



**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 622**

**[Docket No. 230626-0155]**

**RIN 0648-BL58**

**Reef Fish Resources of the Gulf of Mexico and Coastal**

**Migratory Pelagic Resources of the Gulf of Mexico and**

**Atlantic Region; Conversion of Historical Captain Permits**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule.

**SUMMARY:** NMFS implements management measures as described in an abbreviated framework action 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 of the Gulf of Mexico and Atlantic Region (CMP FMP). This final rule will enable a permit holder to replace a historical captain endorsement in the reef fish and CMP fisheries in the Gulf of Mexico (Gulf) with a standard Federal charter vessel/headboat permit in the same Gulf fisheries. NMFS expects that this final rule will reduce the potential regulatory and economic burden on historical captain permit holders.

**DATES:** This final rule is effective on [*insert date 30 calendar days after date of publication in the FEDERAL REGISTER*].

**ADDRESSES:** An electronic copy of the abbreviated framework document that contains an environmental assessment and a Regulatory Flexibility Act (RFA) analysis may be obtained from the Southeast Regional Office website at <https://www.fisheries.noaa.gov/action/framework-action-historical-captain-permits-conversion-standard-federal-charter-headboat>. The proposed rule for this action can be downloaded from the same NMFS website or from [www.regulations.gov](http://www.regulations.gov) by searching "NOAA-NMFS-2022-0121."

**FOR FURTHER INFORMATION CONTACT:** Rich Malinowski, NMFS Southeast Regional Office, telephone: 727-824-5305, email: [rich.malinowski@noaa.gov](mailto:rich.malinowski@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The Gulf of Mexico Fishery Management Council (Gulf Council) manages reef fish in Gulf Federal waters under the Reef Fish FMP. In Gulf and Atlantic Federal waters, the Gulf Council and South Atlantic Fishery Management Council (Councils) jointly manage CMP species under the CMP FMP. The Gulf Council prepared the Reef Fish FMP and the Councils jointly prepared the CMP FMP. NMFS implements the FMPs through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) (16 U.S.C. 1801 *et seq.*).

On January 27, 2023, NMFS published a proposed rule in the **Federal Register** for the abbreviated framework action and requested public comment (88 FR 5295). The proposed rule and the abbreviated framework action outline the rationale for the action contained in this final rule. A summary of the management measure described in the abbreviated framework action and implemented by this final rule is provided below.

### **Management Measure Contained in this Final Rule**

This final rule enables a permit holder with an eligible historical captain endorsement in the Gulf reef fish or Gulf CMP fishery to convert that endorsement to a standard Federal charter vessel/headboat permit (for-hire permit) in the same Gulf fishery, as applicable. This rule also extends the same rights and responsibilities of these standard for-hire permits to eligible individuals who choose to convert a historical captain endorsement to a standard for-hire permit. An eligible historical captain endorsement is hereafter referenced in this preamble as a historical captain permit. There are currently four historical captain permits, two for Gulf reef fish and two for Gulf CMP species, and are held by two individuals. Historical captain permits cannot be transferred to another person and no additional historical captain permits can be issued (50 CFR 622.20(b)(1)(i)(B); 85 FR 22043, April 21, 2020).

If an individual with an eligible historical captain permit wants to convert the permit to a standard for-hire permit, the individual must submit an application for a standard for-hire permit to NMFS along with their current, original historical captain permit (not a copy), and all supporting documents and fees, including documentation for the vessel to which NMFS will issue or associate with the standard for-hire permit. Unlike a historical captain permit, which is issued to an individual, a standard for-hire permit must be issued to a vessel with a valid U.S. Coast Guard certificate of documentation or state registration certificate (50 CFR 622.4(a)). If the permit applicant is the owner of the vessel, NMFS' Permits Office staff will verify that the vessel for which the new standard for-hire permit will be issued is owned by the applicant and does not have an existing Gulf reef fish or CMP charter vessel/headboat permit associated with it, as vessels are not allowed to have multiple charter vessel/headboat permits of the same type associated with them.

If the vessel to which the permit will be associated with is to be leased, a fully executed lease agreement of at least 7 months between the vessel owner and permit holder will need to be included with the application. Note that vessel owners and lessees cannot hold permits issued to the same vessel at the same time. NMFS' Permits Office

staff will then verify the vessel does not have any other Federal permit associated with it in another permit holder's name.

