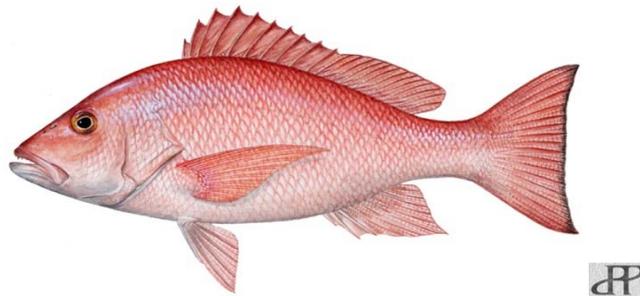


# **Reef Fish Recreational Management for Headboat Survey Vessels**



## **Amendment 42 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico Draft**

**January 2016**



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## ABBREVIATIONS USED IN THIS DOCUMENT

ACL	annual catch limit
ACT	annual catch target
AM	accountability measure
AP	Advisory Panel
APA	Administrative Procedures Act
Council	Gulf of Mexico Fishery Management Council
CS	consumer surplus
CZMA	Coastal Zone Management Act
DQA	Data Quality Act
EA	environmental assessment
EEZ	exclusive economic zone
EFH	essential fish habitat
EIS	environmental impact statement
EJ	environmental justice
ESA	Endangered Species Act
FMP	Fishery Management Plan
Gulf	Gulf of Mexico
GMFMC	Gulf of Mexico Fishery Management Council
GSMFC	Gulf States Marine Fisheries Commission
HAPC	habitat area of particular concern
HBSV	NMFS Headboat Survey Vessel
Headboat AP	Ad Hoc Reef Fish Headboat Advisory Panel
IFQ	individual fishing quota
LAPP	limited access privilege program
Magnuson-Stevens Act	Magnuson-Stevens Fishery Conservation and Management Act
MMPA	Marine Mammal Protection Act
mp	million pounds
MRFSS	Marine Recreational Fisheries Survey and Statistics
MRIP	Marine Recreational Information Program
NEPA	National Environmental Policy Act
nm	nautical mile
NMFS	National Marine Fisheries Service
NOAA	National Oceanic and Atmospheric Administration
NOR	net operating revenue
OY	optimum yield
PFQ	permit fishing quota
PS	producer surplus
RA	Regional Administrator
RFA	Regulatory Flexibility Act of 1980
RIR	Regulatory Impact Review
RQ	regional quotient
SBA	Small Business Administration
Secretary	Secretary of Commerce
SEDAR	Southeast Data, Assessment, and Review

SEFSC	Southeast Fisheries Science Center
SERO	Southeast Regional Office
SRHS	Southeast Region Headboat Survey
SSC	Scientific and Statistical Committee
TPWD	Texas Parks and Wildlife Department
USCG	United States Coast Guard
ww	whole weight
YCA	yearly catch allotment



# CHAPTER 1. INTRODUCTION

## 1.1 Background

The Gulf of Mexico Fishery Management Council (Council) has taken steps to provide more flexibility in managing various components of the reef fish recreational sector. In 2014, the Council approved Reef Fish Amendment 40 which established separate private angling and federal for-hire components of the red snapper recreational sector, allocated the red snapper recreational annual catch limit (ACL) between these two components, and implemented separate closure provisions for each component. The federal for-hire component includes all for-hire operators with a valid or renewable federal reef fish charter/headboat permit (reef fish for-hire permit). The private angling component includes all other for-hire operators and private recreational anglers. The decrease over time in the proportion of the red snapper recreational ACL harvested by anglers fishing from federal for-hire vessels and differences in regulatory environments faced by federal for-hire operators and private anglers - including changes in state regulations relative to red snapper - that contributed to the Council's decision to restructure the red snapper recreational sector are discussed in Amendment 40 (GMFMC, 2014). Recreational fishing for other reef fish species has not been as restricted as red snapper, but fishing has closed for several species in federal waters in recent years for some of the same reasons. These other species may also benefit from flexible management for different components of the recreational sector.

In early 2015, the Council requested the initiation of an amendment addressing management for the reef fish headboat component and established an Ad Hoc Reef Fish Headboat Advisory Panel (Headboat AP). The charge to the Headboat AP was to make recommendations relative to the design and implementation of flexible measures for the management of reef fish for the headboat sub-component of the recreational sector. In addition to the Headboat AP, the Council also created an Ad Hoc Red Snapper Charter Vessel Advisory Panel (Charter AP) tasked with recommending measures for the management of red snapper for charter vessel operators, and requested the initiation of an amendment specific to charter vessels fishing for red snapper (Amendment 41). It is important to emphasize that the Headboat AP is charged with recommendations for all reef fish, whereas the Charter AP is limited to red snapper.

### Definitions

**Southeast Region Headboat Survey (SRHS)** – NMFS survey of headboats in the Gulf of Mexico and South Atlantic

**Headboat Survey Vessel (HBSV)** – a vessel participating in the SRHS that holds a federal Gulf of Mexico Reef Fish Charter/Headboat Permit

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

**For-hire Quota** - pounds of fish allowed to be landed by for-hire vessels (charter boats and headboats; for red snapper only)

**HBSV Quota** – pounds or numbers of fish allowed to be landed by vessels in the HBSV program developed in this amendment

Management measures under consideration in Amendment 42 include recommendations made by the Headboat AP and other allocation-based programs. A summary report of the Headboat AP meeting, including recommendations provided to the Council in May 2015, is in Appendix A.

In the Gulf of Mexico (Gulf), the National Marine Fisheries Service (NMFS) issues one reef fish for-hire permit that does not distinguish between headboats and charter vessels. Therefore, the development of two distinct amendments addressing the management of red snapper for the charter vessel component (Amendment 41) and the management of reef fish for the headboat component (Amendment 42) requires clear definitions of which vessels would be included in each amendment.

The Southeast Region Headboat Survey (SRHS) collects catch and effort data from headboats in the southeast region, thereby producing a catch history for each vessel included in the survey. In the Gulf, for the purpose of reporting (as specified in 50 C.F.R. § 622.26(b)), the SRHS considers a for-hire vessel to be a headboat if it meets these criteria:

- 1) Vessel is licensed to carry 15 or more passengers;
- 2) Vessel fishes in the exclusive economic zone or state and adjoining waters for federally managed species; and
- 3) Vessel charges primarily per angler (i.e., by the “head”).

The SRHS has been conducted in the Gulf since 1986. As a result, detailed catch histories are available for headboats with sustained participation in the survey. In addition, for fishery managers, the SRHS continues to be the sole source for effort and landings estimates for the headboat component as a whole. For these reasons, the universe of vessels for Amendment 42 is defined as vessels participating in the SRHS that have Gulf reef fish for-hire permits, hereafter referred to as headboat survey vessels (HBSV). For the remainder of this document, unless explicitly stated otherwise, a headboat refers to a HBSV. For the Gulf, the number of HBSV by state between 2011 and 2015 is provided in Table 1.1.1.

**Table 1.1.1.** Number of vessels selected for the SRHS by Gulf state, 2011-2015.

Year	AL	FL	LA	MS	TX	Total
2011	8	35	4	5	17	69
2012	8	35	4	5	16	68
2013	8	36	3	5	16	68
2014	7	37	2	5	16	67
2015	9	36	2	5	15	67

Source: NMFS SRHS database 010516

Currently, 67 federally permitted Gulf vessels are in the SRHS<sup>1</sup>; however, the permit associated with one of those vessels was sold late in 2015 after landings data was compiled for this amendment. Therefore, the landings data in Chapter 2 reflects 68 vessels and will be updated for the next version of this amendment.

<sup>1</sup> The SRHS also includes vessels with South Atlantic for-hire permits and some state licensed vessels.

## **Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) Requirements for Limited Access Privilege Programs (LAPPs)**

Section 303A(c) in the Magnuson-Stevens Act specifies requirements for LAPPs. Whether the management programs proposed in this amendment would be considered LAPPs would depend on the design of each program. The following is a list of the topics specified as LAPP requirements that may be relevant to potential management of the HBSV:

- Goals and objectives of the program
- Program duration and provisions for regular review
- Enforcement, monitoring, and management
- Appeals process
- Initial allocation
- Maximum shares
- Transferability

The goals and objectives are in the Purpose and Need statement in Section 1.2. The Magnuson-Stevens Act specifies that a detailed review of the program be conducted within the first five years of implementation of the program and thereafter, no less than once every seven years. Section 303A(f) indicates a limited access privilege is a permit to be issued for no more than 10 years that will be renewed unless it has been revoked, limited, or modified.

