

# Red Snapper Management for Federally Permitted Charter Vessels



## Draft Amendment 41 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico

October 2016



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# Gulf of Mexico Reef Fish Amendment 41

## Draft Environmental Impact Statement (DEIS) Cover Sheet

Draft Amendment 41 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico: Red Snapper Management for Federally Permitted Charter Vessels, including a Draft Environmental Impact Statement (DEIS)

### Abstract:

This DEIS is prepared pursuant to the National Environmental Policy Act to assess the environmental impacts associated with a regulatory action. The DEIS will analyze the impacts of a range of alternatives for management actions to establish an allocation-based management program for the harvest of red snapper by vessels with a federal Gulf of Mexico charter/headboat permit for reef fish that are not participating in the Southeast Regional Headboat Survey.

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## ABBREVIATIONS USED IN THIS DOCUMENT

ACL	annual catch limit
ACT	annual catch target
Charter AP	Ad Hoc Red Snapper Charter For-hire Advisory Panel
COI	certificate of inspection
Council	Gulf of Mexico Fishery Management Council
DEIS	Draft Environmental Impact Statement
For-hire permit	Gulf Charter/Headboat permit for Reef Fish
GT-IFQ	grouper-tilefish individual fishing quota program
Gulf	Gulf of Mexico
HBC	headboat collaborative
HMS	highly migratory species
IBQ	individual bluefin quota
IFQ	individual fishing quota
LAPP	limited access privilege program
Magnuson-Stevens Act	Magnuson-Stevens Fishery Conservation and Management Act
mp	million pounds
MRIP	Marine Recreational Information Program
NMFS	National Marine Fisheries Service
NS	national standard
PFA	permit fishing allocation
PFQ	permit fishing quota
PIMS	permit information management system
RS-IFQ	red snapper individual fishing quota program
SERO	Southeast Regional Office
SFD	Sustainable Fisheries Division
SRHS	Southeast Region Headboat Survey
TL	total length
VMS	vessel monitoring system
ww	whole weight

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# CHAPTER 1. INTRODUCTION

## 1.1 Background

In 2014, the Gulf of Mexico Fishery Management Council (Council) reorganized how the recreational sector harvests red snapper in the Gulf of Mexico (Gulf) through Amendment 40 (GMFMC 2014a). Amendment 40 defined the private angling and federal for-hire components and allocated the recreational sector's red snapper annual catch limit (ACL; recreational quota) between the recreational components, 42.3% for the federal for-hire component and 57.7% for the private angling component. The private angling component includes anglers fishing from private vessels and for-hire operators without a federal for-hire permit (i.e., state-licensed). The federal for-hire component includes all for-hire vessels with a valid or renewable Gulf Charter/Headboat permit for Reef Fish (for-hire permit), including Historical Captain Charter/Headboat permits.<sup>1</sup> Establishing separate components within the recreational sector provides a basis for development of flexible management approaches tailored to each component which may reduce the likelihood for recreational quota overages that could jeopardize the rebuilding of the red snapper stock.

Beginning in 2015, separate red snapper fishing seasons are established based on the estimated catch rates for each component's proportion of the recreational sector annual catch target (ACT), which is 20% less than the recreational ACL. All other management measures affecting the harvest of red snapper remain the same for both components, including a 16-inch total length (TL) minimum size limit, 2-fish per person per day bag limit, and June 1 season start date.

The for-hire permit does not allow a distinction between charter vessels and headboats. Some federally permitted for-hire vessels have historically been selected to participate in the Southeast Region Headboat Survey (SRHS), and as a result, these participating vessels have recorded landings histories. The vessels in the SRHS were selected based on factors including passenger capacity and business operation. These vessels are required to submit landings data on a weekly basis. Over the years, a few vessels have been added or removed from the SRHS; however, vessel participation is relatively stable. As of December 31, 2015, there were 66 vessels with a for-hire permit in the Gulf that participate in the SRHS and have associated landings histories.

The remaining vessels with a for-hire permit do not participate in the SRHS and instead, have their landings estimated through the Marine Recreational Information Program (MRIP). The MRIP For-Hire Survey includes a voluntary dockside intercept survey and a monthly phone survey sampling approximately 10% of federally permitted charter vessels. In recognition that some federally permitted for-hire vessels have landings histories and some do not, the Council expressed interest in further reorganizing the federal for-hire component and initiated development of separate amendments to evaluate flexible management approaches that could be

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<sup>1</sup> To qualify for a Historical Captain Gulf Charter/Headboat (HRCG) permit for Reef Fish, a captain must be U.S. Coast Guard licensed and operating as a captain of a for-hire vessel prior to March 29, 2001, and have at least 25% of their earned income from recreational for-hire fishing in one of the last four years ending March 29, 2001. These permits are renewable but not transferable to another individual, and require the permitted vessel be operated by the historical captain.

tailored to vessels based on the presence or absence of recorded landings histories. In part, this is due to the fact that different management approaches may be possible for vessels with landings histories recorded through the SRHS compared with those who do not have these recorded landings histories.

Management approaches for federally permitted vessels participating in the SRHS with associated landings histories, referred to here as *headboats*, are being evaluated in Reef Fish Amendment 42. Management approaches for federally permitted for-hire vessels that do not participate in the SRHS, and thus do not have recorded landings histories, are referred to here as *charter vessels*. Amendment 41 evaluates allocation-based management approaches for charter vessels. The distinction between charter vessels and headboats established for the purpose of this amendment is different than the definition of a charter vessel and headboat in the federal regulations at 50 C.F.R. § 622.2 (Appendix D).

*In this amendment:*

**Charter vessels** refer to all federally permitted for-hire vessels that do not participate in the Southeast Region Headboat Survey and thus do not have recorded landings histories.

**Headboats** refer to all federally permitted for-hire vessels that participate in the Southeast Region Headboat Survey and thus have recorded landings histories.

*Definitions:*

**Gulf Charter/Headboat Permit for Reef Fish**, referred to as a **for-hire permit**, is the limited access, federal for-hire permit required to take paying passengers fishing for reef fish in federal waters of the Gulf of Mexico.

**Recreational Sector Annual Catch Limit (ACL)** – pounds of fish allowed to be landed by recreational fishers (includes private anglers, charter vessels, and headboats).

**For-hire Quota** – pounds of fish allowed to be landed by for-hire vessels (charter vessels and headboats).

**Charter Quota** – pounds of fish allowed to be landed by charter vessels under the program developed in this amendment.

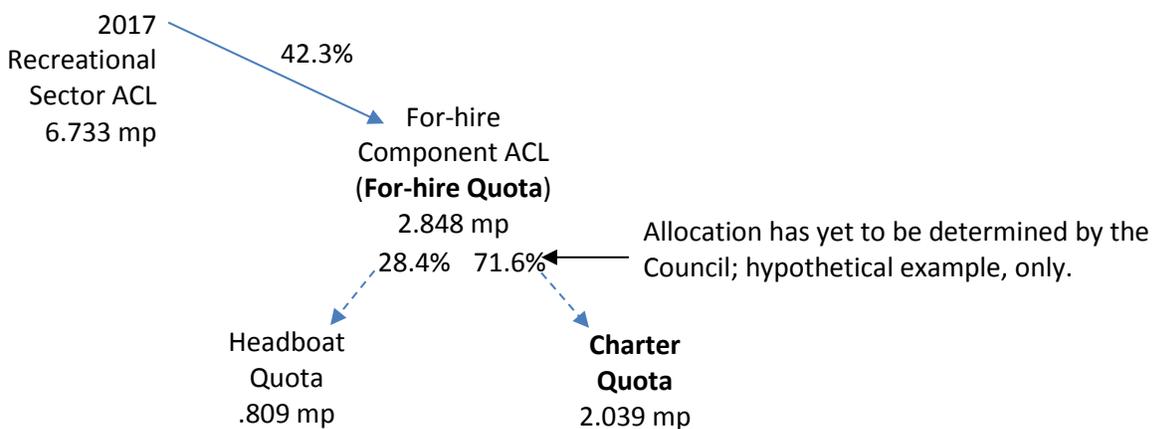
The Council established an Ad Hoc Red Snapper Charter For-hire Advisory Panel (Charter AP) to provide recommendations toward the design and implementation of flexible measures for the management of red snapper for charter vessels. The Charter AP met in May 2015 and in March 2016. The summary reports from the meetings, including the AP's recommendations to the Council, are provided in Appendix E. In addition to the Charter AP, the Council created a corresponding Headboat AP charged with making recommendations for the management of reef fish for the headboat sub-component.

## Components of the Recreational Sector

A distinct federal charter quota is necessary for the establishment of red snapper management measures specific to charter vessels. Amendment 41 is the current vehicle the Council is using to develop a management strategy for charter vessels harvesting red snapper. The Council approved Amendment 40 with a 3-year sunset clause (GMFMC 2014a), meaning the management of the separate components would expire on December 31, 2017, without further action by the Council. At its June 2016 meeting, the Council approved Amendment 45 (GMFMC 2016), extending the sunset an additional 5 years. If implemented, the management of the separate components would extend through December 31, 2022. To establish a charter vessel management program for red snapper, the Council could extend the sunset provision past 2022 or remove the sunset provision completely. Alternately, a separate action could be added to this amendment to establish a red snapper charter quota specific to the charter management program.

Relatedly, an action would be needed to determine how the for-hire quota would be divided between the charter and headboat sub-components if the Council continues to pursue separate management approaches for the sub-components. This action is currently in Amendment 42.

Figure 1.1.1 demonstrates how the charter quota, which would be distributed among charter vessels, would be calculated from the red snapper recreational ACL. The 2017 recreational sector ACL for red snapper is 6.733 million pounds (mp). The federal for-hire component quota is 42.3% of the recreational quota, resulting in 2.848 mp. If the Council pursues separate management programs for the headboats and charter vessels, then the 2.848 mp for-hire quota would need to be divided between the two sub-components. The division of the for-hire quota between the charter and headboat sub-components would be determined in Amendment 42, based on the known landings for headboats in certain years relative to the total for-hire landings. For the purpose of this example only, an ACT (a buffer to the ACL) is not used, and the for-hire quota is based on headboats representing 28.4% of the for-hire component's harvest of red snapper. Thus, this hypothetical allocation of the for-hire quota is divided 71.6% for charter vessels and 28.4% for headboats. This division would result in a 2017 red snapper charter quota of 2.039 mp.



**Figure 1.1.1.** Diagram showing how the charter quota would be calculated, using a hypothetical division of the for-hire quota into headboat and charter quotas.

### **Charter Vessels with Gulf Charter/Headboat Permits for Reef Fish (for-hire permits)**

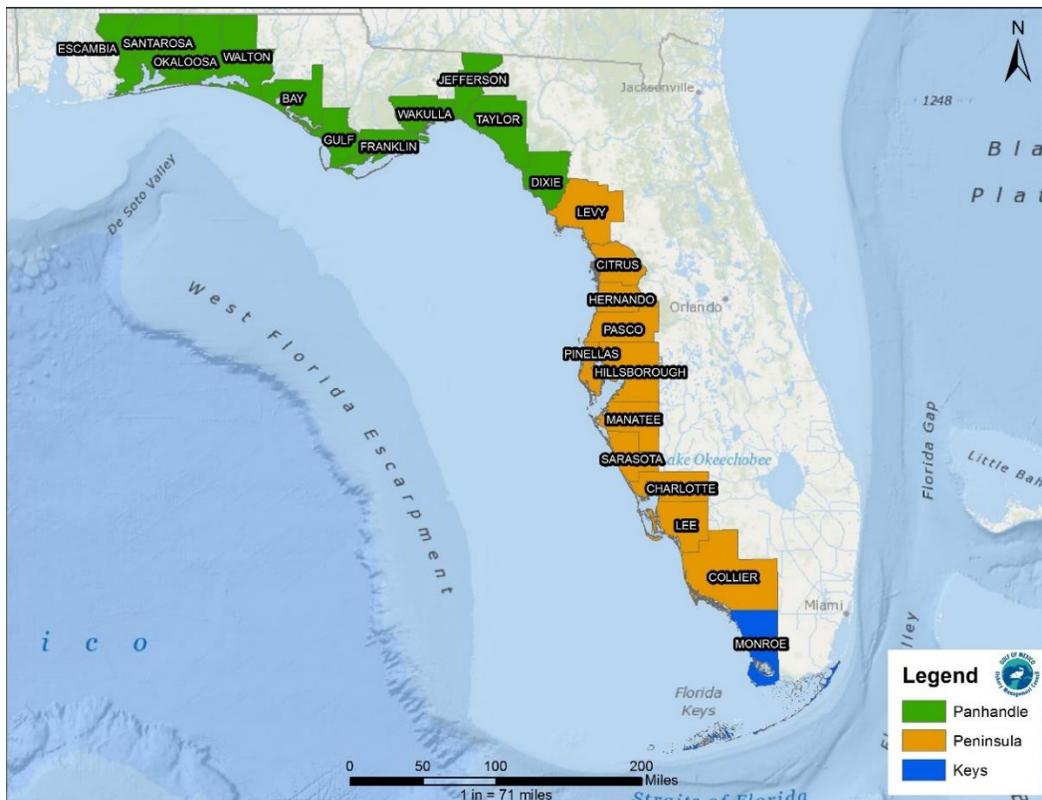
Charter vessels with for-hire permits are distributed throughout the Gulf with a concentration of vessels along the Florida west coast. Based on the homeport listed on the permit application, approximately 51% of the for-hire permits are in west Florida (excluding the Keys), 11% in Alabama, 3% in Mississippi, 10% in Louisiana, and 17% in Texas (Table 1.1.1). Permits with a listed homeport on the east coast of Florida are assumed to be fishing along the west coast of Florida, in the Florida Keys, or are not currently being used. The number of permitted vessels actively engaged in reef fish charter fishing and the number of currently unused for-hire permits is unknown. The number of permitted charter vessels landing red snapper each year is also unknown.

On November 23, 2015, there were 1,247 charter vessels and 66 headboats possessing valid or renewable for-hire permits. These 1,247 charter vessels possessing for-hire permits would constitute the universe of eligible program participants, as recommended by the Charter AP. As of November 23, 2015, 32 of these permits were valid or renewable historical captain for-hire permits. Historical captain permits are renewable, but may not be transferred to another person; a historical captain may transfer the permit to another vessel if operated by the historical captain. Table 1.1.1 provides the regional distribution of charter vessels including the number of historical captain permits. The number of permits is provided for three regions of Florida, divided at the Dixie-Levy county line, and the Collier-Monroe County line, reflecting the geographical domains used in the MRIP For-hire Survey. These regions and respective counties are identified in Figure 1.1.2. In the MRIP For-hire Survey, Alabama, Mississippi, and Louisiana represent separate geographical domains; Texas does not participate in the MRIP For-hire Survey. If historical landings by region are used to distribute the charter quota among charter vessels (Action 3), Alabama and Mississippi will be combined into a single region.

**Table 1.1.1.** Regional distribution of charter vessels with for-hire permits, and Historical Captain permits, by homeport state. Vessels participating in the SRHS are not included.

State (Region)	Number of Charter Vessels	Number of Charter Vessels with Historical Captain permit	Total
<b>Florida</b>			
Panhandle (Escambia - Dixie)	290	9	299
Peninsula (Levy - Collier)	335	7	342
Keys (Monroe)	82	0	82
<b>Alabama</b>	128	4	132
<b>Mississippi</b>	30	2	32
<b>Louisiana</b>	113	6	119
<b>Texas</b>	215	4	219
<b>Non-Gulf States</b>	22	0	22
<b>Total</b>	1,215	32	1,247

Source: National Marine Fisheries Service (NMFS)-Southeast Regional Office (SERO) permit office database accessed March 3, 2016. Non-Gulf states include Florida counties of Palm Beach, Broward, Miami-Dade, Alachua, and Putnam. Historical captain permits may be renewed but are only transferable to another vessel if operated by the historical captain. Note: If historical landings by region are used to distribute the charter quota among charter vessels (Action 3), Alabama and Mississippi will be combined into a single region.



**Figure 1.1.2.** Map of west Florida county regions used in the MRIP For-hire survey.

## Allocation-based Management & Limited Access Privilege Programs (LAPPs)

Management measures considered in this draft amendment focus on allocation-based management approaches, including recommendations made by the Charter AP. Traditional management instruments, such as adjustments to bag limits and the structure of the fishing season, are currently in place. Retaining use of these management tools is provided as the No Action alternative in Action 1. Should the Council decide to continue to manage charter vessels using these management measures, changes could be made through the Council’s framework procedures. The remaining alternatives in Action 1 propose allocation-based management programs including individual fishing quota (IFQ), permit fishing quota (PFQ), and harvest tag programs.

The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) provides the Council with flexibility in the type and design of LAPPs and guidelines for the different types of programs. The most recent reauthorization of the Magnuson-Stevens Act expanded the flexibility in the design of such programs, specifically pertaining to the recipients of the limited access privileges, which may be distributed to individual entities or groups (Anderson and Holliday 2007, see pages 21, 38).

Under the Magnuson-Stevens Act, the term ‘**limited access system**’ means “a system that limits participation in a fishery to those satisfying certain eligibility criteria or requirements contained in a fishery management plan or associated regulation.” 16 U.S.C. § 1802(27). Federally permitted for-hire vessels in the Gulf are managed under a limited access system in which there are a finite number of valid and renewable for-hire permits. In contrast, the private angling component is not a limited access system; it remains open access.

Under the Magnuson-Stevens Act, the term ‘**limited access privilege**’ means “a Federal permit, issued as part of a limited access system under section 303A to harvest a quantity of fish expressed by a unit or units representing a portion of the total allowable catch of the fishery that may be received or held for exclusive use by a person,” and includes IFQs. 16 U.S.C. § 1802(26). In designing a LAPP, the Council is advised to use the National Standards, other applicable law, and the management objectives of the particular fishery management plan as the criteria in the selection of a LAPP (Anderson and Holliday 2007). Further, the goals and objectives for the management of charter vessels should guide the selection of an appropriate management approach and corresponding program features.

Although not all allocation-based management approaches would be considered LAPPs under section 303A of the Magnuson-Stevens Act, all of the proposed programs under consideration in this amendment would be considered LAPPs. As such, should this amendment result in the establishment of a LAPP, a detailed review would be conducted five years after implementation of the program (Magnuson-Stevens Act 303A(c)(1)(G)). Also, as mandated by the Magnuson-Stevens Act, an IFQ program in the Gulf must be approved by a majority of those voting in a referendum among eligible permit holders. Specifically, Section 303A(c)(6)(D) states in part that the Gulf Council “may not submit ... a fishery management plan or amendment that creates an individual fishing quota program ... unless such as system, as ultimately developed, has been approved ... by a majority of those voting in the referendum among eligible permit holders ...

For multi-species permits in the Gulf of Mexico, only those participants who have substantially fished the species proposed to be included in the individual fishing quota program shall be eligible to vote in such a referendum.” The Magnuson-Stevens Act defines ‘**individual fishing quota**’ as “a Federal permit under a limited access system to harvest a quantity of fish, expressed by a unit or units representing a percentage of the total allowable catch of a fishery that may be received or held for exclusive use by a person.” Depending on the management approach selected by the Council, the National Marine Fisheries Service (NMFS) will determine whether a referendum is required.

In addition to the actions provided in this current draft, Section 2.9 addresses additional actions that may be added for the design of an allocation-based program. These include accountability measures, cost recovery fees, and landings monitoring and evaluation, among others. Information on the requirements of an appeals process are also included in Section 2.9.

### Passenger Capacity

In general, charter vessels charge by the trip rather than by the individual angler, as is typical of headboats. Although there are some charter vessels with passenger capacities that are greater than headboats, the passenger capacity of charter vessels is generally less than headboats. The majority of charter vessels do not have a United States Coast Guard certificate of inspection (COI), and are thus limited to carrying a maximum of six passengers (Table 1.1.2 and 1.1.3). Nevertheless, some for-hire vessels are classified as charter vessels even if 1) the passenger capacity is greater than some headboats, and 2) the charter operator charges a fee per passenger rather than charging for the entire vessel.<sup>2</sup>

**Table 1.1.2.** Permit passenger capacity of charter vessels with Gulf Charter/Headboat Permits for Reef Fish, and Historical Captain permits.

Passenger Capacity	Number of Charter Vessels	Number of Charter Vessels with Historical Captain permit
6	1,042	23
9-15	19	1
16-19	25	0
20-24	51	1
25-30	20	1
31-40	15	3
41-50	21	0
51-80	11	2
>80	11	1
Total	1,215	32

Source: NMFS-SERO permit office database accessed March 3, 2016. Vessels participating in the SRHS are not included.

<sup>2</sup> Whether a vessel is a charter vessel or headboat, as defined in 50 C.F.R. § 622.2, is based solely on vessel size and passenger capacity. As previously noted, the definitions of charter vessel and headboat that are used for the purpose of this amendment are different than the definitions in the regulations.

**Table 1.1.3.** Number of vessels in each state or region with the permit’s passenger capacity including historical captain permits.

Passenger Capacity	FL Keys	FL Peninsula	FL Panhandle	AL	MS	LA	TX	Non-Gulf State	Total
6	78	319	212	102	26	114	196	18	1,065
9-15		2	15			1	2		20
16-19		2	19	1		1	1	1	25
20-24		7	26	15	2		2		52
25-30		2	12	3	1	1	2		21
31-40	1	1	4	6	3	1	1	1	18
41-50	1	3	6	3			8		21
51-80	1	2	3	2		1	4		13
>80	1	4	2				3	2	12
<b>Total</b>	<b>82</b>	<b>342</b>	<b>299</b>	<b>132</b>	<b>32</b>	<b>119</b>	<b>219</b>	<b>22</b>	<b>1,247</b>

Source: NMFS-SERO permit office database accessed March 3, 2016. Vessels participating in the SRHS are not included. Note: If historical landings by region are used to distribute the charter quota among charter vessels (Action 3), Alabama and Mississippi will be combined into a single region.

Each charter vessel has a permit passenger capacity associated with its for-hire permit, and a vessel passenger capacity based on the vessel’s COI, or lack thereof. Prior to the 2004 moratorium on for-hire permits (GMFMC 2003), a permit’s passenger capacity was equal to the passenger capacity specified on the vessel’s COI, and a copy of the COI was required to renew or obtain the permit. The moratorium was put in place to limit overall fishing effort by for-hire vessels fishing in federal waters. Since the for-hire permit moratorium was implemented, the passenger capacity of each permit may not be increased even if a permit holder transfers the permit to a vessel with a COI that allows a greater passenger capacity. Effective August 30, 2013,<sup>3</sup> a copy of the COI is no longer required to renew or transfer a for-hire permit.

In most cases, the permit and vessel passenger capacities are the same; the majority of charter vessels do not have a COI, thus limiting the number of paying passengers to six. However, there are cases where the permit’s passenger capacity is greater than the vessel’s passenger capacity, and vice versa. As of November 23, 2015, 108 charter vessels have a permit passenger capacity that is greater than the vessel’s passenger capacity. The operators of these vessels would not currently be carrying the maximum amount of passengers allowed by their permit, as they are restricted by their vessel’s COI (or lack thereof). Most of these vessels do not have a COI, and are able to take no more than 6 paying passengers, even though their permit would allow a greater number of passengers. In turn, there are 11 charter vessels with a vessel passenger capacity (based on the COI) that is greater than the permit passenger capacity. In these cases, the charter vessel is limited to its permit passenger capacity to take anglers fishing. However, these

<sup>3</sup> Final Rule available at: [http://sero.nmfs.noaa.gov/sustainable\\_fisheries/gulf\\_fisheries/2013/coi/documents/gulf\\_2013\\_coi\\_framework\\_final\\_rule.pdf](http://sero.nmfs.noaa.gov/sustainable_fisheries/gulf_fisheries/2013/coi/documents/gulf_2013_coi_framework_final_rule.pdf)

vessels may take paying passengers on separate non-fishing trips, such as dolphin watching tours, up to the number of passengers specified on the COI.

Passenger capacity is included among the proposed metrics for apportioning fishing privileges (Action 3). Depending on the allocation-based management program selected (Action 1) and corresponding transferability provisions (Action 4), implications may arise from the use of the permit or vessel's passenger capacity. These implications could arise for those operators who have a for-hire permit with a baseline permit passenger capacity that is different than the passenger capacity provided by the vessel's COI. The effects would vary depending on whether the allocation-based program selected uses shares and allocation (IFQs and PFQs) or allocation, only (harvest tags). **For the purpose of distributing the charter quota among charter vessels, if an IFQ or PFQ program is selected, passenger capacity would be based on the permit's passenger capacity. If a harvest tag program is selected, the lower of the permit or vessel's passenger capacity would be used.**

For-hire landings for all Gulf states except Texas are estimated through the MRIP For-Hire Survey, which includes a voluntary dockside intercept survey and a monthly phone survey sampling approximately 10% of federally permitted charter vessels. Texas Parks and Wildlife Department provides data on for-hire landings in Texas. Table 1.1.4 provides annual average landings estimates by Gulf state and three regions of Florida, for the years 1986 – 2013. Table 1.1.5 provides the average landings estimates for several time series including the options for the distribution of charter quota using historical landings by region in Action 3. If the Council selects historical landings by region for part of the distribution of charter quota, Alabama and Mississippi will be combined into a single region.

