



# Gulf of Mexico Fishery Management Council

*Managing Fishery Resources in the U.S. Federal Waters of the Gulf of Mexico*

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Mr. Randy Blankinship, Division Chief  
Highly Migratory Species (HMS) Management  
National Marine Fisheries Service  
263 13<sup>th</sup> Avenue South  
St. Petersburg, FL 33701

Mr. Blankinship,

On August 31<sup>st</sup>, 2023 the Gulf of Mexico (Gulf) Fishery Management Council (Council) provided a letter to HMS staff commenting on the Advanced Notice of Proposed Rulemaking for modifying data requirements for several HMS data collection programs. As your office is aware, the Council is working towards transitioning the Commercial Coastal Logbook program to electronic submission and developing a new Gulf for-hire data collection program. To help the National Marine Fisheries Service (NMFS) achieve its goal of “One Stop Reporting,” the Council has encouraged HMS staff to participate on the for-hire data collection Interdisciplinary Planning Team meetings and review the associated draft amendment. In its comment letter, the Council had requested HMS provide regular updates on the progress of its proposed data collection, especially since many of the presented alternatives would affect data collection programs in the Gulf. This request was not realized, and the Council has now been made aware that HMS published in the Federal Register Notice (FRN) a proposed rule with preferred alternatives on September 6<sup>th</sup>, 2024. The Council requests that you provide an in-person presentation during the November 2024 Council meeting to clarify some questions that will likely affect Gulf and South Atlantic commercial and for-hire permit holders that also possess HMS commercial and/or for-hire permits.

While the language in the proposed rule is informed by the associated Regulatory Impact Review and Initial Regulatory Flexibility Analysis (hereafter referred to as RIR/Reg Flex), there are some slight differences between the two. Therefore, this letter will cite pages from both documents to help HMS staff address particular topics of the proposed actions.

## **Action A: Electronic Logbook for HMS Commercial Limited Access Permits**

### *Alternative A1: Format for submission of logbooks and associated weighout slips.*

In early 2024, the Council, in joint collaboration with the South Atlantic Fishery Management Council (SAFMC) transmitted an amendment to transition the Commercial Coastal Logbook program from paper to electronic logbooks<sup>1</sup>. These regulatory changes have not gone through the rule making process to become effective yet. No expansion of data collection or modification to reporting frequency and timing was considered in this amendment. This joint collaboration was conducted to increase accuracy and timeliness of commercial data reporting

<sup>1</sup> [https://gulfcouncil.org/wp-content/uploads/Joint-Commercial-E-Logbook-Amendment\\_20240222.pdf](https://gulfcouncil.org/wp-content/uploads/Joint-Commercial-E-Logbook-Amendment_20240222.pdf)

and aid in achieving a “One Stop Reporting” goal for commercial fishermen in the southeast region.

Similarly, HMS is looking to reduce reporting burden for HMS permitted commercial fishermen. Currently, HMS permitted commercial vessels (except those using pelagic longline gear) report through the Commercial Coastal Logbook and submit logbooks at the trip-level. Those HMS commercial fishermen using pelagic gear, submit trip report forms, set report forms, and weighout slips through the Atlantic HMS logbook reporting system. The preferred Sub-alternative A1b would require owners/operators of vessels with HMS commercial limited access permits to complete and submit logbook reports electronically through the Commercial Coastal Logbook. The RIR/Reg Flex analysis states (page 18):

*“In addition, the level of detail for certain required data/information may vary based, in part, on the gear type used. In general, relevant set level reporting would include the specific latitude and longitude coordinates at which gear was set and hauled back, the amount of gear used, and the number and species of fish kept, released alive, and discarded dead, and protected species interactions.”*

Some additional information clarification is requested here:

- How many commercial HMS permits are held by the commercial reef fish fishery in the Gulf and South Atlantic, respectively?
- Would all commercial HMS permit holders be required to report set-level information? Or would only HMS permit holders using pelagic longline gear be required to report set-level information while HMS permit holders using other gears would report trip-level information?
- Will the reporting software application use some type of conditional reasoning to show certain data entry forms depending on the gear type entered?
- If the application cannot use conditional decision making for displaying appropriate data entry forms, how will HMS address any potential Paperwork Reduction Act issues that may arise from showing questions that are not required to be submitted?