An appeals process provides a procedure for resolving disputes regarding initial eligibility and distribution of shares and allocation. In the past, the Council has implemented regulatory actions in a number of fisheries that have included an appeals process for eligibility determinations, including Amendment 29 which established the Grouper/Tilefish IFQ Program. In each instance, the Council has utilized a virtually identical process. Because the process has been consistent and has worked well in different circumstances, excessive consideration of other options for appeals is not necessary. In addition, appeals would be processed by the National Marine Fisheries Service National Appeals Office which is governed by the regulations and policy at 15 CFR Part 906. Details of the appeals process are described in the appropriate sections of Chapter 2.

Management alternatives are developed in this amendment for requirements that necessitate further specification by the Council. For example, actions in this document have been established to analyze alternatives for several requirements including but not limited to, initial allocation, maximum shares, and transferability. Additional actions relate to other aspects of the management of allocation-based programs.

### **1.2 Purpose and Need**

The purpose of this action is to reduce management uncertainty and improve economic conditions for Gulf reef fish headboat operators/owners, and provide flexibility by increasing fishing opportunities for their angler passengers through a management program for Gulf headboats participating in the Southeast Region Headboat Survey.

The need for this action is to prevent overfishing while achieving, on a continuing basis, the optimum yield from the harvest of reef fish by headboats, and taking into account and allowing for variations among fishery resources and participants.

## CHAPTER 2. MANAGEMENT ALTERNATIVES

The format adopted in this section departs from the traditional structure used in previous amendments. In previous amendments to a fishery management plan (FMP), management measures considered for implementation are generally organized as successive actions, with each action dealing with a specific issue. However, the presentation and evaluation of management measures included in this amendment require an alternative format due to the mutually exclusive nature of some of the management approaches considered in this amendment and to the two-step decision making process that would be required from the Gulf of Mexico Fisheries Management Council (Council). First, the Council must determine the type of management approach deemed most appropriate to addressing challenges for headboat survey vessels (HBSV). In the second step, the Council has to focus on the design characteristics corresponding to the selected management approach.

Based on the two-step decision making process discussed above, management actions under consideration in this amendment are structured as follows: Section A includes alternative management approaches and other decisions common to all the approaches. Sections B and C include design elements and provisions corresponding to a fishing quota program and a cooperative program, respectively. Therefore, the actions in Section B are only valid if **Alternative 2** is chosen in **Action A1** and the actions in Section C are only valid if **Alternative 3** is chosen in **Action A1**. Section D includes design elements and provisions applicable to either a fishing quota program or a cooperative program; these actions are valid if either **Alternative 2** or **Alternative 3** is chosen in Action A1.

### 2.1 Section A – General

#### **2.1.1 Action A1. Type of Recreational Management Program for Headboat Survey Vessels**

**Alternative 1.** No Action. Continue to manage the reef fish species included in the headboat management program using current recreational seasons, size limits, and bag limits.

**Alternative 2.** Manage the reef species included in the headboat management program by establishing a recreational fishing quota program (Section B). The fishing quota program would be:

**Option a.** an Individual Fishing Quota Program (IFQ)

**Option b.** a Permit Fishing Quota Program (PFQ)

**Alternative 3.** Manage the reef species included in the headboat management program by establishing a recreational fishing cooperative program (Section C).

#### **Discussion**

**Alternative 1** would continue to rely on bag limits, size limits, and fishing seasons to manage HBSV. If the Council elects to continue to manage reef fish effort and harvests for HBSV using traditional approaches, the range of management measures would be fairly limited and could be

enacted through the framework process. Traditional management instruments, commonly referred to as command and control management, would include adjustments to the bag limits and changes to the structure of fishing seasons. None of the command and control approaches were favored by a majority of the Headboat AP members.

At their May 2015 meeting, the Headboat AP made a motion recommending the Council develop an allocation-based program (**Alternatives 2 and 3**) using reported landings from the Southeast Region Headboat Survey (SRHS). In an allocation-based program, the quota is divided among individuals or smaller groups, who can then choose when to use that allocation. In the case of HBSV, each participant would have allocation to account for fish harvested by the passengers on each trip. Timely reporting is a key element of allocation-based programs; as allocation is used, it must be subtracted from the annual allocation for the individual or group. When each individual or group has used all of their allocation, they must stop fishing or obtain more allocation (if allowed by the program).

In a fishing quota program (**Alternative 2**), NOAA’s National Marine Fisheries Service (NMFS) would distribute *shares*, which are a set percentage of the quota. If an individual or group holds shares, each year they would receive that percentage of the quota, which is their *allocation*. The allocation amount would change if the quota changes, but the shares remain the same, unless transfer is allowed. If shares are distributed to individuals, the program would be an IFQ program (**Option 2a**). If shares are distributed to permits, the program would be a PFQ program (**Option 2b**).

In a cooperative program (**Alternative 3**), a portion of the quota would be distributed to each cooperative, and managers distribute allocation to vessels within the cooperative based on predetermined procedures. The amount given to each cooperative could change from year to year, depending on quota, changing membership in a group, change in average weight of fish, or other factors. In this case, shares would not be needed and only allocation would be distributed. The types of allocation-based management programs are described in Sections B and C. The programs differ in terms of how the shares and/or allocation would be divided and distributed, as well as other program details (Table 2.1.1.1). These types of programs could provide HBSV with the flexibility to operate when customers are most abundant, which may differ by region. The programs could also promote safety at sea, by allowing vessels to wait for calm weather.

**Table 2.1.1.1.** Comparison of proposed management programs.

	IFQ ( <b>Alternative 2a</b> )	PFQ ( <b>Alternative 2b</b> )	Cooperatives ( <b>Alternative 3</b> )
Shareholder	Account holder	Permit holder	NA
Allocation Distributed by:	NMFS	NMFS	Manager
Annual Allocation Distributed to:	Individual accounts based on shareholdings	Permit accounts based on attributes associated with the permit	Vessels in the coop based on internal agreement

Share Transfers*	Between individuals with accounts	Must transfer permit to transfer shares	NA
Allocation Transfers*	Between individuals with accounts	Between permit holders with accounts	Within or between coops

\*Limitations may be set by the program.

## 2.1.2 Action A2. Species to Include in the HBSV Management Program

**Alternative 1.** No Action. Do not define reef fish species to include in the management program.

**Preferred Alternative 2.** Include red snapper in the management program.

**Alternative 3.** Include gray triggerfish in the management program.

**Alternative 4.** Include greater amberjack in the management program.

**Preferred Alternative 5.** Include gag in the management program.

**Alternative 6.** Include red grouper in the management program.

### Discussion

For each reef fish species included in this action, the development of management measures specific to HBSV would initially require the allocation of a portion of the recreational annual catch limit to HBSV. Therefore, only reef fish species that already have recreational annual catch limits (ACLs) are considered for inclusion in this amendment. Within the reef fish complex managed by the Council, the six species with separate recreational and commercial ACLs are: red snapper, gag, red grouper, greater amberjack, gray triggerfish, and black grouper. The Ad Hoc Headboat Reef Fish Advisory Panel (Headboat AP) recommended the inclusion of these six major reef fish species. However, black grouper recreational landings are typically very low and a very limited number of black grouper are landed by headboat survey vessels. Based on the negligible black grouper recreational landings, reef fish species considered for inclusion in this amendment exclude black grouper and are limited to the five major reef fish species with recreational ACLs. **Preferred Alternatives 2 and 5** would mirror the species include in the Headboat Collaborative exempted fishing permit that expired at the end of 2015.

Recreational fishing for most of these species has been limited in recent years, which has prompted the Council to search for new management regimes to increase fishing opportunities. Tables 2.1.2.1 to 2.1.2.5 show landings by HBSV of each of the species and the proportion of those landings versus landings for the recreational sector as a whole. For HBSV, red snapper has the highest landings by far in both numbers and pounds.

**Table 2.1.2.1.** Landings (in pounds) of **red snapper** by HBSV from 2011 through 2015 by homeport region, plus percentage of the total recreational landings. Note: Some regions have been combined because of confidentiality requirements. 2015 landings are preliminary.

Year	SWFL	NWFL	AL	MS/LA	TX	Total	Percent
2011	14,362	218,833	80,867	29,578	286,928	630,568	15%
2012	17,955	187,878	71,483	27,093	419,675	724,084	14%
2013	12,493	132,300	56,378	22,618	221,491	445,280	5%
2014	10,289	107,534	67,338	12,436	184,696	382,293	10%
2015	19,003	102,632	94,718	18,188	333,733	568,273	

Source: SRHS database, MRIP, LA Creel, TX HBS.

