12.8	16.6	9.8	10.0

<sup>3</sup> Headboat trip categories include half-, three-quarter-, full-, and 2-day trips. A full-day trip equals one angler day, a half-day trip equals .5 angler days, etc. Angler days are not standardized to an hourly measure of effort and actual trip durations may vary within each category.

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
	<b>Percent Distribution</b>											
<b>2013</b>	3.7%	4.1%	7.2%	7.0%	7.3%	20.4%	16.4%	11.8%	5.4%	9.1%	3.7%	3.9%
<b>2014</b>	2.9%	5.0%	7.6%	7.6%	8.7%	18.0%	18.8%	12.6%	4.9%	7.1%	3.1%	3.7%
<b>2015</b>	3.7%	4.2%	9.0%	8.2%	8.3%	17.7%	17.9%	10.5%	6.0%	6.8%	3.9%	3.9%
<b>2016</b>	3.1%	5.1%	8.5%	7.3%	8.4%	19.6%	19.4%	8.5%	5.3%	6.2%	4.6%	4.0%
<b>2017</b>	3.6%	5.6%	8.4%	7.7%	7.6%	19.0%	21.5%	9.1%	4.1%	4.4%	4.5%	4.6%
<b>Avg</b>	3.4%	4.8%	8.1%	7.6%	8.1%	18.9%	18.8%	10.5%	5.1%	6.7%	3.9%	4.0%

Source: NMFS SRHS.

## Economic Value

Participation, effort, and harvest are indicators of the value of saltwater recreational fishing. However, a more specific indicator of value is the satisfaction that anglers experience over and above their costs of fishing. The economic value of this satisfaction is referred to as consumer surplus (CS). The value or benefit derived from the recreational experience is dependent on several quality determinants, which include fish size, catch success rate, and the number of fish kept. These variables help determine the value of a fishing trip and influence total demand for recreational fishing trips. For example, the estimated value of the CS for catching and keeping a second red snapper on an angler trip is approximately \$82 (values updated to 2017 dollars), and decreases thereafter (approximately \$55 for a third red snapper, \$40 for a fourth red snapper, and \$32 for a fifth red snapper) (Carter and Liese 2012). In comparison, the estimated value of the CS for catching and keeping a grouper is approximately \$105 for the second fish, \$70 for the third fish, \$52 for the fourth fish, and \$41 for the fifth fish (Carter and Liese 2012).

The foregoing estimates of economic value should not be confused with economic impacts associated with recreational fishing expenditures. Although expenditures for a specific good or service may represent a proxy or lower bound of value (a person would not logically pay more for something than it was worth to them), they do not represent the net value (benefits minus cost), nor the change in value associated with a change in the fishing experience.

With regard to for-hire businesses, economic value can be measured by producer surplus (PS) per passenger trip (the amount of money that a vessel owner earns in excess of the cost of providing the trip). Estimates of the PS per for-hire passenger trip are not available. Instead, net operating revenue (NOR), which is the return used to pay all labor wages, returns to capital, and owner profits, is used as a proxy for PS. The estimated NOR value for an average Gulf charter angler trip is \$158 (2017 dollars) and the estimated NOR value for an average Gulf headboat angler trip is \$52 (C. Liese, NMFS SEFSC, pers. comm.). Estimates of NOR for for-hire trips that target specific species are not available.

The most current estimates of average annual gross revenue per vessel are provided in Savolainen, et al. (2012).<sup>4</sup> In 2017 dollars, the average annual gross revenue for a Gulf headboat

<sup>4</sup> Research by Abbott and Willard (2017) suggest that Savolainen, et al.'s estimate of average annual gross revenues for headboats may be an underestimate as data in the former suggest that average gross revenue in 2009 (continued)

is \$260,731 while the average annual gross revenue for a Gulf charter vessel is \$86,021. However, gross revenues overstate the annual economic value and profits generated by for-hire vessels. Economic value for for-hire vessels can be measured by annual PS. In general, PS is the amount of money a vessel owner earns in excess of variable (trip) costs. Economic profit is the amount of money a vessel owner earns in excess of variable and fixed costs, inclusive of all implicit costs, such as the value of a vessel owner's time as captain and as entrepreneur, and the cost of using physical capital (i.e., depreciation of the vessel and gear). In 2017 dollars, Savolainen, et al. (2012) estimated the annual producer surplus for Gulf headboats and charter vessels was approximately \$182,427 and \$56,589, respectively. Their best estimates of economic profit were \$76,110 and \$25,435 (2017 dollars), respectively.<sup>5</sup>

## **Business Activity**

The desire for recreational fishing generates economic activity as consumers spend their income on various goods and services needed for recreational fishing. This spurs economic activity in the region where recreational fishing occurs. It should be clearly noted that, in the absence of the opportunity to fish, the income would presumably be spent on other goods and services and these expenditures would similarly generate economic activity in the region where the expenditure occurs. As such, the analysis below represents a distributional analysis only.