**Table 1.1.4.** Percent of red snapper landings by charter vessels attributable to each region (1986 – 2013).

<b>Year</b>	<b>FLW - Keys</b>	<b>FLW - Peninsula</b>	<b>FLW - Panhandle</b>	<b>AL</b>	<b>MS</b>	<b>LA</b>	<b>TX</b>
<b>1986</b>	0.2%	4.9%	70.0%	14.7%	0.0%	9.8%	0.4%
<b>1987</b>	0.3%	0.1%	56.1%	21.0%	0.0%	19.4%	3.2%
<b>1988</b>	0.0%	1.4%	46.2%	44.7%	0.9%	6.6%	0.1%
<b>1989</b>	2.5%	0.0%	16.0%	64.4%	0.7%	16.1%	0.3%
<b>1990</b>	0.0%	0.0%	21.9%	51.2%	2.4%	24.5%	0.0%
<b>1991</b>	0.1%	0.0%	16.3%	26.8%	0.7%	56.1%	0.1%
<b>1992</b>	0.5%	0.1%	10.6%	41.6%	0.9%	46.3%	0.1%
<b>1993</b>	0.0%	0.0%	32.6%	40.5%	3.1%	23.0%	0.9%
<b>1994</b>	0.0%	0.0%	30.4%	38.7%	5.7%	22.3%	2.8%
<b>1995</b>	0.0%	0.0%	22.5%	44.0%	0.3%	31.3%	2.0%
<b>1996</b>	0.2%	0.0%	36.8%	47.5%	2.0%	12.1%	1.5%
<b>1997</b>	0.0%	0.3%	24.6%	55.5%	3.4%	15.0%	1.3%
<b>1998</b>	0.0%	0.6%	52.8%	38.9%	0.6%	4.8%	2.4%
<b>1999</b>	0.0%	0.5%	55.8%	34.0%	0.8%	5.9%	2.9%
<b>2000</b>	0.0%	0.1%	54.4%	35.1%	0.9%	7.7%	1.9%
<b>2001</b>	0.2%	0.2%	49.6%	44.5%	1.1%	1.8%	2.6%
<b>2002</b>	0.0%	0.0%	49.1%	36.8%	2.4%	9.0%	2.5%
<b>2003</b>	0.0%	0.6%	49.2%	36.9%	1.8%	10.4%	1.0%
<b>2004</b>	0.0%	0.0%	54.9%	30.6%	0.5%	12.5%	1.6%
<b>2005</b>	0.1%	0.3%	44.0%	35.7%	0.0%	17.6%	2.3%
<b>2006</b>	0.2%	2.2%	43.1%	31.5%	0.2%	21.1%	1.6%
<b>2007</b>	0.0%	0.2%	58.7%	28.1%	0.0%	10.7%	2.4%
<b>2008</b>	0.1%	1.0%	64.0%	19.5%	0.1%	12.7%	2.6%
<b>2009</b>	0.0%	1.0%	60.2%	21.8%	0.0%	14.4%	2.5%
<b>2010</b>	1.6%	5.8%	68.3%	12.8%	1.3%	0.0%	10.1%
<b>2011</b>	0.0%	0.0%	55.9%	35.1%	0.2%	4.8%	3.9%
<b>2012</b>	0.0%	1.7%	48.5%	28.2%	0.1%	18.4%	3.1%
<b>2013</b>	0.0%	0.2%	43.9%	44.4%	0.1%	8.7%	2.7%

Source: SEFSC ACL database, accessed on May 18, 2016. Note: If historical landings by region are used to distribute the charter quota among charter vessels (Action 3), Alabama and Mississippi will be combined into a single region.

**Table 1.1.5.** Average percent of red snapper landings for each region by charter vessels for select time series. All time series exclude landings from 2010.

Average for Years	FLW - Keys	FLW - Peninsula	FLW - Panhandle	AL	MS	LA	TX
<b>1986-2013</b>	0.16%	0.57%	43.26%	36.74%	1.07%	16.41%	1.79%
<b>2003-2013</b>	0.05%	0.73%	52.24%	31.20%	0.30%	13.13%	2.36%
<b>2006-2013</b>	0.04%	0.91%	53.48%	29.82%	0.10%	12.97%	2.67%
<b>50% (1986-2013) + 50% (2006-2013)</b>	0.10%	0.74%	48.37%	33.28%	0.58%	14.69%	2.23%

Source: SEFSC ACL database, accessed on May 18, 2016. Note: If historical landings by region are used to distribute the charter quota among charter vessels (Action 3), Alabama and Mississippi will be combined into a single region.

For-hire permits can be held by an individual, business, or multiple individuals and/or businesses, each of which is considered a unique permit holder. An individual could be part or whole owner of multiple permits. If an individual co-owns two permits with a different co-owner for each permit, the two permits are held by two unique permit holders. A unique permit holder may hold more than one for-hire permit. Permit stacking (i.e., multiple permits on the same vessel) is not allowed for for-hire permits. Therefore, if a unique permit holder holds more than one for-hire permit, these permits are associated with different vessels. The majority of unique for-hire permit holders hold only one permit (Table 1.1.6), but some unique permit holders hold in excess of four for-hire permits. The unique permit holders that have more than one permit, hold a total of 183 permits (15% of all for-hire permits).

**Table 1.1.6.** Number of federal for-hire permits held by the number of unique permit holders.

Number of permits held	Number of unique permit holders	Total permits held
1	1042	1042
2	50	100
3	6	18
4+	6	65

Source: NMFS-SERO permit office database accessed March 11, 2016.

### 1.3 Purpose and Need

The **purpose** of this action is to develop a management approach for federally permitted Gulf reef fish charter vessels to harvest red snapper that provides flexibility, reduces management uncertainty, improves economic conditions, and increases fishing opportunities for federal charter vessels and their angler passengers.

The **need** is to consider flexible management approaches for federally permitted charter vessels to harvest red snapper that would prevent overfishing while achieving, on a continuing basis, the optimum yield from the harvest of red snapper by the for-hire sector (national standard (NS) 1); take into account and allow for variations among, and contingencies in the fisheries, fishery resources, and catches (NS 6); and provide for the sustained participation of the fishing communities of the Gulf and to the extent practicable, minimize adverse economic impacts on such communities (NS 8).

## 1.4 History of Management

This summary focuses on management actions pertinent to recreational harvest of red snapper and the management of vessels with a for-hire permit. A summary of red snapper management through 2006 can be found in Amendment 27/14 (GMFMC 2007) and in Hood et al. (2007), and is incorporated herein by reference. A complete history of management for the Reef Fish Fishery Management Plan (Reef Fish FMP) is available on the Council's website: [http://www.gulfcouncil.org/fishery\\_management\\_plans/reef\\_fish\\_management.php](http://www.gulfcouncil.org/fishery_management_plans/reef_fish_management.php).

### Recreational red snapper management

Although overfishing has ended, the Gulf red snapper stock remains overfished and is currently under a rebuilding plan. Consistent with the rebuilding plan, both commercial and recreational quotas have been allowed to increase as the stock has recovered. Improvements to the stock were reflected in quota increases from 5.0 million pounds (mp) in 2009 to 14.3 mp in 2015. The recreational quota has increased from 2.45 mp in 2009 to 7.01 mp in 2015. Recreational fishing for red snapper is managed with a 16-inch TL minimum size limit, 2-fish bag limit, and a season beginning on June 1 and ending when the recreational ACT is projected to be caught by the private angling and for-hire components.

Prior to 1997, recreational fishing for all reef fish was open year round in federal waters of the Gulf. Although catch levels were controlled through minimum size limits and bag limits, the recreational sector exceeded its allocation of the red snapper total allowable catch; however, the overages were declining through more restrictive recreational management measures. The Sustainable Fisheries Act of 1996 required the establishment of quotas for recreational and commercial fishing that, when reached, result in a prohibition on the retention of fish caught for each sector, respectively, for the remainder of the fishing year. With the establishment of a recreational quota in 1997, the Regional Administrator was authorized to close the recreational season when the quota is reached, as required by the Magnuson-Stevens Act. From 1997 through 1999, NMFS implemented the recreational red snapper quota requirement through an in-season monitoring process by establishing a quota monitoring team that, through monitoring landings data that were available, plus projecting landings based on past landings patterns, projected closing dates a few weeks in advance. Between 1996 and 2013, the recreational fishing season in federal waters decreased from 365 days to 42 days.<sup>4</sup>

An interim rule, published on April 2, 2007, reduced the red snapper total allowable catch to 6.50 mp, resulting in a recreational quota of 3.19 mp; reduced the red snapper recreational bag limit from 4 fish to 2 fish per person per day; prohibited the captain and crew of for-hire vessels from retaining the recreational bag limit; and established a target red snapper bycatch mortality reduction goal for the shrimp fishery that equates to 50% of the bycatch mortality that occurred during 2001-2003 and a level of shrimp effort equal to that observed in the fishery in 2005.

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<sup>4</sup> Upon availability of a quota increase in 2013, the 28-day recreational season was supplemented by a 14-day fall season for a total of 42 days.

In 2008, joint **Amendment 27/Shrimp Amendment 14** (GMFMC 2007) revised the rebuilding plan for red snapper. For the recreational sector, the rule implemented a June 1 through September 30 fishing season in conjunction with a 2.45 mp recreational quota, 16-inch TL minimum size limit, 2-fish bag limit, and zero bag limit for captain and crew of for-hire vessels.

The Sustainable Fisheries Act required that the Regional Administrator close the recreational red snapper season when the quota is projected to be met. When Reef Fish **Amendment 27/Shrimp Amendment 14** (GMFMC 2007) was submitted to NMFS, the Council requested that the five Gulf states adopt compatible regulations in state waters. Florida adopted a compatible 2 fish bag limit, but maintained its state red snapper fishing season of April 15 through October 31, 78 days longer than the federal fishing season. Texas also maintained its 4 fish bag limit and year-round fishing season in its state waters. Prior to the start of the 2008 season, NMFS recalculated its projections for recreational red snapper catches in light of the state regulations, and projected that there would be a 75% probability that the recreational quota would not be exceeded if the season closed on August 5. As a result, NMFS took action to set the 2008 season to be June 1 to August 5.

A **February 2010 regulatory amendment** (GMFMC 2010) increased the red snapper total allowable catch from 5.00 mp to 6.95 mp, which increased the recreational quota from 2.45 mp to 3.40 mp. However, NMFS estimated that in 2009, the recreational sector overharvested its quota by approximately 75%. In recalculating the number of days needed to fill the recreational quota, even with the quota increase, NMFS projected that the 2010 season would need to be shortened to June 1 through July 24, and published notice of those dates prior to the start of the recreational fishing season.

In April 2010, the Deepwater Horizon MC252 deep-sea drilling rig exploded and sank off the coast of Louisiana. Because of the resulting oil spill, approximately one-third of the Gulf was closed to fishing for much of the summer months. The direct loss of fishing opportunities due to the closure, plus the reduction in tourism throughout the coastal Gulf, resulted in a much lower catch than had been projected. After the recreational season closed on July 24, NMFS estimated that 2.30 mp of the 3.40 mp recreational quota remained unharvested (NMFS 2010). However, due to the fixed October 1 to December 31 closed season, NMFS could not reopen the recreational season without an emergency rule to suspend the closure. Consequently, the Council requested an emergency rule to provide the Regional Administrator with the authority to reopen the recreational red snapper season. After considering various reopening scenarios, the Council requested that the season be reopened for eight consecutive weekends (Friday, Saturday and Sunday) from October 1 through November 21 (24 fishing days).

In January 2011, the Council submitted a **regulatory amendment** (GMFMC 2011a) to NMFS to increase the red snapper total allowable catch to 7.19 mp, with a 3.52 mp recreational quota. The final rule implemented the increase and established a 48-day recreational red snapper season that was June 1 through July 18.

On August 12, 2011, NMFS published an emergency rule that, in part, increased the recreational red snapper quota by 345,000 lbs for the 2011 fishing year and provided the agency with the authority to reopen the recreational red snapper season later in the year, if the recreational quota

had not been filled by the July 19 closing date. However, in August of that year, based on headboat data plus charter boat and private recreational landings through June, NMFS calculated that 80% of the recreational quota had been caught. With the addition of July landings data plus Texas survey data, NMFS estimated that 4.40 to 4.80 mp were caught, well above the 3.87 mp quota. Thus, no unused quota was available to reopen the recreational fishing season.

A **March 2012 regulatory amendment** (GMFMC 2012) set the 2012 recreational quota for red snapper at 3.96 mp based on a recent population assessment which showed that overfishing had ended. The regulatory amendment also eliminated the fixed recreational red snapper closed season of October 1 - December 31. By eliminating the closure date, NMFS can re-open the recreational harvest for red snapper if any remaining quota is available, without the delay of additional rulemaking. On May 30, 2012, NMFS published a final rule to increase the sector quotas and establish the 2012 recreational red snapper fishing season as June 1 through July 11. However, the north-central Gulf experienced extended severe weather during the first 26 days of the 2012 recreational red snapper fishing season, including Tropical Storm Debby. Due to the severe tropical weather, the season was extended by 6 days and closed on July 17.

On March 25, 2013, an emergency rule [78 FR 17882] was published in the *Federal Register* giving NMFS the authority to set separate closure dates for the recreational red snapper season in federal waters off individual Gulf states. The closure dates would depend on whether state regulations were consistent with federal regulations for the recreational red snapper season length or bag limit.

A **March 2013 framework action**<sup>5</sup> (GMFMC 2013a) modified the 2013 recreational red snapper quota to 4.15 mp. Based on the emergency rule to allow separate closure dates, NMFS announced that the recreational red snapper season in federal waters would open on June 1. Off Mississippi and Alabama, which had consistent state regulations, the season would be 34 days and close on July 5. The other Gulf States had inconsistent state regulations, and the fishing seasons in federal waters were announced as follows. Off Texas, the season would be 17 days and close on June 18. Off Louisiana, the season would be 24 days and close on June 25. Off Florida, the season would be 26 days and close on June 27.

Texas and Louisiana filed a legal challenge to the separate closure dates, and on May 31, 2013, the U.S. District Court in Brownsville, Texas, set aside the emergency rule. As a result of this Court decision, the recreational red snapper season in federal waters was changed to make it the same in federal waters off all five Gulf states. Considering the catches expected later in the year during the extended state-water seasons off Texas, Louisiana, and Florida, NMFS established a Gulf-wide federal recreational red snapper season at 28 days long, opening on June 1 and closing to recreational red snapper harvest at 12:01 a.m., June 29, 2013.

A **July 2013 framework action** (GMFMC 2013b) increased the 2013 recreational quota from 4.15 mp to 5.39 mp. The quota increase was implemented by re-opening federal waters to red

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<sup>5</sup> Prior to 2013, regulatory actions made under the Reef Fish framework procedure for setting total allowable catch, or the generic framework procedure in the Generic Annual Catch Limits/Accountability Measures Amendment, were referred to as either framework actions or regulatory amendments. Beginning in 2013, such actions were referred to only as framework actions.

snapper recreational fishing for 14 days beginning on October 1, 2013, at 12:01 a.m. and closing on October 15, 2013, at 12:01 a.m. Therefore, the total fishing days for 2013 was 42 days.

On March 26, 2014, in response to a legal challenge from commercial fishermen, the U.S. District Court for the District of Columbia ruled that NMFS failed to require adequate accountability measures for the recreational sector, failed to prohibit the retention of fish after the recreational quota had been harvested, and failed to use the best scientific information available when determining whether there should be a 2013 fall fishing season. In response to the Court's decision and to reduce the probability of the recreational sector exceeding its quota, the Council requested, through an emergency rule, that NMFS implement an ACT that is 20% less than the 2014 recreational quota; the ACT would be used to set the season length in federal waters. The emergency rule, published on May 15, 2014 [79 FR 27768], resulted in a recreational ACT of 4.31 mp. In addition, several Gulf states announced extended state-water fishing seasons. Given the additional harvest estimated to come from state waters, a 9-day fishing season in federal waters was established for 2014.

In October 2014, the Council approved a framework action to formally adopt the ACT as a buffer to the recreational sector ACL. The framework action also adopted a quota overage adjustment such that if the recreational quota is exceeded in a fishing season, the amount of the overage is deducted from the following year's quota (GMFMC 2014b). The final rule became effective April 20, 2015.

At its August 2015 meeting, the Council approved **Amendment 28** (GMFMC 2015) which revised the commercial and recreational sector allocations of the red snapper ACLs, by shifting 2.5% of the commercial sector's allocation to the recreational sector. The resulting sector allocations for red snapper are 48.5% commercial and 51.5% recreational. This amendment became effective on May 31, 2016. The **Framework Action** to Retain 2016 Red Snapper Commercial Quota became effective December 28, 2015, which allowed the revised allocations established through Amendment 28 to be effective for the 2016 fishing year.

## **Management of the Federal For-hire Component**

Additional actions have affected federally permitted for-hire vessels. Since 1996, when **Amendment 11** was implemented, for-hire vessels fishing in federal waters are required to have a federal for-hire permit. The initial purpose of the permits was to address potential abuses in the 2-day bag limit allowance. It was thought that by having a permit to which sanctions could be applied would improve compliance with the 2-day bag limit. In addition, the permit requirement was seen as a way to enhance monitoring of the for-hire component of the recreational sector.

In 2003, a 3-year moratorium on the issuance of new for-hire permits was established through **Amendment 20** (GMFMC 2003), to limit further expansion in the for-hire fisheries, an industry concern, while the Council considered the need for more comprehensive effort management systems. This means that participation in the federal for-hire component is capped; no additional federal permits are available. The permit moratorium was extended indefinitely in 2006 through **Amendment 25** (GMFMC 2006). The number of for-hire permits has been decreasing since the establishment of the moratorium (GMFMC 2014a).

**Amendment 30B** (GMFMC 2008) included an action requiring that vessels with federal commercial or for-hire permits comply with the more restrictive of federal or state regulations when fishing for reef fish, if regulations are different. The implementation of this provision reduced the fishing days available to vessels with a for-hire permit in comparison to the private recreational anglers, who were able to participate in the additional fishing opportunities provided in some state waters. Prior to the implementation of this provision, the federally permitted for-hire vessels represented more than 40% of the recreational harvest of red snapper. Since then, the proportion of red snapper harvested by for-hire vessels has continually decreased and represented less than 20% of all recreational landings in 2013 (GMFMC 2014a).

At its October 2014 meeting, the Council approved **Amendment 40** (GMFMC 2014a) which divided the recreational quota into a federal for-hire component quota (42.3%) and a private angling component quota (57.7%) for the recreational harvest of red snapper. In 2015, this resulted in an ACT of 2.371 mp for the federally permitted for-hire component (45 federal fishing days) and 3.234 mp for the private angling component (10 federal fishing days), respectively. The 2015 season closures for the recreational harvest of red snapper were determined separately for each component based on each component's ACT. **Amendment 40** also included a 3-year sunset provision on the separation of the recreational sector into distinct components.

In April 2014, the Council requested staff to begin development of an action to examine the potential for an IFQ-type program for for-hire vessels in the Gulf. The Council reviewed a scoping document in response to the request, but did not take further action at that time. In January 2015, the Council broadened its direction to staff regarding the development of an IFQ-type program for for-hire vessels, to make recommendations relative to the design and implementation of a more flexible management strategy for the for-hire component. At the same time, the Council initiated separate amendments to address management of charter vessels (**Amendment 41**) and headboats (**Amendment 42**) as sub-components of the federal for-hire component. This document has been developed in response to this request, and provides potential options for a management strategy for the harvest of red snapper by charter vessels. **Amendment 42** considers management alternatives for the headboats participating in the SRHS for several reef fish species.

At its June 2016 meeting, the Council took final action on **Amendment 45**, extending the separate management of the federal for-hire and private angling components for an additional 5 years. If implemented, the components would continue to be managed separately through the 2022 red snapper fishing season.

Finally, an amendment to require electronic reporting by charter vessels and to modify electronic reporting by headboats is currently under development by the Council. The purpose of the amendment is to improve the monitoring of for-hire vessel landings, thereby reducing the likelihood of exceeding the recreational sector ACL.

## CHAPTER 2. MANAGEMENT ALTERNATIVES

### 2.1 Action 1 – Type of Allocation-based Management Program

**Alternative 1:** No Action. Do not adopt an allocation-based management approach. Continue to manage red snapper landed by federally permitted charter vessels using current recreational seasons, size limits, and bag limits.<sup>6</sup>

**Alternative 2:** Establish a fishing quota program that provides participants with shares and annual allocation.

**Option 2a:** an Individual Fishing Quota (IFQ) program.

**Option 2b:** a Permit Fishing Quota (PFQ) program.

**Alternative 3:** Establish a harvest tag program that provides participants with annual allocation distributed in the form of harvest tags. Annual allocation will be calculated

**Option 3a:** every 3 years.

**Option 3b:** every 5 years.

#### **Discussion:**

A primary decision point in the development of a charter vessel management plan is the type of management approach selected by the Gulf of Mexico Fishery Management Council (Council).

**Alternative 1** (No Action) would continue to manage federally permitted charter vessels under existing management measures, referring to vessels possessing a federal Gulf of Mexico (Gulf) Charter/Headboat permit for Reef Fish (for-hire permit). If the Council were to select

**Alternative 1** (No Action), the Council could pursue modifying current management measures for charter vessels through its framework procedure.

**Alternatives 2 and 3** propose allocation-based management approaches in which a specified portion of the recreational red snapper annual catch limit (ACL) would be distributed among program participants. The participants could then choose when to use that allocation within the parameters of any additional provisions adopted through the actions in this amendment (e.g., restrictions on transferability). In the case of charter vessels, each program participant would need to have allocation to account for red snapper harvested by the passengers on each trip. Timely reporting is a key element of allocation-based programs; as fish are harvested, the allocation used is subtracted from the annual allocation of the participant. When each participant has used all of their allocation, red snapper may no longer be retained, or the participant must obtain more allocation (if allowed by the program).

Allocation-based management approaches would distribute fishing privileges at the beginning of the fishing year, and are generally more effective in ensuring that harvest does not exceed a pre-

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<sup>6</sup> Currently, the recreational sector is managed with a 16-inch total length minimum size limit, a 2-fish bag limit, and a June 1 fishing season start date. Recreational red snapper management measures are codified as follows in the *Federal Register*: season opening 50 CFR 622.34(b) and bag limit 50 CFR 622.38(b)(3). The regulations are also provided in Appendix F.

determined amount of allowable catch (e.g., the amount of the recreational sector ACL assigned to the program), than using traditional management tools alone (Johnston et al. 2007). These types of programs typically provide more flexibility to participants in terms of when and how they use their assigned portion of the allocated quota. The added flexibility would be determined by the amount of quota each participant receives (Action 3) and the transferability provisions provided (Action 4). Some participants may not be satisfied with the amount of quota they would receive under a given program, and the Council has not yet indicated its preference for whether to allow participants to transfer quota under the program.

Some allocation-based programs distribute *shares*, which are a set percentage of the quota that are permanently assigned to an entity or permit for the duration of the program. Shares sum to 100% and individual assignments cannot change unless transferability is allowed in the program. If a participant holds shares, each year they would receive the amount of pounds representing the percentage of the quota held, which is their *allocation*. The allocation amount changes if the quota changes, but the amount of shares remains the same, unless the transfer of shares is allowed. In other programs, shares are not used, only annual allocation. Under this type of program, participants' allocation would be calculated each year or cycle of years and may change from year to year, depending on the quota, changes in the number of participants or average weight of fish landed, or other factors. Even if an allocation-only program is selected (**Alternative 3**), the distribution of allocation will be based on the formula selected in Action 3, and the amount of allocation will be determined by the amount of the charter quota (i.e., the amount of the for-hire component's red snapper quota that is apportioned to charter vessels).

The allocation-based approaches could be structured such that shares and allocation are assigned to participants (**Option 2a**) or to permits (**Option 2b**). Or, the allocation-based approach could use annual allocation, only, distributed as allocation to permits, which is then converted into harvest tags (**Alternative 3**). The method of distribution could be accomplished in a variety of ways (Action 3). An individual fishing quota (IFQ; **Option 2a**) or permit fishing quota (PFQ; **Option 2b**) program would involve a single distribution of fishing privileges among participants at the beginning of the program, while a harvest tag program (**Alternative 3**) would recalculate the distribution of fishing privileges every 3 years (**Option 3a**) or every 5 years (**Option 3b**).

IFQs (**Option 2a**) and PFQs (**Option 2b**) would involve an initial distribution of durable fishing privileges in the form of shares. The primary difference between IFQs and PFQs concerns the entity to which harvest privileges are associated. IFQ shares (**Option 2a**) would be distributed to the owner of a for-hire permit at the initial time of apportionment, which could be an individual or business entity. In the event the permit is transferred, IFQ shares would remain with the original recipient of the shares (the shareholder), unless also transferred by the shareholder. IFQ shares and allocation remain separate from the permit. In contrast, PFQ shares (**Option 2b**) would be attached to the permit, not the permit holder. Should the permit be transferred, the PFQ shares associated with the permit would be transferred as well. Transferability provisions for shares and allocation are addressed in Action 4 for IFQs.

As with IFQs or PFQs, a harvest tag program (**Alternative 3**) would grant harvest privileges and control harvest (Johnston et al. 2007). However, a harvest tag program would not use shares. Rather, allocation would be calculated and distributed to participants using the quota distribution

formula selected in Action 3. Each permit's allocation would be recalculated every 3 years (**Option 3a**) or every 5 years (**Option 3b**). Distributed allocation would be converted into harvest tags and be attached to the permit for the duration of the fishing year, unless transferability of allocation is allowed (Action 6). Each time allocation is calculated would be considered an initial distribution of fishing privileges, requiring an appeals process as described in Section 2.9. Due to the time needed to provide for an appeals process as described in Section 2.9, recalculating allocation at less frequent intervals (e.g., **Option 3b** every 5-years) may be desirable.