**Table 2.1.2.2.** Landings (in pounds) of **gray triggerfish** by HBSV from 2011 through 2015 by homeport region, plus percentage of the total recreational landings. Note: Some regions have been combined because of confidentiality requirements. 2015 landings are preliminary.

Year	SWFL	NWFL	AL-LA	TX	Total	Percent
2011	1,401	34,832	11,915	2,303	50,449	11%
2012	997	13,570	3,018	1,121	18,706	7%
2013	796	21,443	3,421	1,453	27,112	6%
2014	229	7,002	932	530	8,693	4%
2015	221	2,344	731	161	3,457	6%

Source: SRHS database, MRFSS, LA Creel, TX HBS.

**Table 2.1.2.3.** Landings (in pounds) of **greater amberjack** by HBSV from 2011 through 2015 by homeport region, plus percentage of the total recreational landings. Note: Some regions have been combined because of confidentiality requirements. 2015 landings are preliminary.

Year	FL	Other Gulf	Total	Percent
2011	31,915	30,921	62,836	6%
2012	61,989	37,692	99,681	7%
2013	34,961	38,286	73,247	5%
2014	21,936	24,500	46,435	5%
2015	23,251	35,249	58,500	6%

Source: SRHS database, MRFSS, LA Creel, TX HBS; all MRFSS landings for greater amberjack from Monroe County are assigned to the South Atlantic.

**Table 2.1.2.4.** Landings (in pounds) of **gag** by HBSV from 2011 through 2015 by homeport region, plus percentage of the total recreational landings. Note: Some regions have been combined because of confidentiality requirements. 2015 landings are preliminary.

Year	SWFL	NWFL	AL-LA	TX	Total	Percent
2011	47,688	1,948	256	344	50,236	7%
2012	34,707	9,808	408	595	45,519	4%
2013	32,083	2,560	22	431	35,096	2%
2014	40,023	1,598	93	183	41,898	5%
2015	22,761	2,920	194	184	26,059	

Source: SRHS database, MRFSS, LA Creel, TX HBS; all MRFSS landings for gag from Monroe County are assigned to the South Atlantic.

**Table 2.1.2.5.** Landings (in pounds) of **red grouper** by HBSV from 2011 through 2015 by homeport region, plus percentage of the total recreational landings. Note: Some regions have been combined because of confidentiality requirements. 2015 landings are preliminary.

Year	SWFL	NWFL	AL-TX	Total	Percent
2011	28,836	9,163	459	38,459	6%
2012	74,211	12,731	382	87,324	5%
2013	71,960	8,950	344	81,255	3%
2014	41,145	5,953	175	47,272	3%
2015	48,390	4,318	332	53,040	3%

Source: SRHS database, MRFSS, LA Creel, TX HBS.

Some of the proposed species are overfished and/or undergoing overfishing (Table 2.1.2.6). Changes to management for these species could extend seasons and increase fishing opportunities. **Alternative 1** would not specify reef fish species to include in the management program for HBSV. Therefore, **Alternative 1** would not allow further development of management measures for HBSV.

**Preferred Alternative 2** would include red snapper, an overfished species. The recreational sector has experienced quota overages and shorter seasons recently. Although the recreational quota has increased in recent years, the season length has decreased, in part because the average size of the fish harvested has increased (i.e., it takes fewer fish to fill the quota).

**Alternatives 3 and 4** would include gray triggerfish and greater amberjack, respectively, two overfished species under rebuilding plans. Greater amberjack landings exceeded the ACL in 2013, and the season closed early in 2014 and 2015. The gray triggerfish season has closed before the end of the year since 2012, including 2015.

**Preferred Alternative 5** would include gag. Gag recreational landings have been below the ACL since 2012. Although a stock assessment for gag, completed in 2014 (SEDAR 33 2014), indicated the gag stock was no longer overfished or undergoing overfishing, anecdotal information from fishermen indicate that the stock may not be in as good shape as suggested by the assessment. Low landings may be indicative of a reduced stock. New management for gag could help prevent overfishing from recurring.

**Alternative 6** would include red grouper, which is considered neither overfish nor undergoing overfishing. However, the red grouper ACL was exceeded in 2013 and the season closed in 2014; the Council reduced the bag limit for 2015 to try to extend the season, but it still closed early.

**Table 2.1.2.6.** Overfished and overfishing status of Gulf stocks considered for Amendment 42.

Species	Status of the Gulf Stock	
	Overfished	Overfishing
Red Snapper	Y	N
Greater Amberjack	Y	Y
Gray Triggerfish	Y	N
Gag	N	N
Red Grouper	N	N

The establishment of a separate management program for HBSV harvesting red snapper would not exempt the program from section 407(d) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) which requires that red snapper recreational fishing be halted once the total recreational quota is caught. Some participants in the selected program, particularly if it is an allocation-based program, may have to forgo remaining annual allocation of red snapper and lose fishing opportunities after the red snapper recreational ACL is caught. This provision would not apply to other species that might be included in the program.

### 2.1.3 Action A3. Allocation of Quota to Headboat Survey Vessel Program

**Alternative 1.** No Action. Do not allocate quota to the Headboat Survey Vessel Program.

**Alternative 2.** Allocate quota to the Headboat Survey Vessel Program based on landings from the most recent year (2015), according to the Southeast Region Headboat Survey.

**Alternative 3.** Allocate quota to the Headboat Survey Vessel Program based on landings from most recent 5 years (2011-2015), according to the Southeast Region Headboat Survey.

**Alternative 4.** Allocate quota to the Headboat Survey Vessel Program based on landings from the longest time series (1986-2015, excluding 2010), according to the Southeast Region Headboat Survey.

**Alternative 5.** Allocate quota to the Headboat Survey Vessel Program based on 50% landings from most recent 5 years (2011-2015) and 50% landings from the longest time series (1986-2015, excluding 2010), according to the Southeast Region Headboat Survey.

*Note: For red snapper, any allocation would be subtracted from the for-hire component quota before calculating the for-hire component annual catch target (ACT). For other species, any*

allocation would be subtracted from the recreational ACL before calculating the recreational ACT.

### **Discussion**

For each reef fish species included in this management plan, a portion of the corresponding recreational quota must be allocated to the HBSV component prior to the development of management measures tailored to the specific needs of HBSV. As discussed in previous sections, reef fish landings from HBSV have been documented by the SRHS since 1986. Therefore, time series for the percentages of the recreational landings harvested by HBSV are available and could serve as a basis for apportioning quota between anglers harvesting reef fish from HBSV and other components of the recreational sector. Table 2.1.3.1 provides percentages of the recreational landings harvested by HBSV. The percentages of the recreational quotas landed by anglers fishing from charter vessels and from HBSV are provided in Table 2.1.3.2.

**Table 2.1.3.1.** Percentage of the recreational landings harvested by HBSV (2011-2015).

Year	Red Snapper	Greater Amberjack	Gray Triggerfish	Gag Grouper	Red Grouper
2011	15%	6%	11%	7%	6%
2012	14%	7%	7%	4%	5%
2013	5%	5%	6%	2%	3%
2014	10%	5%	4%	5%	3%
2015		6%	6%		3%
<b>Average</b>		6%	7%		4%

Source: SRHS, MRIP, MRFSS, LA Creel, TX Headboat Survey

Red snapper is unique among reef fish in that it is the only species with a recreational ACL that have been further divided into private angling and for-hire component quotas. Because HBSV are part of the for-hire component, the allocation to the HBSV program would come from the for-hire quota, and the percentage of the for-hire landings attributed to HBSV would be used to determine the allocation of the for-hire quota between charter and headboats. However, the separate red snapper component quotas are scheduled to sunset after 2017; i.e., the ACL will no longer be divided into private angling and for-hire quotas. Unless the sunset provision is removed, the HBSV quota would be subtracted from the total recreational ACL after the sunset, as for the other species. The proportion of the for-hire component landings attributable to HBSV is shown in Table 2.1.3.2. The proportion of the total recreational landings attributable to HBSV is shown in Table 2.1.2.1.

**Table 2.1.3.2.** Recreational **red snapper** landings (in pounds) harvested by the for-hire component of the recreational sector. 2015 landings are preliminary.