Estimates of the business activity (economic impacts) associated with recreational angling for reef fish species in the Gulf were calculated using average trip-level impact coefficients derived from the 2015 Fisheries Economics of the U.S. report (NMFS 2017) and underlying data provided by the NOAA Office of Science and Technology. Economic impact estimates in 2015 dollars were adjusted to 2017 dollars using the annual, not seasonally adjusted GDP implicit price deflator provided by the U.S. Bureau of Economic Analysis (BEA).

Business activity (economic impacts) for the recreational sector is characterized in the form of jobs (full- and part-time), income impacts (wages, salaries, and self-employed income), output impacts (gross business sales), and value-added impacts (contribution to the GDP in a state or region). Estimates of the average annual economic impacts (2013-2017) resulting from Gulf reef fish target trips are provided in Table 2.3.1.4. The average impact coefficients, or multipliers, used in the model are invariant to the "type" of effort and can therefore be directly used to measure the impact of other effort measures such as reef fish catch trips. To calculate the multipliers from Table 2.3.1.4, simply divide the desired impact measure (sales impact, value-added impact, income impact or employment) associated with a given state and mode by the number of target trips for that state and mode.

The estimates provided in Table 2.3.1.4 only apply at the state-level. Addition of the state-level estimates to produce a regional (or national) total may underestimate the actual amount of total

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for the vessels in their sample was about \$453,000 (2016 \$). However, Abbott and Willard's estimates are based on a sample of 17 headboats that chose to participate in the Headboat Collaborative Program in 2014 while Savolainen, et al. are based on a random sample of 20 headboats. It is very possible that the headboats that participated in the Collaborative are economic highliners, in which case Abbott and Willard's estimates would not be representative of the fleet.

<sup>5</sup> Although Savolainen, et al. (2012) account for all explicit variable and fixed costs, they do not account for implicit costs, and thus they over-estimate actual economic profits for these vessels.

business activity, because state-level impact multipliers do not account for interstate and interregional trading. It is also important to note that these economic impacts estimates are based on trip expenditures only and do not account for durable expenditures. Durable expenditures cannot be reasonably apportioned to individual species or groups of species. As such, the estimates provided in Table 2.3.1.4 may be considered a lower bound on the economic activity associated with those trips that targeted reef fish.

Estimates of the business activity associated with headboat effort are not available. Headboat vessels are not covered in MRIP in the Southeast, so, in addition to the absence of estimates of target effort, estimation of the appropriate business activity coefficients for headboat effort has not been conducted.

**Table 2.3.1.4.** Estimated annual average economic impacts (2013-2017) from recreational trips that targeted reef fish species in the Gulf, by state and mode, using state-level multipliers. All monetary estimates are in 2017 dollars in thousands.\*

	FL	AL	MS	LA
<b>Charter Mode</b>				
Target Trips	138,696	28,786	936	9,793
Value Added Impacts	\$50,733	\$9,277	\$214	\$3,098
Sales Impacts	\$91,953	\$17,768	\$432	\$5,370
Income Impacts	\$33,117	\$6,335	\$149	\$2,085
Employment (Jobs)	723	147	3	36
<b>Private/Rental Mode</b>				
Target Trips	1,026,027	172,119	18,186	36,961
Value Added Impacts	\$23,025	\$4,862	\$261	\$1,328
Sales Impacts	\$38,855	\$9,391	\$601	\$2,735
Income Impacts	\$13,351	\$2,823	\$156	\$717
Employment (Jobs)	349	92	5	19
<b>Shore</b>				
Target Trips	197,680	5,886	0	0
Value Added Impacts	\$3,330	\$216	\$0	\$0
Sales Impacts	\$5,482	\$390	\$0	\$0
Income Impacts	\$1,905	\$128	\$0	\$0
Employment (Jobs)	52	4	0	0
<b>All Modes</b>				
Target Trips	1,362,403	206,791	19,123	46,754
Value Added Impacts	\$77,087	\$14,355	\$475	\$4,426
Sales Impacts	\$136,290	\$27,549	\$1,033	\$8,105
Income Impacts	\$48,374	\$9,285	\$305	\$2,802
Employment (Jobs)	1,124	243	8	55

Source: Effort data from MRIP; economic impact results calculated by NMFS SERO using NMFS (2017) and underlying data provided by the NOAA Office of Science and Technology.



