

# Modifications to the Gulf For-hire Data Collection Program



## **Draft Generic Amendment to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico and the Fishery Management Plan for the Coastal Migratory Pelagic Resources in the Gulf of Mexico and Atlantic Region**

**April 2025**



*This is a publication of the Gulf of Mexico Fishery Management Council Pursuant to National Oceanic and Atmospheric Administration Award No. NA20NMF4410007.*

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## ABBREVIATIONS USED IN THIS DOCUMENT

ABC	acceptable biological catch
ACL	annual catch limit
ACT	annual catch target
AM	accountability measure
APAIS	Access Point Angler Intercept Survey
B	biomass
BiOp	biological opinion
Council	Gulf Council
CS	consumer surplus
CZMA	Coastal Zone Management Act
DLMTool	Data Limited Methods Tool
DPS	distinct population segment
DWG	deep water grouper
EA	Environmental Assessment
EEZ	exclusive economic zone
EFH	essential fish habitat
EIS	environmental impact statement
EJ	environmental justice
ELMRP	Estuarine Living Marine Resources Program
ESA	Endangered Species Act
HMS	Highly Migratory Species

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# CHAPTER 1. INTRODUCTION

## 1.1 Background

The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires the National Marine Fisheries Service (NMFS) and regional fishery management councils to end overfishing, rebuild overfished stocks, and achieve, on a continuing basis, the optimum yield (OY) from federally managed fish stocks. These mandates are intended to ensure fishery resources are managed for the greatest overall benefit to the nation, particularly with respect to providing food production, recreational opportunities, and protecting marine ecosystems.

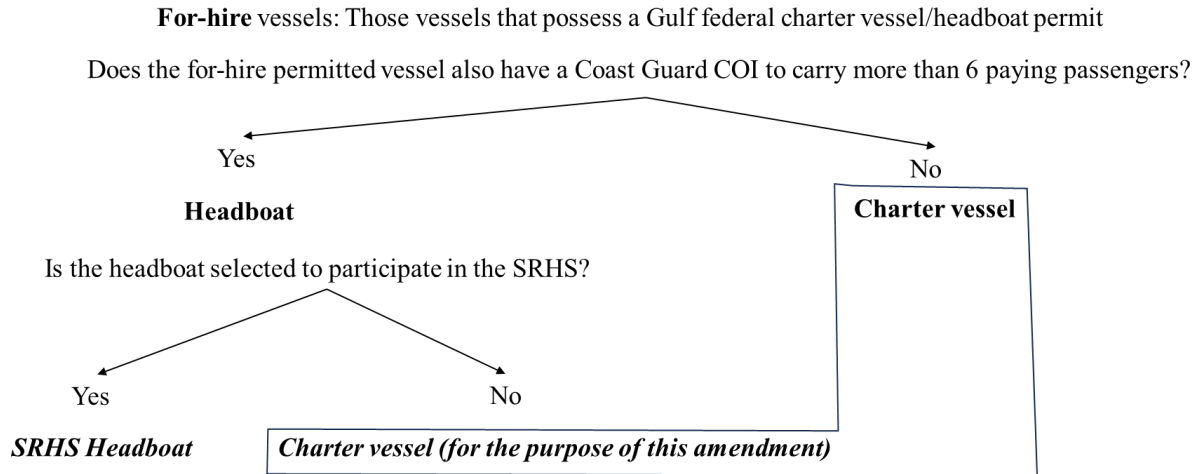
Accurate information about catch, effort, and discards is necessary to achieve OY from federally managed fish stocks. The recreational fishing sector includes both private and for-hire components. Within the for-hire component, both charter vessels and headboats are issued federal Gulf<sup>1</sup> charter vessel/headboat permits (hereinafter referred to as for-hire permits) under the Fishery Management Plans (FMPs) for the Reef Fish Resources of the Gulf of Mexico (Reef Fish FMP) and Coastal Migratory Pelagic (CMP) Resources in the Gulf of Mexico and Atlantic Region (CMP FMP). The regulations at 50 C.F.R. § 622.2 provide general definitions of “charter vessel” and “headboat.” The main difference between these vessels, as defined, is whether they hold a valid certificate of inspection (COI) issued by the U.S. Coast Guard (USCG) to carry more than six passengers: specifically, headboats hold a COI while charter vessels do not. However, for purposes of reporting fisheries data, the NMFS Southeast Fisheries Science Center (SEFSC) selects a limited number of vessels to participate in the Southeast Region Headboat Survey (SRHS), based on more detailed criteria that are intended to capture the larger capacity for-hire vessels. These criteria are:

- 1) Vessel licensed to carry greater than or equal to 15 passengers.
- 2) Vessel is federally permitted.
- 3) Vessel charges primarily per angler (i.e., by the “head”).

Therefore, for the purpose of this amendment, **for-hire** vessels are those who possess a Gulf federal charter vessel/headboat permit. Within that distinction, a vessel can be classified as a headboat or charter vessel depending on a particular determination by the USCG regarding passenger occupancy. A vessel without a valid COI to carry more than six passengers is defined as a **charter vessel**. A headboat is permitted to carry more than 6 passengers at a time. In addition to the USCG definition, some headboats are selected by the SEFSC’s to participate in the SRHS and will be referred to herein as **SRHS headboats**. However, some USCG defined headboats do not participate in the SRHS. In these cases, those vessels will be described as **charter vessels**. The polygon indicates the two categories of vessels that are considered charter vessels for the purpose of this amendment (Figure 1.1.1). Many vessels carry additional for-hire permits in the South Atlantic/Atlantic and for Highly Migratory Species (HMS) permit (Figure 1.1.2).

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<sup>1</sup> The Gulf of Mexico was renamed the Gulf of America pursuant to Executive Order 14172, and Secretary of the Interior Order No. 3423. All geographical references to the Gulf of America or “the Gulf” in this Framework Action refer to the same body of water known as the Gulf of Mexico in the specific regulations at 50 CFR part 622.



**Figure 1.1.1.** Description of terms for categorizing vessel types addressed in this amendment. The polygon indicates the two categories of vessels that are considered charter vessels herein.



**Figure 1.1.2.** Jurisdictional boundaries of the Gulf (purple), South Atlantic (gray), Mid-Atlantic (yellow), and New England (orange) Fishery Management Councils. Note: the Atlantic Region for CMP species includes the South Atlantic and Mid-Atlantic Council areas.

The for-hire component of the recreational sector harvests a substantial proportion of the annual catch limit (ACL) for several federally managed fish species in the Gulf. Table 1.1.1 shows average sector-specific landings for federally managed reef fish and CMP species for the most recent five years (2019-2023). Recreational private sector landings are generated from the Marine Recreational Information Program (MRIP) Fishing Effort Survey (FES), LA Creel Survey and the Texas Parks and Wildlife (TPWD) Survey. Recreational for-hire landings

estimates are generated from the SRHS for headboats and MRIP’s For-Hire Survey (FHS) for charter vessels. A more detailed description of for-hire landings as well as some selected species-specific results are available in Appendix A.

**Table 1.1.1.** Mean annual estimate and percent of landings in pounds (lb) whole weight (ww) by sector in the Gulf from 2019-2023.

<b>Fleet/Sector</b>	<b>5-year Average Landings (lb ww)</b>	<b>Percent of total landings</b>
Commercial	16,166,650	28.6
For-hire	7,638,079	13.6
Private	32,687,028	57.8

The Council’s intent with the new reporting program is to have a regular 5-year review once this amendment and rule are effective to discuss ways to improve the program and take any necessary actions to accomplish these agreed upon improvements. In addition, this review would be used for developing new goals for the program. The content of the review will be determined by Council in cooperation with NMFS and will be used to inform any possible program modifications to address management and stock assessment needs.

## 1.2 Current For-Hire Data Collection Programs

The Gulf Council (Council) is considering alternatives that would require electronic reporting of fishing trip information from all for-hire vessels possessing a federal Gulf for-hire reef fish or a federal Gulf for-hire CMP permit. The Council recognizes that improved data reporting in these fisheries could reduce the likelihood that ACLs are exceeded and accountability measures are triggered. Data elements collected using electronic logbooks are also likely to improve estimates of bycatch and discard mortality rates for many federally managed finfish species in the Gulf.

### 1.2.1 Charter Vessel Data Collection Programs

#### *Federal Marine Recreational Information Program For-Hire Suvery and Access-Point Angler Intercept Survey*

Final MRIP for-hire estimates for the eastern Gulf (Mississippi, Alabama, and Florida) are the product of estimated effort from the MRIP FHS and catch estimates generated from MRIP’s Access-Point Angler Intercept Survey (APAIS) under the program’s for-hire mode. For the for-hire mode, state managed APAIS samplers interview individual anglers on charter vessels while the MRIP FHS interviews the for-hire vessel operators. While MRIP categorizes participants in this data collection program as “for-hire”, this amendment will address these vessels as charter throughout.

To assess fishing effort in the for-hire component, MRIP samplers contact charter vessel operators (a weekly sample of 10% of the fleet) by telephone to conduct the FHS for fishing effort (Table 1.2.1.1). Charter vessel operators are required to report all trips taken during selected weeks (effort only) whenever they are selected to participate in the MRIP survey. The FHS has a stratified design, with for-hire vessels as sampling units, and is stratified by state, sub-state region (applicable to Florida only), vessel type (charter or headboat [as defined by the USCG]), and sample week within the two-month wave. The sample week is Monday through Sunday. Prior to the sample selection, the sample frame is sorted by three additional variables, creating three additional implicit strata: business county, vessel length, and permit type. The business county variable is the county from which the vessel operates. In addition to these three variables, a uniform random variable is created and used to order vessels within the business county, vessel length, and permit type groups. Sample selection is then systematically done without replacement at the stratum level (by vessel type, state, sub-state region [in Florida], sample week, and by the implicit strata from the sample frame sorting process: business county, vessel length, and permit type). The FHS has a fixed sampling rate of 10% within strata. In addition, there is a minimum sample size requirement of three vessels from each stratum.