Year	Charter Boat	HBSV	HBSV %	Total For-Hire
2011	1,227,734	630,562	33.9	1,858,296
2012	1,528,613	724,077	32.1	2,252,690
2013	1,284,067	445,276	25.7	1,729,343
2014	351,987	382,293	52.1	734,280
2015	1,729,118	568,273	24.7	2,297,391

Source: SRHS, MRIP, MRFSS, LA Creel, TX Headboat Survey

### 2.1.4 Action A4. Units of Measure for Headboat Survey Vessel Quota Distribution and Reporting

**Alternative 1.** No Action. The Headboat Survey Vessel quotas (Action A3) are distributed and reported in pounds.

**Alternative 2.** The Headboat Survey Vessel quotas (Action A3) is distributed and reported in numbers of fish.

#### Discussion

Recreational data collection programs such as the Marine Recreational Information Program (MRIP) and the SRHS estimate recreational harvests in number of fish caught and in pounds. For the management measures considered in this amendment, especially allocation-based programs, the distribution of the quota allotted to the HBSV component and between vessels or cooperatives in the HBSV component could be based on pounds or number of fish.

Quota distributions to individual vessels expressed in pounds (**Alternative 1**) may be challenging for headboats as well as for managers due to the multitude of anglers on the vessels. Reporting landings in pounds would be more burdensome to vessel operators because they would need to weigh each fish. **Alternative 1** would also be more burdensome to enforcement for the same reason.

The estimation of an average weight per fish is required for the conversion of the headboat portion of the quota from pounds to number of fish (**Alternative 2**). Due to temporal and spatial fluctuations in average weights, weights might have to be monitored during the year. For example, in the headboat collaborative pilot program, NMFS compared the pre-season average weight to the actual average weight during the season and made adjustments if warranted. Port side sampling is crucial for these calculations and may need to be increased to accurately track average weights per region. Fish tags could be used to validate landings in numbers.

## 2.2 Section B – Fishing Quota Program (IFQ or PFQ)

Actions in this section are only valid if Alternative 2 is chosen in Action A1; the presentation of actions, including the No Action alternatives, presumes the development of an HBSV fishing quota program.

An IFQ program involves shares and allocation held by individuals, in this case, permit holders with vessels in the SRHS. Shares would be distributed to each permit holder based on the landings history associated with their permit or vessel in the SRHS and NMFS databases. Those shares would represent a percentage of the quota for the program. After the initial distribution, shares would be associated with the permit holder but not the permit itself. Therefore, shares could be transferred separately from the permit, in accordance with any restrictions in the program. Each year, allocation would be distributed to participants holding shares by NMFS; individual allocation would be determined by multiplying the share percentage by the program quota.

A PFQ program involves shares and allocation associated with a permit, in this case the federal Gulf of Mexico (Gulf) reef fish charter/headboat permit that is associated with a vessel in the SRHS. Those shares would represent a percentage of the quota allocation for the program and allocation will be distributed to the permit holder at the start of the year. Shares would not be independently transferrable, but if the permit transferred the shares would transfer with the permit and now be associated with the new shareholder.

### Definitions

**Southeast Region Headboat Survey (SRHS)** – NMFS survey of headboats in the Gulf of Mexico  
**Headboat Survey Vessel (HBSV)** – a vessel participating in the SRHS that holds a federal Gulf of Mexico Reef Fish Charter/Headboat Permit  
**HBSV Quota** – pounds of fish allowed to be landed by vessels in the HBSV program developed in this amendment  
**Share** – a set percentage of the quota held by an IFQ or PFQ participant  
**Allocation** – pounds or numbers of fish each HBSV is allowed to land

The NMFS Southeast Regional Office currently manages commercial IFQ programs for red snapper, groupers, and tilefish. The NMFS Southeast Regional Office also currently maintains and supports the commercial Bluefin Tuna Individual Bluefin Quota program, which is a type of PFQ. The structure of an IFQ or PFQ program for HBSV could be incorporated into the current online system. Participants would hold shares and allocation in accounts within the system, and distribution, usage, and transfers would all be tracked by NMFS.

The Magnuson-Stevens Act states: “the Gulf Council(s) may not submit, and the Secretary may not approve or implement, a fishery management plan or amendment that creates an individual fishing quota program...unless such a system, as ultimately developed, has been approved by...a majority of those voting in the referendum among eligible permit holders with respect to the Gulf Council. For multispecies permits in the Gulf of Mexico, only those participants who have

substantially fished the species proposed to be included in the individual fishing quota program shall be eligible to vote in such a referendum.”

The Magnuson-Stevens Act prohibits any person from participating in a limited access privilege program that is not a U.S. citizen, corporation, partnership, or other entity established under the laws of the U.S. or any state, or a permanent resident alien. It also requires participants to meet the eligibility and participation requirements established by the program. As previously indicated, for purposes of this amendment, all vessels must be selected for the SRHS to participate in the program. The rest of the requirements would be developed in the actions in this section.

### 2.2.1 Action B1. Initial Apportionment of Shares

**Alternative 1.** No Action. Do not apportion shares to participants.

**Alternative 2.** Distribute a percentage of initial shares equally among eligible participants and distribute the remaining percentage of the initial shares proportionally. Proportional distributions are based on average landings per permit during the time interval selected in Alternative 3. Percentages distributed equally and proportionally are as follows:

Option	Distribution of Initial Shares	
	Equal	Proportional
<b>2a</b>	0	100
<b>2b</b>	25	75
<b>2c</b>	50	50
<b>2d</b>	75	25
<b>2e</b>	100	0

**Alternative 3.** The distribution of initial shares proportionally among eligible participants is based on average landings by permit during:

**Option 3a.** The most recent year (2015).

**Option 3b.** The most recent five years (2011-2015).

**Option 3c.** The most recent five years (2011-2015), omitting the year with the lowest landings.

**Alternative 4.** Distribute initial shares through an auction system. All eligible participants are allowed to place bids.

#### **Discussion**

The quota for the HBSV program will be determined according to Action A3. For an IFQ or PFQ program to be developed, shares of the HBSV quota would need to be distributed to participants at the beginning of the program. Therefore, **Alternative 1** would not allow development of a fishing quota program.

**Alternative 2** (Options 2a to 2e) would distribute a portion of the quota equally among participants and the remaining percentage proportionally, e.g., Option 2b would distribute 25% of the initial shares equally and 75% proportionally (based on landings histories). Landings used for calculating initial shares for each species would come from the SRHS database. Tables 2.2.1.1-2.2.1.5 provide average landings categories during four of the five considered years for each species.

**Alternative 3** would establish the time interval used to determine average landings for each eligible participant.

**Alternative 4** would distribute shares through an auction facilitated by NMFS. The Magnuson-Stevens Act states that a Council must consider an auction system or other program to collect royalties for the initial, or any subsequent, distribution of allocations in a limited access privilege program. None of the limited access privilege programs in the Southeast have utilized this option.

**Table 2.2.1.1.** Frequency distribution of HBSV average annual **red snapper** landings (2011-2014).

Pounds landed per year RS	Number of Vessels	Cumulative Frequency
0-99	7	7
100-999	5	12
1,000-2,999	10	22
3,000-4,999	11	33
5,000-9,999	14	47
10,000-19,999	9	56
20,000-40,000	9	65

Source: SRHS database

**Table 2.2.1.2.** Frequency distribution of HBSV average annual **greater amberjack** landings (2011-2014).

Pounds landed per year JACK	Number of Vessels	Cumulative Frequency
0-99	17	17
100-199	11	28
200-499	9	37
500-999	9	46
1,000-1,999	10	56
2,000-3,999	7	63
4,000-15,000	4	67

Source: SRHS database

**Table 2.2.1.3.** Frequency distribution of HBSV average annual **gray triggerfish** landings (2011-2014).

Pounds landed per year TRIG	Number of Vessels	Cumulative Frequency
0-9	15	15
10-19	8	23
20-99	15	38
100-499	17	55
500-999	7	62
1,000-1,999	4	66
2,000-3,600	3	69

Source: SRHS database

**Table 2.2.1.4.** Frequency distribution of HBSV average annual **gag** landings (2011-2014).

Pounds landed per year GAG	Number of Vessels	Cumulative Frequency
0-49	36	36
50-99	3	39
100-199	7	46
200-499	11	57
500-999	4	61
1,000-4,999	6	67
5,000-8,500	2	69

Source: SRHS database

**Table 2.2.1.5.** Frequency distribution of HBSV average annual **red grouper** landings (2011-2014).

Pounds landed per year RGR	Number of Vessels	Cumulative Frequency
0-19	9	9
20-99	6	15
100-499	7	22
500-999	15	37
1,000-1,999	5	42
2,000-4,999	3	45
5,000-10,000	5	50

Source: SRHS database

### Appeals

With **Alternatives 2** and **3**, an appeals process would be established to provide a procedure for resolving disputes regarding initial distribution of shares. A small percentage of quota is usually set aside at the beginning of the program to cover potential successful appeals.