\* Headboat target information is unavailable as are target effort estimates from Texas.

\*\* Louisiana estimates are based on 2013 target trips only.

## 2.3.2 Coastal Migratory Pelagic For-Hire Component

### Permits

For-hire vessels in the Gulf are required to have a limited access Gulf Charter/Headboat for Coastal Migratory Pelagics permit (Gulf CMP for-hire permit) to fish for or possess CMP species in or from the Gulf EEZ (a similar, but separate, permit is required for coastal reef fish species). On Dec 4, 2018, there were 1,286 valid (non-expired) or renewable<sup>6</sup> Gulf CMP for-hire permits and 32 valid or renewable Gulf CMP historical captain for-hire permits. Although the for-hire permit application collects information on the primary method of operation, the permit itself does not identify the permitted vessel as either a headboat or a charter vessel and vessels may operate in both capacities. However, only federally permitted headboats are required to submit harvest and effort information to the NMFS SRHS. Participation in the SRHS is based on determination by the SEFSC that the vessel primarily operates as a headboat. As of June 11, 2018, 70 Gulf headboats were registered in the SRHS (K. Fitzpatrick, NMFS SEFSC, pers. comm.). The majority of these headboats were located in Florida (41), followed by Texas (16), Alabama (8), and Mississippi/Louisiana (5).

There are no specific federal permitting requirements for recreational anglers to fish for or harvest CMP species. Instead, anglers are required to possess either a state recreational fishing permit that authorizes saltwater fishing in general, or be registered in the federal National Saltwater Angler Registry system, subject to appropriate exemptions. As a result, it is not possible to identify with available data how many individual anglers would be expected to be affected by this proposed amendment.

### Angler Effort

Recreational effort derived from the MRIP database can be characterized in terms of the number of trips as follows:

- Target trips - The number of individual angler trips, regardless of duration, where the intercepted angler indicated that the species, or a species in the species group, was targeted as either the first or the second primary target for the trip. The species did not have to be caught.
- Catch trips - The number of individual angler trips, regardless of duration and target intent, where the individual species or a species in the species group was caught. The fish did not have to be kept.
- Total recreational trips - The total estimated number of recreational trips in the Gulf, regardless of target intent or catch success.

A target trip may be considered an angler's revealed preference for a certain species, and thus may carry more relevant information when assessing the economic effects of regulations on the

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<sup>6</sup> A renewable permit is an expired permit that may not be actively fished, but is renewable for up to one year after expiration.



subject species than the other two measures of recreational effort. The following discussion focuses on target trips for CMP species (Spanish mackerel, king mackerel, and cobia) in the Gulf.

The majority of estimated target trips for CMP species in the Gulf, on average (2013 through 2017), were taken in Florida and the predominant mode of fishing on these trips was the shore mode (Table 2.3.2.1). The total number of trips targeting CMP species in the Gulf steadily declined from 2013 through 2017; resulting in an overall decrease of 28% (Table 2.3.2.1). It is important to note that in 2018, MRIP transitioned from the CHTS to the FES. The estimates presented in Table 2.3.2.1 are based on the CHTS and have not been calibrated to the FES; however, it is expected that such calibration would result in greater estimates.

**Table 2.3.2.1.** Gulf CMP recreational target trips, by mode and state, 2013-2017.\*

	Alabama	Florida	Louisiana**	Mississippi	Total
<b>Shore Mode</b>					
2013	329,579	749,202	0	0	1,078,781
2014	224,318	796,550	N/A	0	1,020,868
2015	288,365	586,330	N/A	0	874,695
2016	287,360	488,591	N/A	0	775,951
2017	285,870	466,667	N/A	0	752,537
Average	283,098	617,468	0	0	900,566
<b>Charter Mode</b>					
2013	3,354	29,721	0	1,831	34,906
2014	9,455	38,066	N/A	269	47,790
2015	6,735	58,028	N/A	1,297	66,060
2016	7,852	42,589	N/A	430	50,871
2017	6,371	61,046	N/A	355	67,772
Average	6,753	45,890	0	836	53,480
<b>Private/Rental Mode</b>					
2013	67,985	346,909	12,708	24,078	451,680
2014	41,197	401,591	N/A	16,882	459,670
2015	53,053	317,540	N/A	41,839	412,432
2016	46,150	391,919	N/A	8,990	447,059
2017	51,355	240,469	N/A	12,241	304,065
Average	51,948	339,686	12,708	20,806	414,981
<b>All Modes</b>					
2013	400,918	1,125,832	12,708	25,909	1,565,367
2014	274,970	1,236,207	N/A	17,151	1,528,328

2015	348,153	961,898	N/A	43,136	1,353,187
2016	341,362	923,099	N/A	9,420	1,273,881
2017	343,596	768,182	N/A	12,596	1,124,374
Average	341,800	1,003,044	12,708	21,642	1,369,027

Source: MRIP database, SERO, NMFS.