*Alternative A2: Timing requirement for logbook submission.*

For frequency of reporting, Sub-alternative A2b has been selected as preferred and would require vessel owners/operators submit completed logbook reports within 7 days of offloading all HMS species. This timing of submission would be consistent with current Commercial Coastal Logbook requirements and the Council supports standardize reporting timing across commercial data collection programs. The proposed rule indicates that the cost and earnings form would have to be submitted electronically after each trip for a year, if selected (FRN page 72799). However, in recent correspondence with Southeast Fishery Science Center (SEFSC) staff, we were informed that there is currently not a mechanism for reporting the economic survey portion electronically in the Commercial Coastal Logbook program. The Council would appreciate any clarification on this by HMS or SEFSC staff.

Regarding cost analysis and burden, the alternative comparison table in the RIR/Reg Flex materials (Table 1.8; page 26) states:

*“There could be some transition costs associated with adjusting business processes and gaining familiarity with submitting logbooks electronically and uploading file images of weighout slips.”*

- Can HMS provide an administrative cost savings analysis on the initial one-time costs for the development of the HMS commercial electronic logbook system? Additionally, can HMS provide an estimate of the annual long-term maintenance and service costs associated with the HMS electronic commercial logbook?

These analyses were reported for the Joint Council Commercial Electronic Logbook amendment<sup>2</sup> and similar analyses should be included in the RIR/Reg Flex and published for public review and comment.

Within the same section of the RIR/Reg Flex materials (Table 1.8; page 26) “images of the weighout slips” are being considered rather than those data also being entered electronically as part of the logbook. It is unclear in RIR/Reg Flex analysis how this proposal would support the “One Stop Reporting” approach and not create additional agency burden to have a portion of the logbook be entered electronically while another program component be reviewed from an image. This approach is also in contrast with what was considered by Commercial Coastal Logbook program where no fishermen are granted “grandfather” status for continuing to submit paper logbooks. SEFSC staff have indicated that a cohesive data reporting methodology is essential to improving data collection accuracy and efficiency. HMS providing further clarification on how weighout slips would be handled in data entry for the electronic logbook would be helpful. Additionally:

- On page 43 of the RIR/Reg Flex document, HMS provides some estimates of reporting frequency from program participants and uses 225 vessel/owner operators as an example. Could you provide some context on what the value represents and how it was calculated?

### **Action B: Electronic Logbook for Atlantic Tunas General Category Permit, Atlantic Tunas Harpoon Category Permit, Swordfish General Commercial Permit, and HMS Charter/Headboat Permit**

*Alternative B1: Electronic logbook requirements.*

In the Gulf, the Council is developing a for-hire data collection program while the SAFMC is looking to improve the Southeast For-Hire Integrated Electronic Reporting (SEFHIER) program for use in stock assessments and management. While no plans have been developed to collaborate on these efforts in a joint document, both Councils are communicating closely together as the program in the Gulf is being created and SEFHIER is potentially modified in the South Atlantic. As a result, the Council has been made aware of a letter sent to SAFMC from NMFS on May 30<sup>th</sup>, 2024, which provides a list of minimum program requirements such that the

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<sup>2</sup> Tables 1.8.2.2 and 1.8.2.3: [https://gulfcouncil.org/wp-content/uploads/Joint-Commercial-E-Logbook-Amendment\\_20240222.pdf](https://gulfcouncil.org/wp-content/uploads/Joint-Commercial-E-Logbook-Amendment_20240222.pdf)

resulting data outputs could be used for both stock assessment and management<sup>3</sup>. This list includes:

1. A logbook to be submitted before offload and serve as independent estimate of catch.
2. Dockside intercepts for validating trip effort and catch mis- and non-reporting.
3. A declaration/pre-landing notification combination as a component of the effort estimate.
4. Landing at approved locations to increase efficiency of dockside intercepts.
5. Did Not Fish reports to assess compliance.

