

that category. For example, if the overall average number of pounds attributed to the 5,001–10,000-lb (2,268–4,536-kg) category is 8,150 lb (3,697 kg), each eligible voter within that category would receive 8,150 votes.

#### *How Would the Vote Be Conducted?*

On or about January 23, 2004, NMFS would mail each eligible voter a ballot that would specify the number of votes (weighting) that that voter is assigned. NMFS would mail the ballots and associated explanatory information, via certified mail return receipt requested, to the address of record indicated in NMFS' permit database for endorsement/Class I license holders and, for vessel captains, to the address provided to NMFS by the captains during the prior information solicitation that ended August 18, 2003. All votes assigned to an eligible voter must be cast for the same decision, *i.e.*, either all to approve or all to disapprove the applicable referendum question. The ballot must be signed by the eligible voter. Ballots must be mailed to Phil Steele, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702. Ballots for the initial referendum must be received at that address by 4:30 p.m., eastern time, February 27, 2004; ballots received after that deadline would not be considered in determining the outcome of the initial referendum. Although it would not be required, voters may want to consider submitting their ballots by registered mail.

#### *How Would the Outcome of the Referendums Be Determined?*

Vote counting would be conducted by NMFS. Approval or disapproval of the referendums would be determined by a majority (*i.e.*, a number greater than half of a total) of the votes cast. NMFS would prepare a fishery bulletin announcing the results of each referendum that is conducted and would distribute the bulletin to all Gulf reef fish permittees, including dealers, and to other interested parties. The results would also be posted on NMFS' Southeast Regional Office's Web site at <http://caldera.sero.nmfs.gov>.

#### *What Would Happen After the Initial Referendum?*

NMFS would present the results of the initial referendum at the March 8–11, 2004, Council meeting in Mobile, AL. If the initial referendum fails, the Council cannot proceed with preparation of a plan amendment and regulations to implement an IFQ program for the commercial red snapper fishery in the Gulf of Mexico. If the

initial referendum is approved, the Council would be authorized, if it so decides, to proceed with development of a plan amendment and regulations to implement an IFQ program for the commercial red snapper fishery in the Gulf of Mexico. The proposed IFQ program would be developed through the normal Council and rulemaking processes that would involve extensive opportunities for industry and public review and input at various Council meetings, public hearings, and during public comment periods on the plan amendment and regulations. The plan amendment and regulations could only be submitted to the Secretary for review and approval or disapproval if in a second referendum approval of the submission was passed by a majority of the votes cast by the eligible voters as described in this proposed rule. NMFS would announce any required second referendum by publishing a notice in the **Federal Register** that would provide all pertinent information regarding the referendum. Any second referendum would be conducted in conformance with Section 407(c)(2) of the Magnuson-Stevens Act and the provisions outlined in this proposed rule.

#### **Background Information About a Potential IFQ Program**

In anticipation of the October 2002 expiration of the Congressional moratorium on development of IFQ programs, and recognizing that HR5666 provided the Council the authority to develop a profile for any fishery that may be considered for a quota management system, some members of the commercial red snapper fishery requested that the Council develop an IFQ profile for the fishery. Based on that request, the Council convened an Ad Hoc Red Snapper Advisory Panel (AHR SAP), comprised of participants in the commercial red snapper fishery and other individuals knowledgeable about the fishery and/or IFQ programs, to develop a profile. This profile, later referred to as an Individual Transferable Quota (ITQ) Options Paper for the Problems Identified in the Gulf of Mexico Red Snapper Fishery, provides background information about historical management of the red snapper fishery, problems in the fishery, management goals, and issues and management alternatives associated with a potential IFQ/ITQ program. The profile addresses such issues as: ITQ units of measurement (percentage of quota or pounds of red snapper), duration of ITQ rights, set-aside for non-ITQ catches under current commercial quota, actions to be taken if the quota increases or decreases, types of ITQ share

certificates, initial allocation of ITQ shares and annual coupons (including eligibility, apportionment, transferability of landings histories, *etc.*), possible controls on ownership and transfer of ITQ shares, whether to include a "use it or lose it" provision, disposition of unused or sanctioned ITQ shares and coupons, possible landings restrictions, monitoring of ITQ share certificates and annual coupons, quota tracking, an appeals process, and size limit changes.

This profile represents an outline of an IFQ program as envisioned by the AHR SAP, with input from the Council—it does not reflect any final decisions by the Council regarding the structure of a proposed IFQ program for the red snapper commercial fishery. The Council may consider the options in the profile, and perhaps a variety of other options, if it chooses to pursue development of an IFQ program for the fishery. However, for purposes of the initial referendum, the Council intentionally refrained from adopting the profile. Any subsequent development of a proposed IFQ program for the red snapper commercial fishery would be conducted through the normal Council and Federal rulemaking processes that ensure numerous opportunities for review and comment by industry participants and members of the public.

#### **Additional Alternatives for a Vote-Weighting Formula**

On October 27, 2003, NMFS published a proposed rule that described procedures and eligibility requirements for participating in referendums regarding a potential individual fishing quota (IFQ) program for the Gulf of Mexico commercial red snapper fishery; comments were requested through November 12, 2003 (68 FR 61178). Public comment received on that October 27, 2003, proposed rule expressed concern about the vote-weighting procedure, and specifically objected to allowing both a qualified lessor and qualified lessee fully weighted votes, resulting in double counting. In response to those public comments, NMFS is issuing a second proposed rule to include a broader range of potential options for weighting votes. NMFS is seeking public input regarding these or other options.

NMFS evaluated several additional alternatives for a vote-weighting formula for the IFQ referendums. In addition to the one vote per-participant-per-pound approach specified in the initial proposed rule (68 FR 61178) each alternative below is based on varying the vote-per-pound weighting by