\* These estimates are based on the MRIP CHTS. Directed effort estimates that are calibrated to the new MRIP mail-based FES may be greater than what are presented here.

\*\* MRIP estimates for Louisiana are not available after 2013. The Louisiana Department of Wildlife and Fisheries did collect target effort data beginning in 2016; however, those data are not currently calibrated with the MRIP data and therefore are not useful for direct comparison.

Note: Texas and headboat information is unavailable.

Similar analysis of recreational effort is not possible for the headboat mode because headboat data are not collected at the angler level. Estimates of effort by the headboat mode, in terms of angler days, are provided in Section 2.3.1.

## Economic Value

Economic value received by anglers can be measured in the form of consumer surplus (CS) per additional fish kept on a trip (the amount of money that an angler would be willing to pay for a fish in excess of the cost to harvest the fish). The estimated values of the CS per fish for a second, third, fourth, and fifth king mackerel kept on a trip are approximately \$101, \$68, \$50, and \$39, respectively. There is no available estimate of CS for cobia, but dolphin or king mackerel CS estimates may be close proxies. For dolphin, the values for the second, third, fourth, and fifth kept fish are approximately \$15, \$10, \$8, and \$6, respectively (Carter and Liese 2012; values updated to 2017 dollars).<sup>7</sup>

Another study estimated the CS for catching and keeping one additional Spanish mackerel in the Southeastern U.S. using four separate econometric modeling techniques (Haab et al. 2012). Of the four models, only the finite mixture model, which takes into account variation in the preferences of anglers, produced a positive value for Spanish mackerel. The CS estimate for Spanish mackerel from the finite mixture model was \$18 (2017 dollars) with a 95% CI of \$6 to \$33. The other logit-based models from the study produced CS estimates that ranged from negative \$14 to negative \$8, a result of anglers avoiding fishing locations where Spanish mackerel are prevalent.

The foregoing estimates of economic value should not be confused with economic impacts associated with recreational fishing expenditures. Although expenditures for a specific good or service may represent a proxy or lower bound of value (a person would not logically pay more for something than it was worth to them), they do not represent the net value (benefits minus cost), nor the change in value associated with a change in the fishing experience.

For a discussion of the economic value generated by for-hire businesses, see Section 2.3.1.

<sup>7</sup>Converted to 2017 dollars using the annual, not seasonally adjusted GDP implicit price deflator provided by the U.S. Bureau of Economic Analysis.

## Business Impacts

The desire for recreational fishing generates economic activity as consumers spend their income on various goods and services needed for recreational fishing. This spurs economic activity in the region where recreational fishing occurs. It should be clearly noted that, in the absence of the opportunity to fish, the income would presumably be spent on other goods and services and these expenditures would similarly generate economic activity in the region where the expenditure occurs. As such, the analysis below represents a distributional analysis only.

Estimates of the business activity (economic impacts) associated with recreational angling for CMP species in the Gulf were calculated using average trip-level impact coefficients derived from the 2015 Fisheries Economics of the U.S. report (NMFS 2017) and underlying data provided by the National Oceanic and Atmospheric Administration (NOAA) Office of Science and Technology. Economic impact estimates in 2015 dollars were adjusted to 2017 dollars using the annual, not seasonally adjusted GDP implicit price deflator provided by the U.S. Bureau of Economic Analysis.

Business activity (economic impacts) for the recreational sector is characterized in the form of jobs (full- and part-time), income impacts (wages, salaries, and self-employed income), output impacts (gross business sales), and value-added impacts (contribution to the GDP in a state or region). Estimates of the average annual economic impacts (2013-2017) resulting from Gulf CMP target trips are provided in Table 2.3.2.2. The average impact coefficients, or multipliers, used in the model are invariant to the “type” of effort and can therefore be directly used to measure the impact of other effort measures such as CMP catch trips. To calculate the multipliers from Table 2.3.2.2, simply divide the desired impact measure (sales impact, value-added impact, income impact or employment) associated with a given state and mode by the number of target trips for that state and mode.