Items subject to appeal are the accuracy of the amount of landings and the correct assignment of landings to the permit owner. Appeals based on hardship factors will not be considered.

Landings data for appeals would be based on logbooks submitted to and received by the Southeast Fisheries Science Center by a date to be determined, for the years chosen in the preferred alternative and option. In addition, NMFS records of federal reef fish charter/headboat permits constitute the sole basis for determining ownership of such permits.

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

### **2.2.2 Action B2. Transferability of Shares**

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

**Alternative 2.** Require a reef fish charter/headboat permit to receive shares through transfer.

**Alternative 3.** Do not establish permit requirements for receiving shares through transfer.

#### **Discussion**

The alternatives for this action are more complicated than those in Action B2 for two reasons. First, allocation expires at the end of each year, so divestment of allocation in the case of a sold or expired permit is not necessary. Second, shares are detached from the permit in an IFQ program and belong to the individual, whereas shares are attached to the permit in a PFQ program; allocation is attached to an account for both the IFQ and PFQ programs.

**Alternative 1** would be the most restrictive of the alternatives. Shares would be distributed at the beginning of the program, and no transfer would be allowed. Therefore, no one could buy into the program by buying shares. Under a PFQ program, when a permit was sold the shares would stay with the permit; this could allow shares to move to vessels not in the HBSV program, if the new vessel does not meet the criteria for the SRHS. Also under a PFQ program, if a permit expired, the shares would no longer be available to participants in the program. Under an IFQ program, when a permit was sold or expired the shares would stay with the individual. This would allow shares to be held by individuals who do not participate in the type of fishing the program was designed to manage.

**Alternative 2** would require a reef fish charter/headboat permit to receive shares through transfer. This alternative would limit the HBSV program to permit holders, but not HBSV. After receiving initial shares, a permit holder could transfer the permit to a smaller vessel, stop charging fees primarily by passenger, or some other change that would not fit the criteria for the SRHS. That vessel would then be considered a charter vessel, but could still hold shares and

receive allocation each year. Amendment 41 is being developed to create a management program for charter vessels (all vessels not included in Amendment 42). If an allocation-based program is implemented through both amendments, **Alternative 2** would allow trading between the charter and headboat components of the fishery.

Divestment of shares would differ between the IFQ and PFQ programs. Under an IFQ program, the shares are disconnected from the permit after initial distribution and belong to the account holder. **Alternative 2** would require a participant to divest of their IFQ shares if they no longer had a permit. The time frame for divestment would likely be different depending on if the permit was sold or expired. A person who sells the permit should be required to divest of IFQ shares in a matter of months, whereas a person who allows their permit to expire still has one year to renew that permit. Thus, the Council may want to grant up to a year for divestment after the permit expires. Under a PFQ program, the shares remain connected to the permit, and transfer of a permit requires transfer of shares, whereas expiration of the permit results in unassigned shares that should be redistributed.

**Alternative 3** would keep all shares with HBSV. **Alternative 3** encompasses **Alternative 2** because a vessel must have a reef fish charter/headboat permit to be in the SRHS. Again, with an IFQ program, individuals would be required to divest if they no longer have a vessel in the SRHS. With a PFQ program, if the permit is no longer associated with a vessel in the SRHS, those shares would revert to NMFS and be redistributed to current participants.

With **Alternative 4**, a person who was in the program initially and received shares could continue to hold those shares after selling the permit or changing their business practices to no longer qualify for the SRHS. Any individual could set up an account and receive transferred shares. The commercial IFQ programs do not currently have permit requirements for holding or receiving shares, although a permit was needed to receive initial shares. However, a person who initially received shares could sell their permit later and retain the shares. During the first five years of each commercial program, shares could only be transferred to permit holders, but now (as of 2012 for red snapper and 2015 for grouper/tilefish) anyone meeting the citizenship requirement can have an IFQ account and receive transferred shares.

### 2.2.3 Action B3. Transferability of Allocation

**Alternative 1.** No Action. Do not allow transfer of HBSV allocation.

**Alternative 2.** Require a valid reef fish charter/headboat permit and participation in the SRHS to receive allocation through transfer.

**Alternative 3.** Do not establish permit or participation requirements for receiving allocation. A valid reef fish charter/headboat permit is still required to harvest.

## **Discussion**

The commercial IFQ programs do not currently have permit or participation requirements for holding allocation. A person who initially received shares could sell their permit later and retain the shares, thus receive allocation every year thereafter. During the first five years of each commercial program, allocation could only be transferred to permit holders, but now (as of 2012 for red snapper and 2015 for grouper/tilefish) anyone meeting the citizenship requirement can have an IFQ account and receive transferred allocation. The commercial reef fish permit is still required to fish for IFQ species.

**Alternative 1** would be the most restrictive of the alternatives. Allocation would be distributed at the beginning of the year to shareholders, and no transfer would be allowed. Therefore, no one could purchase or “lease” allocation. Purchase of allocation during the year is often desirable if a participant uses all of their allocation before the end of the year. If IFQ/PFQ species were caught incidental to fishing for other species, allocation could not be purchased and those species would need to be discarded.

**Alternative 2** would keep all shares with HBSV. **Alternative 3** encompasses **Alternative 2** because a vessel must have a reef fish charter/headboat permit to be in the SRHS. For **Alternative 2**, if a permit is sold or expired, the allocation holder could still transfer the allocation to another participant in the HBSV program before it expires at the end of the year.

With **Alternative 3**, any person could hold allocation even without a vessel in the SRHS or without permit. However, individuals or corporations holding allocation that cannot be fished. Those individuals would only be able to receive allocation through transfer, unless an alternative in Action B3 was chosen allowing them to hold shares.

### **2.2.4 Action B4. Share Caps**

*Note: Allocation caps are addressed in Section D.*

**Alternative 1.** No Action. Do not constrain the amount of shares that one participant can own.

**Alternative 2.** Each participant’s total share holdings cannot be more than x% of shares **in each species category**.

**Option 2a.** x = the maximum share holdings for a participant (as defined in Action C3) in each species category.

**Option 2b.** x = 5%.

*Note: The Council should choose the appropriate number for Options 2b.*

## **Discussion**

A participant is an individual, corporation, partnership, or other entity established under the laws of the United States or any state, or a permanent resident alien. Each participant’s total holdings are the sum of the shares assigned to each vessel that a participant owns plus their portion of the shares for each vessel the participant has an interest in (e.g., a shareholder in a corporation). The

Magnuson Stevens Act requires NMFS to ensure that no limited access privilege holder acquires an excessive share of the total privileges in the program. Thus, **Alternative 1** would not meet the requirements of the Magnuson Stevens Act.

**Alternative 2** sets a cap on the amount of shares any participant can hold *in each category*. Because landings of different species can be quite variable, the caps might be different for each category. The commercial grouper/tilefish IFQ program follows **Alternative 2**; the commercial red snapper IFQ program only has one species. **Option 2a** could result in a different maximum percentage for each species in the program. **Options 2b** would use a set percentage that would be the same for each species category. The appropriate percentages can be determined when further decisions about how shares will be distributed to participants are made.

### 2.2.5 Action B5. Distribution of Quota Adjustments

**Alternative 1.** No Action. Do not establish a method to adjust annual allocation if the quota changes.

**Alternative 2.** If the quota increases, distribute the increase proportionally to each shareholder as soon as possible after implementation of the increase.

**Alternative 3.** If the quota increases, distribute the increase equally to each shareholder as soon as possible after implementation of the increase.

**Alternative 4.** If the quota is anticipated to decrease, the RA has the authority to hold back the anticipated amount of decrease during distribution of allocation at the beginning of the year. If the decrease does not occur, the amount held back will be distributed as soon as possible.

#### **Discussion**

HBSV quota adjustments would be needed if an ACL changes or the Council elects to reallocate resources among user groups. Changes in ACLs generally occur following a new or updated stock assessment; these can either increase or decrease the HBSV quota. When allocations between the commercial and recreational sectors are specified, recreational quotas are determined by multiplying the ACL for a species by the recreational allocation percentage. Next, the HBSV quota would be determined by multiplying the recreational quota by the HBSV allocation percentage as calculated in Action A3. With **Alternative 1**, no changes to the allocation distributed to shareholders would occur within the fishing season; the allocations would be recalculated at the beginning of the next year, according to the share holdings of each participant.