**Table 1.2.1.1.** Required MRIP FHS trip effort reporting elements for charter vessels.

Reporting Elements
Number of vessel trips with paying passengers in the sample week
Date of each vessel trip
Mode of each vessel trip (charter or headboat)
State/county and site where vessel trip returned
Distance from shore where each vessel trip occurred
Area fished
Number of anglers who fished on each vessel trip
Hours of actual fishing activity
Method of fishing (e.g., casting, drifting, trolling)
Target species
The return time for each vessel trip

Data source: MRIP Survey Design and Statistical Methods for Estimation of Recreational Fisheries Catch and Effort document.<sup>2</sup>

To assess catch, APAIS uses a voluntary dockside intercept survey to collect information on landings and discards (Table 1.2.1.2). The APAIS program collects catch data from individual anglers returning to public fishing access sites (e.g., boat ramps, piers, beaches, jetties, bridges or marinas). Trained interviewers administer the survey and collect data on the number and disposition (e.g., harvested or released) of each fish species caught, length and weight

<sup>2</sup> <https://www.fisheries.noaa.gov/resource/document/mrip-survey-design-and-statistical-methods>

measurements of individual fishes, and angler-specific information about the fishing trip. Data are collected monthly and are used to calculate catch rates (mean catch per angler trip) every two months as preliminary wave estimates, and then at the end of each year as final annual estimates.

**Table 1.2.1.2.** Information collected in the APAIS of recreational anglers that is conducted at public marine fishing access points.

<b>Reporting Elements</b>
Location
Mode (shore, private, rental boat, for-hire vessel)
General area fished (i.e., inland, state territorial sea, or federal exclusive economic zone)
Species identification
Total number of each species by disposition (e.g., observed harvest [Type A], reported harvest [Type B1], and released alive [Type B2])
Length and weight of individual fishes (when possible)
Area fished
Fishing mode

The APAIS applies a time-space sampling method (i.e., sampling at predetermined fishing access sites during specific date and time intervals), with a stratified, multi-stage cluster design. This type of design maximizes sampling efficiency and the spatiotemporal extent of the survey. The sample frame for this target population consists of a list of fishing access sites, which have been clustered (by both level of fishing pressure and geographic location) and crossed with a date-time calendar. Site-day-times are selected in proportion to their fishing pressure. APAIS sampling is stratified across time, geographically (by sub-region of the coast, state and sub-state region) and by site groups based on primary fishing mode. Temporally, there are four strata: year, month, kind-of-day (i.e., weekdays, weekends, holidays), and time interval (i.e., day intervals 8 AM-2 PM and 2 PM-8 PM, night intervals of 2 AM-8 AM and 8 PM-2 AM, and peak interval of 11 AM-5 PM). MRIP surveyors sample at high activity sites more frequently, but include low activity sites to obtain a representative sample and capture variation in fishing activity. When any recreational fisherman is encountered the location, mode (e.g. shore, private, or for-hire), general area fished, fish species, number of fish, disposition of angler’s catch (e.g. observed harvest, report harvest, or released alive) is recorded. When possible, the length and weight of harvested fish is also documented. The number of charter vessels with a valid and renewable Gulf for-hire permit by homeport state from 2016 through 2020 are provided in Table 1.2.1.3.

**Table 1.2.1.3.** Number of charter vessels that held a valid and renewable federal Gulf for-hire permit by homeport state from 2016-2020.

<b>Year</b>	<b>AL</b>	<b>FL</b>	<b>LA</b>	<b>MS</b>	<b>TX</b>	<b>Non- Gulf</b>	<b>Total</b>
<b>2016</b>	135	813	124	35	244	35	1,386
<b>2017</b>	142	820	122	33	228	31	1,376
<b>2018</b>	140	829	125	32	219	22	1,367
<b>2019</b>	148	840	117	31	206	21	1,363
<b>2020</b>	152	832	114	29	209	18	1,354

To improve MRIP FHS response rates, an advance letter is mailed to the representatives of all selected vessels one week before the reference week (i.e., two weeks before the phone interview). The letter details the dates of the reference week that representatives will be asked about during the interview, the contact information of the organization conducting FHS interviews, and a log sheet with the questions that will be asked. Respondents are encouraged to complete the log sheet prior to the call, as it may reduce the potential for recall bias and decrease the time needed to complete the survey over the phone. Cooperation levels are defined as follows: either cooperative, where the vessel representative responds to telephone interviews, or non-cooperative, where the vessel representative does not respond or refuses to participate. To enforce the mandatory reporting requirement to FHS for charter vessels in the Gulf, permit holders who refuse to participate in the survey are notified by letter of their obligation to report as a condition for permit renewal. However, if a charter vessel operator cannot be contacted after seven attempts for a selected week, the final interview status is “unsuccessful contact” (Table 1.2.1.4). Vessel representatives that are non-cooperative are kept in the sample frame but are automatically coded as a refusal and are not actually contacted if selected for sampling. The percent of selected vessels that are unable to be contacted by phone may be quite high in some strata. The vessel directory is updated regularly based on input from APAIS samplers, state FHS coordinators and vessel representatives. The directory can also be updated with information obtained during the telephone survey.

For-hire fishing effort is estimated in numbers of angler trips per sub-region, state (and sub-state region in Florida), two-month wave, vessel type, and fishing area (inshore, nearshore, and offshore). To get a total effort wave estimate, the effort estimate component is corrected by two other estimate components – the coverage adjustment calculated from APAIS and a reporting error from a validation study conducted in conjunctions with FHS. The FHS wave estimates are summed to produce cumulative and total annual effort estimates. More details on the estimation can be found in the MRIP Survey Design and Statistical Methods for Estimation of Recreational Fisheries Catch and Effort document.

**Table 1.2.1.4.** Recent annual FHS and APAIS values. The number of trips intercepted by APAIS, and FHS number of trips reported by phone sampling 10% of the program participants in Mississippi, Alabama, and Florida, number of FHS vessels selected for the phone survey, FHS response rate (operator agreed and answered the survey), FHS percentage of contacted charter vessel operators that refused the survey, and FHS percent of operators who could not be contacted by the MRIP sampler.<sup>3</sup>

Year	APAIS trips sampled	FHS raw reported trips	Vessels selected	Response rate	Refusal rate	Non-contact rate
2019	1,262	6,329	10,523	57%	13%	29%
2020	1,047	6,840	12,570	63%	11%	25%
2021	1,872	6,004	10,338	60%	11%	29%
2022	1,620	4,827	10,335	58%	9%	32%
2023*	2,264	4,659	10,113	62%	6%	32%

\* Those data reported for 2023 are considered preliminary and were pulled by Gulf States Marine Commission on March 12, 2024.

Final MRIP for-hire estimates for the eastern Gulf (Mississippi, Alabama, and Florida) are the product of estimated effort from the MRIP FHS and catch rates generated from APAIS. These regional estimates are reported in six two-month waves and annual timeframes. Catch estimates multiple the catch rates from APAIS by the wave total effort estimates from FHS. The voluntary reporting of dock-side landings, no-access to private landings sites, and telephone survey refusal rate contribute to uncertainty in for-hire estimation. Increasing the reporting frequency along with enhanced data collection and validation could improve quota monitoring, stock assessments, and catch and discard estimates.

*State of Louisiana LA Creel Program and Texas Parks and Wildlife creel survey*

Since 2014, Louisiana generates weekly estimates of catch and effort through their LA Creel program (Table 1.2.1.5). LA Creel uses a combination of data collected dockside (access point survey) and through weekly phone and email effort surveys to estimate recreational saltwater fish harvests. The LA Creel program consists of biologists conducting interviews at public fishing sites, with charter captains and groups of saltwater anglers about their fishing activities. LA Creel provides weekly recreational fishery information to aid in the management of Louisiana’s fishery resources. It is composed of an on-site access-point survey and two weekly effort surveys stratified across five basins. The access point survey provides estimated catch rates per trip. One effort survey generates estimated private angler effort in the form of total angler trips and the other does the same for charter trips. Licensed private anglers are stratified across geographical regions and Louisiana’s Recreational Offshore Landings Permit (ROLP) holders, while licensed charter captains are stratified between those with and without ROLP permits. Using licensed anglers provides a clearly defined angler frame with high quality contact

<sup>3</sup> <https://www.fisheries.noaa.gov/s3/2023-05/MRIP-Survey-Design-Statistical-Methods-April-2023.pdf>

information, while stratifying within this frame allows LA Creel to account for differences in fishing activity across the state. Access point survey assignments are randomly drawn based on fishing pressures weighted by the types of activities present and the total angler activity. LA Creel boasts production of weekly landings at the basin level on just a two-week delay, which can reduce recall bias and provide near real time landings estimates that can be used in monitoring recreational quotas and identifying impacts to recreational landings from short term events. LA Creel contacts for-hire captains via telephone at random, with a goal of reaching 30% of captains who fish offshore (those who hold a ROLP) and 10% who fish inshore (who do not hold a ROLP). During red snapper season, LA Creel contacts 100% of captains who hold offshore permits.<sup>4</sup>

**Table 1.2.1.5.** Information collected from charter vessel operators by Louisiana’s LA Creel program.

Reporting Elements
Number of trips per day
Trip length
Date of trip
Area fished (basin where majority of fish were harvested)
Public or private launch used
Number of paying clients
Primary and secondary target species
Harvest by species
Discards by select species

Texas Parks and Wildlife Department (TPWD) conducts their own creel survey to estimate private and charter landings in Texas.<sup>5</sup> TPWD Sport-boat Angling Survey uses dockside interviews at recreational boat access sites to generate catch and effort estimates for finfish species caught by private boat and charter operators off the Texas coast. Texas reports recreational data in high (May 15 through November 20) and low (November 21 through May 14) activity periods. Creel surveys are conducted from 10 AM to 6 PM at specified boat-access sites along the Texas coast. Over 1,000 surveys are scheduled annually on randomly selected weekdays and weekends in proportion to the amount of fishing activity at each site. Charter vessel catch and effort data in Texas are monitored by the Texas Parks and Wildlife Department's Coastal Creel Survey (Table 1.2.1.6). This is a field-intercept survey of boat-based fishing, including for-hire vessels. This survey estimates fishing effort and catch (harvest only) on a seasonal (high-use and low-use) basis.