The estimates provided in Table 2.3.2.2 only apply at the state-level. Addition of the state-level estimates to produce a regional (or national) total may underestimate the actual amount of total business activity, because state-level impact multipliers do not account for interstate and interregional trading. It is also important to note that these economic impacts estimates are based on trip expenditures only and do not account for durable expenditures. Durable expenditures cannot be reasonably apportioned to individual species or groups of species. As such, the estimates provided in Table 2.3.2.2 may be considered a lower bound on the economic activity associated with those trips that targeted CMP species.

Estimates of the business activity associated with headboat effort are not available. Headboat vessels are not covered in MRIP in the Southeast, so, in addition to the absence of estimates of target effort, estimation of the appropriate business activity coefficients for headboat effort has not been conducted.

**Table 2.3.2.2.** Estimated annual average economic impacts (2013-2017) from recreational trips that targeted CMP species in the Gulf, by state and mode, using state-level multipliers. All monetary estimates are in 2017 dollars in thousands.\*

	FL	AL	MS	LA**
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<b>Charter Mode</b>				
Target Trips	45,890	6,753	836	0
Value Added Impacts	\$16,786	\$2,177	\$191	\$0
Sales Impacts	\$30,424	\$4,169	\$386	\$0
Income Impacts	\$10,957	\$1,486	\$133	\$0
Employment (Jobs)	239	35	3	0
<b>Private/Rental Mode</b>				
Target Trips	339,686	51,948	20,806	12,708
Value Added Impacts	\$7,623	\$1,467	\$298	\$456
Sales Impacts	\$12,864	\$2,834	\$687	\$940
Income Impacts	\$4,420	\$852	\$179	\$246
Employment (Jobs)	115	28	6	7
<b>Shore</b>				
Target Trips	617,468	283,098	0	0
Value Added Impacts	\$10,401	\$10,399	\$0	\$0
Sales Impacts	\$17,124	\$18,737	\$0	\$0
Income Impacts	\$5,951	\$6,138	\$0	\$0
Employment (Jobs)	163	207	0	0
<b>All Modes</b>				
Target Trips	1,003,044	341,800	21,642	12,708
Value Added Impacts	\$34,810	\$14,043	\$490	\$456
Sales Impacts	\$60,411	\$25,740	\$1,073	\$940
Income Impacts	\$21,329	\$8,476	\$312	\$246
Employment (Jobs)	518	269	9	7

Source: Effort data from MRIP; economic impact results calculated by NMFS SERO using NMFS (2017) and underlying data provided by the NOAA Office of Science and Technology.

\* Headboat target information is unavailable as are target effort estimates from Texas.

\*\* Louisiana estimates are based on 2013 target trips only.

## 2.4 Impacts of Management Measures

The proposed action replaces historical captain permits with standard federal charter/headboat permits. Of the 32 vessels with historical captain permits, all but one has both a reef fish and a CMP historical captain permit; the remaining vessel has a CMP historical permit only.

Economic analysis of the net benefits from this proposed action is comprised of both the resulting costs and benefits. While some of the benefits and costs may not be quantifiable, they may still be categorized as having positive or negative economic impacts.

Once the permits are replaced, the permits would then be transferrable and would have potential resale value, a positive economic impact to permit holders. Based on transfer values for a single permit for Gulf of Mexico Charter Vessel/Headboat for Coastal Migratory Pelagic Fish and for

Gulf of Mexico Charter Vessel/Headboat for Reef Fish, the transfer values from 2007-2018 range from \$0.01 to \$130,000<sup>8</sup>. An accurate average value cannot be provided for several reasons: (1) providing a value at all is not required with permit transfers, which translates to some entries of zero value; (2) transfer information can apply to one permit, one permit and the vessel, multiple permits, or multiple permits and the vessel, which makes it impossible to disaggregate individual permit values when more than one permit is included; (3) some transfer values may be undervalued or not listed when they pertain to permit transfers between a business's vessels or affiliates. Another positive impact of this proposed action is that historical captains would no longer need to be present on the vessel while the permit is in use. This would provide greater operational flexibility and potentially increase profits for historical captains.

This proposed action would also be expected to have positive or neutral economic effects on for-hire recreational anglers. Permit transferability would allow for business succession or the sale of the permits to other for-hire businesses. Because these permits would remain active, they would provide continued access to the fishery resource for for-hire recreational anglers. As historical captains retire or exit the fishery, this would also help preserve competitive pricing for charter and headboat trips. Therefore, for-hire anglers would face little to no reduction in consumer surplus.