If the HBSV quota increases, with **Alternative 2** the amount of increase would be distributed proportionally to each participant as additional allocation within the fishing year. The share percent that each participant holds would be applied to the quota increase to determine their additional allocation.

If the HBSV quota increases, with **Alternative 3** the amount of increase would be distributed equally to each participant as additional allocation within the fishing year. The quota increase would be divided by the number of shareholders and each shareholder would receive that amount.

**Alternative 4** addresses a decrease in the HBSV quota. After allocation is distributed to shareholders each year, taking any back would be difficult. Vessels may have landed all or some of their allocation. A similar problem was encountered with the commercial red snapper IFQ program and the solution was to hold back some of the quota to cover the anticipated decrease in the commercial quota. For the HBSV program, NMFS would hold back the maximum amount that may be subtracted from the total quota before distributing allocation to each shareholder at the beginning of the year. If the anticipated decrease did not occur, NMFS would distribute the hold back using the same proportions as used during the initial distribution for that year.

## 2.3 Section C – Fishing Cooperatives

Actions in this section are only valid if Alternative 3 is chosen in Action A1; the presentation of actions, including the No Action alternatives, presumes the development of a HBSV fishing cooperative program.

The Fishermen’s Collective Marketing Act of 1934 (15 USC 521) defines a fishing cooperative as a group comprised of “persons engaged in the fishing industry as fishermen, catching, collecting, or cultivating aquatic products, or as planters of aquatic products on public or private beds, that may act together in association, corporate or otherwise.” Fishing cooperative management does not require the participants to be located in the same areas. The Headboat AP recommended this type of program.

If the Council chooses this type of program, a single cooperative could be managed for all 68 HBSV, or multiple cooperatives

could be formed. Each cooperative would be managed by its own manager or management board, independently from any other cooperatives, which would allow flexibility of each cooperative to manage their respective allocation as they deem fit. The portion of the quota allotted to each cooperative, or the yearly catch allotment (YCA), is attached to a manager account; the manager(s) then distributes allocation to member vessels according to the internal cooperative agreement. Because cooperative membership would not necessarily be based on any common vessel or gear characteristics, this program offers a great deal of flexibility in the formation of cooperatives. A group of HBSV owners would simply agree to form a cooperative and submit a binding operations plan for management of that cooperative’s YCA.

An example of a cooperative is the 2014-2015 Gulf Headboat Collaborative pilot study, which was created 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 component of the reef fish fishery. The pilot study had one manager responsible for distributing allocation to 19 vessels home-ported throughout the Gulf. Although the manager distributed allocation, the NMFS Southeast Regional Office (SERO) catch shares system tracked all transfer and use of allocation. The structure of a fishing cooperative for all HBSV could be incorporated into the current online system, by adapting the pilot study structure.

### **Definitions**

**Southeast Region Headboat Survey (SRHS)** –

NMFS survey of headboats in the Gulf of Mexico

**Headboat Survey Vessel (HBSV)** – a vessel participating in the SRHS that holds a federal Gulf of Mexico Reef Fish Charter/Headboat Permit

**HBSV Quota** – pounds or numbers of fish allowed to be landed by vessels in the HBSV program developed in this amendment

**Yearly Catch Allotment (YCA)** – pounds or numbers of fish assigned to a cooperative (if developed)

**Potential Catch Contribution** – pounds or numbers of fish each vessel contributes to a cooperative based on the vessel’s landings history

**Allocation** – pounds or numbers of fish each HBSV is allowed to possess or land

### 2.3.1 Action C1. Formation and Membership of Cooperatives

**Alternative 1.** All HBSV will be in one cooperative.

**Alternative 2.** All HBSV will initially be in one cooperative, but participants can create new cooperatives with a minimum of three members (none of whom have an ownership interest in the other two participants in the cooperative). Vessels can only change cooperative membership **before the beginning of each fishing season**, during a declaration period designated by NMFS. After the close of the declaration period, vessels cannot change membership until the next year.

**Alternative 3.** All HBSV will initially be in one cooperative, but participants can create new cooperatives with a minimum of three members (none of whom have an ownership interest in the other two participants in the cooperative). Vessels can only change cooperative membership **before the beginning of every second fishing season**, during a declaration period designated by NMFS. After the close of the declaration period, vessels cannot change membership until two years later.

**Alternative 4.** All HBSV will initially be in one cooperative, but participants can create new cooperatives with a minimum of three members (none of whom have an ownership interest in the other two participants in the cooperative). Vessels **cannot change cooperative membership after the initial declaration period** designated by NMFS at the beginning of the program.

#### Discussion

**Alternative 1** would function the same way as the pilot study, with a single cooperative. This alternative would be the easiest for NMFS to implement because the cooperative membership would not change, unless new vessels added to the SRHS are allowed to join the program or vessels are removed from the SRHS. However, a membership of 68 vessels may have a harder time agreeing on a manager and operational plan as outlined in Action 2.

**Alternatives 2-4** would allow three or more vessels to voluntarily form a new cooperative. This alternative allows more flexibility to vessel owners because they can work with others that wish to have the same type of management. The restriction on ownership would prevent someone with multiple interests from having sole control of the cooperative. **Alternatives 2 and 3** give vessel owners the option to leave a cooperative after the beginning of the program, if they prefer different management. With **Alternative 4**, vessel owners would need to make this decision at the beginning of the program during the initial formation of the cooperative. With all alternatives, any vessel not joining a voluntary cooperative would remain in the initial cooperative. These alternatives would be more administratively burdensome than **Alternative 1** because NMFS would need to track multiple cooperatives. **Alternatives 2 and 3** would be particularly complicated to administer because cooperative membership could change over time; this means the YCA for a cooperative would also change and need to be recalculated each year or two years.

### 2.3.2 Action C2. Management within Cooperatives

**Alternative 1.** No Action. An operations plan is not required for cooperatives.

**Alternative 2.** An operations plan must be submitted to NMFS for review at initial formation of the cooperative and *annually thereafter*. The operations plan will include bylaws and must be approved by NMFS. The operations plan must address the required elements in Table 2.3.2.1.

**Alternative 3.** An operations plan must be submitted to NMFS for review at initial formation of the cooperative and *if any of the required elements change thereafter*. The operations plan will include bylaws and must be approved by NMFS. The operations plan must address the required elements in Table 2.3.2.1.

#### Discussion

An operations plan outlines how a cooperative would be managed. Without an approved operations plan (**Alternative 1**), NMFS could not monitor whether fishing privileges are allocated fairly and equitably among participants.

**Alternatives 2 and 3** require an operations plan for each cooperative that includes basic elements of management. The concept of the cooperative program is that each group of fishermen is self-managed. Cooperatives would be exempt from federal closed seasons and bag limits, although a cooperative could choose to implement these management measures within their bylaws. Cooperatives are not exempt from size limits, closed areas, permitting restrictions, gear restrictions, and reporting requirements.

The operations plan would include the required elements in Table 2.3.2.1, and could also include other elements. With **Alternative 2**, the operations plan would need to be submitted to NMFS each year for approval; with **Alternative 3**, the operations plan would only need to be submitted to NMFS if one of the required elements changes. This would allow NMFS to monitor management of each cooperative so that it is fair to all members. The manager or management board would be responsible for implementing the operations plan and communicating with NMFS.

**Table 2.3.2.1.** Required elements in operations plans for cooperatives.

Required Element	Should include...
Procedures for election of a manager or managing board	Voting procedures, length of term, term limits, number of members (if a board), compensation
Procedure for allocation to vessels	How the YCA will be allocated to vessels, if any portion will be withheld, how any holdback will be distributed
List of members	Permit holder name(s) and address, permit number, vessel name, vessel identification number, vessel homeport
Disciplinary procedures	List of infractions and discipline, appeals process, notification to NMFS

Transfer process	If vessel to vessel transfers are allowed, conditions under which a transfer is approved or denied
Method of accounting for overages	If a vessel must payback an overage in its vessel account, if all vessels payback an overage of the YCA, other penalties for overages
Monitoring methods	How frequently the manager will monitor landings, conditions for halting fishing, procedure for ensuring vessels report
Cost recovery procedures	When the vessel owner must submit fees to the manager, how the manager will track fees
Summary of changes to bylaws	Any changes since the previous approval and location in the document
Membership contract	Signatures of all members
Manager information	Roles, contact information

### 2.3.3 Action C3. Apportionment of the HBSV Quota among Cooperatives as Yearly Catch Allotment (YCA)

**Alternative 1.** No Action. Do not specify a method for determining the YCA for each cooperative.

**Alternative 2.** The YCA for each species category for each cooperative will be based on the number of members in each cooperative for that year, with equal percentage of the quota for each species allotted for each member.