A harvest tag program would involve distribution of physical or electronic tags to charter vessel operators and each tag would allow an angler to retain an individual red snapper. If physical tags are selected, the tag must be affixed to the fish after capture, thereby identifying the individual fish as legally caught and preventing the tag from being used to catch additional fish. The number of tags available each year would be determined by the amount of the charter quota, divided by the average weight of red snapper estimated to be caught on charter vessels. Any unused tags at the end of the year would be forfeit, and new tags would be distributed at the beginning of each year.

Key differences among **Alternatives 2** and **3** concern the recipient of fishing privileges and the durability, or permanence, of fishing privileges, which affects the incentive structure and anticipated conservation benefits from distributing limited access fishing privileges (Anderson and Holliday 2007). Under an IFQ or PFQ program, shares would be distributed initially to permit holders who would be able to retain those shares and continue to receive the annual allocation distributed based on the amount of shares. In the existing commercial IFQ programs in the Gulf, the original permit holder may retain shares and continue to receive the annual allocation associated with those shares, without retaining a commercial permit. Should an IFQ program be developed for charter vessels, the Council would need to decide whether shareholders would be required to maintain a federal for-hire permit to continue to hold shares and receive allocation (Action 5). Requiring shareholders to possess a valid for-hire permit could ensure that the harvest privileges remain in the hands of those engaged in the fishery. The initial distribution of shares and the annual distribution of allocation would be the same under a PFQ program, except that in the event a permit holder transfers the permit, the shares remain with the permit and not with the permit holder.

A harvest tag program (**Alternative 3**) would use annual allocation, only; shares would not be used. Using allocation only, without shares, confers less durable harvest privileges to participants. Anderson and Holliday (2007) note that using this type of allocation-based program resulted in less incentive for the participants to maintain and invest in improvements for the resource in ensuing years. However, Sumaila (2010) notes that durable harvest privileges may not result in "good stewardship if those who own the fishing quotas are different from those who actually fish." In the proposed harvest tag program, distributing allocation every 3 or 5 years could ensure that harvest privileges remain in the hands of those directly engaged in the fishery, and would better reflect changes in the fleet.

Further, existing share-based programs have primarily been developed to address overcapacity, and thus, to increase economic efficiency in commercial fisheries (Libecap 2007; Hannesson

1996). In the U.S., IFQ-type programs only exist for commercial fisheries. Currently, there are no known share-based programs operating in a recreational fishery, although there is discussion of how to develop rights-based approaches for the for-hire sector, termed “commercial recreational fisheries” (Abbott et al. 2009). Existing allocation-based programs for natural resources prosecuted recreationally take the form of tags, and are primarily hunting programs. These are essentially allocation-only programs, as they do not assign durable privileges to a portion of the resource; rather, lotteries are often used to distribute one-time use privileges.

The selection of additional program features, such as the transferability and durability of fishing privileges, will affect the flexibility afforded to program participants and should reflect the goals and objectives for the program. Regardless of the approach selected, timely reporting is a key element of allocation-based programs. As allocation is used, it must be subtracted from the annual allocation for the participant. When each participant uses all of its allocation, the participant may no longer retain red snapper or must obtain more allocation (if allowed by the program). Also, the Council would need to address the transferability of for-hire permits, as permit transfers that occur after the allocation calculation process may result in a different distribution of charter quota than intended for harvest tags.

An IFQ, PFQ, or harvest tag program could provide the flexibility to operate when customers are most abundant, which may differ by region. The programs could also promote safety at sea, by allowing permit holders to wait for calm weather. However, under any of these allocation-based approaches, it should not be assumed that all charter vessel permit holders would receive a quantity of allocation they feel is sufficient to meet their clients’ needs.

### **Compliance and Monitoring**

The ability to enforce and monitor program compliance is a key component of an allocation-based program. Some conditions that would aid in compliance include trip declarations, pre-landing notifications, and restricted landing locations. These aspects of compliance and monitoring would need to be developed for the selected program. During the headboat collaborative (HBC) pilot program, e-mail notifications of hail-outs and hail-ins allowed enforcement and biological collection agents (port agents) to prioritize sampling.

Trip declarations made before leaving the dock (hail-outs) would include vessel name, return destination, and estimated date/time of return. These declarations would aid enforcement officers/agents and port agents in scheduling their activities for the day so they could meet a vessel when it returns to the dock. For the commercial IFQ system, declarations are made through the vessel monitoring system (VMS) unit or a call service center. The commercial IFQ system distributes the information via email to the agents listed within the region of landing. Methods that would have near real-time distribution would include a direct entry in the online system, entry through a VMS unit, or a 24-hour call service that enters the information in the online system. For a VMS unit, the burden of the cost would be on the participant, while for a 24-hour call service center the burden of cost would be on NMFS. The VMS units cost around \$3,000, with a monthly service fee of around \$60/month when using a 1-hour ping rate. Estimates for a call service center can be calculated through estimating the number of trips per year, and the amount of time per phone call.

Pre-landing notifications (hail-ins) would aid in validation and auditing programs. Under the commercial IFQ program, notifications need to be submitted 3 to 24 hours in advance of landing and can be submitted through three different methods (online, VMS, call service). For the HBC pilot program, pre-landing notifications were submitted 1 hour in advance of landing through VMS. The pre-landing notifications for the charter vessel program would contain information on the vessel, landing location, date and time of landing, and estimated pounds or actual numbers of red snapper being landed. In the HBC pilot program, knowing the number fish on board allowed port agents to ensure they had sufficient supplies for biological sampling available and allowed enforcement to immediately identify a discrepancy between the actual count and the hail-in count. Many of the agents felt that the hail-out/hail-in notifications improved sampling efficiency and reporting accuracy.

In addition, the commercial IFQ programs and the HBC pilot program used landing sites that were approved by NMFS Office of Law Enforcement. In both the commercial IFQ and HBC pilot programs, the landings locations needed to be pre-approved by law enforcement to ensure that the site exists and both law enforcement and port agents could access the site (e.g., no fences or free animals). In addition, the landing locations needed to be pre-approved so that they could be used in pre-landing notifications. It would be more likely for landing locations of charter vessels to be publicly accessible because the vessel must meet the customers and return to the same location.

**Table 2.1.1.** Comparison of the allocation-based management programs under consideration in Amendment 41.

Type of Program	IFQs	PFQs	Harvest Tags
<b>Shares:</b> one-time distribution of a percentage of the charter quota.	Use shares:		Do not use shares.
	Distributed to permit holders.	Distributed to permits.	
<b>Allocation</b> distributed each year:	Yes, based on shareholders' shares.	Yes, based on each permit's shares.	Yes, to permit.
Allocation:	Calculated based on existing shareholdings.		Recalculated periodically, reflects changes in the fleet.
Annual timeline for calculating allocation:	Shorter; appeals process only at program implementation.		Longer; appeals process each time allocation is recalculated.
Voluntary participation:	Only one opportunity to opt-out; decision is then permanent.		Opportunities to opt-out every year, 3 years, or 5 years
Harvest tags	Program participants could decide whether and how to use.		Use defined by Council.

The NMFS Southeast Regional Office (SERO)'s online Catch Shares Program system contains the Gulf commercial Red Snapper (RS-IFQ) and Grouper-Tilefish (GT-IFQ) IFQ programs, the

Highly Migratory Species (HMS) Bluefin Tuna Individual Bycatch Quota (IBQ) program, and the HBC Pilot Program (2014-2015). These programs are managed and accessed through an online accounting system, where all transactions are completed through the SERO Catch Share Programs website (<https://portal.southeast.fisheries.noaa.gov/cs/>), and are accessed using User IDs, passwords, and roles. A charter vessel IFQ or PFQ program could be incorporated into the current system, which is explained in detail below. Entities would hold shares and allocation in accounts within the IFQ/PFQ system, and distribution, usage, and transfers would all be tracked by NMFS. NMFS should also be able to create an online system for a harvest tag program, such that the distribution, usage, and transfers of allocation could be tracked by NMFS. Regardless of the program type, participants at a minimum would need a computer and access to the internet.

Should the Council pursue a fishing quota program (**Alternative 2**) or harvest tag program (**Alternative 3**) for charter vessels, a referendum among participants would be required to approve the program. Unless determined otherwise, a harvest tag program would likely be considered an IFQ program for charter vessels, for the purpose of the referendum requirement. The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) states, “the Gulf Council may not submit, and the Secretary may not approve or implement, a fishery management plan or amendment that creates an individual fishing quota program...unless such a system, as ultimately developed, has been approved by...a majority of those voting in the referendum among eligible permit holders with respect to the Gulf Council. For multispecies permits in the Gulf of Mexico, only those participants who have substantially fished the species proposed in to be included in the individual fishing quota program shall be eligible to vote in such a referendum.”

Further, the Magnuson-Stevens Act prohibits any person from participating in a LAPP that is not a U.S. citizen, corporation, partnership, or other entity established under the laws of the U.S. or any state, or a permanent resident alien. It also requires participants to meet the eligibility and participation requirements established by the program. For purposes of this amendment, all charter vessels, i.e., vessels with a for-hire permit that do not participate in the Southeast Region Headboat Survey (SRHS), would be eligible to participate in the selected program. The rest of the requirements would be developed through additional actions in this amendment, several of which are briefly described in Section 2.9.

### **2.1.1 Fishing Quota Program (IFQ or PFQ)**

An IFQ program involves shares and allocation held by unique entities (e.g., individual(s), and/business(es), or combinations of individual(s) and business(es)) in this case, charter vessel permit holders. Permits in the Southeast Region can be held by an individual or business or multiple individuals and/or businesses. Shares would be distributed to each permit holder based on the alternative selected in Action 3. Those shares would represent a percentage of the quota assigned to the program. After the initial distribution, shares would be associated with the permit holder at the time of initial apportionment, but not the permit itself. Therefore, shares could be transferred separately from the permit, in accordance with any restrictions in the program. Each year, NMFS would distribute allocation to the entities holding shares; allocation would be determined by multiplying the shareholder percentage by the program’s total quota.

A PFQ program involves shares and allocation associated with a permit, in this case federal for-hire permits that are *not* associated with vessels in the SRHS. In a PFQ system, the amount of shares assigned to a permit would be based on the alternative selected in Action 3. Those shares would represent a percentage of the quota for the program and allocation would be distributed to that permit holder at the start of the year. If the permit is transferred, the shares would transfer with the permit and now be associated with the new permit holder.

**Shares** refer to a set percentage of the quota. Shares are maintained annually by the shareholder or permit holder, unless transferred (sold).

**Allocation** refers to the amount of pounds of the quota represented by the shares (percentage of the quota) held. Unused allocation expires at the end of each year. Depending on options selected by Council, allocation in pounds may be translated to numbers of fish.

The allocation amount changes if the overall quota changes, while the amount of shares (as a percentage of the quota) remains the same.

## IFQ/PFQ System Structure

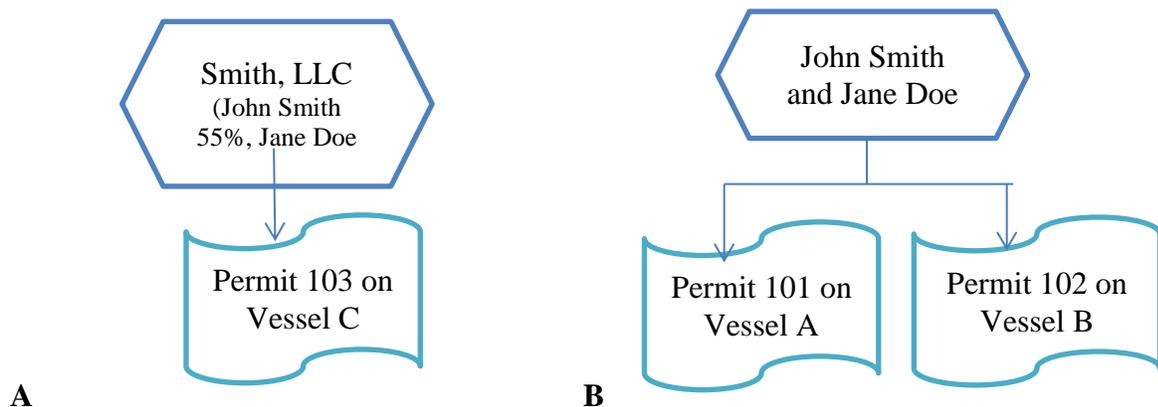
Information for the permit information management system (PIMS) and the IFQ/PFQ system are maintained in the Neptune database system at SERO and both systems access many of the same database files. The two systems are intricately intertwined, and information from the PIMS system informs the IFQ/PFQ system with respect to permit holder(s) and permit status and this in turn may place restrictions on activity within the charter program.

A charter IFQ/PFQ system would be a two-tiered system, with each permit holder(s) having a shareholder account and at least one vessel account. Shareholder accounts will be created for each *unique* permit holder(s) allowed to participate in the program and be assigned unique UserID and passwords. Permits in the Southeast Region can be held by an individual or business or multiple individuals and/or businesses. If any entity on a permit is not an individual (e.g. business, trust), then the Permits office would collect additional information to get to the individual-level ownership (e.g. shareholders, trustees, beneficiaries, and percentage ownership). Any change to the permit holder(s), including adding or removing names to the existing permit holder(s), is considered a transfer of ownership for the permit, and therefore disconnect the permit from the IFQ account, resulting in a new shareholders account.

**PIMS:** Permit information management system

**Permit holder(s):** The unique set of entities listed on the permit; may include one or more individuals and/or organizations that include, but are not limited to, businesses, partnerships, companies, trusts, and non-profit groups.

Vessel accounts are directly linked to shareholder accounts. A vessel account would be created for each vessel that is associated with a valid permit to harvest red snapper. There may be multiple vessels associated with one shareholder account, if the permit holder(s) is the same for each vessel. For example, John Smith and Jane Doe are together the permit holders for two charter permits 101 and 102, associated with vessels A and B, respectively. John Smith and Jane Doe will have one shareholder account that would be linked with both permits 101 and 102, and the associated vessels. The company Smith, LLC is owned by John Smith and Jane Doe and the company holds permit 103 associated with vessel C. While the individual-level on both Smith LLC and John Smith/Jane Doe are the same, the permit holder(s) listed are different, so there are two separate shareholder accounts created (Figure 2.1.1). While individual-level information is not used in the creation of accounts, it is used in the calculation of caps.



**Figure 2.1.1.** Example of a shareholder and vessel accounts. A) Permit-holder(s) is a company with one permit/vessel. Individual-level ownership information is shown below the company name. B) The permit-holder(s) are two individuals jointly owning multiple permits/vessels.

The two programs differ in terms of how the shares and/or allocation would be divided and distributed, as well as other program details (Table 2.1.2). The HBC pilot program (2014-2015) was also managed through the same online system. The structure of an IFQ or PFQ program for charter vessels could also be incorporated into the current online system. Participants would hold shares and allocation in accounts within the system and report landings via the system. Distribution, usage, and transfers would all be tracked by NMFS.

**Table 2.1.2.** Comparison of proposed management programs under Alternative 2.

Alternative 2:	IFQ (Option 2a)	PFQ (Option 2b)
<b>Shareholder:</b>	Account holder	Permit holder
<b>Allocation Distributed by:</b>	NMFS	NMFS
<b>Annual Allocation Distributed to:</b>	Individual accounts based on shareholdings	Permit accounts based on shareholdings
<b>Share Transfers*</b>	Between participants with accounts; may be any percentage allowed by the system; shares	Must transfer permit to transfer shares; no partial share transfers allowed.

	may be transferred to more than one participant.	
<b>Allocation Transfers*</b>	Between participants with accounts	Between permit holders with accounts

\*Limitations may be set by the program.

## 2.1.2 Harvest Tag Program

In a harvest tag program, tags would be used for granting harvest privileges and controlling landings (Johnston et al. 2007). A harvest tag program would not use shares, but rather, annual allocation that is recalculated at the vessel level every 3 or 5 years.<sup>7</sup> A harvest tag program involves distributing allocation associated with a permit, in this case federal for-hire permits that are not associated with vessels in the SRHS. The amount of allocation assigned to a permit would be based on the alternative selected in Action 3. Subsequently, every 3 or 5 years, a new calculation for the distribution of charter quota among charter vessels would occur. Although shares are not used, the amount of allocation represents a percentage of the charter quota and would be distributed to the account associated with that permit at the start of each year, as a number of harvest tags each representing one fish. A mechanism for calculating the conversion of allocation into harvest tags based on the average weight of red snapper will need to be determined. NMFS' involvement in the production, distribution, and tracking of harvest tags must also be determined.

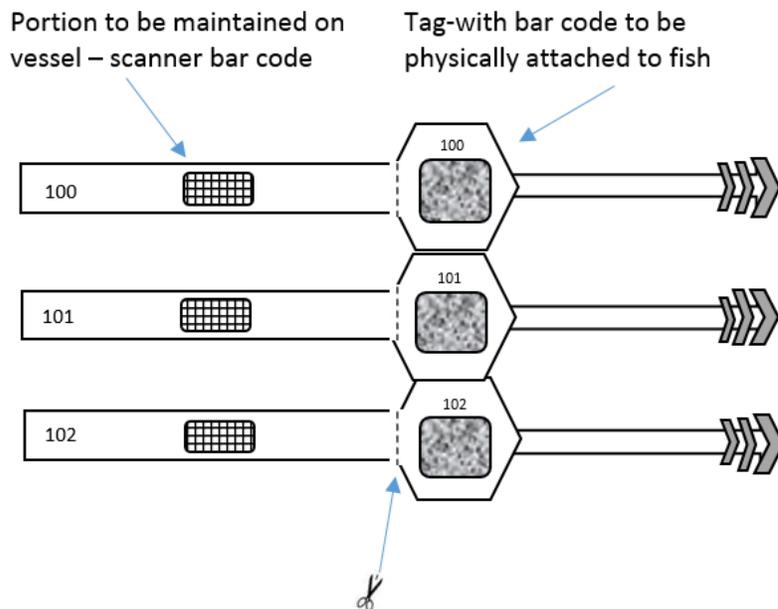
The number of harvest tags available each year would be determined by the amount of the charter for-hire quota, divided by the average weight of red snapper landed on charter vessels. New tags would be distributed at the beginning of each year and if there were any unused tags at the end of the year they would be forfeited. It is estimated that a large number of tags would be needed based on the number of for-hire permits held by charter vessels in the Gulf. The number of tags would depend on the average weight of landed red snapper. Using the 2017 federal for-hire component's ACT of 2.278 mp whole weight (ww)<sup>8</sup> as an example, if the average weight of a landed red snapper were to be 6 lbs ww, 379,666 tags would be needed. If the average weight of a landed red snapper were to be 8 lbs ww, 284,750 tags would need to be distributed.

A harvest tag program would involve distribution of electronic, paper, or physical tags or could be some combination of electronic and physical tag. If an electronic tag was used, a barcode with the permit identifier could be used for scanning via a mobile device or could be input manually to the SERO office website/portal online. The number or pounds of fish scanned or inputted would then be deducted from the permit holder's account. It is also possible that a barcode could be within the physical tag that could be attached to each fish assisting in better monitoring and law enforcement operations (Figure 2.1.2.1). A physical tag with no barcode could also be used, and the angler possessing the tag would be allowed to retain an individual fish per tag. Regardless, if there is an electronic identifier or not after capture, the physical tag

<sup>7</sup> The allocation to be distributed to each vessel is calculated using the formula selected in Action 3. The actual amount of allocation that each vessel would receive would be subject to the charter quota for that year, which is subject to change.

<sup>8</sup> Landings by headboats are also accounted for under the federal for-hire component ACT.

must be affixed to the fish. Thus, the individual fish is identified as legally caught, and the tag is prevented from being used to catch additional fish. If a paper tag was used, it could have the expiration date based on the day the angler intended to harvest the fish. Depending on the program developed, paper tags would probably provide anglers with less flexibility than physical tags. For example, if the angler did not land a red snapper that day for whatever reason such as weather the paper tag would expire; in contrast, physical tags could last the whole year or through a fixed season length.



**Figure 2.1.2.1.** Example of an electronic tag with a detachable physical tag. The bar code could store information including vessel and permit number.

The distribution of allocation to a participant’s account would occur near the beginning of the year. Several factors would influence the logistics and required time to calculate and distribute the allocation including the options selected for program participation (Action 2) and distribution of quota (Action 3). For example, in the Crab Rationalization program in the Alaska region applicants must submit their application for allocation by June 15 of the year before the allocation is distributed. This program typically contains around 500 participants. Once participants submit an application, they are not allowed to transfer permits for the remainder of the year. If the Council allows participants to opt-out of the harvest tag program (Action 2) yearly (Option 2b), every three years (Option 2c) or every 5 years (Option 2d), then the number of participants could fluctuate. The change in number of participating permits from opting out and expired/invalid status would also need to be accounted for when calculating the distribution of allocation (Action 3).

Because of the additional time that would be needed to calculate vessel allocations every 3 or 5 years, a timeline would need to be implemented to ensure the timely distribution of the allocation. For example, if the Council uses passenger capacity to distribute fishing privileges in a harvest tag program (Action 3), passenger capacity would be based on the lower of the COI or the permit's passenger capacity. Thus, the associated passenger capacity may fluctuate each time allocations are calculated. Unless determined otherwise, each opportunity to change participation (Action 2) and recalculation of allocation would constitute an initial distribution of fishing privileges, requiring an associated appeals process through the NMFS National Appeals Office (Section 2.9). At a minimum, the appeals process would add an additional 90 days to the time needed to calculate the allocations and needs to be considered when determining a deadline or control date for the harvest tag program. The Alaska Crab Rationalization program distributes allocation annually based on applicants' submissions and incorporates a timeline to satisfy the appeals process each year.

If a for-hire permit is transferred, the allocated harvest tags would likely transfer with the permit and now be associated with the new permit holder. If the harvest tag program allows participants to opt-out (Action 2, Alternative 2) every three years (Option 2b), or every 5 years (Option 2c), then considerations for the distribution of allocation and potential transfer of permits should be addressed in the development of the program. In addition, the Council will determine whether tags may be transferred among program participants (Action 6), and any caps on the use of harvest tags (Action 8).

In addition, if the program is voluntary, a deadline for each declaration period would need to be established to determine which permits would be participating in the harvest tag program to allow NMFS to begin calculating the distribution of quota. By the established date, participants not wanting to participate in the program (Action 2, Alternative 2) would need to submit the designated form opting out of the program. If a permit holder opts-out of the harvest tag program, no allocation would be distributed to that permit. If the permit holder then transfers the permit to another person, the new permit holder would not be eligible to reenter the program until the third (Option 2b), or fifth fishing year (Option 2c). Over the past 5 years (2011-2015) approximately 16% to 23% of for-hire permits are transferred annually which could further complicate the harvest tag program's distribution of allocation. The Crab Rationalization program prohibits the transfer of permits after the annual application deadline, and the Council may want to consider ways to address mid-year permit transfers in light of other selected features of the program.

## **Harvest Tag System Structure**

To implement a harvest tag program, NMFS would need to establish an online database system as it has established for the commercial IFQ programs. As with an IFQ/PFQ program, the harvest tag online system would use accounts to hold and track participants' allocation, and the distribution, usage, and transfers (if allowed) of allocation and tags should all be tracked by NMFS. As an example, at the South Atlantic Fishery Management Council's September 2014 meeting,<sup>9</sup> NMFS staff explained how a proposed recreational tag system could be run by NMFS

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<sup>9</sup> <http://safmc.net/sites/default/files/meetings/pdf/Council/12-2014/SG/SGCmteMinSep14.pdf>

SERO, including the administration of a lottery for the distribution of harvest tags. Mechanisms and requirements for the creation, distribution, and tracking of harvest tags would need to be developed by the Council through additional actions to this amendment.

As discussed for IFQ/PFQ programs, if created, vessel accounts are directly linked to participant accounts. A vessel account for each participating vessel would be associated with a valid for-hire permit to harvest red snapper. There may be multiple vessels associated with one participant account if the permit holder(s) is the same for each vessel. An example is provided in Figure 2.1.1. While individual-level information is not used in the creation of accounts, it would be used in the calculation of caps on usage of harvest tags.

Participant and vessel accounts have different functions. The participant account's main function is to hold, view, or transfer allocation in *both* the participant and vessel(s) accounts. Allocation would be associated with the participant accounts. For a harvest tag system, the allocation would be directly associated with the permit, which in turn is associated with the participant account. Under a harvest tag program, if the permit is transferred, then the allocated harvest tags would also transfer to the new permit holder(s) and associated participant account. Depending on the type of harvest tags the Council selects (i.e., electronic, paper or physical) and the online system created by NMFS, allocation and corresponding harvest tags would need to be distributed to participants (and participant accounts, as appropriate) at the start of the year. The participant could then distribute harvest tags to the vessel(s) associated with the account or transfer the harvest tags to another participant account or another participant's vessel account, if such transferability of harvest tags is selected by the Council in Action 6.

A timeline would be necessary for the annual distribution for the harvest tag program to insure the distribution of annual tags by the beginning of the fishing year. For example, if the Council chooses to allow participants to opt out of the program on an annual basis, then the permit holder would need to notify NMFS with a post marked form with signature to the SERO Sustainable Fisheries Division (SFD) specifying opting out by May 31<sup>st</sup>. If a fisherman acquires a permit that previously opted out, they must notify SFD with a post marked form to remove the opt-out before May 1<sup>st</sup>. SFD would maintain a list of opt out permits on the website. If a permit is transferred after the yearly deadline, then the permit holder would need to wait until the following allocation cycle to change the status. In June, SFD would determine the final list of participants for the following fishing year. At this time the current homeport and COI would be applied to the allocation calculation. By August 1<sup>st</sup>, SFD would post on the website the percentage of charter quota going to permit with a preliminary estimate of pounds based on the quota in the current regulations. The Council may want to consider not allowing permit transfers after August 1<sup>st</sup> as it would complicate the distribution of allocation specifically in regards to cap exceedance. As discussed in Section 2.9, the annual distribution of tags for the harvest program may be considered an initial allocation and be subject to the appeals process. The 90-day appeal period would end on November 1<sup>st</sup>. Based on this example timeline, the distribution of harvest tags would be available in the permit holder account by mid-January. This timeline would be modified to allow for the 3-year or 5-year cycle for program participation.