<sup>4</sup> [https://www.lafisheriesforward.org/wp-content/uploads/2024/02/LFF\\_FastFacts\\_LaCREEL\\_2024-01-ADA.pdf](https://www.lafisheriesforward.org/wp-content/uploads/2024/02/LFF_FastFacts_LaCREEL_2024-01-ADA.pdf)

<sup>5</sup> <https://tpwd.texas.gov/fishboat/fish/didyouknow/coastal/creel.phtml>

**Table 1.2.1.6.** Information collected from anglers on charter vessels in the Texas Parks and Wildlife creel survey.

<b>Reporting Elements</b>
Species identification
Trip start time
Total number of each species caught
Length individual fishes (6 fish of each species)
Number of anglers
Angler county of residence
Bay of Gulf area fish caught
Bait and gear used
Target species

Like all surveys, both the Louisiana and Texas state surveys have inherent uncertainty. Both LA Creel and the TPWD survey are only conducted in their state and therefore cannot generate Gulf-wide estimates. LA Creel is comparable in survey methodology to the MRIP design. The TPWD survey only produces landings estimates and reports every six-months. This time frame limits in-season monitoring for short fishing seasons (e.g., weeks or months). Both state effort surveys, like APAIS, are also limited to intercepting anglers at public access points and their willingness to answer dockside interview questions, and in the case of LA Creel, the effort (telephone survey) portion of the program (Table 1.2.1.7).

**Table 1.2.1.7.** Annual (2019-2023) estimated for-hire effort from the state of Louisiana collected from the LA Creel program. LA Creel effort estimates are calculated in angler trips (column 2). The annual average number of anglers per for-hire trip was calculated using vessel captains reports to the LA Creel telephone effort survey (column 3). This provided an approximate estimate of the annual number of for-hire vessel trips (column 4). Column 5 is the number of for-hire trips sampled that were also contacted by the effort telephone surveyors within the same week and then tabulated for the entire year. The annual number of conducted telephone surveys is represented in column 6. Of those conducted surveys (highlighted in gray), the table also presents the percentages of those survey where a for-hire captain accepted and completed the survey (column 7), the captain was unable to be reached by phone; and therefore, did not complete the survey (column 8), and the percentage of surveys where the captain was successfully contacted by phone but refused to participate in the survey (column 9).

<b>Year</b>	<b>Estimated Charter Angler Trips</b>	<b>Average Anglers per boat</b>	<b>Annual Estimated Vessel Trips</b>	<b>Trips Sampled Dockside</b>	<b>Number of Telephone Surveys</b>	<b>Responded</b>	<b>No contact</b>	<b>Refused</b>
2019	168,571	3.54	47,628	176	5,729	68%	31%	1%
2020	115,424	3.70	31,200	166	5,617	70%	29%	1%
2021	163,233	3.33	48,970	251	6,148	66%	28%	1%
2022	162,620	3.29	49,459	146	5,218	68%	30%	2%
2023	177,812	3.30	53,828	193	6,282	65%	34%	1%

## 1.2.2 Southeast Region Headboat Survey

As explained above, the SEFSC selects the larger capacity for-hire vessels that charge primarily by angler to report fisheries data via the SRHS. Reporting effort and landings information is mandatory in the SRHS (Table 1.2.2.1).

**Table 1.2.2.1.** Required data reporting elements for SRHS headboats.

<b>Reporting Elements</b>
Vessel name/Vessel number
Captain's name
Departure date and time
Return date and time
Trip type (charter, headboat, commercial, or private recreational)
Number of anglers and paying passengers
Number of crew
Fuel used (gallons)
Price per gallon
Depths Fished (feet)-Min/Max/Primary
Fishing location (latitude/longitude, degrees, minutes)
Species - numbers kept and released (for released, number descended or vented)

The number of SRHS headboat vessels reporting landings to the SRHS by Gulf state between 2019 and 2023 are provided in Table 1.2.2.2. Participants in the SRHS can be intercepted dockside by samplers that collect biological samples and validate effort and logbooks upon returning from a fishing trip. On average, approximately 9% of trips were intercepted by dockside samplers from 2019-2023 (Table 1.2.2.3).

**Table 1.2.2.2.** The number of SRHS headboat vessels reporting landings to SRHS by Gulf state from 2019-2023.

<b>Year</b>	<b>AL</b>	<b>FL</b>	<b>LA</b>	<b>MS</b>	<b>TX</b>	<b>Total</b>
<b>2019</b>	10	41	2	3	16	72
<b>2020</b>	9	39	2	2	16	68
<b>2021</b>	9	40	2	2	17	70
<b>2022</b>	8	40	2	2	16	68
<b>2023</b>	8	41	1	2	16	68

**Table 1.2.2.3.** The annual number of SRHS trips taken and number of trips intercepted in the Gulf by dockside samplers from 2019-2023.

Year	# Trips	# Trips Sampled	% Trips sampled
2019	9,488	997	11%
2020*	7,905	146	2%
2021*	10,514	295	3%
2022*	9,838	570	6%
2023	8,954	642	7%
		5-year average	<b>6%</b>

\*Years when the number of sampled trips was limited due to safety restrictions from the COVID pandemic.

### 1.3 History of the Southeast For-Hire Integrated Electronic Reporting (SEFHIER) program

The development of any data collection program requires a suite of data fields to collect pertinent fisheries information, a means to validate the accuracy of the collected data, a final estimation procedure, and a mechanism to enforce program compliance. These elements are needed to increase precision and accuracy of collected effort and catch information, interpret program results, and reduce estimate uncertainty. For example, a dockside intercept by an independent surveyor can be used to validate a logbook report completed by a for-hire vessel operator. When these survey design components are integrated they can produce outputs that can be used for stock assessments (e.g., index for a model), management needs (e.g., in-season monitoring or season duration projection analysis), or both.

To increase the accuracy, precision, and timeliness to for-hire data collection in the Gulf, the Council approved an amendment to the Reef Fish FMP and CMP FMP in May 2017 titled, “Modifications to Charter Vessel and Headboat Reporting Requirements” to mandate federally permitted reef fish and CMP for-hire owners and operators to electronically report fishing effort and catch information. This amendment was developed based, in part, on recommendations from a technical subcommittee that was convened in 2014 to develop recommendations to implement electronic reporting for the for-hire vessels in the Gulf and U.S. South Atlantic. The subcommittee was charged with investigating methods to increase the timelines of catch estimates for in-season monitoring, increase the temporal and spatial precision of catch estimates for monitoring, provide vessel-specific catch histories for management, reduce biases associated with catch statistics, and increase stakeholder buy-in and trust around data collection. The report by this group (Appendix C) revealed the trade-offs and limitations on several key aspects of electronic reporting in the for-hire fisheries, such as participation requirements, survey versus census requirement, reporting frequency, data collection applications, accountability measures, validation and estimation requirements, and calibration to existing data stream requirements.

Additionally, in September 2016 the Data Collection Technical Committee identified a minimum number of essential data elements that would be needed to achieve program goals (Appendix D).

Initially the Gulf and South Atlantic Fishery Management Council (Councils) developed a joint amendment to implement for-hire electronic reporting in the southeast region. As the intended requirements began to differ between the Councils, the joint amendment was separated into two amendments, one for each region. Gulf federal for-hire permit holders were required to submit electronic trip declarations for every trip (e.g., dock to dock) the vessel made on water, submit a logbook for every for-hire fishing trip prior to offloading fish, land only at approved landing locations, and have an operational NOAA Fisheries type approved Vessel Monitoring System (VMS) to log vessel positional data. The Gulf program also used a dockside survey to estimate total catch and effort that would account for un-reported trips and mis-reported or un-reported catch. The South Atlantic Southeast For-hire Integrated Electronic Reporting (SEFHIER) program requires weekly reporting for federally permitted fishermen in the Atlantic and does not have a declaration or VMS requirement. Owners and operators of vessels that have both a federal South Atlantic and a Gulf for-hire permit were required to meet the Gulf SEFHIER program's more stringent program requirements. Owners and operators of vessels that have both a Greater Atlantic or Mid-Atlantic and a Gulf federal for-hire permit were required to report to the Gulf SEFHIER program. Each amendment was implemented with separate rulemaking in January 2021; however, the United State Court of Appeals for the Fifth Circuit set aside the Gulf SEFHIER final rule in February 2023.

Dual permitted vessels that had both a federal Gulf for-hire and a Gulf commercial reef fish permit had to meet the reporting requirements of both the for-hire permit and the commercial reef fish permit. The Gulf SEFHIER trip declaration form was a combination of fields typically found in a declaration and fields found in a pre-landing notification (commonly called hail-in and hail-out forms, respectively). The commercial reef fish requires a separate declarations and pre-landing notifications. Due to these differences, the SEFHIER declaration form have different data fields than the commercial reef fish forms. Additionally, the SEFHIER declaration data, which could be submitted from an application, was not able to be accepted by the VMS system that contained the commercial data due to security concerns. Therefore, dual permitted (commercial and for-hire) vessels had to declare their trip to each program separately. This created unnecessary burden on dual commercial reef fish and for-hire permitted vessels, and the agency was working towards technical solutions to resolve this burden while keeping the data systems secure. The type of trip taken determined what logbook was submitted and where the information was sent. Neither program required a logbook for the other sector. The South Atlantic SEFHIER program requires a "Did Not Fish" report when there is no fishing by that vessel for that week within the for-hire sector. Commercial vessels are required to submit "Did Not Fish" reports monthly, when no fishing occurs within the commercial sector. Therefore, a vessel that did not fish in either the for-hire or the commercial fishery for a month had to submit four for-hire Did Not Fish reports and one commercial Did Not Fish report. Did Not Fish reports are used analytically to determine latent activity within a sector and determine compliance within a sector and should not be combined across sectors.

