

Appendix 2.
Terms and Conditions
Gulf Headboat Cooperative
Exempted Fishing Permit (EFP)
PERMIT NO.: 13-SERO-01

Evaluation and Feasibility of an Alternative Allocation-Based Management Strategy

A. PURPOSE.

The purpose of this exempted fishing permit (EFP) is to evaluate the viability of an allocation-based management strategy that could potentially improve the conservation of the resource and economic stability and performance of the headboat sector. Headboats participating in the study will be allowed to fish for red snapper and gag grouper, based on quota allocation issued to them through the Gulf Headboat Cooperative, outside the normal recreational fishing seasons. The goals of the headboat pilot project are to:

1. Assess whether a cooperative program can achieve conservation and economic goals more effectively than the existing management system.
2. Evaluate a new electronic data collection method and evaluate its effectiveness in providing accurate, next to real-time catch and effort data.
3. Conduct a comparative socio-economic study between the existing headboat industry, and the headboat Cooperative before, during, and after the pilot project, to determine the potential economic impacts of an alternative management method on the headboat industry.

B. BACKGROUND.

The current management system for recreational fisheries in the Gulf of Mexico utilizes traditional tools such as bag limits, size limits, and shortened seasons to remain within the allowable annual catch levels, and to achieve the other goals and objectives outlined in the fishery management plans. Lack of effective mechanisms to account for catches in a timely manner has led to overages of the allowable catches, which has resulted in the imposition of stricter controls to manage catches and to address the conservation implications from exceeding catch limits. The Gulf of Mexico Fishery Management Council convened a Headboat Advisory Panel (AP) to provide recommendations for alternative management strategies. After careful deliberation, the AP concluded that an allocation-based management system would most effectively address the challenges faced by the headboat industry because it would give headboats the flexibility to operate throughout the year when their customers wanted to go fishing.

In response to this recommendation, some members of the headboat industry developed a proposal for a pilot study to examine the viability of an allocation-based program for its segment of the recreational sector. By issuing this EFP, NOAA Fisheries authorizes a select group of headboats to participate in such a pilot program to evaluate its potential as an industry-wide

fisheries management solution. For purposes of this project, NOAA Fisheries establishes the following terms and conditions, which specify how this program will be conducted.

C. INITIAL ISSUANCE OF ALLOCATION TO THE COOPERATIVE

Beginning January 1, 2014, NOAA Fisheries will establish an apportionment of the red snapper recreational quota and gag recreational catch target corresponding to the Cooperative participants' aggregate landings for each species during 2011, compared to total recreational harvest of these two species during 2011. The allotment amount and participating vessels are identified in Appendix 1. NOAA Fisheries will convert the apportioned pounds into a fixed number of individual red snapper and gag using regionally-specific average weights of fish sampled by the Southeast Headboat Survey. Average weights are based on average weights from the prior season as adjusted for any increases in weight associated with stock rebuilding. This allocation will be assigned to the Cooperative through the NOAA Fisheries' Southeast Regional Office's Catch Share Program Web site as a shareholder account to be managed by the Cooperative's manager. The Cooperative will then be responsible for establishing individual vessel accounts associated with this shareholder account, and for transferring allocation to those individual vessel accounts based on decisions by the Cooperative on how to best allocate quota amongst the participating vessels.

D. PERMIT CONDITIONS.

The Cooperative would hold a portion of the Cooperative's total allotted catch in reserve to guard against excessive harvest by one or more of its members. The Cooperative will ensure each participant abides by all federal fishing regulations and specific requirements imposed by NOAA Fisheries through these terms and conditions.

The Cooperative agrees that all harvest of red snapper and gag by Cooperative participants will count against the harvests authorized by this EFP; no recreational fishing for these two species may occur outside this EFP, even during normal open recreational fishing seasons.

The participating Cooperative vessels are expected to retain all legal-sized fish that appear to be mortally injured (a minimum of 16 inches for red snapper and 22 inches for gag) caught by anglers on their headboats as long as the vessel has not reached the bag limit for all fishers aboard the vessel for those species (i.e., 2 red snapper and 2 gag per angler per day) and the vessel's assigned allocation has not been exceeded. Should a participating vessel's harvest during a specific trip exceed the allocation available in the vessel account, the participating vessel captain or owner must acquire through transfer sufficient allocation into the vessel account prior to submitting a landing notification.

The Cooperative participants must account for and collect data for each individual red snapper and gag grouper caught aboard that participant's vessel, and submit landings reports through the Southeast Headboat Survey (or other electronic reporting applications approved by NOAA Fisheries for use; see Section H, REPORTING REQUIREMENTS), as well as through the NOAA Fisheries' Southeast Regional Office's Catch Share Program Web site.

When a participant has exhausted their assigned allocation in their vessel account, the participating vessel must cease targeted fishing for red snapper and gag (regardless of whether the general recreational season is otherwise open for those species), and may not retain red snapper or gag during any trip targeting other species. No additional red snapper or gag shall be retained until that participant acquires additional quota allocation from other Cooperative members or from the Cooperative manager to take additional headboat trips to target or retain red snapper or gag. Otherwise, for the remainder of that calendar year, the participant must release any red snapper or gag caught incidentally in targeting other species, even if the red snapper and/or gag recreational seasons are open.