If voluntary participation is allowed for a PFQ program, then the further consideration would be needed to assess whether the selected timeframe for opting out (annual, 3, or 5 years) would be

considered an initial distribution of shares. If so, then it would be subject to the appeals process based on the specified cycle.

Note: Except for Action 1, the No Action alternatives (Alternative 1) in the remaining actions assume that an allocation-based management program would be developed and are worded accordingly. This allows for a more meaningful analysis among the alternatives to better inform decision-makers, stakeholders, and the public about the likely results of taking action versus not taking action. In actuality, the true No Action is the federal regulations that are currently in place that govern the for-hire operators in the Gulf.

## 2.2 Action 2 – Program Participation

**Alternative 1:** No Action. Do not establish a voluntary red snapper management program for charter vessels. The red snapper management program applies to all charter vessels with a valid or renewable Gulf Charter/Headboat permit for Reef Fish.

**Alternative 2:** Establish a voluntary red snapper management program for charter vessels. The program would include only charter vessels with a valid or renewable Gulf Charter/Headboat permit for Reef Fish that did not opt-out of the red snapper management program for charter vessels. An endorsement to the federal for-hire permit for reef fish would be issued to those for-hire permit holders who did not opt-out of the red snapper management program for charter vessels. Any charter vessel that opts out of the red snapper management program will not be able to harvest red snapper. Opportunities to opt-out from the red snapper management program for charter vessels are offered:

**Option 2a:** once, at the implementation of the program.

**Option 2b:** every 3 years.

**Option 2c:** every 5 years.

### Discussion:

**Alternative 1** (No Action) would apply the red snapper management program developed in this amendment to all vessels with a Gulf Charter/Headboat permit for Reef Fish (for-hire permit), essentially requiring all permitted charter vessels to participate.

**Alternative 2** would allow participation in the red snapper management program to be voluntary. Under a voluntary program, the National Marine Fisheries Service (NMFS) would create and distribute an endorsement to the federal for-hire permit for those charter operators who will participate in the program, thereby identifying participants in the red snapper management program for charter vessels. Federal for-hire permit holders that do not participate in the program would forfeit their ability to harvest red snapper. After applying the allocation approach selected in Action 3, the charter quota represented by non-participating vessels could be available for distribution among participating vessels.

Charter operators who do not intend to participate in the program, and do not intend to harvest red snapper, would notify NMFS in writing of their decision. NMFS would announce a declaration period during which charter operators would have the opportunity to notify NMFS that they will not participate. This declaration period would need to occur well in advance of when vessel allocations are calculated to ensure the timely distribution of allocation before the beginning of the year.

**Options 2a – 2c** differ based on the opportunity for-hire permit holders would have to join or opt-out of the red snapper management program for charter vessels. Because for-hire permits can be transferred, a charter operator who obtains a for-hire permit from a non-participating charter vessel may wish to participate in the program, or vice versa. Under **Option 2a**, for-hire permit holders would have a single opportunity to decide whether to participate in the red snapper management program for charter vessels or to opt-out at the time the program is implemented. **Options 2b** and **2c** would allow for-hire permit holders to change their participation in the program by opting out every 3 years or 5 years, respectively.

Allowing for-hire permit holders to opt-out of the program every three (**Option 2b**) or five (**Option 2c**) years would have greater implications for a share-based program such as IFQs or PFQs. The shares used in these programs are durable and would not be redistributed as program participation changes. Thus, it may not be possible for the Council to pursue an IFQ or PFQ program with a voluntary program structure. If the Council pursues a harvest tag program with a voluntary program structure, additional time would be needed to determine participation before the vessel allocation of participants could be calculated.

## 2.3 Action 3 –Apportioning the Charter Quota to Charter Vessels

**Alternative 1:** No Action. Do not specify a method for distributing the charter quota to charter vessels.

**Alternative 2:** Distribute charter quota based on tiers of passenger capacity of charter vessels. Tiers are defined such that each:

**Option 2a:** Vessel with a passenger capacity of 6 receives 1 unit;  
Vessel with a passenger capacity of 7 or greater receives 2 units.

**Option 2b:** Vessel with a passenger capacity of 6 receives 1 unit;  
Vessel with a passenger capacity of 7-24 receives 2 units;  
Vessel with a passenger capacity >24 receives 3 units.

**Alternative 3:** Distribute charter quota based on average historical landings of charter vessels in each region using:

**Option 3a:** Average historical landings for years 2003 to 2013, excluding landings from 2010.

**Option 3b:** 50% of the average percentages landed between 1986 and 2013 (2010 excluded) and 50% of the average percentages landed between 2006 and 2013 (2010 excluded).

**Alternative 4:** Distribute charter quota based on equal distribution, passenger capacity, and historical landings by region using one of the following:

	Option 4a	Option 4b	Option 4c	Option 4d
<b>Equal distribution</b>	33.3%	50%	25%	25%
<b>Passenger capacity</b>	33.3%	25%	50%	25%
<b>Historical landings by region</b>	33.3%	25%	25%	50%

**Alternative 5:** Distribute the charter quota by auction. All eligible participants are allowed to place bids.

**Alternative 6:** Distribute a portion of the charter quota by auction and the remainder based on equal distribution; passenger capacity; and historical landings by region (**Options 6a-6c**). The 3 metrics will be weighted by selecting one of **Options 6d-6g**.

<b>Select one:</b>	<b>Option</b>	<b>Auction</b>	<b>Equal distribution; passenger capacity; historical landings by region</b>	
	<b>6a</b>	25%	75%	
	<b>6b</b>	50%	50%	
	<b>6c</b>	75%	25%	
<b>Select one:</b>		<b>Equal</b>	<b>Pass. Capacity</b>	<b>Historical Landings</b>
	<b>6d</b>	33.3%	33.3%	33.3%
	<b>6e</b>	50%	25%	25%
	<b>6f</b>	25%	50%	25%
	<b>6g</b>	25%	25%	50%

Note: If Alternative 4 or 6 is selected as preferred, an option must be selected under Alternative 3 to specify the time period of historical landings by region.

## **Discussion:**

This action addresses how to divide the red snapper charter quota among charter vessels for the program selected in Action 1. As discussed in Section 1.1, a separate action will be needed to determine the charter quota; that is, the portion of the for-hire component ACL (for-hire quota) that will be assigned to the red snapper management program for charter vessels (Figure 1.1.1). This action is currently provided in Amendment 42 (Action 5), which would allocate a portion of the recreational sector ACL to the headboat program. The charter quota would be calculated by subtracting the portion of the recreational sector ACL allocated to the headboat program from the for-hire quota.

Depending on the allocation-based approach selected, this action distributes the charter quota as shares or allocation. That is, if an allocation-based approach is selected that uses both shares and annual allocation (IFQ or PFQ), this action addresses the initial apportionment of shares. Subsequently, annual allocation would be distributed based on the amount of shares held by a participant. If an allocation-based approach is selected that uses annual allocation, only, the allocation for harvest tags would be recalculated periodically using the preferred method selected in this action, thereby reflecting changes in red snapper fishing activity and permit ownership. Unless determined otherwise, a harvest tag program would consist of an initial allocation every 3 or 5 years, and require an appeals process each time the allocation is recalculated.

The Magnuson-Stevens Act section 303A(c)(5)(A) states that in developing a limited access privilege program, the Council shall “establish procedures to ensure fair and equitable initial allocations, including consideration of current and historical harvests; employment in the harvesting and processing sectors; investments in, and dependence upon, the fishery; and the current and historical participation of fishing communities.”

Detailed landings histories are available for vessels participating in the SRHS, but such information does not exist for charter vessels. As a result, individual vessels’ catch histories cannot be used to apportion fishing privileges among participants. This action considers alternate approaches for distributing quota among charter vessels that may serve as proxies for individual landing histories. The charter quota could be distributed equally among all charter vessels (*equal distribution*), using the passenger capacity of the permit or vessel’s certificate of inspection (COI) (*passenger capacity*), based on *historical landings by region*, by auction, or using a combination of these approaches (**Alternatives 4 and 6**).

**Alternative 1** would not specify a method for distributing charter quota among charter vessels. **Alternatives 2, 4, and 6** include using passenger capacity to distribute the charter quota. Section 1.1 discusses the two types of passenger capacity, for the permit and the vessel. Each charter vessel has a permit passenger capacity based on its for-hire permit, and a vessel passenger capacity, based on the vessel’s COI, or lack thereof.

In most cases, the permit and vessel passenger capacities are the same. The majority of charter vessels have a permit passenger capacity of six; the vessel does not have a COI, thus limiting the number of paying passengers to six. However, there are cases where the permit’s passenger capacity is greater than the vessel’s passenger capacity, and vice versa. In the case of a vessel

with a permit passenger capacity of six and a vessel passenger capacity of ten, the charter operator may take a maximum of six paying passengers fishing for reef fish, and may take ten paying passengers on non-fishing trips, such as dolphin watching tours. Even if transferred to another operator or vessel, this for-hire permit may never be used to take more than six paying passengers fishing for reef fish. In the case of a vessel with a permit passenger capacity of ten and a vessel passenger capacity of six, the charter operator may take only six paying passengers. However, the charter operator may transfer the permit to another operator or to another vessel, and after meeting the requirements to obtain a COI for a vessel passenger capacity of ten persons, the permit could be used to carry ten paying passengers to fish for reef fish. Because of the implications for the use of each type of passenger capacity under a share-based program compared to an allocation-only program, the *permit* passenger capacity will be used for a share-based program (IFQs or PFQs) and the *lower of the permit or vessel* passenger capacity will be used for an allocation-only program (harvest tags).

**Alternative 2** apportions the quota using “tiers” of passenger capacity. Under **Option 2a**, all charter vessels with a passenger capacity of 6 receive one unit of quota each; charter vessels with a passenger capacity greater than 6 receive two units of quota. The number of units is summed to arrive at a total number of quota units. The amount of the charter quota in pounds is then divided by the number of units, producing a number of pounds per unit. Vessels with a passenger capacity of 6 receive that quantity of pounds of quota, while vessels with a passenger capacity greater than 6 receive two times that quantity, representing two units.

**Option 2b** divides the passenger capacities into an additional tier, such that vessels with a passenger capacity greater than 24 receive 3 units of quota. Again, the number of units are summed to provide a total number of quota units. The amount of the charter quota in pounds is then divided by the number of units, producing a number of pounds per unit. Vessels with a passenger capacity of 6 receive that quantity of pounds of quota, vessels with a passenger capacity of 7 – 24 receive two times that amount, and those vessels with passenger capacities greater than 24 receive three times the number of pounds per unit.

**Alternative 3** provides two options to distribute quota based on historical landings by region. Tables 1.1.4 and 1.1.5 provide the estimated proportion of red snapper landings by charter vessels around the Gulf. The landings are provided for Alabama, Mississippi, Louisiana, and Texas, and for three regions of Florida: the Keys, the west Florida peninsula, and the Panhandle. As seen in the tables, red snapper are not landed uniformly by charter vessels around the Gulf. Very little red snapper is reported as landed in the Florida Keys and Mississippi, while charter vessels in the Florida Panhandle and Alabama land the majority of red snapper. For the purpose of distributing charter quota based on historical landings by region, Alabama and Mississippi will be considered one region.

Two options are provided for the years on which to base the allocation. **Option 3a** would distribute the quota based on the average historical landings by region for the years 2003 through 2013, excluding 2010 landings. The for-hire permit moratorium began in 2003. **Option 3b** would distribute the charter quota using 50% of the average historical landings by region from 1986 – 2013, and 50% of the average percentage of landings by region from 2006 – 2013, excluding landings from 2010. This was the formula used to apportion the recreational red

snapper ACL between the federal for-hire and private angling components in Amendment 40 (GMFMC 2014a). Both options would exclude landings from 2010, the year of the Deepwater Horizon MC252 oil spill.

Due to changes in data collection and fishing seasons, the terminal year provided for the historical landings options is 2013. In 2013, the Louisiana Department of Wildlife and Fisheries began to use its own survey, the Louisiana Recreational Creel Survey (LA Creel), which ran alongside the Marine Recreational Information Program (MRIP) that year. In 2014, Louisiana withdrew from MRIP and landings estimates in 2014 are only available from LA Creel; there are no 2014 MRIP landings estimates for Louisiana, which includes the MRIP for-hire survey. In 2015, MRIP resumed in Louisiana alongside LA Creel in an attempt to validate and certify LA Creel. Also in 2014, the recreational fishing season for red snapper in federal waters was only nine days long, which severely restricted the ability of for-hire vessels to land red snapper. The establishment of separate for-hire and private angling fishing seasons for red snapper began in 2015, and the for-hire component's fishing season was 44 days long.

For-hire permit holders are required to annually renew the charter permit and complete the permit application form. To ensure accurate homeport and COI information, it may be necessary to emphasize the need for accurate updated information. If the homeport information is not updated and accurate, selecting a distribution method that relies on historical landings by region (**Alternatives 3, 4, and 6**) could assign a vessel to an incorrect region. As discussed in Section 1 (Table 1.1.1), some of the current vessel homeports are in non-Gulf States which could affect the accuracy of the allocation distribution. Furthermore, permit renewals are processed throughout the year and expiration dates are determined by the primary permit holder's birthdate or the business' date of incorporation.

**Alternative 4** provides options to combine the allocation approaches of equal distribution, passenger capacity, and historical landings by region. **Option 4a** would give equal weight to the three approaches, and the remaining options give greater weight to one approach, and equivalent weight to the remaining two approaches. Thus, **Option 4b** would distribute 50% of the quota equally among all charter vessels, 25% based on historical landings by region, and 25% based on passenger capacity. **Option 4c** would distribute 50% of the quota based on historical landings by region, 25% equal distribution among charter vessels, and 25% by passenger capacity. **Option 4d** would distribute 50% of the quota based on passenger capacity, 25% equal distribution, and 25% based on historical landings by region.

**Alternative 5** would distribute the quota using an auction. In the event a limited access privilege program (LAPP) is developed, the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires that the Council consider, and may provide, if appropriate, an auction system or other program to collect royalties for the initial, or any subsequent, distribution of allocations in a LAPP (303A(d)).

**Alternative 6** provides options to combine an auction with the allocation approaches of equal distribution, passenger capacity, and historical landings by region. **Options 6a-6c** specify how to weight the distribution of charter quota by auction and the remainder by some combined weighting of equal distribution, passenger capacity, and historical landings by region. **Option 6a**

would distribute 25% of the charter quota by auction, **Option 6b** would distribute 50% of the charter quota by auction, and **Option 6c** would distribute 75% of the charter quota by auction, with the remaining proportion under each option to be distributed by the allocation approaches provided. **Options 6d-6g** mirror **Options 4a-4d**, as they provide the same weighting for each of the provided allocation approaches. Thus, to select **Alternative 6** as preferred, two options must also be selected: one option must be selected from among **Options 6a-6c** to specify how much of the charter quota to distribute by auction, and one option from among **Options 6d-6g**, to specify the weighting of equal distribution, passenger capacity, and historical landings by region.

The preceding discussion of alternatives is more applicable to an allocation-based management program that uses both shares and allocation than allocation-only programs, because share-based programs involve a one-time quota distribution event. After shares have been initially calculated and distributed, allocation would be distributed annually thereafter based on existing shareholdings. In an allocation-only program such as harvest tags, quota distribution would be a recurring event (every 3 or 5 years), requiring an appeals process for each recalculation and distribution (Section 2.9). If passenger capacity is part of the allocation method, the recalculation of harvest privileges under a harvest tag program would use the lower of the permit or vessel's COI passenger capacity. This would allow the distribution of fishing privileges to better adapt to changes in the fleet, but would also require additional time to calculate each redistribution of the charter quota.

For-hire permits may be transferred from one region to another at any point during the year. If historical landings by region are used to distribute quota under a harvest tag program, the homeport associated with a for-hire permit may change, affecting the next quota distribution. When an applicant submits an application to transfer or renew a for-hire permit, the applicant supplies the vessel's homeport information and passenger capacity. The applicant must certify that all the information provided in the application is accurate. Currently, there is no validation for the vessel's homeport and passenger capacity information, and a for-hire permit is not required to have a homeport in the Gulf region. Further, should the Council pursue a harvest tag program and use regional landings to distribute quota, **Alternative 3** should be modified to provide a relative timeframe (e.g., last 2 or 3 years of landings) rather than specific years (current **Options 3a** and **3b**), to ensure that the recalculation of allocation reflects changes within the fleet.

In the Gulf's commercial IFQ programs, annual IFQ allocation is distributed and accounted for in pounds of fish. The Council may decide to distribute annual allocations in pounds of fish or in number of fish, based on an average weight of red snapper landed by the recreational sector. If number of fish are used, landings would need to be monitored to ensure that the weight of all landed fish does not exceed the quota. The recent HBC pilot study used a quota set-aside to account for discrepancies between the estimated and actual average weight of red snapper. NMFS monitored the weight of landed fish during the season. These in-season weights were compiled every 2 – 4 weeks and compared to the pre-season weights. The HBC also distributed and used harvest tags for validation, but this was done within the HBC and outside of any NMFS oversight.

## 2.4 Action 4 –Transferability of Shares

**Alternative 1:** No Action. Do not allow the transfer of shares.

**Alternative 2:** An account holder must have an associated Charter/Headboat permit for Reef Fish and endorsement (if established in Action 2) to receive transferred shares. Shares can only be transferred to United States citizens or permanent resident aliens.

**Alternative 3:** Shares can be transferred to any United States citizen or legal resident alien.

### **Discussion:**

This action determines how the IFQ shares can be transferred after the initial distribution of the shares, but only applies if an IFQ program is selected in Action 1. This action does not address the transferability of shares under a PFQ program, as the shares must be transferred with the Charter/Headboat permit for Reef Fish and endorsement.

Transfer of shares would be permanent and the recipient of the shares would receive the allocation in subsequent years. In an IFQ program, the shares are not attached to a permit and belong to the entities associated with the account and can be transferred in part or in whole; whereas, in a PFQ program the shares are attached to the permit and must be transferred as a whole with the permit. For both the IFQ and PFQ programs, the annual allocation associated with the shares would be distributed to the account at the time of distribution. The commercial IFQ programs do not currently have permit or participation requirements for receiving shares. During the first 5 years of each commercial program, shares and allocation could only be transferred to permit holders, but could be maintained without a permit. As of 2012 for the RS-IFQ program and 2015 for the GT-IFQ program, anyone meeting the citizenship requirement can open an IFQ account and receive transferred shares or allocation, however a the vessel must be permitted to harvest allocation. This provision, to require that shares be held by an account with a for-hire permit for the first 5 years, could be added as an option under **Alternative 2**.

**Alternative 1** would be the most restrictive of the alternatives and not allow the transfer of shares. In this case, the initial distribution of IFQ shares would be permanently assigned to the account entity that is the initial recipient. The account entity would retain the shares even if the permit is transferred or allowed to expire. Prohibiting the transfer of shares may prevent an entity from obtaining an excessive amount of shares, although share caps ultimately constrain the amount of shares held by an entity (Action 7). Restrictions on the transfer of shares in an IFQ program could have unforeseen consequences as participants exit the fishery and are unable to transfer their shares to participants in the IFQ program. In the event of a deceased shareholder, transferability would be necessary for the associated allocation to be fished.

**Alternative 2** would only allow the transfer of shares between accounts that are associated with a valid for-hire permit and a charter endorsement if chosen in Action 2. In Amendment 42, the Council is considering whether to separate the for-hire permits into separate charter and headboat permits, or add an endorsement to the for-hire permit for headboats. This decision could impact the transferability of the shares. If the for-hire permits are separated, then the shares under these

alternatives would likely be transferable to only charter permits due to the program restrictions. However, if an endorsement is added to the for-hire permit for headboats or the for-hire permit is not split by the programs, then any entity with a for-hire permit could receive shares unless additional restrictions were implemented. The Council would need to discuss whether the shares could be transferred between the permits.

**Alternative 3** would be the least restrictive and allow any United States citizen or legal resident alien to obtain shares. While shares of red snapper could be transferred to a person or entity without a for-hire permit, the fish could not be legally harvested without procuring a for-hire permit, or transferring the allocation to a permit holder. Under this alternative, any United States citizen or legal resident alien could enter the program as a shareholder, including new fishermen, investors, or fishermen in another fishery or sector. However, fishing communities and active charter operators may react negatively to absentee ownership of shares. Full public participation would also allow the transfer of shares to entities who may not intend to use the IFQ allocation associated with the shares to participate in the charter fishing industry or they would use the associated allocation to benefit their business.

**Alternatives 2 and 3** would require a system and protocol to be developed and implemented to handle the transfer of shares. **Alternative 2** would require the account holder to maintain a valid for-hire permit to receive the shares. This restriction would contribute to maintaining IFQ shares in the hands of for-hire operators. The moratorium restricts the number of for-hire permits in the Gulf, and these permits can only be obtained from current for-hire permit holders. Thus the number of potential IFQ accounts would be limited to the number of permits if **Alternative 2** is selected, but may increase if **Alternative 3** is selected, as account holders could maintain their shares after transferring a permit. The new permit holder would create a new account, thereby allowing the number of IFQ accounts to be greater than the number of for-hire permits.

## 2.5 Action 5 –Maintenance of Shares

**Alternative 1:** No Action. Shares can be held by any United States citizen or permanent resident alien.

**Alternative 2:** Require a Charter/Headboat permit for Reef Fish and endorsement (if established in Action 2) to maintain shares. Shares can only be held by United States citizens or legal resident aliens. If a participant transfers their permit/endorsement or the permit/endorsement expires, the owner must divest of their shares.

### **Discussion:**

This action determines the criteria for maintaining shares. This action only applies if an IFQ program is selected in Action 1. This action does not address the maintenance of shares under a PFQ program, as the shares remain with the for-hire permit. If a for-hire permit/endorsement is terminated, NMFS will redistribute the shares proportionally to the current participants. In an IFQ program, the shares are not attached to a permit and belong to the entities associated with the account and can be transferred in part or in whole if this provision is selected by the Council in Action 4. The Council may suggest additional alternatives for the maintenance of shares.

**Alternative 1** would be the least restrictive and allow any United States citizen or legal resident alien to maintain shares. While shares of red snapper could be maintained by a person or entity without a for-hire permit, the fish could not be legally harvested without procuring a for-hire permit, or transferring the allocation to a permit holder. Under this alternative, any United States citizen or legal resident alien could enter the program as a shareholder, including new fishermen, investors, or fishermen in another fishery or sector.

**Alternative 2** would only allow the maintenance of shares in accounts that hold a valid are associated with a Charter/Headboat permit for Reef Fish and endorsement if chosen in Action 2. In Amendment 42, the Council is currently considering whether to separate the for-hire permits or add an endorsement to the permit for headboat operation. This decision could impact the maintenance of the shares. If the permits are separated, then the shares under these alternatives would only be held by participants with a charter permit due to the program restrictions. However, if an endorsement is added to the permit for headboats or the permit is not split by the programs, then anyone with a for-hire permit could hold shares unless additional restrictions were implemented, such as the charter endorsement proposed in Action 2.

## 2.6 Action 6 –Transferability of Annual Allocation

**Alternative 1:** No Action. Do not allow the transfer of allocation among participants.

**Alternative 2:** An account must have a Charter/Headboat permit for Reef Fish and endorsement (if established in Action 2) to receive transferred allocation. Annual allocation can only be transferred to United States citizens or permanent resident aliens.

**Alternative 3:** There are no restrictions on the transfer of allocation or harvest tags. Annual allocation or harvest tags can only be transferred to United States citizens or permanent resident aliens.

**Alternative 4:** Annual allocation may be transferred by surrendering it to a NMFS allocation bank from which other program participants may obtain the allocation by:

**Option 4a:** lottery.

**Option 4b:** auction.

### **Discussion:**

This action determines how allocation or harvest tags can be transferred. A for-hire permit would still be required for landing red snapper from the charter quotas. Transferring allocation or harvest tags refers to the movement of allocation or harvest tags, which is the pounds or number of fish that someone is ensured the opportunity to possess or land in the calendar year, between accounts. Allocation transfers can be for a monetary value, a gift, or part of a package deal which may include other aspects such as the transfer of the permit, vessel, and/or shares. Allocation would be distributed to accounts at the beginning of the fishing year for either an IFQ or PFQ system based on the shares held by that account/permit. The harvest tags would be distributed to the permit holder at the beginning of the fishing year based on the quota distribution method selected in Action 3. An additional action may be required to address distribution and transfer if physical tags are selected for the harvest tag program. This action does not require provisions for divestment of allocation due to a transferred or expired permit because allocation expires at the end of each year.

**Alternative 1** would be the most restrictive of the alternatives. Allocation or harvest tags would be distributed at the beginning of the year to accounts and no transfers of allocation would be allowed. Therefore, no account could obtain any additional allocation. Obtaining extra allocation during the year is often desirable if a participant uses all of their allocation before the end of the year. If red snapper were caught incidental to fishing for other species, allocation could not be obtained and those red snapper would need to be discarded, which may increase discard mortality as fishermen will continue to fish for other species. Restricting the transfer of allocation may also inhibit the achievement of optimum yield, if those pounds that may have been harvested by a different account holder would go unused. For example, allocation belonging to an account holder whose permit expires mid-year or whose vessel is in dry dock would remain unused for the year.