**Alternative 3.** The YCA for each species category for each cooperative will be based on the combined potential catch contributions of all members in the cooperative that year. The potential catch contribution for each species for each member will be the landings of that species associated with the vessel during:

**Option 3a.** The most recent year (2015).

**Option 3b.** The most recent five years (2011-2015).

**Option 3c.** A three-year running average, using the most recent complete year.

*Note: The Council may add more options.*

#### **Discussion**

The quota for the HBSV program will be determined according to Action A3. If only one cooperative is formed (Action C1, Alternative 1), apportioning the quota would not be necessary; therefore, **Alternative 1** would be the appropriate choice. However, if more than one cooperative is allowed, a method for dividing the quota among cooperatives would be needed.

The YCA is the portion of the quota assigned to a cooperative each year. With **Alternative 2**, each vessel would count equally and initially represent approximately 1.5% ( $68/10 \times 100\%$ ) of the quota. The YCA for each cooperative each year would be the number of vessels in the

cooperative that year times 1.5% of the quota. The YCA would be recalculated each year based on the current HBSV quota, number of vessels in the program, and each cooperative's membership.

With **Alternative 3**, the potential catch contribution for each vessel would be calculated based on the landings history for that vessel. With **Options a and b**, after a vessel's potential catch contribution is calculated, it would not change. With **Option c**, a vessel's potential catch contribution would be recalculated every year using the most recent complete three years of landings. The YCA for a cooperative would be the sum of the potential catch contributions for its member vessels that year. The YCA would be allotted to the cooperative as a whole each year and not to individual vessels within the cooperative. The cooperative would include their method of distributing the YCA as HBSV allocation to its member vessels in its operations plan (see Action C2). The YCA would be recalculated each year based on the current HBSV quota and cooperative membership.

Regardless of the alternative chosen, each cooperative would also be required to include a plan for stopping fishing when the YCA of one or more species is taken. The plan must provide assurance that the cooperative would not exceed the YCA allocated to it.

At the end of the fishing year, NMFS will evaluate catch to determine whether a cooperative has exceeded any of its YCAs. Repeated instances of exceeding the YCA may be evidence of inadequate monitoring systems, poor compliance with an operations plan, or a failure to adhere to other regulatory requirements. The Council will need to determine what accountability measures to implement, and if they should be imposed on the entire HBSV component, the non-compliant cooperative, or individual vessels. The Council will also need to decide how to apply accountability measures to cooperatives that disband or change membership.

### **2.3.4 Action C4. Transferability of Yearly Catch Allotment (YCA) between Cooperatives**

**Alternative 1.** No Action. Do not allow transfer of YCA between cooperatives.

**Alternative 2.** Allow transfer of YCA between cooperatives only by managers.

**Alternative 3.** Allow transfer of YCA between cooperatives by any participant in the cooperatives.

#### **Discussion**

This action addresses transfer of YCA between cooperatives; transfer of allocation between vessels within the same cooperative would be governed by procedures in the operations plan. Cooperatives may choose to allow vessel to vessel transfers within a cooperative, or only allow managers to transfer allocation between vessels.

At the beginning of each year, a cooperative would be given an YCA based on its membership (Action C3). The cooperative manager would then distribute allocation to the vessels in the

cooperative, based on procedures outlined in the operations plan. **Alternative 1** would require all allocation to remain within the cooperative to which it was assigned. If only one cooperative is formed (Action C1, Alternative 1), **Alternative 1** would be the appropriate choice.

**Alternative 2** would allow a manager to transfer YCA from his/her cooperative to another cooperative. The transfer process would be outlined in the operations plan, including conditions under which a transfer could occur. Some cooperatives may be able to use more than their YCA, and some may need less than their YCA. Allowing transfers between cooperatives could help balance allocation and reduce the chance of overages. This would also help ensure the HBSV quota is fully utilized. Allowing only managers to transfer YCA between cooperatives would help ensure that the agreed upon procedures are followed. This alternative would not require cooperatives to allow transfers outside of the cooperative; a cooperative could still choose to prohibit transfers out of the cooperative in its operations plan.

**Alternative 3** would allow any vessel to transfer YCA after it has been distributed to the vessel as allocation. The benefits of allowing transfers would be the same as for **Alternative 2**. Allowing a vessel to transfer YCA directly to a vessel in another cooperative would remove a level of control offered by a manager, but would provide greater independence for individual vessels. Again, cooperatives would not be required to allow outside transfers, and such transfers could be prohibited in the operations plan.

## **2.4 Section D – Other Possible Actions for Fishing Quota and Cooperative Programs**

### **Caps on Allocation Use**

A cap on allocation would be required for any program that is a LAPP. The Magnuson Stevens Act requires NMFS to ensure that no limited access privilege holder acquires an excessive share of the total privileges in the program. Caps could be set for each species category or for all species categories combined. Caps could also be for holdings at any point in time or cumulatively throughout the calendar year.

### **Landings Reporting**

The SRHS currently collects data from selected headboats. For any of the proposed programs, reporting through the SERO catch share system would also be required for tracking and enforcement. In the future, NMFS may be able to develop one system that collects all the information in a timely manner.

Several methods for reporting are possible. The commercial IFQ programs use VMS, telephone, and the online system for preliminary landings notifications, although all final landing reports are through the online system.

Currently, vessels selected by the SRHS are required to report landings electronically on a weekly basis. For an allocation-based system to work, landings need to be reported more

frequently, for each trip, to ensure enough allocation is available to the vessel and to prevent overages. The Council is developing a generic amendment that would require HBSV to submit fishing records for each trip via electronic reporting prior to arriving at the dock; if that amendment is finalized and implemented before the current amendment is completed, the frequency of reporting does not need to be addressed here.

## **Cost Recovery Fees**

The Magnuson-Stevens Act requires that LAPPs include provisions to recover the incremental costs of management, monitoring, data collection and analysis, and enforcement. This includes the cost of computer systems necessary to manage the disbursement and tracking of annual harvest privileges, as well as observer and enforcement programs. The Magnuson-Stevens Act limits cost recovery fees to 3% of the value of the fishery.

If a proposed program is considered a LAPP, cost recover fees would be required. The calculation of a cost recovery fee would depend on if landings were reported in numbers or pounds of fish (Action A4). A cost recovery fee based on pounds would be more burdensome to vessel operators because they would need to weigh each fish.

## **Provisions for New Entrants after Initial Setup of the Program**

If no provisions are made for new entrants, the number of participants would be capped to the initial 68 vessels. Sometimes, a new vessel may obtain a reef fish for-hire permit that was not selected for the SRHS in the past and begin operating as a headboat. Likewise, a current vessel may change its business practices to qualify for the SRHS. In each case, the vessel would be added to the SRHS, but not have a landings history. Consequently, a new vessel selected by the SRHS after initial set up of the HBSV program would not automatically be part of the program. Provisions for new entrants could be set immediately, or to begin after a certain number of years.

A new vessel that enters the SRHS, be it through obtaining a permit or changing business practice, represents a vessel formerly fishing under the general recreational quotas (or charter boat component quota, in the case of red snapper) for each species. If that vessel joins the HBSV program, more vessels would be fishing under the HBSV quota than used in the original calculations. In other words, the vessel should bring some landings to add to the quota, as did the initial vessels (see Action A3). However, at this time there is no way of determining the landings history for a vessel that was not in the SRHS. Therefore, a method of determining the portion of the catch that should move from the general recreational quota for each species to the HBSV quota would need to be developed. Additionally, if a cooperative program is developed and the apportionment of the HBSV quota as YCA to each cooperative is based on the landings history of each member vessel (Action C3, Alternative 3), a new vessel would not have a potential catch contribution to add to a cooperative YCA.

## **Framework Procedures**

Measures implemented in this amendment can be adjusted via framework action consistent with the framework procedures for the fishery management plan. These measures include, but are not limited to:

- Changes to the ACL or ACT
- Changes to AMs
- Reporting and monitoring requirements
- Permitting requirements

The Council may also wish to add a section to the framework procedure that specifically addresses catch share programs.