Currently, the Cooperative consists of 11 vessels (see Appendix 1); this permit may be expanded to as many as 20 vessels. Any additional vessels that join before January 1, 2014 would result in revised poundages allocated to the Cooperative in SECTION C. Otherwise, vessels may not join or leave the program in mid-year. Cooperative participants agree to fish within the EFP program for the entirety of the fishing year. Any participant who withdraws from the EFP program within the fishing year forgoes any further privilege to harvest or retain red snapper or gag for the remainder of the fishing year, even if the regular recreational fishing season is open. At the end of 2014, a participant(s) could choose to opt out of the pilot program and not participate for 2015. The Cooperative is provided the flexibility to add new participants prior to the start of the 2015 fishing year. NOAA Fisheries would adjust the amount of the allocation for 2015 according to the modified number of participants, based on the formulae described above.

NMFS could terminate the EFP for all participants even if only a single participant is responsible for violating the terms and conditions of the EFP (see 50 C.F.R. § 600.745(b)(9)).

Each vessel shall carry on board and prominently display the EFP. The EFP must be presented for inspection upon request of any authorized law enforcement officer.

A draft report summarizing the results of the EFP socio-economic study performed by Cooperative partners shall be provided to NOAA Fisheries for review and comment. NOAA Fisheries personnel will review the socio-economic study and determine if it is based on the best available scientific information.

E. EFFECTIVE DATES.

This EFP is effective when signed by the NMFS Regional Administrator and the EFP holder identified on the EFP (13-SERO-01), beginning January 1, 2014, through December 31, 2015.

F. EXEMPTIONS AND FISHING RESTRICTIONS.

This EFP is issued to the Gulf Headboat Cooperative (Cooperative) in accordance with procedures established at 50 CFR 600.745(b). The EFP exempts the Cooperative's listed vessels (Appendix 1) from the following regulations:

- 1) Recreational season closures for red snapper and gag at 50 CFR § 622.34(b) and (e); and

- 2) Closure of the recreational sector when the gag catch target is reached at 50 CFR § 622.8(b); NOAA Fisheries will account for the Cooperative's allocation of gag in its projections of when the catch target will be met.

The exemption does not apply to 622.34(d), establishing the February-March shallow-water grouper closure offshore of 20 fathoms in the Gulf of Mexico; participating vessels will be restricted to fishing shoreward of the demarcated line representing the 20-fathom contour.

This EFP does not exempt the Cooperative's participating vessels from Section 407(d) (16 U.S.C. 1883(d)) of the Magnuson-Stevens Fishery Conservation and Management Act. Section 407(d) requires that if NOAA Fisheries determines the Gulf of Mexico red snapper recreational quota has been met, harvest must be prohibited for the remainder of the fishing year. This will apply even if the Cooperative and its participating members have allocation remaining.

G. MONITORING REQUIREMENTS.

Each participating vessel identified in Appendix 1 shall install, maintain, and operate a vessel monitoring system (VMS) in accordance with all applicable reporting requirements of VMS users, including notification to enforcement agents or state and federal port agents upon leaving and returning to a pre-approved landing locations ("hail in/hail out") and abide by any other enforcement or dockside monitoring requirements implemented by the Cooperative or at the request of NOAA Fisheries.

To ensure 100% catch accountability and to enable a transparent monitoring system, the Cooperative would adhere to strict protocols to track each fish caught and landed during a headboat trip. As a participating captain is leaving the dock, he/she will "hail out" using a VMS device or by calling in. The captain will receive a confirmation number for that particular trip. At least one hour prior to returning to the dock, the headboat captain will enter a landing notification providing the vessel name, location of landing, time of landing, species and number of fish caught using a VMS or by calling in. This will alert law enforcement and port agents to the headboat's return, and allow for a dockside intercept if deemed necessary by enforcement and headboat port samplers.

H. REPORTING REQUIREMENTS AND DATA DISSIMINATION.

At the end of the trip, the captain will use the Southeast Headboat logbook survey (or other electronic reporting applications approved by NOAA Fisheries for use) to report trip-specific landing and fishing effort data. Reports must be submitted on the day of each trip and include the vessel name, number of anglers, trip location, depth fished, number and species of fish caught and released, fuel price and gallons used on the trip, number of crew, and other biological and socio-economic data required by this EFP

The fishing activities carried out under the EFP, which are otherwise prohibited, are for the purpose of collecting catch information. The EFP holder and all participating vessels agree to the public release of aggregated information obtained as a result of activities conducted under this permit.

I. SANCTIONS.

Failure of the vessel owner, operator, EFP holder, or any person to comply with the terms and conditions of this permit, any notice issued under 50 CFR Part 600 any other applicable provision of 50 CFR Parts 600 and 622, the Magnuson-Stevens Act, or any other regulations promulgated thereunder, may be grounds for revocation, suspension, or modification of this permit as well as civil or criminal penalties under the Magnuson-Stevens Act with respect to all persons and vessels conducting activities under the EFP (50 CFR § 600.745(b)(9)).

All Cooperative participants identified in Appendix 1 for this exempted fishing project are jointly and severally liable for exceeding the aggregate catch limits specified in this EFP.

J. WAIVER.

The EFP holder on his/her own behalf, and on behalf of all persons conducting activities authorized by the permit under his/her direction, waives any and all claims against the United States or the State, and its agents and employees, for any liability whatsoever for personal injury, death, or damage to property directly or indirectly due to activities under this permit.