**Alternatives 2 and 3** would require a system and protocol to be developed and implemented to handle the transfer of allocation. The protocol may include the electronic reporting of allocation or tag identifications. Allowing the transfer of allocation would be beneficial for participants who use all of their allocation before the end of the year to enable them to accommodate additional trips to harvest red snapper. **Alternative 2** would require a participant receiving allocation or harvest tags to have a Charter/Headboat permit for Reef Fish and endorsement (Action 2). This restriction would contribute to maintaining allocation in the control of charter vessel operators. The moratorium restricts the number of for-hire permits in the Gulf, and these permits can only be obtained from current permit holders.

With **Alternative 3**, any account could receive allocation or harvest tags even without a for-hire permit. **Alternative 3** would be the least restrictive allowing any United States citizen or permanent resident alien to obtain an account and receive allocation. While allocation of red snapper could be transferred to an account without a for-hire permit, the fish could not be legally harvested without procuring a for-hire permit. This is similar to the provision in the commercial IFQ programs that allows any United States citizen or resident alien to obtain and transfer shares and allocation, although a commercial reef fish permit is still required to harvest and land IFQ allocation.

**Alternative 4** would allow harvest tags to be transferred by charter operators that do not intend to use them by surrendering the allocation and associated harvest tags, as appropriate, to NMFS. The surrendered allocation and associated harvest tags would be transferred to a NMFS tag bank and two options for redistribution are provided. Other program participants could obtain the harvest tags by lottery (**Option 4a**) or auction (**Option 4b**). Participation in the lottery (**Option 4a**) or auction (**Option 4b**) would be restricted to participants with a Charter/Headboat permit for Reef Fish. The redistribution would be based on the selected annual, three year, or 5 year cycle based on the Council's preferred option in Action 2. The Council may choose to use an auction to redistribute transferred tags even if an auction is not selected as the preferred method of distributing quota to charter vessels in Action 3.

In wildlife management, lotteries (**Option 4a**) have been used to distribute hunting tags when the demand for the resource exceeds sustainable harvest. Johnston et al. (2007) suggest that some hunting lotteries use "limited harvest with enhanced lottery rationing" to enhance the likelihood that repeat applicants who may have been unsuccessful in prior lotteries will be/could be rewarded with tags in the future. For example, some states that use lottery systems for wildlife management set up a point system for lottery applicants. This process increases the probability that lottery applicants that have not previously received harvest tags will have a greater probability of receiving them in the future ensuring that tag allocation is equitable (Johnston et al. 2007).

Auctions (**Option 4b**) often represent market or price-based sale of harvest tags based on the highest bidder's willingness to pay. Johnston et al. (2007) state auctioning of hunting rights in wildlife management typically helps states generate revenue; however, due to equity concerns some states may only hold a portion of all available tags for auction. If the Council moves forward with **Option 4b** for redistributing surrendered harvest tags, only a portion of tags

available in the program (i.e., surrendered tags) would be auctioned thereby avoiding the equity concerns from auctioning the entire quota.

## 2.7 Action 7 – Share Caps

**Alternative 1:** No Action. Do not cap the amount of shares that one participant can hold.

**Alternative 2:** No participant may hold shares equaling more than the maximum amount of shares issued during initial apportionment for a participant (as defined in Action 3).

**Alternative 3:** No participant shall hold shares which comprise more than x% of the total charter vessel quota.

### **Discussion:**

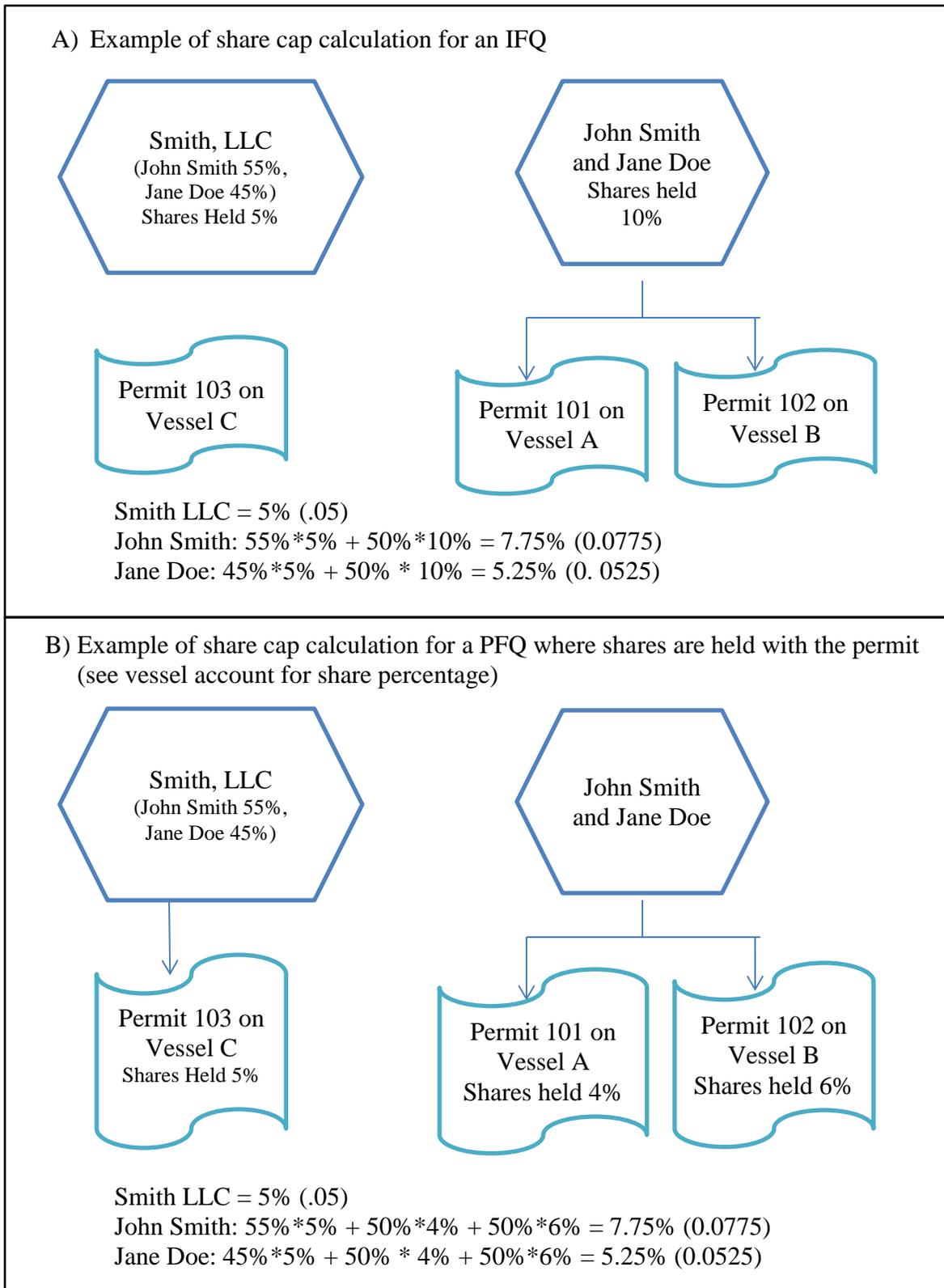
This action only applies if IFQs or PFQs are selected in Action 1. The Magnuson-Stevens Act, in Section 303A(c)(5)(D), requires that LAPPs include provisions to prevent privilege holders from acquiring an excessive share of the total limited access privileges in the program, to prevent monopolies from developing. NS 4 similarly requires that an allocation of fishing privileges be carried out in such a manner to prevent a particular participant from acquiring an excessive share. To comply with these mandates, an IFQ or PFQ program must set a cap on share ownership. No person, including a business or other entity (e.g., a trust), may individually or collectively hold shares in excess of the amount determined in this action. For the purposes of considering the share cap, an entity's share is determined by adding the applicable shares held by the entity for all accounts associated with that entity. If an entity is involved with a business, the percentage of ownership in that business is applied to that entity's share cap. Share caps would also be needed with a PFQ program and may prevent the transferability of a permit if the combined shares/allocation of the permits exceeds the share cap for one or more of the permit holders. For example, there is currently one permit holder who holds 32 for-hire permits. The combined shares associated with all of those permits and the permit he would receive must be under the share cap for the permit transfer to be allowed.

Based on the provisions, **Alternative 1** would not meet the requirements of the Magnuson-Stevens Act as it would not constrain a participant from acquiring an excessive amount of shares. Without a share cap, accumulation of excessive shares could not be prevented, shares could become concentrated among only a few participants, and those participants could gain excessive market power. Conversely, if caps are set too low, they may reduce potential gains in economic efficiency by preventing mutually beneficial transfers from occurring. If IFQ/PFQ shares accumulate with only a few participants, it may affect the structure of the fleet and its relationship to communities could be disrupted. Because of the multi-species nature of the for-hire fishing industry, the likelihood of large changes in the structure of the for-hire fleet from this action is probably low.

**Alternative 2** would cap the shares of a participant to the maximum amount initially distributed to an entity, individually and collectively, which accounts for entities that have multiple permits. A cap set in this method has a higher likelihood of maintaining the current makeup of the participants by size of operation and community structure. However, the region may have a high amount, but because the cap would be set through the entities, someone with multiple permits in another region may be the cap setter. For reference, the red snapper commercial IFQ program has a cap of 6.0203% based on the maximum share holdings of a single entity who owned multiple permits at the initial calculation of shares. Pertaining to **Alternative 2**, setting the cap equal to the maximum initial distribution could prevent an entity from expanding their business, and the efficiency could be impaired and the fleet may decrease over time, due to the limited access permit, restrict the fleet's ability to harvest the full quota.

**Alternative 3** would set an appropriate maximum percentage for the share cap. If this value is less than the amount calculated to be given to each participant, NMFS will have to determine a methodology to redistribute the excess amount to other participants, ensuring that no one participant goes over the share cap. The appropriate percentage and subsequent options can be determined after further decisions and data analysis are available regarding the landings and distribution methods, and transferability of shares or allocation.

Figure 2.7.1 provides an example for calculating the cap on shares for an IFQ and PFQ program for entities belonging to multiple businesses. These examples include partial ownership of permits for the calculation.



**Figure 2.7.1.** Examples of share cap calculations.

## 2.8 Action 8 – Cap on Usage of Allocation for IFQs/PFQs and Harvest Tags

### 2.8.1 IFQs/PFQs

Note: Usage of allocation is defined as the amount of landings year-to-date in an account plus the remaining allocation in that account on the same day.

**Alternative 1:** No Action. Do not establish a limit on usage of allocation.

**Alternative 2:** Limit allocation usage to x percent above the allocation equal to the share cap.

**Option 2a:** Per vessel (permit)

**Option 2b:** Per account (unique permit holder)

**Alternative 3:** Limit allocation usage to the allocation equal to the share cap.

**Option 3a:** Per vessel (permit)

**Option 3b:** Per account (unique permit holder)

#### **Discussion:**

Usage of allocation is defined as the amount of landings year-to-date in an account plus the remaining allocation in that account on the same day. **Alternative 1** would not establish a limitation on usage of allocation. This alternative would not be consistent with the provisions of the Magnuson-Stevens Act. Magnuson-Stevens Act 303(A)(c)(5)(D) requires that in developing a LAPP the Council ensure that participants do not acquire an excessive share of the total limited access privileges in the program by establishing a maximum share, expressed as a percentage of the total limited access privilege that a participant can hold, acquire, or use. NS 4 similarly requires that an allocation of fishing privileges be carried out in such a manner to prevent a particular participant from acquiring an excessive share of such privileges. A cap or limitation on the landings each vessel or account would help comply with these mandates.

**Alternative 2** would restrict a vessel account (**Option 2a**) or unique permit holder (**Option 2b**) from landing more red snapper than x percent more than the allocation equal to the share cap. Options for a range of x percent may be considered to set an appropriate usage limit. This would allow a vessel account or account holder to still accumulate additional allocation above the usage limitation. However, while the additional allocation may be transferred (e.g. sold, “leased”, bartered, gifted, etc.), the vessel account or account holder would not be able to land fish in excess of the usage limit. The usage cap would be based on the cumulative landings (year-to-date) and the allocation balance in the account each day. For example, if the allocation equal to the share cap was 1,000 lbs, and the percentage allowed over was 10%, then each vessel account or account holder could have the potential to land 1,100 lbs. The vessel account or account holder may acquire more than that amount throughout the year by transfers in and out as long as the cumulative holdings plus landings do not exceed 1,100 lbs, but would be restricted from landing more than 1,100 lbs during that fishing year. In the commercial IFQ program, allocation is frequently transferred multiple times, resulting in a total transfer of allocation in pounds that exceeds the quota. For the commercial RS-IFQ program, the allocation transfers have exceeded the quota by up to 114% from 2011 onward. Allowing for more annual allocation to be landed

than is equivalent to the share cap, allows businesses to temporarily grow their business and allows other businesses to benefit through the transfer of allocation. This alternative works to ensure that as much of the quota is harvested as possible.

**Alternative 3** would restrict a vessel account (**Option 3a**) or unique permit holder (**Option 3b**) from using (landing plus holding) more red snapper than is equal to the share cap. If the share cap equates to 1,000 lbs of red snapper, then no vessel account or account holder could land more than 1,000 lbs of red snapper in a given fishing year. The usage cap would be based on the cumulative landings (year-to-date) and the balance of allocation in the account each day. Contrary to **Alternative 2**, **Alternative 3** would set the usage limit relative to the share cap on the program as a whole, rather than the ability to obtain and land allocation greater than the share cap. Under **Alternative 3**, the full quota may not be harvested as the landings usage cap may restrict the transfer of allocation from vessels unable to harvest (e.g., in dry dock) to vessels that can harvest. The Magnuson-Stevens Act does not define the magnitude of an “excessive share” of harvest privileges. Further Council discussion is needed to determine the range of caps on harvest tags (as a proportion of the quota) to consider in this action.

## 2.8.2 Harvest Tags

**Alternative 1:** No Action. There is no cap on the amount of harvest tags that a participant can hold.

**Alternative 2:** No participant may hold more harvest tags than represented by x% of the total charter vessel quota at any point in time.

**Alternative 3:** No participant may hold and/or use more than x% of the total charter vessel quota cumulatively throughout a calendar year.

**Alternative 4:** No participant may hold harvest tags equaling more than the maximum number of tags issued to any one participant during the quota apportionment (as defined in Action 3).

### **Discussion:**

Usage of allocation is defined as the amount of landings year-to-date associated with an account or vessel plus the remaining allocation associated with that account or vessel on the same day. Contrary to the IFQ/PFQ programs, a harvest tag program will not use shares. Rather, allocation and associated harvest tags would be distributed at the beginning of each year. At the end of the year, any unused allocation in the form of harvest tags is forfeit, and the next year's allocation is distributed. To be consistent with Magnuson-Stevens Act Section 303A(c)(5)(D) "to ensure limited access privilege holders do not acquire an excessive share of the total limited access privileges," and NS 4, this action considers establishing a cap on the amount of allocation (harvest tags) that may be held or used by a program participant. Without a cap, accumulation of excessive harvest tags could possibly occur, such that a small number of participants would gain excessive market power. Because unused harvest tags expire at the end of each year and if the Council does not allow harvest tags to be transferred among vessels, caps on the holdings or use of harvest tags may not be necessary, depending on the method of initial quota distribution. For example, if harvest tags are distributed by auction, caps may be necessary.

Under **Alternative 1** (No Action), there would be no cap placed on the amount of red snapper harvest tags that a program participant could possess or use. This would not be consistent with the Magnuson-Stevens Act which requires that a LAPP not allow a participant to acquire, hold, or use an excessive share of harvest privileges (Section 303A(c)(5)(D)).

The Magnuson-Stevens Act does not define the magnitude of an "excessive share" of harvest privileges. Further Council discussion is needed to determine the range of caps on harvest tags (as a proportion of the quota) to consider in this action. The difference between **Alternatives 2** and **3** concerns the time frame for which the allocation cap will be measured. **Alternative 2** would specify the maximum amount of charter vessel quota that could be held at any point in time, while **Alternative 3** specifies the maximum amount of charter vessel quota that could be held by a participant cumulatively throughout the year. **Alternative 4** would establish the cap for harvest tags as the maximum number of tags issued to any one program participant at the

time the quota is apportioned. Thus, the amount of harvest tags on which the cap would be set under **Alternative 4** could change each time the distribution of quota is calculated.

## 2.9 Other Actions for an Allocation-based Program

Should the Council decide to develop an allocation-based approach, additional actions would be needed and may include the following:

**Accountability Measures** – In the event the charter quota is exceeded, additional accountability measures may be needed. Further, the recreational sector’s harvest of red snapper, including by for-hire permitted vessels, is managed toward an annual catch target (ACT). The ACT is a buffer set 20% below the ACL. The actions provided in this amendment do not currently propose to change the ACT. Depending on the allocation-based management program developed through this amendment, as well as data reporting changes made through the Modifications to Charter Vessel and Headboat Reporting Requirements Generic Amendment, the Council may wish to evaluate the recreational sector ACT for for-hire permitted vessels. Modifying or removing the ACT would require action by the Council.

**Appeals Process** – Following the initial apportionment of quota in an allocation-based management approach, some eligible participants may be wrongfully omitted from the initial distribution or may receive less than the initial allocation they were entitled to. An appeals process would be needed to correct these oversights.

An appeals process provides a procedure for resolving disputes regarding initial eligibility and distribution of shares and allocation. In the past, the Council has implemented regulatory actions in a number of fisheries that have included an appeals process for eligibility determinations, including Amendment 29 which established the GT IFQ program. In each instance, the Council has utilized a virtually identical process. Because the process has been consistent and has worked well in different circumstances, excessive consideration of other options for appeals is not necessary.

In accordance with Section 303A(c)(I) of the Magnuson-Stevens Act, an appeals process will be established to provide a procedure for resolving disputes regarding initial distribution of shares or allocation. A small percentage of quota may be set aside at the beginning of the program to cover potential successful appeals. Any of the set aside shares or tags not distributed to appellants would be distributed to participants according to how the initial distribution was conducted. For an IFQ or PFQ program, the additional shares and associated allocation would immediately be placed in participant’s accounts. For a tag program, physical tags would need to be mailed to participants; this process would occur with each year cycle of the program. The commercial IFQ programs set aside 3% of allocation for appeals.

Items subject to appeal are eligibility to participate, the accuracy of the amount of landings, and the correct assignment of landings to the permit owner. Appeals based on hardship factors will not be considered. NMFS records of federal charter/headboat permits for reef fish constitute the sole basis for determining ownership of such permits. Appeals will be processed by the NMFS

National Appeals Office and will be governed by the regulations and policy of the National Appeals Office at 15 CFR Part 906. Appeals must be submitted to the National Appeals Office no later than 90 days after the date the initial determination is issued. Appeals must contain documentation supporting the basis for the appeal. The Regional Administrator will review, evaluate, and render final decision on appeals.

**Cost Recovery Fees** – The Magnuson-Stevens Act requires that LAPPs established by a Council include a program of fees paid by limited access privilege holders to cover the costs of management, data collection and analysis, and enforcement of the LAPP. In a potential charter for-hire allocation-based program, red snapper harvested by recreational anglers do not have an explicit ex-vessel value because the fish cannot be sold. The Council would have to select a proxy to be used to compute the fees and determine the modalities for sending collected funds to NMFS. These fees may not total more than 3%.

Because recreational landed red snapper may not be sold, the basis on which to set cost recovery fees must be determined. Cost recovery fees could be based on the average commercial ex-vessel value per pound and be assessed for each fish landed. The average weight per trip could be calculated for each vessel using the previous year landings and the fee would be assessed per trip. Alternately, the cost recovery fee could be based on a standard price per pound (or per fish), multiplied by the number of pounds (or of fish) harvested by an angler. The Council would also determine the time period for the program participants to submit the fees to NMFS.

**Quota adjustments** – The red snapper quota could increase or decrease. In the event the quota increases, the Council may want to consider whether the increases be distributed according to the method selected in Action 3, to distribute the quota increase proportionally among all participants, or to use quota increases to provide for new entrants. An action would also be needed to address anticipated reductions to the quota. The action would evaluate giving the Regional Administrator the authority to hold back quota at the beginning of the year if a quota decrease is expected to occur later in the year.

**Monitoring and Validation** – An amendment to require electronic reporting by charter vessels is currently under development by the Council. However, additional issues related to monitoring and validation may need to be addressed depending on the specific program selected.

**Additional program requirements** – Requirements of commercial IFQ programs in the Gulf include vessel monitoring systems, hail-out and hail-in (with 3 hours notifications), and require landings at approved sites. The Council would determine which requirements would be practicable and useful for the administration and enforcement of an allocation-based program for charter vessels.

### **Additional Considerations**

***Magnuson-Stevens Act, Section 407(d)*** – The establishment of a charter vessel LAPP would not exempt the federal for-hire component from the requirements of section 407(d) of the Magnuson-Stevens Act which requires that red snapper recreational fishing be halted once the recreational sector ACL is caught. If established, some participants in the selected program may

have to forgo remaining annual allocation and lose fishing opportunities because the red snapper quota is caught. Therefore, benefits expected to result from a charter vessel LAPP may be limited by this provision in the Magnuson-Stevens Act.

***Dual-permitted vessels*** – As of October 30, 2015, 165 federal for-hire operators (including charter vessels and headboats) were dual-permitted, i.e., they possess a valid or renewable commercial permit and federal for-hire permit for reef fish. This includes four Historical Captain permits for reef fish. This number has increased slightly in recent years; in September 2011, there were 154 vessels possessing both a commercial and for-hire reef fish permit. These dual-permitted operators own varying amounts of commercial red snapper IFQ shares. The Council would have to determine whether IFQ shares held by dual-permitted vessels may or may not be used in an allocation-based charter vessel program.

## CHAPTER 3. REFERENCES

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## APPENDIX A. ALTERNATIVES CONSIDERED BUT REJECTED

- At its **April 2016 meeting**, the Council moved Action 1, Alternative 3 and the corresponding Section C (including Actions 7-9) to the considered but rejected section:

**Action 1 – Alternative 3:** Establish a fishing cooperative program (Section C) that provides the cooperatives with annual allocation.

### Section C – Fishing Cooperative Program

#### Action 7 – Cooperatives: Formation and Membership

**Alternative 1:** No Action. Do not specify how cooperatives are established.

**Alternative 2:** All charter vessels will be placed in one cooperative.

**Alternative 3:** All charter vessels will initially be placed in one cooperative. Program participants can voluntarily create new cooperatives with a minimum membership of three vessels, none of which are owned by the other two persons in the cooperative.

**Option 3a:** Members can only change cooperative membership before the beginning of each fishing season, during a declaration period designated by NMFS. After the close of the declaration period, participants cannot change membership until the next year.

**Option 3b:** Members can only change cooperative membership before the beginning of every second fishing season, during a declaration period designated by NMFS. After the close of the declaration period, vessels cannot change membership until the next declaration period.

#### Action 8 – Cooperatives: Transferability of Vessel Allocation

**Alternative 1:** No Action. Do not allow vessel allocation to be transferred.

**Alternative 2:** Vessel allocation may be transferred among members within the same cooperative.

**Alternative 3:** Vessel allocation may be transferred between members of different cooperatives.

**Alternative 4:** Do not establish restrictions on transferring vessel allocation.

#### Action 9 – Cooperatives: Caps on Vessel Allocation

**Alternative 1:** No Action. There is no cap on the amount of vessel allocation that a participant can hold and/or use.

**Alternative 2:** No participant may hold more than x% of the total charter vessel quota at any point in time.

**Alternative 3:** No participant may hold and/or use more than x% of the total charter vessel quota cumulatively throughout a calendar year.

- At its **August 2016 meeting**, the Council moved the following alternatives and options to the considered but rejected section:
  - Action 1 – Alternative 3, and corresponding Section C (including Actions 7 and 8)
  - Action 2 – Alternative 2, Option 2b [*Only Option 2b was removed; the alternative and other options remain.*]
  - Action 3 – Alternatives 2 and 3

**Action 1 – Alternative 3:** Establish a Permit Fishing Allocation (PFA) program (Section C) that provides annual allocation only. Annual allocation will be calculated

**Option 3a:** each year.

**Option 3b:** every 3 years.

**Option 3c:** every 5 years.

### **Action 7 – PFA: Transferability of Allocation**

**Alternative 1:** No Action. Do not allow the transfer of allocation among participants.

**Alternative 2:** An account must have a Charter/Headboat permit for Reef Fish and endorsement (Action 2) to receive transferred allocation.

**Alternative 3:** There are no restrictions on the transfer of allocation.

### **Action 8 – PFA: Caps on Use of Allocation**

**Alternative 1:** No Action. Do not cap the amount of allocation that one participant can hold.

**Alternative 2:** No participant may have allocation equaling more than the maximum allocation issued during initial apportionment for a participant (as defined in Action 3).