Prior to this amendment, an exempted fishing permit (EFP) was authorized to evaluate the viability of an allocation-based management strategy for improving the conservation of marine resources and economic stability and performance of the headboat fleet.<sup>6</sup> This EFP utilized an electronic reporting system to track all transactions in real-time and utilize the federal commercial reef fish VMS. For headboat vessels that participated in this program, the VMS hardware and software was used to submit trip declarations, submit pre-landing notifications, and track positioning of the vessels. The VMS enabled a transparent monitoring system for the selected vessels. Vessels were also required to land only at approved landing sites. The final report's conclusions acknowledged the challenges and successes of the program. The report found that there was a learning curve for captains in using the VMS hardware/software system to submit declarations and pre-landing notifications. Despite the low participation level, this program required staff at state agencies to send weekly e-mails to remind captains to submit their information in the time required. The report also acknowledged that biological samples of sufficient sample size by region were needed to adequately convert numbers of fish caught into pounds of fish. Insufficient sample sizes by region would reduce the certainty of the estimate for pounds landed, especially as many quotas are in pounds of fish and not the number of fish. Port agents and law enforcement officers and agents provided feedback about the program, highlighting the benefit of having email notification of declarations and pre-landing notifications, the benefit of landing locations, and estimated the number of fish on board (as opposed to an estimated weight). This program used a 1-hour notification for pre-landing information, which was deemed insufficient by law enforcement based on breadth of the areas they cover. Law enforcement suggested future programs adopt a 3-hour notification window or combining together the declaration with critical pre-landing notification.

The Gulf SEFHIER program was implemented in two phases, requiring trip reporting beginning on January 4, 2021, and then requiring VMS units by March 1, 2022. The trip reporting phase required all for-hire vessels not in the SRHS to report to the Gulf SEFHIER program. Vessels in SRHS were still required to report to the SRHS program but had the additional SEFHIER reporting requirements to submit declarations, submit logbooks prior to offload, and land only at approved landing locations. NMFS created technical specifications for vendors to create applications for use within the SEFHIER program. All software vendors needed to have their SEFHIER application type approved by NMFS before it could be used in the Gulf SEFHIER program. Type approval included rigorous testing of the application to ensure it met the technical requirements. A NMFS collaborative partner group and a software vendor application were approved for use: Atlantic Coastal Cooperative Statistical Program's eTRIPS/Mobile – version 2 application and Bluefin Data's VESL application. As part of the type approval, vendors were required to maintain 24/7 customer service help for their application users. The eTrips/Mobile application is based on requirements to meet several federal and state partners' needs for data collection, and changes to the form are made via committee and consensus. Both trip reporting software applications (VESL and eTRIPS/Mobile) are free to download on a mobile device. In addition to the software applications that could be installed on phones or tablets, the agency also authorized the use of forms submitted through a VMS unit. Based on the technology and transmission process and costs, these forms were less interactive than software

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<sup>6</sup> [https://noaa-sero.s3.amazonaws.com/drop-files/cs/hbc\\_pilot\\_final\\_report\\_final.pdf](https://noaa-sero.s3.amazonaws.com/drop-files/cs/hbc_pilot_final_report_final.pdf)

applications. Despite this, many fishermen chose to submit information through their VMS units.

Prior to the implementation of the VMS portion of the program, the agency worked to ensure that cellular VMS systems were able to be approved for use under the VMS program. Allowance of cellular units, often referred to as store and forward units, was finalized in 2020.<sup>7</sup> VMS units needed to be selected and purchased by the permit holder, for every for-hire permitted vessel. There is a VMS reimbursement program available to federal permit holders from The Pacific States Marine Fisheries Commission (PSMFC), in collaboration with NOAA Fisheries. This reimbursement program is subject to availability of funds. More information can be found on the PSMFC website, at [psmfc.org/program/vessel-monitoring-system-reimbursement-program-vms](https://psmfc.org/program/vessel-monitoring-system-reimbursement-program-vms). The reimbursement program requires the VMS unit to be installed by an approved VMS vendor, to qualify for the reimbursement. This reimbursement program prioritized reimbursement funding to Gulf for-hire permitted vessels through April 30<sup>th</sup>, 2022, at which point prioritization were processed in the order they were received. Initially the reimbursement amount was \$3,100, but due to a reduction in the reimbursement funding NOAA's Office of Law Enforcement released a Fishery Bulletin in April of 2022 stating that the "maximum reimbursable amount for the purchase of VMS units in programs that allow cellular VMS units" (including SEFHIER) would be \$950.<sup>8</sup> The reduced reimbursement allocation still allowed permit holders to get fully reimbursed for two of the available cellular VMS units.

Once the Gulf SEFHIER program was implemented, two major concerns from program participants were brought to the Council. The first was apprehension among the industry that should their VMS unit incur an unexpected malfunction it would result in the vessel being unable to move on the water until the VMS unit was repaired – potentially resulting in a loss of revenue for the for-hire operator. While the satellite units have been in use since 2007 in the commercial fishery with low rates of failure, the cellular VMS units were new to the agency and this sector, with unknown rates of failure. In response, the Council and NMFS developed a framework action that would allow for an exemption to the VMS requirement in the event of an unanticipated VMS failure.<sup>9</sup> A second concern was raised regarding the requirement that a vessel must declare every time the vessel intends to move on water (i.e., from dock to dock).

This included trips for non-fishing activities (e.g., obtaining fuel, ice). Program participants argued that the objective of the program was monitoring for-hire fishing effort and that non-fishing declarations were overly burdensome. To address this issue, the Council and NMFS developed a second framework action that only required a federal for-hire vessels to declare for any type of fishing or chartered activity.<sup>10</sup> Both of these framework actions had been approved by the Council and transmitted to NMFS for review but had not been implemented before the program was set aside by the United States Court of Appeals for the Fifth Circuit Court on February 23, 2023.

The court concluded that based on the evidence in the administrative record the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) did not authorize

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<sup>7</sup> <https://www.govinfo.gov/content/pkg/FR-2020-07-08/pdf/2020-14600.pdf>

<sup>8</sup> <https://www.fisheries.noaa.gov/bulletin/noaa-fisheries-announces-changes-vms-reimbursement-program>

<sup>9</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)

<sup>10</sup> <https://gulfcouncil.org/wp-content/uploads/F-4a-Abbr-FA-Trip-Declaration-Mods-1.20.23.pdf>

NMFS to require the 24-hour 7-day-per-week VMS for this program because it was duplicative of the requirements for logbooks and declarations and there was no enforcement issue (e.g., non-compliance) to require a system to verify self-reported data. The Court also noted that the agency did not show that the monetary and privacy costs outweighed the benefits of having VMS. The Court also noted that the agency did not show data to determine that the for-hire industry was a closely-regulated industry, unlike the commercial industry. For closely-regulated industries, it may not be necessary to conduct a search for this location data. The Court also concluded that the rule was not promulgated in compliance with the Administrative Procedure Act because NMFS failed to address comments that raised privacy concerns under the Fourth Amendment to U.S. Constitution and did not provide proper notice that the logbook would require the type of economic data required in the final rule.<sup>11</sup> Due to this ruling, the regulations that were in effect prior to the implementation of the Gulf SEFHIER program currently apply and vessels that hold only a federal Gulf for-hire permit are not required to report to SEFHIER or use a VMS. Gulf for-hire permitted vessels selected to report to the SRHS program are still required to report to SRHS as they did prior to implementation of SEFHIER (i.e., weekly electronic reports). The MRIP for-hire telephone survey (along with APAIS; in the states of Mississippi, Alabama, and Florida), LA Creel, and the Texas Parks and Wildlife creel survey are still in place.

In April 2023, the Council decided to start work on a new amendment to reinstate some version of the Gulf SEFHIER program.<sup>12</sup> To aid in this effort, the Council established an Ad-hoc Charter For-hire Data Collection Advisory Panel (AP) and established a charge for the group.<sup>13</sup> The AP convened January 10-11, 2024, and made a series of recommendations to the Council.<sup>14</sup> The AP recommended several program goals and objectives as modified from the 2014 Technical Report and these objectives were approved by the Council at their January 2024 meeting (Table 1.3.1).

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<sup>11</sup> The Court considered the plaintiffs argument that the VMS requirement violated the Fourth Amendment and expressed concerns, based on the evidence in the record, about the requirement as applied to for-hire vessels but did not rule on this issue.

<sup>12</sup> [https://gulfcouncil.org/wp-content/uploads/GMFMC\\_Motions-Report\\_Apr2023-FINAL.pdf](https://gulfcouncil.org/wp-content/uploads/GMFMC_Motions-Report_Apr2023-FINAL.pdf)

<sup>13</sup> <https://gulfcouncil.org/wp-content/uploads/04.-Council-charge-to-AP.pdf>

<sup>14</sup> [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)

**Table 1.3.1.** Charter For-hire Data Collection AP proposed program objectives to reestablish a Gulf charter data collection program. The Council has reviewed and approved the below program objectives.

<b>Proposed objectives for new charter data collection program</b>
Increase the timeliness of catch estimates for in-season monitoring
Increase the temporal (and/or spatial) precision of catch estimates for monitoring
Reduce biases associated with collection of catch and effort data
Increase stakeholder trust and buy-in associated with data collection

Additionally, during the Council’s January 2024 meeting, the Council made several motions that would maintain a number of the same components from the original Gulf SEFHIER program, consistent with the Ad-hoc Charter For-hire Data Collection AP recommendations. These components include requiring trip declarations and logbooks (Table 1.3.2), maintaining the same trip-level reporting frequency and the same considerations for at-sea safety (where a logbook could be completed within 30 minutes of docking, but before offloading catch). However, the AP recommended that trip declarations be required only for for-hire fishing trips.