After NMFS verifies that the information provided with the application allows for the conversion, the historical captain permit will then be converted to a standard for-hire permit for Gulf reef fish or Gulf CMP species, as applicable. Historical captain permit numbers are unique, and the new standard for-hire permit will keep the existing permit number (e.g., HRCG-9999 will convert to RCG-9999). A standard for-hire permit issued as a result of this final rule will have the same passenger capacity limitation as the historical captain permit that it will replace.

#### **Comments and Responses**

NMFS received two public comments supporting the proposed rule for the abbreviated framework action. NMFS acknowledges the comments in favor of the action in the proposed rule. One commenter also suggested that NMFS reduce or waive the fee to convert a historical captain permit to a standard for-hire permit. However, this suggestion is beyond the scope of the action considered in the proposed rule, and we do not address it further in this final rule. NMFS made no changes to the final rule resulting from public comments.

#### **Classification**

Pursuant to section 304(b)(3) of the Magnuson-Stevens

Act, the NMFS Assistant Administrator has determined that this final rule is consistent with the abbreviated framework action, the FMPs, the Magnuson-Stevens Act, and other applicable laws.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

The Magnuson-Stevens Act provides the statutory basis for this rule. No duplicative, overlapping, or conflicting Federal rules have been identified. A description of this final rule, why it is being implemented, and the purpose of this final rule are contained in the **SUMMARY** and **SUPPLEMENTARY INFORMATION** sections of this final rule.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

This final rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

**List of Subjects in 50 CFR Part 622**

Fish, Fisheries, Gulf of Mexico, Historical captain,  
Permit, Transfer.

Dated: June 26, 2023.

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Samuel D. Rauch, III,  
Deputy Assistant Administrator for Regulatory  
Programs,  
National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS amends  
50 CFR part 622 as follows:

**PART 622--FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND  
SOUTH ATLANTIC**

1. The authority citation for part 622 continues to  
read as follows:

**Authority:** 16 U.S.C. 1801 *et seq.*

2. In § 622.20, revise paragraph (b) (1) (v) to read as  
follows:

**§ 622.20 Permits and endorsements.**

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(v) *Procedure for conversion of permit with historical*

*captain endorsement.* A charter vessel/headboat permit with a historical captain endorsement may be converted to a charter vessel/headboat permit for Gulf reef fish without a historical captain endorsement. A charter vessel/headboat permit with a historical captain endorsement that is converted to a charter vessel/headboat permit without a historical captain endorsement will retain the same vessel permit maximum passenger capacity as the permit it replaces. To convert an eligible charter vessel/headboat permit with a historical captain endorsement, the permit holder must submit a permit application to the RA by July 30, 2025. If no application to convert an eligible charter vessel/headboat permit with a historical captain endorsement is submitted by July 30, 2025, the permit holder will retain a charter vessel/headboat permit with the historical captain endorsement that is subject to the restrictions described in paragraph (b)(1)(i)(B) of this section.

\* \* \* \* \*

3. In § 622.373, revise paragraph (f) to read as follows:

**§ 622.373 Limited access system for charter vessel/headboat permits for Gulf coastal migratory pelagic fish.**

\* \* \* \* \*

(f) *Procedure for conversion of permit with historical captain endorsement.* A charter vessel headboat permit with

a historical captain endorsement may be converted to a charter vessel/headboat permit for Gulf coastal migratory pelagic fish without a historical captain endorsement as described in paragraph (b) (1) of this section. A charter vessel/headboat permit with a historical captain endorsement that is converted to a charter vessel/headboat permit without a historical captain endorsement will retain the same vessel permit maximum passenger capacity as the permit it replaces. To convert an eligible charter vessel/headboat permit with a historical captain endorsement, the permit holder must submit a permit application to the RA by July 30, 2025. If no application to convert an eligible charter vessel/headboat permit with a historical captain endorsement is submitted by July 30, 2025, the permit holder will retain a charter vessel/headboat permit with the historical captain endorsement that is subject to the restrictions described in paragraph (b) (2) of this section.

[FR Doc. 2023-13925 Filed: 6/29/2023 8:45 am; Publication Date: 6/30/2023]