**Alternative 3:** No participant may have allocation equaling more than x% of the total charter vessel quota.

**Action 2 – Alternative 2:** Establish a voluntary red snapper management program for charter vessels. The program would include only charter vessels with a valid or renewable Gulf Charter/Headboat permit for Reef Fish that did not opt-out of the red snapper management program for charter vessels. An endorsement to the federal for-hire permit for reef fish would be issued to those for-hire permit holders who did not opt-out of the red snapper management program for charter vessels. Any charter vessel that opts out of the red snapper management program will not be able to harvest red snapper. Opportunities to opt-out from the red snapper management program for charter vessels are offered:

**Option 2b:** every year.

**Action 3 – Alternative 2:** Distribute quota equally among charter permit holders.

**Action 3 – Alternative 3:** Distribute quota based on the passenger capacity of charter vessels.

## **APPENDIX B. OTHER APPLICABLE LAW**

# APPENDIX C. SUMMARIES OF PUBLIC COMMENTS RECEIVED

## Scoping Workshop Summaries

Scoping Workshops were held jointly for Reef Fish Amendment 41: Red Snapper Management for Charter Vessels, and Reef Fish Amendment 42: Reef Fish Management for Headboats. The summaries from discussions pertaining to Amendment 41 are provided here.

### Scoping Workshops were held in the following locations:

**Mon, October 19, 2015**

Courtyard Marriott Gulfport Beachfront  
1600 East Beach Blvd.  
Gulfport, MS 39501

**Thurs, October 22, 2015**

Hilton Galveston Island  
5400 Seawall Blvd.  
Galveston, TX 77551

**Wed, October 21, 2015**

Adult Activity Center  
26251 Canal Road  
Orange Beach, AL

**Mon, October 26, 2015**

Marriott Clearwater Beach Sand Key  
1201 Gulf Blvd.  
Clearwater Beach, FL 33767

**Thurs, October 22, 2015**

Embassy Suites  
570 Scenic Gulf Drive  
Destin, FL 332550

**Thurs, October 29, 2015**

Webinar

**Tues, November 3, 2015**

Courtyard Marriott  
142 Library Drive  
Houma, LA 70360

### Summaries of Scoping Workshops

#### Gulfport, Mississippi

October 19, 2015

#### Council/Staff

Joe Jewell / Kelly Lucas  
Ed Swindell  
Ava Lasseter  
Bernadine Roy

#### 22 Members of the public attended

Tom Becker  
Diane Castoro  
Mike Foto  
Brandon Morano

Kenny Barhanovian  
Dick Wilson  
Glenn Bremen Kemp  
Skip Roberts

Chuck Guilford  
Bob Brown  
Tom Steber  
Dustin Trochesset  
Pat Grannan

Frank Becker  
Kenny Bellais  
Bill Des Jardins

Lauren Nelson  
Doug Nelson  
Clarence Seymour

Ron Harmon  
Jim Young  
James Brumfield

## Scoping Questions

**1. Should the Council consider traditional management measures (bag limit, size limit, season)?**

- Yes, traditional management is more in line with the natural order. Allocation-based approaches would not allow the charter operators to stay in business. The season is too short.
- We've "done done" that. Let's try something new.
- No, need more flexibility.
- Would like to fish in the spring or fall.

**2. Should the Council consider allocation-based measures (group or individual based)?**

- Allocation-based offers more flexibility as long as you have good accountability measures. Allows one to fish when best for the business and customers.
- There is no season if harvest tags are used.
- Yes, if allocation is based on fair and equitable data.

**3. What is your preferred management approach (traditional methods or allocation-based)?**

- Tags assigned to a permit.
- Allocation that best benefits the for-hire industry.

**4. If the Council allocates red snapper to charter vessels, should the allocation consider the passenger capacity of charter vessels or regional differences between homeports?**

- Equal allocation per permit holder. All 6-packs would get the same allocation.
- Totally opposed to allocating among for-hire vessels.
- Allocation-based approaches will reduce the number of fishing days.
- Under a tagging program, when out of tags season is over.
- Allows each individual to fish when they want, because you can use tags when you want.
- Prefers distribution of shares based on a tiered passenger capacity.
- Allow vessels to opt in/out of an allocation based program, annually.

**5. Should the Council consider additional management measures that were not mentioned?**

- Should eliminate a lot of latent permits. Require proof of charter income.
- Concern that latent permit holders will receive allocation to sell to active charters resulting in unfair profits.
- Does not support trading or selling of allocation. If you don't use it, you lose it.
- Supports VMS as optional and require electronic logbooks. Would prefer an app instead of a satellite tracker.

- VMS is the gold star for accountability. NMFS knows when you go fishing. VMS will identify latent permits.
- Don't want to further reduce access by eliminating permits, but want to identify latent permits for program participation.
- Shouldn't negate access due to unforeseen circumstances. Don't define a latent permit as one not used in a single year. Need an appeals process to protect permit holders.
- In a well-designed program there will not be latent permits because they will have value and get used.

**Orange Beach, Alabama  
October 21, 2015**

**Council/Staff**

Kevin Anson  
Chris Blankenship  
Ava Lasseter  
Bernadine Roy

**24 members of the public attended**

Larry Kelley	Dennis McKay	Bill Jeffries
Lane Sarrold	Robert Wasilausky	Robert Stuart
Gordon Burdette	Randy Boggs	Steve Johnson
Michael Choron	Josh South	Joe Nash
Mike Rowell	John Hollingshorn	Tom Steber
Gary Bryant	Blakeley Ellis	Denny Kearley
David Adams	Brian Swindle	
Don McPherson	Phillip West	
Troy Frady	Dale Woodruff	

**Scoping Questions**

**1. Charter vessels are currently managed using a traditional approach. In what ways does the current approach work or not work?**

- It doesn't work. The for-hire industry desperately needs flexibility. Need to manage our own business. Want to fish when we want to fish.
- With the set season and set catch limits, they have no flexibility.
- Leads to derby fishing.
- Leads to regional/localized depletion, because all recreational vessels are fishing in a short time period.
- Creates targeting of red snapper instead of fishing for other fish. Red snapper becomes a bycatch fishery. Meeting the bag limit defines a successful trip.
- Decreases access for recreational fishermen because they can only fish during a set time.
- The uncertainty of exceeding the catch limit still exists.

- Does not provide accurate landings data.
  - Necessitates that charter operators do multiple trips per day during the short season.
- 2. If the Council selects to continue using a traditional approach to management, what measures (size limit, bag limit, fishing season) should be adjusted and how?**
- Reduce bag limit to one fish.
  - Adopt a split season, such that both May and October are open.
  - Charter for-hire needs a June/July season because of stable weather and reliable tourism numbers at that time.
  - Short continuous seasons do not work because of the possibility of bad weather.
- 3. In what ways might an allocation-based management approach benefit/hinder charter operators and their passenger anglers?**
- Would increase flexibility. Can fish when you want to or need to, and could do other trips. Would stabilize the charter fisherman's business by allowing his customers to choose when to fish.
  - Would reduce discards.
  - Would increase the area for fishing if able to take fewer but longer trips and be able to access waters farther from shore.
  - Distributing allocation would decrease uncertainty by fixing the amount of harvest up front. Could reduce discard mortality with available quota and by modifying fishing practices.
  - It further establishes a privileged fishery.
  - If harvest tags are used, use for recreational sector as a whole and allocate to the angler who could then fish on charter or private boats. Supports recreational sector management as a whole.
  - No, it would not hinder anglers.
  - The success of a charter management plan could encourage private anglers to create a management plan, too.
- 4. If the Council selects an allocation-based management approach which one is most appropriate and why?**
- Allocation-based, but without ownership of shares.
  - Does not support IFQs. Wants a voluntary opt-in/out program if going to fish for red snapper. Provide allocation to vessels that are catching red snapper.
  - Harvest tags for enforcement and validation.
  - Electronic log books for real-time data collection.
  - If there are permits that aren't being used and an allocation-based program is adopted, could have an inequitable distribution of allocation. Recommends a use-it or lose-it provision.
  - Supports modeling charter management similar to the headboat collaborative program, including VMS, logbooks, and tags.
- 5. Other comments:**
- Explore every avenue for allocation approaches to ensure fairness and equity.

- Use tags for the entire recreational sector.

**Destin, Florida  
October 22, 2015**

**Council/Staff**

Martha Bademan  
Pam Dana  
Ava Lasseter  
Ryan Rindone  
Karen Hoak  
Bernadine Roy

**23 members of the public attended**

Jeff Shoults	Casey Weldon	Chris Couvillion
Dean Cox	Ed Greene	E.A. Hipsty, Jr.
Pam Anderson	Aaron Smith	Jennifer Bobo
Charlie Saleen	Jason Mikel	Eric Thrasher
Kirk Pristas	Sean Kelley	Mary Beth Barrows
Candy Hansard	Dennis Reed	Britton Corbin
Lee Rogers	Stan Phillips	Michelle Sempstrott
Dennis McKay	Gary Hickman	

**Scoping Questions**

**1. Charter vessels are currently managed using a traditional approach. In what ways does the current approach work or not work?**

- Want to get away from everyone being lumped together. Likes individual boats being accountable for their individual anglers.
- There are issues with processing the data already collected. Why increase reporting requirements if the data cannot yet be used?

**2. If the Council selects to continue using a traditional approach to management, what measures (size limit, bag limit, fishing season) should be adjusted and how?**

- No issue with size limit.
- Increase in fishing days (as a result of sector separation) was good. Happy with more access.

**3. In what ways might an allocation-based management approach benefit/hinder charter operators and their passenger anglers?**

- Accountability could be improved. Not be limited to a set season. Allow more flexibility by not being limited to a timeframe.
- Derby style fishing is not as safe.
- Current season is during spawning season. May be good to not have fishing pressure during spawning season.

**4. If the Council selects an allocation-based management approach which one is most appropriate and why?**

- Based on vessel permit. Run the system to collect catch data from two years, or base allocation on passenger capacity.

**5. Other comments on Amendment 41:**

- If can't accomplish allocation-based management, emphasize accountability of catches.

**Galveston, Texas  
October 22, 2015**

**Council/Staff**

Doug Boyd  
Emily Muehlstein  
Charlotte Schiaffo

**11 Members of the public attended**

Serena Etie	Taylor Borel	Mike Nugent
Shane Cantrell	Matt Etie	Daniel Willard
Mike Jennings	Greg Ball	Sam Miller
Darrel Hingle	Travis Eifert	

**Scoping Questions**

**1. Charter vessels are currently managed using a traditional approach. In what ways does the current approach work or not work?**

- The sudden announcement of season openings or closures does not give businesses enough time to plan trips.
- Traditional management has failed historically to constrain fishing within the quota.
- The one-size-fits-all season does not take into account regional needs of the fishery.
- Traditional management creates effort shifting when seasons close. Additionally, in some seasons, when multiple species are closed, it's difficult to find a fish to target.
- Under traditional management red snapper is still a derby fishery because the season is so short. Fishermen can be put in harm's way by trying to fish in bad weather.
- Rebuilding is working under traditional management. The snapper population is robust and they're hard to avoid.
- Catching fish outside of season promotes dead discards and inside of the season it promotes high grading.
- Limited seasons constrain tourism and economies for destination fishing.
- Current season and bag limits fail the charter industry because it's hard to run a business under traditional management.

- 2. If the Council selects to continue using a traditional approach to management, what measures (size limit, bag limit, fishing season) should be adjusted and how?**
  - The Council has already tried to change each parameter and nothing has improved.
  - The concept of split seasons should be considered if the Council decides to continue with traditional management approaches.
  - People should be allowed to choose when to fish. Potentially, consider a days-at-sea type program. If the season can be open for 9 days allow individuals to select the days they want to fish.
  
- 3. In what ways might an allocation-based management approach benefit or hinder charter operators and their passenger anglers?**
  - A well thought-out system could do away with buffers that are caused by management uncertainty, and that would increase the amount of fish that can actually be harvested.
  - Allocation based management would allow charter boat operators and customers the ability to pick and choose when to fish.
  - Under an allocation system some people could be forced out of the sector if everyone is not equal within the program. It will hurt charter boats if smaller operators are pushed out.
  - The allocation system can be designed to meet the exact needs of the program.
  - Allocation-based management will allow customers to decide what kind of trip they want to take.
  
- 4. If the Council selects an allocation-based management approach, which one is most appropriate and why?**
  - An allocation-based approach should not include fleet reduction.
  - The Council should use a permit-based fishing quota program where quota is distributed evenly across permits. This will add certainty in the fishery and it will level the playing field by making the program equal for everybody.
  - If there is even distribution there will be permit holders that aren't interested in the snapper. In that case, you could use unclaimed fish as a buffer or roll them back into next year's distribution. Either way, do not set up a system that cuts people out of the fishery.
  - Group allocation instead of individual allocation would require data collection for a number of years.
  - If the Council uses group-based allocation there will already be people with multiple permits that automatically become more powerful within a co-op.
  - Everyone must be equal in a permit-based system so no one benefits more than anyone else. A permit-based allocation with even distribution across permits would accomplish that.
  - At beginning of each year everyone with a permit will need to declare their intent to fish and opt into the program.
  - Allocation needs to stay with a single permit and it cannot be sold or traded.
  - Use a tiered approach to distribution - equal allocation across permits based on permit capacity groupings where they naturally break.
  - Permit and vessel capacity need to be linked.
  - In an allocation-based system, a referendum would be required.

- Under an allocation-based system the Council should still set a bag limit to evenly distribute the amount of trips taken and ease the burden on law enforcement.

### **Supplementary Questions:**

**1. How has MRIP system helped or hurt traditional management?**

- If you don't have fish to start with, it doesn't matter.
- The data is 6-9 months behind.
- A good system can't be created with outdated information and State systems are in conflict with each other so, they are not significantly different from MRIP.
- A deadline for data should be created so anglers will know when the season will be made.
- Data collection has been flawed, which has artificially shortened seasons. States are overly liberal, federal data is overly restrictive.
- Numbers can be steered in any way state or federal agency wants it to go to.
- The charter industry needs electronic reporting.
- The MRIP system was never supposed to be used for management. The system has been acknowledged to be inaccurate.

**2. Should there be restraint on whether snapper could be sold? Should Council regulate whether prices go up or down?**

- Charter boats currently change their pricing structure during red snapper season. Under an allocation-based system the same thing would happen. If a customer wants to take a red snapper trip, or a blue water trip, or an inshore trip, the pricing structure could change accordingly.

**Clearwater, Florida  
October 26, 2015**

**Council/Staff**

Roy Williams  
Ava Lasseter  
Assane Diagne

**13 members of the public attended**

R.W. Keys  
Eric Mahoney  
Robert Kirn  
Alexandra White  
Paul Matthews  
Paul R. Matthews  
Heyward Mathews

Jeff Antous  
Richard Nicajevsky  
Chad Haggert  
Brad Gorst  
Helen Nicajevsky  
Mike Colby

## Scoping Questions

### **1. Charter vessels are currently managed using a traditional approach. In what ways does the current approach work or not work?**

- Derby fishing does not work, particularly for charter fishermen. There is a mismatch between when the season is and when the customers are here. Derby seasons are also hard on all species, particularly red snapper.
- Different areas have different tourist seasons and the traditional approach does not account for regional differences.
- Release mortality is an issue for red snapper during gag season.
- Bag limits and size limits could be used alongside some other management approach.
- Bag and size limits do not lead to a derby fishery. So alongside appropriate management measures, these traditional approaches work. Mix and match approaches may work (permit-based coupled with bag and/or size limits).
- Size limits work. Reducing the minimum size limit from 16" to 15" would ease discard mortality.
- June is not a particularly good month for anglers in Clearwater. They can catch many other species then and don't really need red snapper, even though gag is closed in June. Even if the season began earlier or later, the derby is a hindrance. The best thing for charters is to be able to determine the best time to go catch fish.

### **2. If the Council selects to continue using a traditional approach to management, what measures (size limit, bag limit, fishing season) should be adjusted and how?**

- Keep the first fish to avoid high-grading, but that would be hard to police.
- High-grading is predominant in the fishery. Captains would have to enforce it and they would if it could lead to more fishing opportunities.
- Minimum size limit becomes a moot point when fishers know there are much larger fish out there. Traditional approaches like this don't work, because smaller fish will be thrown back for larger ones. We need to get away from traditional approaches and find new ways of doing things.

### **3. In what ways might an allocation-based management approach benefit/hinder charter operators and their passenger anglers?**

- Would give flexibility to fish when they or their customers want to fish.
- If each vessel is given allocation, could potentially adopt the first fish caught rule.
- Can reduce management uncertainty because you have a limited number of charter vessels (permits), so you know the universe. With that limited number of vessels, could move towards a census of landings, versus estimates of landings.
- Allocation-based management must be crafted well and be understandable to operators to be successful. If not, it won't work.
- Under an allocation-based approach that distributes a number of fish rather than pounds, the average weight of the fish could be greater than the number of fish distributed. To avoid exceeding the quota, a set-aside or buffer could be used to account for the difference in estimated weight versus actual weight of fish caught.

**4. If the Council selects an allocation-based management approach, which one is most appropriate and why?**

- Support for a permit fishing quota, because that is how you get business value. It would add equity. If the permit becomes valuable, then the vessel and the business become valuable. This makes the business look more viable if the allocation is tied to the permit.
- A cooperative would be too complicated for the number of permits in Pinellas County.
- A yearly opt-in or opt-out provision would be good for latent permits and for people who don't fish red snapper. Those who don't want to go out that distance or don't want to deal with logbooks or VMS can opt out, increasing the allocation to those who opt in.

**5. Are there additional management measures for charter vessels that should be considered?**

- Include transferability provisions for latent permit holders. This would be more effective if the range of species were broadened. For example, if you included gag in the amendment, could transfer gag for red snapper.
- Doesn't want fish to not be used under a latent permit. So, let the fish that would go to those who opt out be distributed to those who opt in. They want the larger quota to go to the active permits.
- Include more species than red snapper; west Florida is a multi-species fishery. A permit is not latent just because the vessel doesn't land red snapper. Charters in this area must travel far offshore to catch them. The two-year electronic logbook program was specifically multi-species for these reasons.
- If allocation was tied to all the permits, then even latent permits would have some value. So if someone buys a permit in the future, it may have some value attached to it.

**Webinar  
October 29, 2015**

**Council/Staff**

Charlene Ponce  
Emily Muehlstein

**6 members of the public attended**

Bruce Buckson  
Chad Hanson

TJ Marshall  
George McKinney

Michael Miglini  
Kellie Ralston

**Scoping Questions**

**1. Charter vessels are currently managed using a traditional approach. In what ways does the current approach work or not work?**

- Traditional management doesn't work because it constrains the fishing season and days for the charter fleet.
- Traditional management does work because it constrains catch.
- Traditional management limits flexibility in the days charter boats can choose to fish.

- Traditional management is not working because it doesn't allow a system where boats in different areas can have different seasons and use their fishing mortality when it's best for them.
  - Current management fails because it forces boats to discard dead fish. A system that would allow the retention of dead fish would be good for the charter industry.
- 2. If the Council selects to continue using a traditional approach to management, what measures (size limit, bag limit, fishing season) should be adjusted and how?**
- The question is hard to answer because we don't know how one option will affect the other. For example, how will changing the size limit impact the fishing season?
  - Allow the charter industry to get together and decide on their own regional seasons and bag limits (regional management).
- 3. In what ways might an allocation-based management approach benefit/hinder charter operators and their passenger anglers?**
- Allocation-based management could benefit charter operators by allowing them and their angler passengers to benefit from a rebuilt fishery and have increased allocations as things get better without being constrained to a one-size-fits all season.
  - Have the opportunity to reduce discard mortality and to be able to take anglers fishing when they want to instead of when the Council says the season is open or closed.
  - Improve safety at sea.
- 4. If the Council selects an allocation-based management approach which one is most appropriate and why?**
- A system that allocates according to the permit capacity for charter boats and passenger capacity or landings for the headboats.
  - It would be important for charter and headboat operators to come up with an allocation-based solution for themselves.
  - An allocation-based program would need a data collection element.
  - Distribution of shares and allocation should be even.
  - An electronic tag system should be considered.
  - The Council will need to consider similar management options for the private angling component.

**Houma, Louisiana  
November 3, 2015**

**Council/Staff**

Camp Matens  
Emily Muehlstein  
Karen Hoak

**17 members of the public attended**

John Dupont	Brian Rushing	George Huye
Gerald Ellewider	Julie Hebert	Ed Landgraf
David Cresson	Ryan Richard	Ben Weber
Rad Trascher	Jerome Zeringue	Danny Hebert
Joshua Ellender	Douglas Waitz	
Jean Marmande	Chris Lapeyre	

**Scoping Questions**

- 1. Charter vessels are currently managed using a traditional approach (bag limit, size limit, fishing season). In what ways does the current approach work or not work?**
  - Traditional management does not work at all because sector separation has privatized about half of the allocation.
  - Current management experiences undue pressure by environmental groups which do not have the interests of the recreational fishers in mind.
  - Regional management would solve a lot of the problems. Gulf-wide management does not work and gives an unfair advantage to some areas and disadvantages others.
  - Some charter operators appreciated the 45-day season under traditional management.
  - The current data collection program does not work for traditional management measures.
  - Current management does not allow for flexibility in the season.
- 2. If the Council selects to continue using a traditional approach to management, what measures (bag limit, fishing season) should be adjusted and how?**
  - The Council should get rid of minimum sizes.
  - Regional management should be implemented.
  - There should be some way to have flexible seasons.
- 3. In what ways might an allocation-based management approach benefit or hinder charter operators and their passenger anglers?**
  - Allocation-based management puts a value on the catch.
  - Allocation-based management will shrink the for-hire fleet.
  - It will potentially cause inequity (i.e. newcomers may receive less allocation)
  - It may cause an incestuous approach to new entry where the right to charter is handed down from generation to generation.

- Allocation-based management could cause the commercial sector to buy/sell recreational allocation.
- It privatizes a public resource.
- It would force participation or sale of ones permit if a fisherman did not want to participate in the program.

**4. If the Council selects an allocation-based management approach, which one is most appropriate and why?**

- Any allocation-based management approach used should allow freedom to choose when to fish.
- Do not reduce the fleet. Anyone that has a permit should be able to keep it with this program.
- Do not consider allowing non-fishermen to own allocation.
- Make allocation equitable across the board.

**5. Are there additional management measures for charter vessels that should be considered?**

- Regional management.
- 30B should be removed.

## APPENDIX D. DEFINITIONS OF CHARTER VESSELS AND HEADBOATS IN THE FEDERAL REGULATIONS

Federal regulations (§ 622.2) define charter and headboat vessels as follows:

“*Charter vessel* means a vessel less than 100 gross tons (90.8 mt) that is subject to the requirements of the United States Coast Guard (USCG) to carry six or fewer passengers for hire and that engages in charter fishing at any time during the calendar year. A charter vessel with a commercial permit, as required under § 622.4(a)(2), is considered to be operating as a charter vessel when it carries a passenger who pays a fee or when there are more than three persons aboard, including operator and crew. However, a charter vessel that has a charter vessel permit for Gulf reef fish, a commercial vessel permit for Gulf reef fish, and a valid Certificate of Inspection (COI) issued by the USCG to carry passengers for hire will not be considered to be operating as a charter vessel provided—

- (1) It is not carrying a passenger who pays a fee; and (2) When underway for more than 12 hours, that vessel meets, but does not exceed the minimum manning requirements outlined in its COI for vessels underway over 12 hours; or when underway for not more than 12 hours, that vessel meets the minimum manning requirements outlined in its COI for vessels underway for not more than 12-hours (if any), and does not exceed the minimum manning requirements outlined in its COI for vessels that are underway for more than 12 hours.”

“*Headboat* means a vessel that holds a valid Certificate of Inspection (COI) issued by the USCG to carry more than six passengers for hire.

- (1) A headboat with a commercial vessel permit, as required under § 622.4(a)(2), is considered to be operating as a headboat when it carries a passenger who pays a fee or—
  - (i) In the case of persons aboard fishing for or possessing South Atlantic snapper-grouper, when there are more persons aboard than the number of crew specified in the vessel's COI; or
  - (ii) In the case of persons aboard fishing for or possessing coastal migratory pelagic fish, when there are more than three persons aboard, including operator and crew.”

## **APPENDIX E. REPORTS FROM THE AD HOC RED SNAPPER CHARTER FOR-HIRE ADVISORY PANEL**

The summary reports from the May 13, 2015 and March 8-9, 2016 Ad Hoc Red Snapper Charter For-Hire Advisory Panel's meetings are provided below.

### **Ad Hoc Red Snapper Charter For-Hire Advisory Panel Summary**

**May 13, 2015**

**Gulf Council Conference Room**

**Tampa, Florida**

#### **AP members present:**

Jim Green, Chair  
Tom Steber, Jr., V Chair  
Gary Bryant  
Shane Cantrell  
Mike Eller  
Troy Frady  
Chuck Guilford  
Gary Jarvis  
Mark Kelley  
Tom Marvel, Jr.  
Mike Nugent  
Rene Rice  
Scott Robson  
Ed Walker  
Troy Williamson, II

#### **Council Member & Staff:**

Johnny Greene  
Ava Lasseter  
Karen Hoak  
Bernie Roy  
Assane Diagne  
Carrie Simmons  
Doug Gregory

#### **Others:**

Steve Branstetter  
Andy Strelcheck  
Jessica Stephen  
Cynthia Meyer  
Bob and Cathy Gill  
Kristen McConnell  
Tom Wheatley  
Jeff Barger  
Betty H. Guilford

The Ad Hoc Red Snapper Charter For-Hire Advisory Panel (AP) meeting was convened at 8:30 a.m. on Wednesday, May 13, 2015. Jim Green was elected Chair, and Tom Steber was elected Vice Chair.