**Table 1.3.2.** List of suggested trip declaration and logbook data fields to be retained from the original Gulf SEFHIER program. These data fields were endorsed by the Ad-hoc Charter For-hire Data Collection AP and subsequently recommended by the Council.

<b>Trip Declaration Data Fields</b>	<b>Logbook Data fields</b>
Vessel registration number	Actual start and return date/time
Captain’s name	Angler and passenger count
Departure date and time	Crew count
Estimated return data and time	General area fished
Departure location	Average depth fished
Trip type	Individual species data (whether kept or discarded)
	Whether fishing occurred (Yes/No)
	Primary gear used
	Primary target species

The field names defined in Table 1.3.2 represent the AP’s recommendation; however, several of these recommendations have slightly different names than those data fields used in the former Gulf SEFHIER program. The AP was largely supportive of retaining the trip declaration and logbook data fields and it is highly likely that any new Gulf for-hire data collection program would largely retain the names of these data fields of the original SEFHIER program. Therefore, while the function of many of the AP’s recommended data fields is the same, program participants will see a slightly different name on the trip declaration and logbook report. Table 1.3.2 provides a list of how several of the AP’s recommended data field will appear on the trip declaration and logbook forms.

**Table 1.3.2.** List of AP recommended fields and the data field name in the previous Gulf SEFHIER program declaration and logbook. The names used in the original Gulf SEFHIER program will likely be retained in the new for-hire data collection program.

<b>AP Recommended Field</b>	<b>Name new program will use</b>
Departure Location	Landing Location
Crew Count	Number of Crew
General Area Fished	Primary Area Fished
Average Depth Fished	Primary Fishing Depth
Individual Species Data	(Catch is reported at the species level – both retained and discarded)
Whether Fishing Occurred	Trip Activity (did fishing occur? yes/no)

Although the AP only recommended the fields listed in Table 1.3.1, some fields are missing that are needed for either administrative purposes (e.g., the ability for the compliance algorithm to match a declaration to a logbook), or to estimate fishing effort. These additional fields are listed in Tables 1.3.3 and 1.3.4, along with justification.

Importantly, although a field may be necessary for administrative purposes, some reporting software vendors may develop an application that pulls information from the declaration into the logbook. If the application is working in this way, the individual would not need to enter data for the field in both the declaration and logbook.

**Table 1.3.3.** Additional field needed in the trip declaration, including justification.

<b>Field</b>	<b>Justification</b>
Trip Activity	Trip activity (intended fishing: Yes/No) informs whether a logbook is expected, and is used by NOAA Fisheries to automate compliance tracking

**Table 1.3.4.** Additional fields needed in the logbook, including justification.

Field	Justification
Registration Number	Needed for administrative purposes, as part of criteria needed to automate matching a declaration to the corresponding logbook for compliance tracking purposes
Captain's Name	Needed for administrative purposes, as part of criteria needed to automate matching a declaration to the corresponding logbook for compliance tracking purposes
Trip Type	Needed for administrative purposes, as part of criteria needed to automate matching a declaration to the corresponding logbook for compliance tracking purposes
Fishing Hours	Critical for estimating fishing effort
End Port/Landing Location	Since it may differ from the intended Landing Location provided in the declaration
Start Port	Allows for quantification of trip starting point to ending point, and is required in eTRIPS mobile 2 for their other partners (i.e., a one stop reporting requirement)

## 1.4 Purpose and Need

The *purpose* of this amendment is to improve the accuracy, precision, and timeliness of landings, discards, and fishing effort data from federally permitted for-hire vessels within the recreational sector of the Gulf reef fish and CMP fisheries. Improvements would increase stakeholder trust and buy-in associated with data collection. Another purpose is to collect economic information related to the operational costs and earning of federally permitted for-hire vessels participating in the Gulf reef fish and CMP fisheries.

The *need* for this action is to improve management and monitoring of the federally permitted for-hire component of the recreational sector of Gulf reef fish and CMP fisheries to prevent overfishing while achieving, on a continuing basis, the OY.

## 1.5 Management History

### *Reef Fish Fishery*

The following amendments to the Reef Fish FMP contain actions that pertain to the for-hire component of the recreational sector, including permit and reporting requirements.

**Amendment 11** (1996) to the Reef Fish FMP required that charter vessels and headboats fishing in the exclusive economic zone (EEZ) off the Gulf states have federal permits when fishing.

**Amendment 20** (2002) to the Reef Fish FMP/Amendment 14 to the CMP FMP established a three-year moratorium on the issuance of charter vessel/headboat permits for reef fish and CMP in the EEZ off the Gulf states. The purpose of this moratorium was to limit future expansion in the recreational for-hire component while the Council monitored the impact of the moratorium and considered the need for a more comprehensive effort management system for the for-hire fleet. NMFS' promulgation of the regulations implementing Reef Fish Amendment 20/CMP Amendment 14 established an effective date of December 26, 2002, for-hire operators in the EEZ off the Gulf states to have a valid limited access "moratorium permit," in place of the prior open access charter vessel/headboat permit. From this date, limited access permits would be required for for-hire vessels to legally engage in fishing activities in the EEZ off the Gulf.

On December 17, 2002, NMFS published an Emergency Rule that deferred implementation of the permit moratorium from December 26, 2002, until June 16, 2003, because the final rule implementing the permit moratorium contained an error regarding eligibility. This error needed to be resolved before the moratorium could take effect to ensure that no qualified participants were wrongfully excluded. The emergency automatically extended the expiration date of valid or renewable "open access" permits for reef fish and CMP until June 16, 2003. The emergency rule included additional measures that extended deadlines for issuance of "moratorium permits" and the appeal process.

**Amendment 25** (2006) to the Reef Fish FMP/Amendment 17 to the CMP FMP established a limited access system on charter vessel/headboat permits for reef fish and CMP that extended the 3-year permit moratorium. Permits are renewable and transferable in the same manner as currently prescribed for such permits. The Council will have periodic review at least every 10 years on the effectiveness of the limited access system.

**Amendment 30B** (2009) to the Reef Fish FMP required that all vessels with federal commercial or charter vessel/headboat permit for reef fish comply with federal reef fish regulations, if those regulations are more strict than state regulations, when fishing in state waters.

**Amendment 34** (2012) to the Reef Fish FMP addressed crew size limits for dual-permitted vessels. Dual-permitted vessels are vessels with both a charter/headboat reef fish permit and a commercial reef fish permit. The amendment eliminated the earned income qualification requirement for the renewal of commercial reef fish permits and increased the maximum crew size, when operating as a commercial vessel, from three to four.

**Framework Action** (2013) modified the frequency of headboat reporting to a weekly basis (or at intervals shorter than a week if notified by the SRD) via electronic reporting, with reports due by 11:59 p.m., local time, the Sunday following a reporting week. If no fishing activity occurs during a reporting week, an electronic report so stating must be submitted for that week.

**Amendment 40** was approved in April 2015. This amendment divided the recreational red snapper quota into two component sub-quotas, with the federal for-hire component allocated 42.3% of the recreational quota and the private angling component allocated 57.7% of the red snapper recreational quota. This division sunsets three calendar years after implementation. Season closures are determined separately for each component based on the component's annual catch target (ACT). The final rule to implement this amendment published on April 22, 2015.

### ***CMP Fishery***

The following amendments to the CMP FMP contained actions that pertained to the for-hire component including permit and reporting requirements.

**Amendment 2** (1987) to the CMP FMP required that charter vessels and headboats fishing in the EEZ of the Gulf or Atlantic for CMP species have federal permits.

**Amendment 14** (2002) to the CMP FMP/Amendment 20 to the Reef Fish FMP established a 3-year moratorium on the issuance of charter vessel/headboat permits. See discussion above for Amendment 20 to the Reef Fish FMP, which describes the amendment and corresponding Emergency Rule.

**Amendment 17** (2006) to the CMP FMP/Amendment 25 to the Reef Fish FMP established a limited access system on charter vessel/headboat permits for reef fish and CMP permits. Permits are renewable and transferable in the same manner as currently prescribed for such permits. The Council will have a periodic review at least every 10 years on the effectiveness of the limited access system.

**Framework Action** (2013) modified the frequency of headboat reporting to a weekly basis (or at intervals shorter than a week if notified by the SRD) via electronic reporting, with reports due by 11:59 p.m., local time, the Sunday following a reporting week. If no fishing activity occurs during a reporting week, an electronic report so stating must be submitted for that week.

**Amendment 20A** (2014) to the CMP FMP prohibited the sale of recreationally caught king and Spanish mackerel with the following exceptions: 1) the sale of fish caught on for-hire trips on dual-permitted vessels in the Gulf region, and 2) the sale of fish caught in state-permitted tournaments in both the Gulf and Atlantic regions and donated to a state or federally permitted dealer, as long as the proceeds from the dealer sale are donated to charity

## CHAPTER 2. MANAGEMENT ALTERNATIVES

### 2.1 Action 1: Establish Frequency and Mechanism of Data Reporting for For-hire Vessels

This action only applies to vessels issued a valid Gulf for-hire permit for reef fish or Gulf coastal migratory pelagic (CMP) species, that *do not* participate in the National Marine Fisheries Service (NMFS) Southeast Region Headboat Survey (SRHS).

**Alternative 1:** No Action. The owner or operator of a charter vessel or headboat issued a valid Gulf for-hire permit for reef fish or CMP species, or whose vessel fishes for or harvests such reef fish or CMP species in or from state waters adjoining the applicable Gulf or Gulf exclusive economic zone (EEZ), and who is selected to report by the NMFS through the Marine Recreational Information Program (MRIP), or the state of Louisiana’s LA Creel program, or Texas Parks and Wildlife Creel survey voluntarily report catch information when requested by a dockside surveyor.