Another result of permit transferability is that the for-hire component may potentially experience a small increase in participation and fishing effort. This would be a result of any latent historical captain permit holders selling their permits to individuals that then become active in the fishery. As data are not available on the number of latent historical captain permits, this potential economic effect is captured qualitatively. This potential small increase in participation and fishing effort could be accentuated should any of the approximately 67 historical captains redeem their letters of eligibility prior to implementation of this amendment and receive historical captain permits, although those permits would remain as historical captain permits.

A potential negative economic impact of replacing historical captain permits with standard federal charter/headboat permits would stem from any historical captain permit holders that do not own or lease a vessel on which they could place the standard federal charter/headboat permit. In such a case, those permit holders would need to purchase or lease a vessel and would thereby incur related costs. The average purchase price for a headboat operating in the Gulf is estimated to be \$388,627 (2017 dollars<sup>9</sup>); the average purchase price for a charter vessel operating in the Gulf is \$104,248 (Savolainen et al. 2012). If historical captains intend to sell their permits rather than use them for operating purposes, they could buy a much cheaper vessel to hold the permit prior to the sale. While estimates of for-hire vessel lease prices are not readily available, this may be a more affordable option than purchasing a vessel. In addition to the cost of the vessel itself, these historical captains would face applicable inspection and registration fees. An initial U.S. Coast Guard certificate of documentation is \$133, and a renewal is \$26 (46 CFR 67.550). If a U.S. Coast Guard certificate of inspection is required, the annual inspection fee is \$300 for vessels less than 65 feet and \$600 for vessels 65 feet and greater (46 CFR 2.10-101(a)). State

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<sup>8</sup> Permit transfer information was generated by the Permits Information Management System Database from the Constituency Branch Office of the National Marine Fisheries Service Southeast Regional Office.

<sup>9</sup> Converted to 2017 dollars using the annual, not seasonally adjusted GDP implicit price deflator provided by the U.S. Bureau of Economic Analysis.

boat registration and inspection fees in Gulf states are estimated to range from approximately \$10 up to \$400, depending on the length of the vessel and state of registration.

Since they would no longer be able to use their historical captain permit to operate a vessel owned or leased by another individual or business, historical captains who would need to buy or lease a vessel could also incur an opportunity cost in terms of lost earnings, which cannot be quantified with available data. These historical captains would need to either sell their permit or attach it to a purchased or leased vessel capable of servicing paying customers, in order to extract value from the standard for-hire permit.

## 2.5 Public and Private Costs of Regulations

The preparation, implementation, enforcement, and monitoring of this or any federal action involves the expenditure of public and private resources which can be expressed as costs associated with the regulations. Costs to the private sector are discussed in Section 2.4. Estimated public costs associated with this action include:

Council costs of document preparation, meetings, public hearings, and information dissemination.....	\$30,000
NMFS administrative costs of document preparation, meetings and review .....	\$15,000
TOTAL .....	\$45,000

The estimate provided above does not include any law enforcement costs. Any enforcement duties associated with this action would be expected to be covered under routine enforcement costs rather than an expenditure of new funds. Council and NMFS administrative costs directly attributable to this amendment and the rulemaking process will be incurred prior to the effective date of the final rule implementing this amendment.

## 2.6 Determination of Significant Regulatory Action

Pursuant to E.O. 12866, a regulation is considered a “significant regulatory action” if it is likely to result in: 1) an annual effect of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, 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 or 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 this executive order (E.O). Based on the information in Sections 2.4-2.5, the costs and benefits resulting from this regulatory action are not expected to meet or exceed the \$100 million threshold, and thus this action has been determined to not be economically significant for the purposes of E.O. 12866.



# CHAPTER 3. REGULATORY FLEXIBILITY ACT ANALYSIS

## 3.1 Introduction

The purpose of the Regulatory Flexibility Act (RFA) is to establish a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure such proposals are given serious consideration. The RFA does not contain any decision criteria; instead the purpose of the RFA is to inform the agency, as well as the public, of the expected economic impacts of various alternatives contained in the fishery management plan (FMP) or amendment (including framework management measures and other regulatory actions) and to ensure the agency considers alternatives that minimize the expected impacts while meeting the goals and objectives of the FMP and applicable statutes.