# APPENDIX A: HEADBOAT AP MEETING SUMMARY

Summary for the Ad Hoc  
Headboat Reef Fish Advisory Panel  
New Orleans, LA  
May 19, 2015

## Panel Members

Pam Anderson  
Randy Boggs  
Clifton Cox  
Jim Green  
Chad Haggert  
Mark Hubbard

## Council and Staff

Myron Fischer  
Assane Diagne  
Ava Lasseter  
Karen Hoak

## Panel Members cont'd

Kelly Owens  
Charles Paprocki  
Tom Steber  
Skipper Thierry  
Dustin Trochesset  
John Williams

## Attendance-Others

Jeff Barger  
Kristen McConnell  
Jessica Stephen  
Shane Cantrell  
Ken Brennan  
J.P. Brooker  
Tim Hobbs  
Elbert Whorton

The meeting was convened at 8:30 a.m. The AP elected Randy Boggs as Chair and Mark Hubbard as Vice-Chair. The Chair read the charge to the AP, which is to make recommendations to the Council relative to the design and implementation of flexible measures for the management of reef fish for the headboat component of the for-hire sector.

Ken Brennan gave a presentation on the geographical distribution of headboats participating in the Southeast survey and their reef fish landings. AP members discussed how to differentiate charter boats and headboats and staff added that for the purpose of a management plan, headboats would be defined as those participation in the Southeast Headboat Survey (HBS).

AP members discussed the species to include in a management plan for the headboat fleet. Staff noted the reef fish species for which sector allocations currently exist and the AP passed the following motion:

- **To investigate the possibility of managing all 6 major reef fish species in this management plan (red snapper, gag, red grouper, greater amberjack, gray triggerfish, and black grouper).**

AP members discussed whether headboats should be managed as a stand-alone component and the benefits and obstacles of different management approaches. Staff noted that headboats

participating in the HBS had recorded landings histories, while charter boats do not. An AP member expressed concern with further dividing the recreational sector, stating the sector will be stronger if they do not separate into subgroups, which diminishes their collective voice. The AP member added that aiming toward a year-round fishery would require catch shares, but providing flexibility for different fishing seasons could be accomplished under regional management. Other AP members preferred to be managed separately, citing the increased access provided to passengers fishing under the headboat collaborative and the flexibility of the allocation-based headboat collaborative which allows operators to decide when to fish and use quota. The AP passed the following motions:

- **That headboats be acknowledged as a stand-alone component of the recreational sector. This would include all vessels with federal for-hire reef fish permits that participate in the Southeast Region Headboat Survey (Beaufort survey).**
- **To recommend to the Council to develop a management approach that provides year round fishing opportunities for headboat businesses and anglers, stability in business plans, safety at sea, improved data collection, reduced discards, and accountability to catch limits.**
- **To recommend to the Council that the headboat management plan be allocation based on reported landings by the Beaufort headboat survey (HBS).**

AP members discussed enforcement and validation tools, such as vessel monitoring systems (VMS) or fish tags. Those opposed to VMS felt it was expensive and unnecessary for hailing out and hailing in, especially for headboats which follow tight, predictable schedules, and that other options were available. Other AP members responded to those concerns, noting the reliability of the VMS units and flexibility to use other options for hailing in. The AP passed the following motion:

- **To recommend to Council that enforcement tools for monitoring are:**
  - **VMS used for hail-out/hail-in on all trips, landings notification on fishing trips**
  - **Tags used to improve enforcement**
  - **Electronic logbooks submitted to the Beaufort survey on the same day as each fishing trip.**

AP members discussed the transferability of allocation under an allocation-based management system. Concern was expressed that transferability could result in increased costs for passengers to retain fish, and that allocated fish should not be purchasable by other vessels, but be returned and be redistributed fairly. Those in support of transferability argued it allowed for flexibility in the management plan. The AP also discussed management costs of a new headboat management plan,. The AP passed the following motions:

- **The advisory panel supports transferability of headboat allocations among participants in the headboat component, consistent with MSA guidelines on transferability, but without inter-sector trading.**

- **To recommend to the Council to consider how management costs can be shared between the NMFS and the headboat component of the fishery.**

Staff noted that both the Ad Hoc Charter AP and this Ad Hoc Headboat AP passed motions recommending separate management of charter boats and headboats. To accomplish separate management, the for-hire component's quota would need to be divided between charter boats and headboats. Headboats that participate in the HBS have landings histories which could be used as the basis for allocating between the for-hire components and an AP member stated that headboats have accounted for 32 to 36% of red snapper landings. The AP passed the following motions:

- **To recommend to the Council that the headboat component become a subsector of the for-hire sector/component, and that allocation based fisheries be deemed from our historical Beaufort headboat survey data, using the formula from Amendment 40.**
- **To recommend to the Council that this panel reconvenes as soon as possible to continue advising on the headboat component for the reef fish fishery.**

Continuing to manage headboats with bag limits, size limits, and seasons was discussed, but those opposed stated that traditional management approaches have not worked. Additional discussion concerned identifying data needs and improving accountability for the fleet, with the goal of reducing uncertainty and removing the 20% buffer to the recreational quota. AP members asked headboat collaborative participants about the program, including customer perceptions, use of tags, and bag limits. An AP member noted that one of the challenges of the program was that more people could not participate. The AP passed the following motion:

- **To recommend to the Council that the key components of the headboat EFP be considered for allocation-based management of headboats.**

Following review of their recommendations, the AP meeting was adjourned at 3:30 pm.

**All meeting motions including substitute and failed motions:**

Motion: That red snapper and gag grouper be the primary species that this management plan encompasses.

Substitute motion: To investigate the possibility of managing all 6 major reef fish species in this management plan (red snapper, gag, red grouper, greater amberjack, gray triggerfish, and black grouper)

**Substitute Motion carried 8 to 3**

Motion: That headboats be acknowledged as a stand-alone component of the recreational sector. This would include all vessels with federal for-hire reef fish permits that participate in the Southeast Region Headboat Survey (Beaufort survey).

**Motion carried 11 to 1**

Motion: To recommend to the Council to develop a management approach that provides year round fishing opportunities for headboat businesses and anglers, stability in business plans, safety at sea, improved data collection, reduced discards, and accountability to catch limits.

**Motion carried 11 to 1**

Motion: To recommend to the Council that the headboat management plan be allocation based on reported landings by the Beaufort headboat survey (HBS).

**Motion carried 10 to 2**

Motion: To recommend to Council that enforcement tools for monitoring are:

- VMS used for hail-out/hail-in on all trips, landings notification on fishing trips
- Tags used to improve enforcement
- Electronic logbooks submitted to the Beaufort survey on the same day as each fishing trip

**Motion carried 8 to 4**

Substitute motion: To recommend to the Council that enforcement tools, an app, or a traditional logbooks be used, with a call-in/call-out component that do not require VMS.

Motion failed 4 to 7

Second substitute motion: To use an allocation based management system, that a VMS system will be required. With a traditional management system (size limits, bag limits, seasons, etc.) that VMS not be required.

Motion failed for lack of a second

Motion: The advisory panel supports transferability of headboat allocations among participants in the headboat component, consistent with MSA guidelines on transferability, but without inter-sector trading.

**Motion carried 11 to 1**

Substitute motion: That if the Council chooses to move towards an allocation based management system, that there will not be a monetary value assigned to the allocation for transferability.

Motion failed 10 to 2

Motion: To recommend to the Council to consider how management costs can be shared between the NMFS and the headboat component of the fishery.

**Motion carried 9 to 2**

Motion: To recommend to the Council that the headboat component become a subsector of the for-hire sector/component, and that allocation based fisheries be deemed from our historical Beaufort headboat survey data, using the formula from Amendment 40.

**Motion carried 11 to 1**

Motion: To recommend to the Council that this panel reconvenes as soon as possible to continue advising on the headboat component for the reef fish fishery.

**Motion carried with no opposition**

Motion: To recommend to the Council to manage the headboat fleet with seasons, bag limits, and size limits along with additional appropriate accountability measures, allowing scientists to determine what data they need, and applying that request of data to the current headboat survey.  
Motion failed 2 to 9

Motion: To recommend to Council that a management plan for the headboat sector be designed closely mirroring the headboat EFP.  
Motion carried 10 to 2

Motion: to reconsider prior motion  
**Motion carried 7 to 3**

Substitute Motion: To recommend to the Council that the key components of the headboat EFP be considered for allocation-based management of headboats.  
**Revised Substitute Motion carried 8 to 3**