Staff reviewed the charge to the AP, which was to make recommendations to the Council relative to the design and implementation of flexible measures for the management of red snapper for the for-hire sector. AP members began discussing data collection for the charter fleet including the status of the Joint Generic Charter Vessel Reporting Amendment and passed the following motions:

- **To recommend that the Council review the current data collection programs. If current data collection methods are not sufficient to support a flexible and accountable system, we urge the Council to develop data collection and monitoring needs for these programs to be successful.**
- **Ask the Council to implement electronic log books for the Gulf charter for-hire reef fish permit holders, including validation tools, no later than June 2016.**
- **To recommend that the Council do a feasibility study for the gulf charter-for-hire reef fish permit holders to see about the practicality of incorporating the for-hire data collection into the headboat program.**

Panel members noted the work they are doing to develop a management plan for the charter fleet at this meeting, and they expressed the need for more time to develop, implement, and then evaluate the effects of any new management plan. They want to provide recreational anglers the opportunity to experience a new management plan before the sunset occurs, too. The AP passed the following motions:

- **To recommend that the Council extend the sunset of Amendment 40 for two years.**
- **Recommend the Council remove the charter for-hire component from Amendment 39.**

AP members discussed management approaches and focused on allocation-based management. The concept of permit fishing quotas, or PFQs, was introduced and discussed. In contrast with individual fishing quotas (IFQs), the quota under PFQs would be attached to the federal permit and could not be transferred in any way from the permit. AP members noted that the transferability of IFQ shares and allocation in the commercial red snapper program was not a desirable program feature for allocation-based management of the charter fleet. AP members expressed opposition to the transferability of any kind of quota under an allocation-based management approach.

Tags were discussed as a desirable tool to help the charter fleet remain within its quota and aid in enforcement. AP members stated the tags should not be able to be separated from the charter permit and vessel. That is, tags could be used, or not used, by the permitted vessel to which they were assigned, but they could not be “leased” or sold. AP members then passed the following motions:

- **To recommend the Council develop a plan for allocation-based management for the charter-for-hire component that can include but not be limited to such items as PFQs (permit fishing quotas), tags, cooperatives, and AMOs (angler management organizations).**
- **To define PFQs (permit fishing quotas) as presented to the Council:**
  - **Reef fish permit-based allotment that remains attached to the permit not the individual**
  - **No transferability, leasing, or selling of the allocation**

- **Fish must be landed by the vessel that the permit is attached to**
- **Annual opt-in to participate in the federal red snapper fishery**

Jessica Stephen noted that PFQs are used in the Pacific bluefin tuna longline fleet. The quotas are assigned to a permit based on its vessel landings history, and are permanently attached to the permit. The allocation can be transferred under some conditions.

The AP discussed the potential progress of their recommended management plan, and staff noted that the Council has initiated development of Amendment 41 to address red snapper management for the charter for-hire component. AP members then passed the following motion:

- **To recommend that the Council specify that Amendment 41 be reviewed five years after implementation to assess the extent to which it is meeting its goals.**

Speaking to the accountability measure that set a 20% buffer on the red snapper quota, AP members expressed that if the fleet could adopt a management plan that enables them to demonstrate the ability to remain within the quota, the 20% buffer could potentially be decreased or even eliminated. A member noted that a goal for the fleet was to have the possibility of a year round fishery that is totally accountable. The AP then passed the following motion.

- **To recommend to the Council that the purpose of Amendment 41 is to increase flexibility for permit holders, to decrease management uncertainty, and increase accountability to catch limits. A long term goal to have a year round fishery that is totally accountable.**

AP members began to discuss qualifications for participating in a new charter for-hire management plan. AP members discussed a series of participation qualifiers, by which vessels intending to participate in the charter red snapper management plan could be identified and separated out from latent charter permits, and from vessels in regions where red snapper are infrequently encountered. AP members passed the following motions:

- **To recommend that the management plan be open to all federal charter-for-hire reef fish permit holders.**
- **To recommend to the Council that the plan be structured so that permit holders who intend to participate in an allocation-based management plan, annually opt-in to the program for the purpose of identifying the user group for that year.**
- **To recommend the Council consider how the cost of any new program will be shared between the charter for-hire industry and NMFS, under an opt-in scenario.**

The use of tags by participating vessels was discussed as a way to validate all fish caught under the management plan. AP members noted how tags are used in the Headboat Collaborative program. A Collaborative participant stated that tags helped identify that the fish were caught legally. For example, if headboat passengers take their red snapper catch to cleaning stations in public places, law enforcement would be able to determine easily that the fish were caught

legally. Concerns about the use of tags included how they would be distributed, or allocated, and the physical properties of tags so as to avoid tampering. The AP then passed the following motion:

- **To recommend all participating vessels in the management plan use carcass tags that could be validated for law enforcement which will be distributed at the beginning of the year. Tags will expire at the end of the year, to validate all fish harvested under this plan.**

There was discussion concerning the use of an independent body such as the Harte Institute for administration of the chosen plan. However, AP members and NMFS staff noted the additional complexity, as such administration would still require NMFS to be involved, in addition to requiring a federal contract, which would increase costs compared with in-house administration by NMFS.

Next, AP members discussed options for distributing allocation fairly among federal charter for-hire permit holders and noted their intent not to exclude anyone. They noted that defining fair and equitable depends on where you are in the Gulf and it can be defined in different ways. Without vessel catch histories, one member noted that dividing the quota up evenly was the only way to be fair, while another member questioned this method as red snapper is not accessible to charter vessels in all areas of the Gulf. Further discussion addressed the use of electronic logbooks. The AP passed the following motions.

- **To recommend the Council pursue allocation options that include all federal charter-for-hire reef fish permit holders.**
- **To recommend to the Council that all participants in the management plan report using electronic log books with dockside validation.**

Continuing the discussion on landings validation, an AP member noted that currently, a charter captain can refuse to participate in dockside intercept surveys and this should not be permitted in a new management plan. The AP members want enforcement measures to require compliance with the new charter management plan, including modifying NOAA law enforcements' penalty schedule, if at all possible, and requiring charter operators to participate in dockside intercept surveys. The AP then passed the following motion:

- **To recommend to the Council that opt-in participants are subject to dockside intercepts and validated landings by local or federal law enforcement at any time. Any vessel found in violation would be subject to NOAA law enforcement sanctions.**

AP members further discussed potential qualifiers for participation in the charter for-hire red snapper management plan. The idea of qualifiers was proposed as a way to identify active versus latent permits, and vessels that actively fish for red snapper versus those charter vessels that do not. For example, a federally permitted vessel that does not have the corresponding state licenses to be actively charter fishing, could be considered inactive in red snapper fishing. However, it was noted that the Gulf States have different requirements for federally permitted

charter vessels, which could complicate identifying latent permits Gulf-wide. AP members passed the following motion:

- **As a qualifier to participate, the participant must meet all licensing requirements for his/her state of operation.**

The AP discussed the use of quota on dual-permitted (charter and commercial) vessels under an allocation-based management plan, and passed the following motions:

- **After implementation of the plan, that there be no inter-sector (commercial and recreational) trading permitted.**
- **That any allocation granted to a permitted vessel may only be used during charter-for-hire trips.**

Next, the AP discussed allocating quota among charter vessels and passed the following motions:

- **To recommend that the allocation tier level be based on permit capacity but no greater than approved passenger capacity.**
- **To recommend that the Council consider the following allocation scenario to divide the quota among participating vessels:**
  - **6 passenger vessels = 1 allocation/share**
  - **Multi passenger COI vessels with permit capacity of 7 to 24 = 2 allocations/shares**
  - **Multi passenger COI vessels with permit capacity of 25 or more = 3 allocations/shares**
- **To recommend to the Council that for apportioning the quota between charterboats and headboats, to use the time frame formula from Amendment 40 (50% 1986-2013 + 50% 2006-2013 excluding landings from 2010).**

AP members expressed their preference not to hold an AP meeting from June through August 20, due to the busy fishing season, and passed the following motion.

- **To recommend that the Council reconvene this panel to provide further advice on charter-for-hire program development as soon as possible.**

The AP returned to discuss other allocation-based management approaches including AMOs and cooperatives. One member liked AMOs because they would involve management at a more local level, while another expressed concern with having an individual manager of each AMO decide how quota should be divided up. AP members reiterated support for tags and PFQs, and passed the following motion:

- **To recommend to the Council to adopt as the preferred management plan the use of PFQs with tags.**

AP members discussed the issue of “stacking” or “marrying” reef fish permits as undesirable for the charter management program. They also discussed that not all charter operators who opt-in may want or be able to use the amount of quota that may be allocated to their vessel, especially if the vessel is homeported in an area without abundant red snapper. The AP passed the following motions:

- **To recommend the Council not allow stacking or consolidating of reef fish permits.**
  - **Stacking of charter permits is defined as putting multiple permits on one vessel**
  - **Consolidation of charter permits is defined as consolidating two or more permits to one permit which contains the catch history of both permits**
- **To recommend to the Council, to allow the participant in the program to opt-in at the level of allocation the participant chooses, up to the maximum amount of the participant’s allocation.**

Following review of their recommendations, the AP meeting was adjourned at 3:00 pm.

**Failed motions:**

*Motion: To recommend the Council consider using an independent body, such as the Harte Institute for administration of the chosen plan.*

*Motion failed with one in support.*

**Ad Hoc Red Snapper Charter For-Hire Advisory Panel Summary**  
**March 8-9, 2016**  
**Gulf Council Conference Room**  
**Tampa, Florida**

**AP members present:**

Jim Green, Chair  
Tom Steber, Jr., V Chair  
Gary Bryant  
Shane Cantrell  
Mike Eller  
Troy Frady  
Gary Jarvis  
Mark Kelley  
Mike Nugent  
Rene Rice  
Scott Robson  
Sonny Schindler  
Frank (Skipper) Thierry, Jr  
Ed Walker

**Council & Staff:**

Pam Dana  
Ava Lasseter  
Karen Hoak  
Carrie Simmons

**Others:**

Steve Branstetter  
Andy Strelcheck  
Sue Gerhart  
Jessica Stephen  
Cynthia Meyer  
Sean Meehan  
Robert Jones  
Sharon McBreen  
Brad Gorst  
Martin Fisher

The Ad Hoc Red Snapper Charter For-Hire Advisory Panel (AP) meeting was convened at 8:30 a.m. on Tuesday, March 8, 2016. Staff provided an overview of draft Amendment 41 and discussed how the identification of program goals and objectives should lead to the design features of a management program for charter vessels.

Following the presentation, AP members began discussion on the sunset provision on sector separation. AP members expressed their interest to continue development of a red snapper management plan for charter vessels through Amendment 41 and passed the following motion:

- **To support the initiation and approval of a Plan Amendment to remove the sunset provision for sector separation that is approved in Reef Fish Amendment 40.**

*Motion carried 11 to 1 with one abstention.*

Next, AP members discussed the purpose and need. One AP member suggested a modification to the wording of the purpose and need and the AP accepted the following motion that recommended modifications to the current purpose:

- **To modify the existing purpose statement in Amendment 41 to read: (From Section 1.3 Purpose and Need pg. 8 with proposed revisions underlined.) The purpose of this action is to develop a management approach for federally permitted charter vessels that provides increased flexibility; reduces management uncertainty; improves economic**

**stability; enhances sustainability of the red snapper population; and maximizes fishing opportunities for anglers fishing on federally permitted charter vessels.**

*Motion carried unanimously.*

AP members began discussing goals for a red snapper management program for charter vessels, followed by supporting objectives for each goal. It was noted that parts of the goals and objectives overlap with the benefits that may be realized from adopting electronic reporting. AP members passed the following motions:

- **The overall goals for Amendment 41:**
  1. **To increase fishing opportunities for anglers who use the federally managed charter for-hire fishing fleet**
  2. **Reduce management uncertainty through improved catch and discard accounting**
  3. **Fair and equitable allocation for all participating permit holders**
  4. **The program should promote fleet stability**
  5. **Enhances sustainability by improving catch monitoring, adhering to quotas, and reducing dead discards.**

*Motion carried unanimously.*

- **For the goal -To increase fishing opportunities for anglers who use the federally managed charter for-hire fishing fleet, have the objective(s) be one or more of the following:**
  - **To provide year round angling fishing opportunities for using the red snapper charter for-hire fishery;**
  - **Increase number of fishing days or trips, ability to select fishing days within a specified season, to eliminate overages and extend fishing opportunities, while staying within the ACL.**

*Motion passed unanimously.*

- **For the goal-Reduce management uncertainty through improved catch and discard accounting, decrease management uncertainty by one or more of the following:**
  - **Landings by the charter for-hire fleet remain under its prescribed ACL and not exceed ACT**
  - **The ability to decrease the management buffer (ACT) from ACL through improved accountability and decreased management uncertainty**
  - **The ability to readily identify active permit holders (participants) in the red snapper for-hire fishery**
  - **For the for-hire industry to become fully accountable by use of ELBs, tags and/or other management tools.**

*Motion carried with no opposition.*

In discussing the following motion, AP members expressed different opinions concerning the meaning of a fair and equitable allocation. Some felt that all charter operators should start off on equal terms as far as allocation and be provided access, while others felt that not all charter vessels are currently landing red snapper and questioned whether such vessels should receive allocation.

- **For the goal-Fair and equitable allocation for all participating permit holders**  
- **Utilize the annual charter for-hire allocation for red snapper by the participants.**

*Motion carried 11 to 2*

- **Improve fleet stability for the for-hire fishery as determined by socio-economic analysis by:**
  - a. Ability to select fishing days**
  - b. Increasing angling opportunity through an allocation based system**
  - c. Maximizing marketing opportunities**
  - d. Surveying fishery participants.**

*Motion carried 8 to 5.*

The AP referenced electronic logbooks in their goals and objectives. Electronic reporting for charter vessels is currently being evaluated in a separate document and is outside the scope of Amendment 41. An AP member felt that electronic reporting would be in place before Amendment 41 goes final, while another expressed concern to not lose momentum in developing Amendment 41 by waiting for electronic reporting. Another AP member contributed that they did not want to use electronic logbooks to develop a catch history for use in Amendment 41. No motions were proposed or passed regarding electronic logbooks.

Next, the AP discussed the allocation-based management approaches. AP members noted concerns with fishing cooperatives, including that there was too much room for misuse and that too much power could potentially be held in one person's hands. Also, in contrast to the Headboat Collaborative which had less than 20 participants, AP members felt it may be difficult to organize the much larger number of charter operators into cooperatives. The AP passed the following motion:

- **To eliminate cooperatives from Amendment 41.**

*Motion carried with no opposition.*

AP members discussed their preferred management approach. A member said that permit fishing quotas (PFQs) are preferable to individual fishing quotas (IFQs) because allocation is tied to the permit, and if his boat is bought, the allocation goes with it; PFQs will add value to the permit. Some AP members said they did not want allocation to be transferable among vessels, as this creates financial winners and losers. Other AP members expressed concerns to avoid the criticisms of the commercial program in terms of "leasing" IFQs. Avoiding fleet consolidation was also noted as an important goal as this program is developed.

- **In action 1, to select alternative 2(b) as the panel's preferred alternative.**

**Alternative 2:** Establish a fishing quota program (Section B) that provides participants with shares and annual allocation. The fishing quota program would be:

**Option 2b:** a Permit Fishing Quota program (PFQ).

*Motion passed with no opposition.*

AP members discussed harvest tags and their usefulness for program enforcement. AP members who participated in the Headboat Collaborative noted they did not like the tags at first, but soon

found them extremely useful for helping to keep the amount of fish straight on the headboat for their customers. Whereas, another member felt that a harvest tag program would leave fish unused, but that this would not happen under a PFQ program. The AP passed the following motions.

- **As part of implementing PFQs, use fish harvest tags solely as an enforcement and validation tool for the PFQ program, not as an allocation tool as part of Alternative 4 in Action 1.**

*Motion carried with no opposition.*

- **In Action 1, to move Alternative 4 to the considered but rejected appendix.**

*Motion carried with no opposition.*

AP members discussed the alternatives under *Action 3, Distribution of Quota to Charter Vessels*. AP members did not support the use of an auction to distribute quota, and passed the following motion pertaining to the two alternatives that include auctioning quota.

- **In Action 3, to recommend to the Council that the Advisory Panel does not support consideration of Alternatives 6 and 7 because it does not coincide with the fair and equitable goal of Amendment 41.**

*Motion carried with no opposition.*

Some AP members did not support the regional approach to allocation, while other AP members did, noting that regional landings identify where red snapper are landed by charter vessels. The AP discussed the proposed new Action 2, which was requested by the Council at its January 2016 meeting to address voluntary participation in an allocation-based charter vessel management program. The proposed action would allow charter operators to opt-in and participate in an allocation-based program, or to opt-out and continue to fish for red snapper under a red snapper fishing season in federal waters for non-participating charter vessels. However, AP members did not support the option for some charter operators to continue to fish for red snapper if they did not participate in the allocation-based program. That is, if charter vessels opt-out of participating in the management program developed under Amendment 41, they should not be able to red snapper fish at all. To express this intent, the AP passed the following motions.

- **To recommend to the Council that the permit fishing quota (PFQ) program be the only access to red snapper by federally permitted charter for-hire vessels, and do not allow non-participating vessels to use allocation to harvest red snapper in an alternative federal waters season.**

*Motion carried 12 to 1.*

In discussion on the following motion, one member felt this would allow for identification of participants in the fishery. Another member noted that no one would opt-out, and without transferability, the rest of the fleet would not get those fish.

- **In Action 2, to create a new Alternative 5, and make it the Panel's preferred.**

**Alternative 5:** Establish a red snapper management program for charter vessels. The program would include only charter vessels with a valid or renewable federal for-hire permit for reef fish who elected to join the red snapper management program for charter vessels. An endorsement to the federal for-hire permit for reef fish would be issued to those charter operators who elected to join the red snapper management program for charter vessels. Opportunities to opt in to the red snapper management program for charter vessels are offered every year.

*Motion carried 12 to 0 with one abstention*

Additional discussion pertained to the distinction between opting-in (requiring operators to take action to participate) versus opting-out (assumes full participation unless operators take action to remove themselves). Some AP members felt charter operators should be required to opt-in to participate, which could be used to ensure that other program requirements are met by the participant, such as VMS, if required. On the other hand, NMFS staff expressed concerns with requiring operators to take action within a specified timeframe, and expressed a preference that charter operators opt-out if they did not intend to participate, instead.

AP members continued discussing the distribution of quota. A member noted that after shares are distributed, vessels could opt-in each year if they wanted to fish the allocation associated with their shares. He added that after a baseline of shares is established one time, each permit would get that much fish. After three years, the baseline could be reestablished among vessels for another period of time. Another member said that allocation should be calculated and distributed each year, and that charter operators should not hold shares. The comments then focused on support for charter vessels receiving annual allocation only, and reasons shares should not be held by charter operators including that shares were seen as a management tool that leads to reduced capacity in the fishery. There was concern that the distribution of quota among charter vessels should be able to reflect changes in the composition and characteristics of the fleet, such as a vessel changing homeport. A one-time distribution of (permanent) shares would not be flexible to changes in the fleet, and was contrary to the AP's goals for the program. The AP's intent for keeping shares with the permit (i.e., PFQs), is to avoid problems that may arise with transferability, if used in the program.

Next, AP members discussed passenger capacity as a metric for determining vessel allocation, addressing the pros and cons of using the passenger capacity according to the federal permit or that of the vessel's COI (or lack thereof) to determine how to distribute the quota among charter vessels. The AP passed a final recommendation before recessing for the meeting's first day.

- **The AP requests that the Council consider that we reconvene the charter for hire AP panel after the April meeting in Austin to continue to work on preferred alternatives on Amendment 41, and prior to the June meeting.**

*Motion carried with no opposition*

AP discussion returned to the issue of distributing quota among charter vessels, and specifically the alternatives concerning passenger capacity. AP members proposed new approaches for the distribution of quota among charter vessels, combining the existing alternatives into options that

use mixed approaches to the distribution of quota. The proposals included support for using the lower of the permit or vessel's passenger capacity. The AP passed the following motions.

- **In Action 3, to recommend a new alternative that would distribute quota using these 3 components:**
  - **Distribute quota equally among charter permit holders (Alt 2)**
  - **Based on the lesser of the COI of the vessel or permit capacity (Alt 3)**
  - **Distribute quota based on historical/regional landings (Alt 5)**

*Motion carried 11 to 0 with 2 abstentions.*

- **To create options for the previous motion's new alternative:**

<b>Option A</b>	40% regional history
25% for everyone (Alt 2)	30% COI/permit capacity
50% regional history (Alt 5)	
25% COI/permit capacity (Alt 3)	
<b>Option B</b>	<b>Option D</b>
20% for everyone	40% for everyone
50% regional history	30% regional history
30% COI/permit capacity	30% COI/permit capacity
<b>Option C</b>	<b>Option E</b>
30% for everyone	75% for everyone
	12.5% regional history
	12.5% COI/permit capacity

*Motion carried with no opposition.*

AP members discussed defining qualifiers which must be met for charter operators to participate in the allocation-based management program. AP members felt that the qualifiers would help identify the active permits and those who would participate in the program. Other members expressed concern that the qualifiers would cause fleet consolidation, or restrict participation. AP members held conflicting views on the use of VMS, with some in support and others opposed. After specifying the qualifiers, the AP passed the following motion:

- **To recommend to the Council to include, as a pre-qualifier for opt-in vessels, a VMS unit or another acceptable electronic validation tool, a federal charter for-hire reef fish permit and a state charter fishing license, and payment of the cost recovery fee associated with the allocation based system.**

*Motion carried with no opposition.*

In discussing the alternative to distribute quota based on regional landings, the AP recommended two additional options to the provided time series, and recommended their preference among the time series options. The AP passed the following motions.

- **In Action 3, Alternative 5, to create a new option using average landings for years 2003 to 2012, excluding landings in 2010.**

*Motion carried 9 to 3 with one abstention.*

- **To establish a new option under Action 3, Alternative 5 (Option 5e), to establish a timeline as found in Amendment 40.**

*Motion passed 12 to 1.*

- **To recommend to the Council that in Action 3, that the Panel's preferred allocation timeline to be used is (Option 5e):**

**50% 1986-2013**

**50% 2006-2013 excluding landings from 2010.**

*Motion carried without opposition.*

The AP returned to discuss PFQs as their preferred allocation-based management approach. A previous motion expressed the AP's preference for a PFQ program that uses shares and allocation. However, following additional discussion, AP members said they did not want a system that uses shares and allocation, but instead, want to use annual estimated and distributed allocation based on the number of participants that opt-in to the program for that year. Currently, PFQs and IFQs are structured to use both shares and allocation, while cooperatives and harvest tags use annual allocation, only. An AP member noted that with PFQs, transferability could be added in the future, but he believes that would not be possible under a harvest tag program. Another member supported PFQs rather than harvest tags, as he believes PFQs would require a referendum, while harvest tags would not; he felt a referendum was important to ensure the industry supports the resulting program design. The AP passed the following motion.

- **To recommend to the Council that a PFQ program be developed without shares, but to use annual allocation.**

*Motion carried 11 to 0 with one abstention and one absent.*

The meeting adjourned at noon on March 9.

### **Failed and withdrawn motions:**

*Action 3: Distribution of Quota to Charter Vessels*

*Alternative 5: Distribute quota based on average landings of charter vessels in each geographic region...*

*Motion: In Action 3, to recommend to the Council that the Advisory Panel does not support*

*Alternative 5 because it does not coincide with the fair and equitable goal of Amendment 41.*

*Motion failed 2 to 8 with 3 abstentions.*

*Proposed New Action 2: Charter Vessel Program Participation*

*Motion: In Action 2, the Panel's preferred alternative is Alternative 3*

*Alternative 3: Establish a voluntary red snapper management program for charter vessels. The program would include only charter vessels with a valid or renewable federal for-hire permit for reef fish who elected to join the red snapper management program for charter vessels. An endorsement to the federal for-hire permit for reef fish would be issued to those charter operators who elected to join the red snapper management program for charter vessels.*

*Opportunities to join or to opt out from the red snapper management program for charter vessels are offered every year.*

*Motion withdrawn.*

*Motion: In Action 3, to make alternative 4, option (b) the Panel's preferred Alternative 4: Distribute quota based on tiers of the passenger capacity of charter vessels. Tiers are defined such that each:*

*Option 4b: Vessel with a passenger capacity of 6 receives 1 unit;  
Vessel with a passenger capacity of 7-24 receives 2 units;  
Vessel with a passenger capacity >24 receives 3 units.*

*Motion failed 3 to 8 with 3 abstentions.*

*Motion: To establish a bycatch and discard/bycatch allocation pool, based on staff recommendation, to account for opt-out vessels and vessels without allocation.*

*Motion withdrawn.*

*Motion: Among the options in Alternative 5, the Panel's preferred option is this new option. In Action 3, Alternative 5, to create a new option (5d) using average landings for years 2003 to 2012, excluding landings in 2010.*

*Motion withdrawn.*

*Motion to Reconsider: That the Panel bring back for reconsideration this prior motion:*

*Motion: In Action 1, to move Alternative 4 to the considered but rejected appendix.*

*Motion failed 2 to 9 with one absent.*

# APPENDIX F. CURRENT FEDERAL REGULATIONS FOR GULF OF MEXICO RECREATIONAL RED SNAPPER MANAGEMENT

## 1. § 622.9 Prohibited gear and methods--general.

(e) Use of Gulf reef fish as bait prohibited. Gulf reef fish may not be used as bait in any fishery, except that, when purchased from a fish processor, the filleted carcasses and offal of Gulf reef fish may be used as bait in trap fisheries for blue crab, stone crab, deep-water crab, and spiny lobster.