**Alternative 2:** Require that the owner or operator of a charter vessel or headboat issued a valid Gulf for-hire permit for reef fish or Gulf CMP species to submit trip, catch, and effort information for *each trip* via electronic reporting (via NMFS approved software). If fish are harvested during the trip, electronic reporting is required prior to offloading fish. If fishing did not occur within a weekly period, a “Did Not Fish” report would be required to be submitted.

**Alternative 3:** Require that the owner or operator of a charter vessel or headboat issued a valid Gulf for-hire permit for reef fish or CMP species to submit trip, catch, and effort information for *each trip daily* within 24 hours of trip end via electronic reporting (via NMFS approved software). If fishing did not occur within a weekly period, a “Did Not Fish” report would be required to be submitted.

#### **Discussion:**

**Alternative 1** (No Action) would maintain the reporting requirements of the three charter for-hire data collection programs within the Gulf. The details of these current data collection programs are outlined in Chapter 1.2. LA Creel provides weekly estimates of catch in the for-hire component, while MRIP generates 2-month “wave” estimates, and Texas Parks and Wildlife provides 6-month catch estimates for the for-hire component. The three programs have a dockside intercept component to verify catch by a program sampler. Sampling sites are selected using a probabilistic survey design approach based on high use or low use areas. No private landings sites are sampled in these programs and submission of catch data is voluntary

for the angler. Dockside intercepts are conducted on the fishing angler and not necessarily the charter/headboat vessel owner or operator.

The timeliness level of catch estimation in **Alternative 1** (ranging from weekly to 6 months) is less than that considered in either **Alternative 2** or **3** (trip-level or daily, respectively). As data timeliness, precision, and accuracy have been identified as goals for a new Gulf charter for-hire data collection program, an increase in reporting frequency would best achieve this objective.

**Alternatives 2** and **3** would require the owner or operator of a charter vessel that has been issued a charter vessel/headboat permit for Gulf reef fish or Gulf CMP species to submit fishing reports (i.e., logbooks) electronically via a NMFS-approved software application at the specified frequencies. Requiring logbooks would add technological complexity compared to the status quo (**Alternative 1**), and some form of trip validation (e.g. dockside intercepts) would still be needed to estimate any mis- or non-reporting in the self-reported logbook data. However, trip level reporting is anticipated to greatly improve the precision and timeliness of landings estimates for annual catch limit (ACL) monitoring.

**Alternative 2** would require vessel owners or operators with a charter vessel/headboat permit for Gulf reef fish or Gulf CMP species to submit a logbook for each trip. The logbook would need to be submitted electronically and received by NMFS prior to offload of the fish. If no fish are retained on a for-hire fishing trip, a logbook form would still have to be submitted within 30 minutes of arriving at the dock (end of the trip). If more than one for-hire fishing trip occurred on a single day, logbook would need to be submitted before offloading fish at the end of each trip. Under **Alternative 2**, the reported catch of a charter vessel can be verified a dockside intercept surveyor or port agent when the vessel returns to the dock and offloads fish, improving the likelihood of capturing the mis- and non-reporting uncertainty in the self-reported logbook data. Once a logbook is submitted in the software application, it becomes locked and therefore the submitter would no longer have the ability to modify the submitted logbook after being interviewed, which improves the likelihood of estimating any mis- and non-reporting in the self-reported logbook data. Although, **Alternative 2** offers charter vessel requires reporting of logbooks before offloading every trip, this should improve data quality and accuracy by reducing recall bias, improve stakeholder confidence in the final estimates of catch and effort, and reduce uncertainty associated with these data when used in science or management applications. To accomplish trip-level reporting, federal for-hire permit holders would need to have a NMFS- approved software reporting application on their mobile device or personal computer (PC) to submit the logbook.

**Alternative 3** would require for-hire fishing trip reporting by vessel owners and operators at daily level, rather than a trip level as stipulated in **Alternative 2**. The Gulf Council's (Council) Charter For-hire Ad hoc Advisory Panel (AP) discussed the possibility of reporting frequencies other than before offload for each for-hire fishing trip.

Several AP members advocated for the trip level reporting frequency, rather than daily or weekly reporting. They indicated that, during the busy summer months especially, logbook data can be difficult to tabulate during multi-trip days or over the course of a week. The volume of catch can be substantial over several trips which may result in longer intervals of time to fill out multiple logbook forms, all at the end of the day (for example). Additionally, several AP members reported that memory retention was better when considering catch at a trip level, which not only lessened the amount of time to complete the logbook but also increased the accuracy of their data reporting.

In 2020, NMFS implemented a fishery management plan (FMP) amendment developed by the South Atlantic Fishery Management Council (South Atlantic Council) that requires charter vessels with South Atlantic federal charter vessel/headboat permits, while operating as a charter vessel to submit fishing records to NMFS weekly, or at intervals shorter than a week if notified by NMFS via electronic reporting (via NMFS approved hardware and software) (85 FR 10331 Feb. 24, 2020). Weekly reporting represents a level of precision that is difficult to directly input into a stock assessment analysis and is more uncertain when informing management advice such as season duration projections. For these reasons, and those recommended by the AP, the Gulf Council does not consider weekly reporting frequency as a reasonable alternative because it would not achieve the data collection program’s purpose and need.

A South Atlantic federal for-hire vessel permittee who is also subject to electronic reporting requirements in other regions is required to comply with the federal electronic reporting program that is more stringent, regardless of where they are fishing. This requirement was put in place to prevent vessels with multiple federal for-hire permits from more than one region having to report to multiple systems. Because the Gulf reporting requirements considered in this action would require trip-level or daily reporting, the Gulf requirements may be considered more stringent than the South Atlantic weekly reporting requirements if the same data elements are required.

Under those circumstance, vessels issued both Gulf and South Atlantic federal for-hire permits would be able to comply with both programs by complying with the Gulf requirements. Greater Atlantic Regional Fishery Office (GARFO) federally permitted vessels or vessels with a federal permit from any other region possessing a Gulf charter/headboat reef fish or CMP permit would be required to submit two logbooks: one in accordance with GARFO (or other region) requirements and one in accordance with the Gulf charter/headboat reef fish or CMP permit reporting requirements. However, few Gulf-federally permitted vessels travel the distance necessary to fish in areas other than the South Atlantic. In the future, these systems and fishing record requirements may become exchangeable but, until such time, these vessels would be required to report to different programs separately. Alternatively, dual permit holders (e.g. dual GARFO and federally permitted, non-SRHS, for-hire vessels) could use a software reporting application that supports “one-stop-reporting” (OSR), like e-TRIPS Mobile, and only need to submit one logbook to meet all their permit requirements.

If a vessel owner who was issued a Highly Migratory Species (HMS) Charter/Headboat permit also has a permit issued in a non-HMS fishery that is required to report, any landings should be reported, as required, under the appropriate NMFS regional vessel logbook program in addition to any HMS reporting requirements. NMFS has proposed modifying or expanding reporting requirements for Atlantic HMS, as described in a proposed rule published on September 6, 2024.<sup>15</sup> The reporting requirements for the HMS Charter/Headboat permits selected as preferred alternatives in the proposed rule differ from those proposed within this amendment. Vessel owner/operators that holds both a Gulf for-hire and a HMS Charter/Headboat permit would be subject to the most stringent regulation associated with either permit. For example, depending on which alternatives are ultimately implemented, a vessel owner/operator who possesses both of these permits could be required to report their catch logbook prior to offload

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<sup>15</sup> <https://www.federalregister.gov/documents/2024/09/06/2024-19892/atlantic-highly-migratory-species-electronic-reporting-requirements>

(the Gulf For-hire permit regulations are more stringent on reporting timing) and report economic data every trip (the HMS Charter/Headboat permit regulations are more stringent on the frequency of reporting timing). Currently, owners or operators of HMS Charter/Headboat permitted vessels must call in or electronically report all bluefin tuna landings and dead discards, all non-tournament landings of Atlantic blue marlin, Atlantic white marlin, roundscale spearfish, and Atlantic sailfish, and all non-tournament and non-commercial landings of North Atlantic swordfish to NMFS within 24 hours of completing a trip. In the ANPR, NMFS considered an electronic logbook requirement for owners or operators of vessels with HMS Charter/Headboat permits, as well as timing requirements for submission of electronic logbooks.

### ***“Did Not Fish” reports***

“Did Not Fish” reports are used to analytically determine activity/non-activity and compliance within a sector and should not be combined across sectors. For program participants holding only a Gulf federal for-hire permit, “Did Not Fish” reports will be submitted for an entire week of no fishing, which begins on a Monday and runs through the following Sunday (fishing week). If a fisherman knows in advance, they will not fish during the fishing week, the program participant may submit the “Did Not Fish” report for that week up to 30 days in advance of that fishing week. If a fisherman realizes partly through a week that no fishing will occur they may submit that week’s “Did Not Fish” report at any point of time during the week for that fishing week. If a fisherman has not fished during the fishing week and has not submitted a “Did Not Fish” report, they must submit a “Did Not Fish” report by the following Tuesday for the preceding week or be considered out of reporting compliance. If a fisherman fishes on at least one day of the fishing week, then they do not need to submit a “Did Not Fish” for that fishing week.

The SRHS already requires a weekly “Did Not Fish” to be submitted by the Tuesday following a fishing week (Monday to Sunday), as does the South Atlantic SEFHIER program. Both the South Atlantic SEFHIER program and SRHS allow vessel owners or operators to submit a DNF up to a 30-days in advance, if the owner/operator knows in advance that they will not be fishing for at least the next 30 day period. Should a fishing trip occur after a weekly DNF has been submitted (or even if 30 days’ worth of “Did Not Fish” reports have been submitted), a logbook is still required for any for-hire fishing trips and will supersede any “Did Not Fish” reports for the fishing week that the logbook falls into. Program participants that hold both a Gulf and South Atlantic for-hire permit, a single Did Not Fish report would cover both programs requirements. would have to report to both programs.