As indicated in the HMS preferred Sub-alternative B1c, several HMS permit holders including HMS charter/headboat owners, would be required to submit an electronic logbook on all trips regardless of whether fish were caught and require reporting on all species, not only on HMS. Additionally, logbook information would include the number and species of all fish kept/landed, discarded dead, and released alive. Sub-alternative B2a would require that logbooks be completed and submitted within 24 hours of the end of the trip.

When comparing what NMFS has communicated to the SAFMC and what has been selected as preferred alternatives in the proposed rule for the modification of HMS data collection, there are several conflicts:

1. HMS proposes that HMS charter/headboat owners submit a logbook report 24 hours after the end of a trip. This would violate the assumption of sampling independence as a vessel owner/operator report could be influenced by whether that individual was subject to a dockside intercept or not. HMS partially cites safety-at-sea as rationale for not requiring logbook submission prior to offload; however, the previous Gulf SEFHIER program included provisions such that a captain could tie up dockside and report before offload to maintain crew and passengers' safety while still complying with program regulations. The Council intends to retain this safety measure in the new for-hire data collection program based on a recommendation from its Ad Hoc Charter/For-hire Data Collection Advisory Panel.<sup>4</sup>
2. HMS indicates that the Marine Recreational Information Program Access Point Angler Intercept Survey (APAIS) and/or the Large Pelagic Survey (LPS) could serve as dockside validation. However, APAIS surveys for-hire passengers, not necessarily the vessel captains, and is voluntary. To achieve validation, the APAIS survey would have to be modified to survey for-hire captains and that those surveys be mandatory. The LPS is conducted from Maine through Virginia from June through October; and therefore, is limited in spatiotemporal scope. There is no discussion in any of the proposed rule materials how these programs would be changed to achieve validation for the HMS for-hire data collection program.
3. There is no mechanism for a declaration/pre-landing notification.
4. There is no consideration for identifying approved landing sites.
5. The proposed rule does include requirements for monthly Did Not Fish reports.

NMFS has indicated that SEFHIER in the South Atlantic has poor compliance and therefore is not suitable for use in the stock assessment process or management in its current form. Based on

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<sup>3</sup> [https://gulfcouncil.org/wp-content/uploads/F-4a-Letter-to-SA\\_program-requirements.pdf](https://gulfcouncil.org/wp-content/uploads/F-4a-Letter-to-SA_program-requirements.pdf)

<sup>4</sup> Page 9: [https://gulfcouncil.org/wp-content/uploads/AdHocCharterForHireAP\\_meeting-summary\\_1\\_16\\_24.pdf](https://gulfcouncil.org/wp-content/uploads/AdHocCharterForHireAP_meeting-summary_1_16_24.pdf)

this feedback and reviewing the preferred alternatives in the proposed rule by HMS we have concerns that this could result in a similar outcome, especially since both South Atlantic and HMS for-hire permits are open access. Low compliance in any data collection program has limitations as to the usefulness of data outputs which can result in continued data gaps for stock assessments and ineffectiveness of management measures.

- Does HMS intend to use data from the proposed HMS charter/headboat data collection program in stock assessments and/or management?
- If so, how does HMS reconcile what has been presented to the regional Councils by NMFS as minimum for-hire data collection requirements for stock assessment and management with what HMS has proposed.

Alternative B2: Timing requirement for electronic logbook submission.