## 2. § 622.20 Permits and endorsements

(b) Charter vessel/headboat permits. For a person aboard a vessel that is operating as a charter vessel or headboat to fish for or possess Gulf reef fish, in or from the EEZ, a valid charter vessel/headboat permit for Gulf reef fish must have been issued to the vessel and must be on board.

(1) Limited access system for charter vessel/headboat permits for Gulf reef fish. No applications for additional charter vessel/headboat permits for Gulf reef fish will be accepted. Existing permits may be renewed, are subject to the restrictions on transfer in paragraph (b)(1)(i) of this section, and are subject to the renewal requirements in paragraph (b)(1)(ii) of this section.

(i) Transfer of permits--(A) Permits without a historical captain endorsement. A charter vessel/headboat permit for Gulf coastal migratory pelagic fish or Gulf reef fish that does not have a historical captain endorsement is fully transferable, with or without sale of the permitted vessel, except that no transfer is allowed to a vessel with a greater authorized passenger capacity than that of the vessel to which the moratorium permit was originally issued, as specified on the face of the permit being transferred. An application to transfer a permit to an inspected vessel must include a copy of that vessel's current USCG Certificate of Inspection (COI). A vessel without a valid COI will be considered an uninspected vessel with an authorized passenger capacity restricted to six or fewer passengers.

(B) Permits with a historical captain endorsement. A charter vessel/headboat permit for Gulf coastal migratory pelagic fish or Gulf reef fish that has a historical captain endorsement may only be transferred to a vessel operated by the historical captain, cannot be transferred to a vessel with a greater authorized passenger capacity than that of the vessel to which the moratorium permit was originally issued, as specified on the face of the permit being transferred, and is not otherwise transferable.

(C) Procedure for permit transfer. To request that the RA transfer a charter vessel/headboat permit for Gulf reef fish, the owner of the vessel who is transferring the permit and the owner of the vessel that is to receive the transferred permit must complete the transfer information on the reverse side of the permit and return the permit and a completed application for transfer to the RA. See § 622.4(f) for additional transfer-related requirements applicable to all permits issued under this part.

(ii) Renewal. (A) Renewal of a charter vessel/headboat permit for Gulf reef fish is contingent upon the permitted vessel and/or captain, as appropriate, being included in an active

survey frame for, and, if selected to report, providing the information required in one of the approved fishing data surveys. Surveys include, but are not limited to—

(1) NMFS' Marine Recreational Fishing Vessel Directory Telephone Survey (conducted by the Gulf States Marine Fisheries Commission);

(2) NMFS' Southeast Headboat Survey (as required by § 622.26(b)(1));

(3) Texas Parks and Wildlife Marine Recreational Fishing Survey; or

(4) A data collection system that replaces one or more of the surveys in paragraph (b)(1)(ii)(A),(1),(2), or (3) of this section.

(B) A charter vessel/headboat permit for Gulf reef fish that is not renewed or that is revoked will not be reissued. A permit is considered to be not renewed when an application for renewal, as required, is not received by the RA within 1 year of the expiration date of the permit.

(iii) Requirement to display a vessel decal. Upon renewal or transfer of a charter vessel/headboat permit for Gulf reef fish, the RA will issue the owner of the permitted vessel a vessel decal for Gulf reef fish. The vessel decal must be displayed on the port side of the deckhouse or hull and must be maintained so that it is clearly visible.

(2) A charter vessel or headboat may have both a charter vessel/headboat permit and a commercial vessel permit. However, when a vessel is operating as a charter vessel or headboat, a person aboard must adhere to the bag limits. See the definitions of "Charter vessel" and "Headboat" in § 622.2 for an explanation of when vessels are considered to be operating as a charter vessel or headboat, respectively.

(3) If Federal regulations for Gulf reef fish in subparts A or B of this part are more restrictive than state regulations, a person aboard a charter vessel or headboat for which a charter vessel/headboat permit for Gulf reef fish has been issued must comply with such Federal regulations regardless of where the fish are harvested.

### **3. § 622.26 Recordkeeping and reporting.**

(b) Charter vessel/headboat owners and operators--(1) Reporting requirement. The owner or operator of a vessel for which a charter vessel/headboat permit for Gulf reef fish has been issued, as required under § 622.20(b), or whose vessel fishes for or lands such reef fish in or from state waters adjoining the Gulf EEZ, who is selected to report by the SRD must maintain a fishing record for each trip, or a portion of such trips as specified by the SRD, on forms provided by the SRD and must submit such record as specified in paragraph (b)(2) of this section.

(2) Reporting deadlines--(i) Charter vessels. Completed fishing records required by paragraph (b)(1) of this section for charter vessels must be submitted to the SRD weekly, postmarked not later than 7 days after the end of each week (Sunday). Information to be reported is indicated on the form and its accompanying instructions.

(ii) Headboats. Completed fishing records required by paragraph (b)(1) of this section for headboats must be submitted to the SRD monthly and must either be made available to an authorized statistical reporting agent or be postmarked not later than 7 days after the end of each month. Information to be reported is indicated on the form and its accompanying instructions.

#### **4. § 622.27 At-sea observer coverage.**

(a) Required coverage. A vessel for which a Federal commercial vessel permit for Gulf reef fish or a charter vessel/headboat permit for Gulf reef fish has been issued must carry a NMFS-approved observer, if the vessel's trip is selected by the SRD for observer coverage. Vessel permit renewal is contingent upon compliance with this paragraph (a).

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

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

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

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

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

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

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

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

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

#### **5. § 622.29 Conservation measures for protected resources.**

(a) Gulf reef fish commercial vessels and charter vessels/headboats--(1) Sea turtle conservation measures. (i) The owner or operator of a vessel for which a commercial vessel permit for Gulf reef fish or a charter vessel/headboat permit for Gulf reef fish has been issued, as required under

§§ 622.20(a)(1) and 622.20(b), respectively, must post inside the wheelhouse, or within a waterproof case if no wheelhouse, a copy of the document provided by NMFS titled, "Careful Release Protocols for Sea Turtle Release With Minimal Injury," and must post inside the wheelhouse, or in an easily viewable area if no wheelhouse, the sea turtle handling and release guidelines provided by NMFS.

(ii) Such owner or operator must also comply with the sea turtle bycatch mitigation measures, including gear requirements and sea turtle handling requirements, specified in §§ 635.21(c)(5)(i) and (ii) of this chapter, respectively.

(iii) Those permitted vessels with a freeboard height of 4 ft (1.2 m) or less must have on board a dipnet, tire, short-handled dehooker, long-nose or needle-nose pliers, bolt cutters, monofilament line cutters, and at least two types of mouth openers/mouth gags. This equipment must meet the specifications described in §§ 635.21(c)(5)(i)(E) through (L) of this chapter with the following modifications: the dipnet handle can be of variable length, only one NMFS-approved short-handled dehooker is required (i.e., § 635.21(c)(5)(i)(G) or (H) of this chapter); and life rings, seat cushions, life jackets, and life vests or any other comparable, cushioned, elevated surface that allows boated sea turtles to be immobilized, may be used as alternatives to

tires for cushioned surfaces as specified in § 635.21(c)(5)(i)(F) of this chapter. Those permitted vessels with a freeboard height of greater than 4 ft (1.2 m) must have on board a dipnet, tire, long-handled line clipper, a short-handled and a long-handled dehooker, a long-handled device to pull an inverted "V", long-nose or needle-nose pliers, bolt cutters, monofilament line cutters, and at least two types of mouth openers/mouth gags. This equipment must meet the specifications described in § 635.21(c)(5)(i)(A) through (L) of this chapter with the following modifications: only one NMFS-approved long-handled dehooker (§ 635.21(c)(5)(i)(B) or (C)) of this chapter and one NMFS-approved short-handled dehooker (§ 635.21(c)(5)(i)(G) or (H) of this chapter) are required; and life rings, seat cushions, life jackets, and life vests, or any other comparable, cushioned, elevated surface that allows boated sea turtles to be immobilized, may be used as alternatives for cushioned surfaces as specified in § 635.21(c)(5)(i)(F) of this chapter.

(2) Smalltooth sawfish conservation measures. The owner or operator of a vessel for which a commercial vessel permit for Gulf reef fish or a charter vessel/headboat permit for Gulf reef fish has been issued, as required under §§ 622.20(a)(1) and 622.20(b), respectively, that incidentally catches a smalltooth sawfish must--

- (i) Keep the sawfish in the water at all times;
  - (ii) If it can be done safely, untangle the line if it is wrapped around the saw;
  - (iii) Cut the line as close to the hook as possible; and
  - (iv) Not handle the animal or attempt to remove any hooks on the saw, except for with a long-handled dehooker.
- (b) [Reserved]

## **6. § 622.30 Required fishing gear.**

For a person on board a vessel to fish for Gulf reef fish in the Gulf EEZ, the vessel must possess on board and such person must use the gear as specified in paragraphs (a) through (c) of this section.

(a) Non-stainless steel circle hooks. Non-stainless steel circle hooks are required when fishing with natural baits.

(b) Dehooking device. At least one dehooking device is required and must be used to remove hooks embedded in Gulf reef fish with minimum damage. The hook removal device must be constructed to allow the hook to be secured and the barb shielded without re-engaging during the removal process. The dehooking end must be blunt, and all edges rounded. The device must be of a size appropriate to secure the range of hook sizes and styles used in the Gulf reef fish fishery.

(c) Venting tool. At least one venting tool is required and must be used to deflate the abdominal cavities of Gulf reef fish to release the fish with minimum damage. This tool must be a sharpened, hollow instrument, such as a hypodermic syringe with the plunger removed, or a 16-gauge needle fixed to a hollow wooden dowel. A tool such as a knife or an ice-pick may not be used. The venting tool must be inserted into the fish at a 45-degree angle approximately 1 to 2 inches (2.54 to 5.08 cm) from the base of the pectoral fin. The tool must be inserted just deep enough to release the gases, so that the fish may be released with minimum damage.

## **7. § 622.32 Prohibited gear and methods.**

Also see § 622.9 for additional prohibited gear and methods that apply more broadly to multiple fisheries or in some cases all fisheries.

(a) Poisons. A poison may not be used to take Gulf reef fish in the Gulf EEZ.

(b) [Reserved]

**8. § 622.33 Prohibited species.**

(d) Gulf reef fish exhibiting trap rash. Possession of Gulf reef fish in or from the Gulf EEZ that exhibit trap rash is prima facie evidence of illegal trap use and is prohibited. For the purpose of this paragraph, trap rash is defined as physical damage to fish that characteristically results from contact with wire fish traps. Such damage includes, but is not limited to, broken fin spines, fin rays, or teeth; visually obvious loss of scales; and cuts or abrasions on the body of the fish, particularly on the head, snout, or mouth.

**9. § 622.34 Seasonal and area closures designed to protect Gulf reef fish.**

(a) Closure provisions applicable to the Madison and Swanson sites and Steamboat Lumps, and the Edges-- (1) Descriptions of Areas. (i) The Madison and Swanson sites are bounded by rhumb lines connecting, in order, the following points:

Point	North lat.	West long.
A	29°17'	85°50'
B	29°17'	85°38'
C	29°06'	85°38'
D	29°06'	85°50'
A	29°17'	85°50'

(ii) Steamboat Lumps is bounded by rhumb lines connecting, in order, the following points:

Point	North lat.	West long.
A	28°14'	84°48'
B	28°14'	84°37'
C	28°03'	84°37'
D	28°03'	84°48'
A	28°14'	84°48'

(iii) The Edges is bounded by rhumb lines connecting, in order, the following points:

Point	North lat.	West long.
A	28°51'	85°16'
B	28°51'	85°04'
C	28°14'	84°42'
D	28°14'	84°54'
A	28°51'	85°16'

(2) Within the Madison and Swanson sites and Steamboat Lumps, possession of Gulf reef fish is prohibited, except for such possession aboard a vessel in transit with fishing gear stowed as specified in paragraph (a)(4) of this section.

(3) Within the Madison and Swanson sites and Steamboat Lumps during November through April, and within the Edges during January through April, all fishing is prohibited, and possession of any fish species is prohibited, except for such possession aboard a vessel in transit with fishing gear stowed as specified in paragraph (a)(4) of this section. The provisions of this paragraph, (a)(3), do not apply to highly migratory species.

(4) For the purpose of paragraph (a) of this section, transit means non-stop progression through the area; fishing gear appropriately stowed means--

(i) A longline may be left on the drum if all gangions and hooks are disconnected and stowed below deck. Hooks cannot be baited. All buoys must be disconnected from the gear; however, buoys may remain on deck.

(ii) A trawl net may remain on deck, but trawl doors must be disconnected from the trawl gear and must be secured.

(iii) A gillnet must be left on the drum. Any additional gillnets not attached to the drum must be stowed below deck.

(iv) A rod and reel must be removed from the rod holder and stowed securely on or below deck. Terminal gear (i.e., hook, leader, sinker, flasher, or bait) must be disconnected and stowed separately from the rod and reel. Sinkers must be disconnected from the down rigger and stowed separately.

(5) Within the Madison and Swanson sites and Steamboat Lumps, during May through October, surface trolling is the only allowable fishing activity. For the purpose of this paragraph (a)(5), surface trolling is defined as fishing with lines trailing behind a vessel which is in constant motion at speeds in excess of four knots with a visible wake. Such trolling may not involve the use of down riggers, wire lines, planers, or similar devices.

(6) For the purpose of this paragraph (a), fish means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than marine mammals and birds. Highly migratory species means tuna species, marlin (*Tetrapturus spp.* and *Makaira spp.*), oceanic sharks, sailfishes (*Istiophorus spp.*), and swordfish (*Xiphias gladius*).

**10. § 622.35 Gear restricted areas.**

(a) Reef fish stressed area. The stressed area is that part of the Gulf EEZ shoreward of rhumb lines connecting, in order, the points listed in Table 2 in Appendix B of this part.

(1) A powerhead may not be used in the stressed area to take Gulf reef fish. Possession of a powerhead and a mutilated Gulf reef fish in the stressed area or after having fished in the stressed area constitutes prima facie evidence that such reef fish was taken with a powerhead in the stressed area. The provisions of this paragraph do not apply to hogfish.

(2) A roller trawl may not be used in the stressed area. Roller trawl means a trawl net equipped with a series of large, solid rollers separated by several smaller spacer rollers on a separate cable or line (sweep) connected to the footrope, which makes it possible to fish the gear over rough bottom, that is, in areas unsuitable for fishing conventional shrimp trawls. Rigid framed trawls adapted for shrimping over uneven bottom, in wide use along the west coast of Florida, and shrimp trawls with hollow plastic rollers for fishing on soft bottoms, are not considered roller trawls.

(b) Seasonal prohibitions applicable to bottom longline fishing for Gulf reef fish. (1) From June through August each year, bottom longlining for Gulf reef fish is prohibited in the portion of the Gulf EEZ east of 85°30' W. long. that is shoreward of rhumb lines connecting, in order, the following points:

Point	North lat.	West long.
A	28°58.70'	85°30.00'
B	28°59.25'	85°26.70'
C	28°57.00'	85°13.80'
D	28°47.40'	85°3.90'
E	28°19.50'	84°43.00'
F	28°0.80'	84°20.00'
G	26°48.80'	83°40.00'
H	25°17.00'	83°19.00'
I	24°54.00'	83°21.00'
J	24°29.50'	83°12.30'
K	24°26.50'	83°00.00'

(2) Within the prohibited area and time period specified in paragraph (b)(1) of this section, a vessel with bottom longline gear on board may not possess Gulf reef fish unless the bottom longline gear is appropriately stowed, and a vessel that is using bottom longline gear to fish for species other than Gulf reef fish may not possess Gulf reef fish. For the purposes of paragraph (b) of this section, appropriately stowed means that a longline may be left on the drum

if all gangions and hooks are disconnected and stowed below deck; hooks cannot be baited; and all buoys must be disconnected from the gear but may remain on deck.

(3) Within the Gulf EEZ east of 85°30' W. long., a vessel for which a valid eastern Gulf reef fish bottom longline endorsement has been issued that is fishing bottom longline gear or has bottom longline gear on board cannot possess more than a total of 1000 hooks including hooks on board the vessel and hooks being fished and cannot possess more than 750 hooks rigged for fishing at any given time. For the purpose of this paragraph, “hooks rigged for fishing” means hooks attached to a line or other device capable of attaching to the mainline of the longline.

(c) Reef fish longline and buoy gear restricted area. A person aboard a vessel that uses, on any trip, longline or buoy gear in the longline and buoy gear restricted area is limited on that trip to the bag limits for Gulf reef fish specified in § 622.38(b) and, for Gulf reef fish for which no bag limit is specified in § 622.38(b), the vessel is limited to 5%, by weight, of all fish on board or landed. The longline and buoy gear restricted area is that part of the Gulf EEZ shoreward of rhumb lines connecting, in order, the points listed in Table 1 in Appendix B of this part.

(d) Alabama SMZ. The Alabama SMZ consists of artificial reefs and surrounding areas. In the Alabama SMZ, fishing by a vessel that is operating as a charter vessel or headboat, a vessel that does not have a commercial permit for Gulf reef fish, as required under § 622.20(a)(1), or a vessel with such a permit fishing for Gulf reef fish is limited to hook-and-line gear with three or fewer hooks per line and spearfishing gear. A person aboard a vessel that uses on any trip gear other than hook-and-line gear with three or fewer hooks per line and spearfishing gear in the Alabama SMZ is limited on that trip to the bag limits for Gulf reef fish specified in § 622.38(b) and, for Gulf reef fish for which no bag limit is specified in § 622.38(b), the vessel is limited to 5%, by weight, of all fish on board or landed. The Alabama SMZ is bounded by rhumb lines connecting, in order, the following points:

Point	North lat.	West long.
A	30°02.5'	88°07.7'
B	30°02.6'	87°59.3'
C	29°55.0'	87°55.5'
D	29°54.5'	88°07.5'
A	30°02.5'	88°07.7'

## 11. § 622.37 Size limits.

All size limits in this section are minimum size limits unless specified otherwise. A fish not in compliance with its size limit, as specified in this section, in or from the Gulf EEZ, may not be possessed, sold, or purchased. A fish not in compliance with its size limit must be released immediately with a minimum of harm. The operator of a vessel that fishes in the EEZ is responsible for ensuring that fish on board are in compliance with the size limits specified in this section. See § 622.10 regarding requirements for landing fish intact.

(a) Snapper—(1) Red snapper—16 inches (40.6 cm), TL, for a fish taken by a person subject to the bag limit specified in § 622.38 (b)(3) and 13 inches (33.0 cm), TL, for a fish taken by a person not subject to the bag limit.

## **12. § 622.38 Bag and possession limits.**

(a) Additional applicability provisions for Gulf reef fish. (1) Section 622.11(a) provides the general applicability for bag and possession limits. However, § 622.11(a) notwithstanding, bag and possession limits also apply for Gulf reef fish in or from the EEZ to a person aboard a vessel that has on board a commercial permit for Gulf reef fish--

(i) When trawl gear or entangling net gear is on board. A vessel is considered to have trawl gear on board when trawl doors and a net are on board. Removal from the vessel of all trawl doors or all nets constitutes removal of trawl gear.

(ii) When a longline or buoy gear is on board and the vessel is fishing or has fished on a trip in the reef fish longline and buoy gear restricted area specified in § 622.35(c). A vessel is considered to have a longline on board when a power-operated longline hauler, a cable of diameter and length suitable for use in the longline fishery, and gangions are on board. Removal of any one of these three elements, in its entirety, constitutes removal of a longline.

(iii) For a species/species group when its quota has been reached and closure has been effected, provided that no commercial quantities of Gulf reef fish, i.e., Gulf reef fish in excess of applicable bag/possession limits, are on board as specified in paragraph (a)(2) of this section.

(iv) When the vessel has on board or is tending any trap other than a stone crab trap or a spiny lobster trap.

(2) A person aboard a vessel that has a Federal commercial vessel permit for Gulf reef fish and commercial quantities of Gulf reef fish, i.e., Gulf reef fish in excess of applicable bag/possession limits, may not possess Gulf reef fish caught under a bag limit.

(b) Bag limits--

(3) Red snapper--2. However, no red snapper may be retained by the captain or crew of a vessel operating as a charter vessel or headboat. The bag limit for such captain and crew is zero.

## **13. § 622.39 Quotas.**

See § 622.8 for general provisions regarding quota applicability and closure and reopening procedures. This section, provides quotas and specific quota closure restrictions for Gulf reef fish.

(a) Gulf reef fish

(2) *Recreational quotas.* The following quotas apply to persons who fish for Gulf reef fish other than under commercial vessel permits for Gulf reef fish and the applicable commercial quotas specified in paragraph (a)(1) of this section.

(i) *Recreational quota for red snapper—(A) Total recreational quota (Federal charter vessel/headboat and private angling component quotas combined)—*

- (1) For fishing year 2015—7.007 million lb (3.178 million kg), round weight.
- (2) For fishing year 2016—7.192 million lb (3.262 million kg), round weight.
- (3) For fishing year 2017 and subsequent fishing years—7.076 million lb (3.210 million kg), round weight.

(B) *Federal charter vessel/headboat component quota.* The Federal charter vessel/headboat component quota applies to vessels that have been issued a valid Federal charter vessel/headboat permit for Gulf reef fish any time during the fishing year. This component quota is effective for only the 2015, 2016, and 2017 fishing years. For the 2018 and subsequent fishing years, the applicable total recreational quota specified in §622.39(a)(2)(i)(A) will apply to the recreational sector.

- (1) For fishing year 2015—2.964 million lb (1.344 million kg), round weight.
- (2) For fishing year 2016—3.042 million lb (1.380 million kg), round weight.
- (3) For fishing year 2017—2.993 million lb (1.358 million kg), round weight.

(C) *Private angling component quota.* The private angling component quota applies to vessels that fish under the bag limit and have not been issued a Federal charter vessel/headboat permit for Gulf reef fish any time during the fishing year. This component quota is effective for only the 2015, 2016, and 2017 fishing years. For the 2018 and subsequent fishing years, the applicable total recreational quota specified in §622.39(a)(2)(i)(A) will apply to the recreational sector.

- (1) For fishing year 2015—4.043 million lb (1.834 million kg), round weight.
- (2) For fishing year 2016—4.150 million lb (1.882 million kg), round weight.
- (3) For fishing year 2017—4.083 million lb (1.852 million kg), round weight.

#### **14. §622.41 Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs).**

(q) Red Snapper

(2) *Recreational sector.* (i) The recreational ACL is equal to the total recreational quota specified in §622.39(a)(2)(i)(A). The AA will determine the length of the red snapper recreational fishing season, or recreational fishing seasons for the Federal charter vessel/headboat and private angling components, based on when recreational landings are projected to reach the recreational ACT, or respective recreational component ACT specified in paragraph (q)(2)(iii) of this section, and announce the closure date(s) in the FEDERAL REGISTER. These seasons will serve as in-

season accountability measures. On and after the effective date of the recreational closure or recreational component closure notifications, the bag and possession limit for red snapper or for the respective component is zero. When the recreational sector or Federal charter vessel/headboat component is closed, this bag and possession limit applies in the Gulf on board a vessel for which a valid Federal charter vessel/headboat permit for Gulf reef fish has been issued, without regard to where such species were harvested, *i.e.*, in state or Federal waters.

(ii) In addition to the measures specified in paragraph (q)(2)(i) of this section, if red snapper recreational landings, as estimated by the SRD, exceed the total recreational quota specified in §622.39(a)(2)(i)(A), and red snapper are overfished, based on the most recent Status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register to reduce the total recreational quota by the amount of the quota overage in the prior fishing year, and reduce the applicable recreational component quota(s) specified in §622.39(a)(2)(i)(B) and (C) and the applicable recreational component ACT(s) specified in paragraph (q)(2)(iii) of this section (based on the buffer between the total recreational ACT and the total recreational quota specified in the FMP), unless NMFS determines based upon the best scientific information available that a greater, lesser, or no overage adjustment is necessary.

(iii) *Recreational ACT for red snapper*—(A) *Total recreational ACT (Federal charter vessel/headboat and private angling component ACTs combined)*—

- (1) For fishing year 2015—5.606 million lb (2.543 million kg), round weight.
- (2) For fishing year 2016—5.754 million lb (2.610 million kg), round weight.
- (3) For fishing year 2017 and subsequent fishing years—5.661 million lb (2.568 million kg), round weight.

(B) *Federal charter vessel/headboat component ACT*. The Federal charter vessel/headboat component ACT applies to vessels that have been issued a valid Federal charter vessel/headboat permit for Gulf reef fish any time during the fishing year. This component ACT is effective for only the 2015, 2016, and 2017 fishing years. For the 2018 and subsequent fishing years, the applicable total recreational quota specified in §622.39(a)(2)(i)(A) will apply to the recreational sector.

- (1) For fishing year 2015—2.371 million lb (1.075 million kg), round weight.
- (2) For fishing year 2016—2.434 million lb (1.104 million kg), round weight.
- (3) For fishing year 2017—2.395 million lb (1.086 million kg), round weight.

(C) *Private angling component ACT*. The private angling component ACT applies to vessels that fish under the bag limit and have not been issued a Federal charter vessel/headboat permit for Gulf reef fish any time during the fishing year. This component ACT is effective for only the 2015, 2016, and 2017 fishing years. For the 2018 and subsequent fishing years, the applicable total recreational quota specified in §622.39(a)(2)(i)(A) will apply to the recreational sector.

- (1) For fishing year 2015—3.234 million lb (1.467 million kg), round weight.
- (2) For fishing year 2016—3.320 million lb (1.506 million kg), round weight.
- (3) For fishing year 2017—3.266 million lb (1.481 million kg), round weight.