Commercial vessels are required to submit “Did Not Fish” reports monthly, when no fishing occurs within the commercial sector. Therefore, a vessel that did not fish in either the for-hire or the commercial fishery for a month has to submit a for-hire “Did Not Fish” report and one commercial “Did Not Fish report”. NMFS estimates that it will take about 2 minutes to complete and submit a “Did Not Fish” report. NMFS expects reporting time to decrease as familiarity with the software increases.

Did Not Fish Reports are necessary to validate periods of non-fishing activity. Establishing a period of non-fishing activity aids in improving the accuracy and precision of effort estimation for the fleet. Did Not Fish Reports also aids in assessing the level of compliance for logbook reporting. Non-reporting of trips (due to an omission error or willing incompliance) is also

considered issue when estimating catch from logbook reports. This extra level of effort validation compliments the hail-in/out combination and provides more certainty in the data being reported from the program.

## 2.2 Action 2: Modify Frequency and Mechanism of Data Reporting for Southeast Region Survey Headboats

This action only applies to vessels issued a valid federal for-hire permit for reef fish or Gulf CMP species that *do participate* in the SRHS.

**Alternative 1:** No Action. The owner or operator of a headboat issued a valid federal for-hire permit for reef fish or Gulf CMP species, or whose vessel fishes for or harvests such reef fish or CMP species in or from state waters adjoining the applicable Gulf or Gulf EEZ, and who is selected to report by NMFS must submit an electronic fishing record for each trip of all fish harvested via the SRHS. Electronic fishing records must be submitted at weekly intervals (or intervals shorter than a week if notified by NMFS) by 11:59 p.m., local time, the Sunday following a reporting week. If no fishing activity occurred during a reporting week, an electronic report stating so must be submitted for that reporting week by 11:59 p.m., local time, the Sunday following a reporting week. Information to be reported is indicated on the form and its accompanying instructions.

**Alternative 2:** Require that the owner or operator of a headboat issued a valid charter vessel/headboat permit for reef fish or Gulf CMP species to submit fishing records for *each trip* via electronic reporting (via NMFS approved software). If fish are harvested during the trip, electronic reporting is required prior to offloading fish.

**Alternative 3:** Require that the owner or operator of a charter vessel or headboat issued a valid charter vessel/headboat permit for reef fish or Gulf CMP species to submit *daily* fishing records via electronic reporting (via NMFS approved software).

### Discussion:

**Alternative 1** (No Action) would continue to require the owner or operator of a federally permitted headboat with a Gulf charter/headboat for reef fish or CMP permit to submit logbooks weekly (or at intervals less than a week if requested by NMFS), due 7 days after the end of each week (Sunday). This requirement was implemented through the Framework Action to Modify Headboat Reporting Requirements in the Gulf and South Atlantic (GMFMC 2013b). The SRHS represents a relatively long-term data collection program within the Gulf and has been used as a fishery-dependent index to inform several species stock assessments. However, the SRHS is limited to only small number of vessels which meet the program's definition of a headboat and are included in the survey. Since headboats represent a fraction (~1%) of all Gulf federally permitted charter for-hire vessels and are unique in their operations (taking large numbers [some up to ~ 100] of paying passengers on a single trip), and additional data collection survey extended to other participants in the industry is desirable for fishery management.

**Alternative 2** would require the owner or operator of a federally permitted headboat with a Gulf charter/headboat for reef fish or CMP permit to submit a logbook for each trip to NMFS prior to offloading fish. If no fish are retained on a for-hire trip, the logbook would have to be submitted

within 30 minutes of arriving at the dock (end of the trip). If more than one trip occurred on a single day, the logbook would need to be submitted before offloading fish at the end of each trip.

**Alternative 2** would offer the greatest ability to prevent ACL overages and minimize errors associated with recall bias. Under **Alternative 2**, a dockside intercept surveyor or port agent would likely interview the vessel after the logbook has been submitted, improving the likelihood of capturing the mis- and non-reporting uncertainty in the self-reported logbook data. Once a logbook is submitted in the software application, it becomes locked and therefore the submitter would no longer have the ability to modify the submitted logbook after being interviewed, which improves the likelihood of estimating any mis- and non-reporting in the self-reported logbook data. Although, **Alternative 2** offers headboat operators the least flexibility in how and when they prepare and submit their trip reports and could be burdensome during periods of peak activity or inclement weather, it should improve data quality and accuracy, improve stakeholder confidence in the final estimates of catch and effort, and reduce uncertainty associated with these data when used in science or management applications.

**Alternative 3** would require the owner or operator of a federally permitted headboat with a Gulf charter/headboat for reef fish or CMP permit to submit a daily, electronic report to NMFS by noon the day following each for-hire fishing trip. **Alternative 3** could reduce the likelihood of exceeding ACLs and reduce recall error compared to **Alternative 1** but would not result in as much of a reduction relative to **Alternative 2**. **Alternative 3** would add additional burden and reduce flexibility in comparison to **Alternative 1**; however, increased memory recall (therefore quicker completion of logbooks) and increased likelihood of capturing mis- or non-reporting through the dockside intercepts (done by Port Agents, for SRHS) may be better realized in **Alternative 2** with trip level reporting.

## 2.3 Action 3: Trip Notification and Effort Reporting Requirements

**Alternative 1:** No Action. There are currently no trip notification requirements for federally permitted reef fish or Gulf CMP species charter/headboat vessels. A vessel issued a federal commercial reef fish permit is required to submit a trip notification and declare the intent of the trip.

**Alternative 2:** Require that the owner or operator of a charter vessel or headboat issued a valid charter vessel/headboat federal permit for reef fish or Gulf CMP species submit a trip declaration for trips that will be engaging in any type of fishing *or for-hire* activity.

**Option a:** Charter vessels

**Option b:** SRHS Headboats

**Alternative 3:** Require that the owner or operator of a charter vessel or headboat issued a valid federal charter vessel/headboat permit for reef fish or Gulf CMP species submit a trip declaration for trips that will be engaging in any type of fishing activity.

**Option a:** Charter vessels

**Option b:** SRHS Headboats

### Discussion:

Action 3 considers adding a requirement to provide a notification to NMFS declaring the intent to initiate a for-hire trip, return from a for-hire trip, or both. This action is anticipated to provide better estimates of effort with an improved validation process as compared to the current MRIP phone survey (charter vessels) and SRHS (headboats). This action is also anticipated to better inform law enforcement officers when a for-hire vessel is leaving the dock as well as the type of trip based on the declaration at hail-out. Under **Alternative 1** (No Action), federally permitted for-hire vessels do not have any trip notification requirements.

**Alternative 2** would require trip declarations for trips engaging in any type of fishing or any chartered activity. Fishing trip types would include commercial, for-hire, and private recreational fishing activities, as well as trips fishing for bait. Chartered activity would include any other activity with paying passengers<sup>16</sup> on board the vessel, such as sunset or dolphin cruises. **Alternative 2** would provide the for-hire fleet the flexibility to complete non-fishing non-chartered activities without needing to submit a declaration. Requiring declarations for trips engaging in fishing or any chartered activity would also assist in determining fleet characteristics (e.g., percentage of time for other activities like cruises to supplement business or commercial

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<sup>16</sup> In the definition of “charter fishing” the Magnuson-Stevens Fishery and Conservation Management Act refers to “passenger for hire” as defined in 46 U.S. Code § 2101. That “means a passenger for whom consideration is contributed as a condition of carriage on the vessel, whether directly or indirectly flowing to the owner, charterer, operator, agent, or any other person having an interest in the vessel.” Consideration means “an economic benefit, inducement, right, or profit including pecuniary payment accruing to an individual, person, or entity, but not including a voluntary sharing of the actual expenses of the voyage, by monetary contribution or donation of fuel, food, beverage, or other supplies.”

activity) and decreases the administrative burden for a charter for-hire data collection program through use of automation to identify non-compliance.

**Alternative 3** would require a trip declaration only when engaging in fishing activities. As in **Alternative 2**, fishing trip types would include commercial, for-hire, and private recreational fishing activities, as well as trips fishing for bait. However, in **Alternative 2** a declaration would need to be submitted any time a trip occurs with a paying passenger on board (including for a sunset cruise or dolphin watching), while in **Alternative 3** a declaration would only need to be submitted when at least one paying passenger is participating in commercial, for-hire or private recreational fishing activities.

A mandatory trip declaration prior to leaving the dock (**Alternatives 2 and 3**) would improve effort estimates as it would directly tabulate the number of fishing trips in comparison to **Alternative 1**, which relies on a sample of the fleet, is subject to assumptions that the sample represents the behavior of the entire fleet and is associated with uncertainty when expanding the sample estimates to the behavior of the entire fleet. Timeliness in data collection is a main objective of the Council's for-hire data collection program; therefore, mandatory declarations that improve estimates of effort, aid law enforcement, and improve the likelihood of dockside intercepts to capture non- and mis- reporting is necessary to achieve the program's purpose and need.

During the implementation of the original Gulf SEFHIER program, several participants raised concerns with the Council that the trip declaration, which was required every time the vessel left a dock, was overly burdensome. To address this issue, the Council developed a framework action to modify the trip declaration, but that action was not implemented because the Gulf SEFHIER program was set aside (see Section 1.3). The language reflected in **Alternative 2** is the same language approved by the Council in the previous framework action. This alternative, in addition to providing the benefits noted above relative to the status quo (**Alternative 1**), would also address a previous issue from the Gulf SEFHIER program and account for this situation during the development of a new for-hire data collection program.