The proposed rule states the following (FRN pg. 72803):

*“Preferred Sub-alternative B2a would be more restrictive than the reporting requirements for Greater Atlantic Regional Fisheries Office (GARFO) commercial or for-hire permit holders or for Southeast Regional Office (SERO) South Atlantic for-hire permit holders, these permit holders may decide to drop their HMS permits to avoid the extra reporting burden.”*

The Council is looking to require trip-level logbook reporting prior to offload (a more stringent requirement than proposed here) for the Gulf for-hire component. The Council does not anticipate that Gulf for-hire anglers who also possess an HMS charter/headboat permit would drop their HMS permits due to this regulation as they will already be reporting at the trip-level. However, the economic data reporting in the next alternative is likely to result in some portion of the Gulf for-hire fleet dropping their HMS charter/headboat permits.

Alternative B3. Cost and earnings information.

HMS has selected preferred Sub-alternative B3c which would mandate trip-level reporting of economic data, including trip sales or trip fare. This stipulation has been the source of extensive discussion at the Council. The Council in collaboration with SERO and SEFSC staff have been working towards a survey design for collecting these data. If HMS pursues this preferred Sub-alternative, they can similarly expect a drop in HMS permits in the Gulf. Continuing from the above cited paragraph (FRN pg. 72803):

*“While losing these permit holders and their data could have some minor negative effects on NMFS’ ability to monitor HMS fisheries in a timely manner, it is more likely that permit holders who drop their HMS permits were not fishing for HMS.”*

Expansion on this statement is required. Table 1.4 in the RIR/Reg Flex illustrates that there are 1,091 HMS charter/headboat permitted vessels among the five Gulf states. It is difficult to interpret this number since Florida values are not compared for overlap with Gulf and/or South Atlantic for-hire permits. However, from 2015-2019 there were 1,277 Gulf reef fish for-hire

permits<sup>5</sup>. Assuming half the Florida HMS permits in Table 1.4 are from the Gulf and all HMS charter/headboat permits are dropped from implementing these actions, there could be up to 50% of the Gulf for-hire fleet that is no longer reporting to HMS. This could result in an arguably substantial loss of HMS information coming from the Gulf.

- Why would HMS considering implementing a change to data collection with no quantitative examination of what that data loss may mean for its ability to manage and assess its stocks? Can HMS clarify what is means by “*minor negative effects on NMFS’ ability to monitor HMS fisheries in a timely manner*”?

Atlantic bluefin tuna, arguably the most complex fisheries management unit in the world, uses the Gulf as its spawning grounds for the western portion of the stock. Shark species exhibit such slow-growing and complex life histories, making them particularly susceptible to exploitation, such that their recovery plans in some cases are on the time scales of centuries. HMS has little margin for error when managing these stocks and losing fishery-dependent data at any level seems counter to management objectives.

### **Actions C: HMS Angling Permit Reporting Requirements and Action D: HMS Dealer Reporting**

The Council has no clarification questions on Actions C or D at this time.

The Council requests a high-level in-person presentation on all four actions in addition to seeking clarification on Actions A and B at its November 4-7<sup>th</sup> meeting in St. Petersburg, Florida. Please provide the presentation as well as any written supporting materials by Friday October 18<sup>th</sup>. Do not hesitate to contact Dr. Lisa Hollensead on staff should you have any clarifying questions. The Council looks forward to your presentation and clarifying comments on these preferred alternatives.

Sincerely,



Carrie M. Simmons, Ph.D.  
Executive Director

cc: Gulf Council / Council staff / Karyl Brewster-Geisz / Clifford Hutt, Ph.D./ Carrie Soltanoff / Guy DuBeck/ Jennifer Cudney, Ph.D./ Andy Strelcheck / Jessica Stephen, Ph. D./ Michelle Masi, Ph. D./ John McGovern Ph. D./ Frank Helies/ Rich Malinowski/ Mara Levy/ Monica Smit-Brunello / John Carmichael/ Myra Brouwer

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<sup>5</sup> [https://gulfcouncil.org/wp-content/uploads/VMS-Failure-FA\\_FINAL\\_9.8.22.pdf](https://gulfcouncil.org/wp-content/uploads/VMS-Failure-FA_FINAL_9.8.22.pdf)