The RFA requires agencies to conduct a Regulatory Flexibility Act Analysis (RFAA) for each proposed rule. The RFAA is designed to assess the impacts various regulatory alternatives would have on small entities, including small businesses, and to determine ways to minimize those impacts. An RFAA is conducted to primarily determine whether the proposed action would have a “significant economic impact on a substantial number of small entities.” The RFAA provides: 1) a description of the reasons why action by the agency is being considered; 2) a succinct statement of the objectives of, and legal basis for, the proposed rule; 3) a description and, where feasible, an estimate of the number of small entities to which the proposed rule will apply; 4) a description of the projected reporting, record-keeping, and other compliance requirements of the proposed rule, including an estimate of the classes of small entities which will be subject to the requirements of the report or record; 5) an identification, to the extent practicable, of all relevant federal rules, which may duplicate, overlap, or conflict with the proposed rule; 6) a description and estimate of the expected economic impacts on small entities; and 7) a description of the significant alternatives to the proposed action and discussion of how the alternatives attempt to minimize economic impacts on small entities.

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

The need for and objective of this proposed action are provided in Chapter 1. In summary, there is a need to reduce the regulatory and potential economic burden on historical captain permit holders. The objective of this proposed action is to replace current (as of October 2018) reef fish and coastal migratory pelagic (CMP) historical captain permits in the Gulf of Mexico (Gulf) with standard Gulf charter/headboat (for-hire) permits. The Magnuson-Stevens Fishery Conservation and Management Act provides the statutory basis for this proposed action.

### **3.3 Description and estimate of the number of small entities to which the proposed action would apply**

This proposed action, if implemented, would apply to all charter vessels and headboats (for-hire vessels) that have a reef fish or CMP historical captain permit. As of September 4, 2018, there were 32 vessels that had either a valid (non-expired) or renewable<sup>10</sup> Gulf reef fish or CMP Charter/Headboat historical captain permit. Of these 32 vessels, all but one had both a reef fish and a CMP historical captain permit; the remaining vessel had a CMP historical captain permit only. Although the for-hire permit application collects information on the primary method of operation, the permit itself does not identify the permitted vessel as either a headboat or a charter vessel and vessels may operate in both capacities. The average charter vessel is estimated to receive approximately \$86,000 (2017 dollars<sup>11</sup>) in annual revenue; the average headboat is estimated to receive approximately \$261,000 in annual revenue (Savolainen et al. 2012).

Additionally, some of the letters of eligibility sent to historical captains in 2003 have not been redeemed but are still valid. As of November 29, 2018, there were an estimated 67 historical captains that could still redeem their letters of eligibility, and thus, up to 67 additional for-hire businesses that may be affected by this proposed action.

The Small Business Administration (SBA) has established size standards for all major industry sectors in the U.S. including for-hire businesses (NAICS code 487210). A business primarily involved in the for-hire fishing industry is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of \$7.5 million for all its affiliated operations worldwide. All of the for-hire fishing businesses directly regulated by this action are believed to be small entities based on the SBA size criteria.

No other small entities that would be directly affected by this proposed action have been identified.

### **3.4 Description of the projected reporting, record-keeping and other compliance requirements of the proposed action, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for the preparation of the report or records**

This proposed action would not establish any new reporting or record-keeping requirements. It would, however, require historical captain permit holders to comply with the standard for-hire

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<sup>10</sup> A renewable permit is an expired permit that may not be actively fished, but is renewable for up to one year after expiration.

<sup>11</sup> Converted to 2017 dollars using the annual, not seasonally adjusted GDP implicit price deflator provided by the U.S. Bureau of Economic Analysis.



permit regulations once their historical captain permits are replaced with standard for-hire permits. The regulations stipulate that the standard for-hire permit must be issued to a vessel with a valid U.S. Coast Guard certificate of documentation (COD) or state registration certificate (50 CFR 622.4(a)). For historical captain permit holders that do not currently own or lease a vessel, this would require either the purchase or lease of a vessel and payment of applicable registration and inspection fees.

### **3.5 Identification of all relevant federal rules, which may duplicate, overlap or conflict with the proposed action**

No duplicative, overlapping, or conflicting federal rules have been identified.

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

#### **Substantial number criterion**

This proposed action, if implemented, would apply to all for-hire vessels with historical captain permits. As of September 4, 2018, there were 32 vessels that had either a valid (non-expired) or renewable Gulf reef fish or CMP historical captain permit. Additionally, there are up to 67 additional for-hire businesses with outstanding letters of eligibility that may be affected. Because all of these for-hire fishing businesses are believed to be small entities, it is assumed that this action would affect a substantial number of small entities.