## 2.4 Action 4: Establish Reporting of Economic Data for For-hire Vessels

This action only applies to vessels issued a valid Gulf charter vessel/headboat permit for reef fish or CMP species, that do not participate in the NMFS SRHS.

**Alternative 1:** No Action. There is currently no requirement for the reporting of economic data for federally permitted reef fish or Gulf CMP species charter/headboat vessels. Currently, a dually-permitted charter/headboat vessel issued a federal commercial reef fish permit is required to submit an economic data survey to the commercial program for one year if selected.

**Alternative 2:** Require that the owner or operator of a charter vessel or headboat issued a valid federal charter vessel/headboat permit for reef fish or Gulf CMP species submit economic data as part of the logbook when the vessel is engaging in any type of chartered fishing or chartered activity.

**Alternative 3:** Require that the owner or operator of a charter vessel or headboat issued a valid federal charter vessel/headboat permit for reef fish or Gulf CMP species submit economic data as part of the logbook when the vessel is engaging in any type of chartered fishing or chartered activity, if selected. Annually, a stratified random sampling design of permitted vessels will be used for selecting vessels that are required to report economic data. The Southeast Fisheries Science Center will determine the strata (based on previous years' data and minimum sample sizes by strata) sufficient for providing scientific and management advice.

### Discussion:

**Alternative 1** would not require any level of economic data reporting relative to **Alternative 2** and **Alternative 3**. Relative to **Alternative 2** and **Alternative 3**, **Alternative 1** would result in the least burden because owners or operators would not be required to report any information in addition to the trip declaration and logbook. However, **Alternative 1** would not allow for the collection of any economic data to inform the effects analysis for comparing fishery management plan amendment alternatives, the allocation of disaster relief funds, or science-based fisheries management in general (e.g., optimum yield, allocation). Hence, such data would need to be collected in a different manner or survey, possibly leading to alternative burden hours. Also, the NMFS would incur further costs to create a separate data collection program or platform to collect the economic data. Finally, the absence of any owner or operator reported economic data would create an issue for disaster requests. If the states do not have the requisite revenue data for a fishery to demonstrate how much revenue has decreased because of an alleged disaster, then the state cannot include such losses in their request.

Both **Alternative 2** and **Alternative 3** allow for the collection of economic data; and therefore, require more burden on the captain or operator. The intent is to ask three additional economics questions (trip fee, fuel used in gallons, and price of fuel used per gallon) as part of each logbook. The trip fee and fuel information would inform the assessment of economic effects of management measures. The anticipated additional time burden of completing these three economic questions in the logbook would be minor for each trip. However, these economic data

are essential for informing the economic effects portion of policy documents, allocating disaster relief funding, and science-based fisheries management in general (e.g., optimum yield, allocation).

**Alternative 2** and **Alternative 3** allow for the collection of economic data and are a vast improvement over the status quo of no systematic economic data collection in the Gulf for-hire sector. **Alternative 2** is a census. Hence, any aggregation or summary statistics of the data, i.e., “results”, are facts without sampling uncertainty (other biases are possible due to non-response). This represents the best data that can be collected. In comparison, **Alternatives 3** only collects data from a subset of vessels leading to a smaller dataset. When analyzing these data, sample statistics are used to estimate population results. The results are random variables with sampling uncertainty. At a given confidence level, e.g., 95%, the population mean (or total) will lie within a margin of error, or confidence interval, around the sample mean (or extrapolated total), e.g., sample data provides results such as “with 95% certainty, the mean charter fee in the Gulf is between \$900 and \$1100.” In general, the smaller the sample size, the larger the margin of error or confidence interval becomes.

**Alternative 2** would be the most time intensive for the for-hire sector as it would require all captains to complete the trip fee, fuel used in gallons, and price of fuel used per gallon questions for each for-hire fishing trip. The trip fee question elicits revenue, i.e., gross income, for a for-hire trip. It is not possible to derive individual level net revenue, i.e., profit or the operator’s income, based on these three questions alone, as most costs are not be collected on the logbook form, e.g., crew pay and all fixed costs for the vessel. This additional information would come from other sources (e.g., annual cost surveys).

**Alternative 3** collects data from a sample of vessels and therefore reduces program participants’ burden hours while still collecting the economic data needed. By taking a statistical sampling approach (vs. the census approach of **Alternative 2**), only a portion of vessels are required to provide economic data at a given time. On the downside, as mentioned above, results based on sample data are estimates with statistical uncertainty attached. It should be noted that sampling at the trip level instead of the vessel level would be statistically preferable but cannot be implemented due to technological constraints in electronic reporting applications at this time. Sampled vessels will be required to provide economic data on all their eligible trips for a one-year period. The additional burden hours imposed on selected vessels is equivalent to those under **Alternative 2** during the year they are selected for, while additional burden hours for non-selected vessels are zero. Over multi-year periods, the estimated annual burden hours per vessel will tend toward the sampling fraction times the burden hours under **Alternative 2**. As an illustration (assuming a vessel is selected once within a 5-year period), with a 20% vessel sample fraction, a vessel making 200 trips per year over 5 years would be expected to provide econ data on 200 of the 1000 trips taken, but all the expected burden would occur in the single year they are selected (1 out of 5).

For **Alternative 3**, the Southeast Fisheries Science Center will develop a method for vessel stratification and determine the minimum sample size for each vessel stratum in a manner motivated by- and sufficient for- providing data-based scientific and management advice for this sector. During the first year of a logbook, a 20% simple random sample of permitted vessels will

be selected for economic reporting. In subsequent years, the previous years' logbook data will be used to develop a stratification of vessels, guided by anticipated management needs and a desire to minimize the overall sample size. The strata will be iteratively developed over the first few years of the program as the Center learns more about this fishery. Strata might be defined on permit or vessel characteristics (from the permit application), on activity levels or species caught during the last year(s), on areas fished, or on state, port, or other variables available for the full population. A stratification design requires that every vessel be uniquely assigned to one (and only one) stratum.

In a stratified random sampling design, a different sample size can be selected for each stratum, allowing the researcher to minimize the overall sample size while maintaining a given level of statistical precision. Beyond that, working with strata allows for the over- and under-sampling of particular vessel strata and, by extension, sub-populations of trips. The anticipated sampling design will have two components. The annual "base sample" will collect only enough data (lower sample size) to annually generate results for the overall population, and the major sub-populations thereof. The second component will focus on collecting enough data (more than the "base sample") for one smaller sub-population to ensure that meaningful results can be generated for this sub-population (enough statistical precision to be meaningful). Each year, the focus will shift to a different smaller sub-population, selected based on anticipated management need. This multi-year "rotation" of focus across the fishery will ensure that economic results will be available for many sub-elements of the population, while keeping reporting burden lower, though at the cost of not having annual updates of the results for smaller subgroups (snapshots instead of time-series). This approach is very similar to the one currently employed by the Center in the commercial sector of the federal GOM fisheries.

The Center does not anticipate sampling, at the aggregate, more than 20% of the vessels in any one year, and possibly less. The "base sample" might be 10% or less, but only last year's reported data will provide enough information to make an informed sample size determination for the subsequent year. It should be noted that vessels assigned to a small strata might face higher inclusion probabilities (up to certainty, i.e., census) in those years that this particular strata is the object of study.

In summary, the choice of census or sample should be driven by judgments about the tradeoff between burden hours and privacy of the respondents versus the precision of the economic result. In any case, collecting the fee data together with the logbook has extensive benefits at minimal costs over **Alternative 1**

## CHAPTER 3. LIST OF PREPARERS AND REVIEWERS

### PREPARERS

Name	Expertise	Responsibility	Agency
Assane Diagne	Economist	Amendment development, economic analyses	GC
Rich Malinowski	Fishery biologist	Co-Team Lead – Amendment development, biological analyses, cumulative effects analysis	SERO
Lisa Hollensead	Fishery biologist	Co-Team Lead – Amendment development, biological analyses, cumulative effects analysis	GC
Max Birdsong	Anthropologist	Social analyses	GC
David Records	Economist	Economic analyses	SERO
Christina Package-Ward	Anthropologist	Social analyses	SERO
Dominique Lazarre	Fishery biologist	Data analyses	SERO

### REVIEWERS (Preparers also serve as reviewers)

Name	Expertise	Responsibility	Agency
Christopher Liese	Economist	Review	SEFSC
Mara Levy	Attorney	Legal review	NOAA GC
Michelle Masi	Biologist	Review	SERO
Jessica Stephen	Biologist	Review	SERO
Mike Travis	Economist	Review	SERO
Jennifer Lee	Biologist	Review	SERO
Adam Bailey	Technical writer and editor	Regulatory writer	SERO
Jashira Torres	Biologist	Protected Resources review	SERO
David Dale	Biologist	Essential Fish Habitat review	SERO
Carrie Simmons	Biologist	Review	GC
Kenneth Brennan	Biologist	Review	SEFSC
John Froeschke	Biologist	Review	GC
Jenny Ostroff	Biologist	Review	SERO
David Carter	Economist	Review	SEFSC
Cliff Hutt	Fisheries Management Specialist	Review	Atlantic HMS
Carrie Soltanoff	Fisheries Management Specialist	Review	Atlantic HMS
Matthew Walia	Compliance Liaison	Review	NOAA Office of Law Enforcement

GC = Gulf Council; NOAA GC = National Oceanic and Atmospheric Administration General Counsel; SEFSC = Southeast Fisheries Science Center; SERO = Southeast Regional Office of the National Marine Fisheries Service

## **CHAPTER 4. AGENCIES, ORGANIZATIONS AND PERSONS CONSULTED**

The following have or will be consulted:

National Marine Fisheries Service

Southeast Fisheries Science Center

Southeast Regional Office

Protected Resources

Habitat Conservation

Sustainable Fisheries (including Highly Migratory Species Management Division)

NOAA General Counsel

Environmental Protection Agency

United States Coast Guard