#### **Significant economic impacts**

The outcome of “significant economic impact” can be ascertained by examining two factors: disproportionality and profitability.

Disproportionality: Do the regulations place a substantial number of small entities at a significant competitive disadvantage to large entities?

All entities likely to be affected by this action are believed to be small entities and thus the issue of disproportionality does not arise.

Profitability: Do the regulations significantly reduce profits for a substantial number of small entities?

A detailed analysis of the economic effects associated with this proposed action can be found in Chapter 2. The following information summarizes the expected effects of this proposed action on small entities.

This proposed action would replace historical captain permits with standard federal for-hire permits. Because standard for-hire permits are transferrable and salable and historical captain

permits are not, this would have positive economic effects in terms of increased asset value and business succession planning. Transfer values for a single standard federal for-hire permit ranged from \$0.01 to \$130,000<sup>12</sup> during 2007 through 2018. It is not possible to estimate a meaningful average market value for these permits with available data; however, it is expected that the value would increase relative to the passenger capacity of the permit. Additionally, once historical captains permits are replaced with standard for-hire permits, the historical captains would no longer need to be present on the vessel while the permit is in use. This would provide greater operational flexibility and potentially increase profits for affected small entities.

There are also some potential economic costs to small entities from this proposed action. Standard for-hire permits must be issued to a vessel that is either owned or leased by the permit holder. Some historical captains may not currently own or lease a vessel. In order to maintain their permit, these historical captains would need to purchase or lease a suitable vessel and pay all applicable inspection and registration fees. An initial U.S. Coast Guard certificate of documentation is \$133 and a renewal is \$26 (46 CFR 67.550). If a U.S. Coast Guard certificate of inspection is required, the annual inspection fee is \$300 for vessels less than 65 feet and \$600 for vessels 65 feet and greater (46 CFR 2.10-101(a)). State boat registration and inspection fees in Gulf states are estimated to range from approximately \$10 up to \$400, depending on the length of the vessel and state of registration. Due to uncertainty about the business strategies of historical captain permit holders, variation in permit passenger capacities, and the wide range of vessel options, it is not possible to estimate the cost that would be incurred by historical captains to purchase or lease a vessel. The average purchase price for a headboat operating in the Gulf is estimated to be \$388,627 (2017 dollars<sup>13</sup>); the average purchase price for a charter vessel operating in the Gulf is \$104,248 (Savolainen et al. 2012). If historical captains intend to sell their permits only, they could buy a much cheaper vessel to hold the permit prior to the sale. Estimates of for-hire vessel lease prices are not readily available; however, this may be a more affordable option than purchasing a vessel.

In addition to the cost to buy or lease a vessel, there would be an opportunity cost for some historical captains in terms of lost earnings because they would no longer be able to use their historical captain permit to operate a vessel owned or leased by another individual or business. This opportunity cost cannot be quantified with available data. In order to extract value from the standard for-hire permit, historical captains would need to either sell their permit or attach it to a purchased or leased vessel capable of servicing paying customers.

Finally, the proposed action would render any remaining letters of eligibility for historical captain permits invalid upon implementation. Individuals that submit outstanding letters of eligibility prior to the implementation date of this action would be issued a historical captain permit, but it would remain a historical captain permit only and would not be converted to a standard for-hire permit. It is assumed that historical captains who have not yet submitted their letters of eligibility do not intend to operate a for-hire fishing vessel with a historical captain

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<sup>12</sup> Permit transfer information was generated by the Permits Information Management System Database from the Constituency Branch Office of the National Marine Fisheries Service Southeast Regional Office. An average transfer value is not provided due to data issues described in Chapter 2.

<sup>13</sup> Converted to 2017 dollars using the annual, not seasonally adjusted GDP implicit price deflator provided by the U.S. Bureau of Economic Analysis.

permit and therefore would not be negatively affected by this proposed action. If for whatever reason there are some historical captains that were waiting to submit their letters, it is assumed they would apply for one prior to the implementation of this action.

### **3.7 Description of the significant alternatives to the proposed action and discussion of how the alternatives attempt to minimize economic impacts on small entities**

Two alternatives were considered for the action to replace historical captain permits with standard federal for-hire permits. The first alternative was to take no action and retain current historical captain permits. This alternative would not have any direct economics effect on any small entities. It was not selected by the Council, because it would fail to reduce the existing regulatory and economic burden on historical captain permit holders. The second alternative is the proposed action.

## CHAPTER 4. REFERENCES

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## 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>