



April 27, 2022

Mr. Andy Strelcheck
Regional Administrator, NOAA Fisheries Southeast Regional Office
263 13th Avenue South.
St. Petersburg FL 33701

Dear Administrator Strelcheck,

On behalf of the Gulf of Mexico Reef Fish Shareholders' Alliance (Shareholders' Alliance), I write to reiterate our members' ongoing frustration and concern that the continued mismanagement of the private angler sector of the red snapper fishery is harming commercial fishermen and damaging the health of the red snapper resource in the Gulf of Mexico.

In 2014 a court held that NOAA Fisheries' tolerance of serial recreational sector overharvesting of red snapper violated multiple provisions of the Magnuson-Stevens Fishery Conservation and Management Act (MSA).¹ Yet despite that ruling, serial overharvesting continues unabated. Now it's being accomplished under state management (Amendment 50), where the private angler component of the recreational sector continues to exceed its annual catch limit (ACL) by more than a million pounds each year on average (see Table 2 below). This has caused the recreational sector to overharvest its ACL by nearly a half a million pounds a year on average (see Table 4 below), resulting in a continuing *de facto* reallocation in contravention of the 2014 court ruling and to the harm of the commercial sector and the health of the red snapper stock.

We urge NOAA Fisheries to fulfill its backstop responsibilities and rectify this mismanagement by calibrating state recreational private angler landings data to correspond with the units in which state quotas were issued, to enforce paybacks for overharvesting by private recreational anglers and the recreational sector at large, and to proceed with implementing a quota increase for the commercial sector that has been inexplicably delayed.

1. The allowable increase in commercial red snapper quota is effectively being “held hostage” because the Gulf States and the Gulf Council have failed to calibrate disparate state landings data in a timely manner.

- The Gulf of Mexico Fishery Management Council (Gulf Council) approved an approximate 2% increase in the commercial quota at its April 2021 meeting. One year later - at its April 2022 meeting – NOAA Fisheries informed us that this increase won't be implemented until January 2023, or nine months from now. Commercial fishermen will have been deprived of their fair share of the quota

¹ *Guindon v. Pritzker*, 31 F. Supp. 3d 169 (D.D.C. 2014).

increase for two calendar years, 2021 and 2022, resulting in socioeconomic losses to the commercial sector, a growing frustration with the fishery management process, and failure to provide the greatest net benefit to the nation.

- This 153,000 pound annual withholding represents between \$841,500 and \$1,071,000² in foregone dockside revenue for both 2021 and 2022. The withholding has also depressed individual fishing quota (IFQ) share values, which have generally increased over time as quotas have risen and would correspondingly increase as each share reflects increased annual IFQ allocation. Additionally, assuming 50% fillet yield and 4-ounce portions, the suppression of this 153,000 pound increase is also costing seafood consumers more than 300,000 servings of red snapper annually, worth millions of dollars to restaurants and seafood supply chain businesses.
- Simply put – every year that private angler and recreational sector mismanagement is allowed to continue, it is costing commercial fishermen and the seafood supply chain millions of dollars, and is costing seafood consumers hundreds of thousands of red snapper servings.

2. Gulf States private angler calibrated landings continue show that private angler state quotas - and the recreational sector's ACL - continue to be exceeded.

- Applying the approved calibration ratios to the private angler 2021 state landings (see Table 1 below), Mississippi, Florida and Alabama all exceeded their state ACLs last year by nearly 1.1 million pounds. In fact, Alabama exceeded its state ACL by 72% and Mississippi exceeded its state ACL by a staggering 146%. In total, the Gulf States allowed private anglers to land 126% of their ACL in 2021. In fact, private anglers have been permitted to overharvest their ACL every year since 2018 by an average of more than 1 million pounds annually (see Table 2 below). While private anglers are allocated 57.7% of the recreational ACL (as set forth in Amendment 40), they have been permitted to harvest up to 68% of all recreational red snapper landings; further, the federal charter/for-hire sector is allocated 42.3% of the recreational ACL yet it is limited to as little as 32% of the recreational landings (see Table 3 below). This represents up to a 24.3% loss in charter/for-hire access and a *de facto* reallocation of red snapper from the charter/for-hire sector to the private angler sector.
- In addition, NOAA Fisheries has permitted the recreational sector to exceed its red snapper ACL every year by up to nearly 900,000 pounds (see Table 4 below). While the recreational sector is allocated 49% of the recreational ACL (as set forth in Amendment 1), it has been permitted to harvest up to 52.2% of all red snapper landings; further, the commercial sector is allocated 51% of the recreational ACL in accordance with Amendment 1, yet it has been restricted to as little as 47.8% of all red snapper landings (see Table 5 below). This represents up to a 6.3% loss in commercial access and a *de facto* reallocation of red snapper from the commercial sector to the recreational sector (see Table 5 below).

² Figures were calculated using a reasonable range of 2021 and 2022 red snapper ex-vessel prices (\$5.50/lb. to \$7/lb.)

- NOAA Fisheries is not ensuring compliance with the allocations set by the Reef Fish fishery management plan, namely the allocation of the recreational sector's quota between the charter/for-hire and private angler components set by Amendment 40 and the allocation of the fishery-wide quota between the commercial and recreational sectors set by Amendment 1.
- In *Guindon v. Pritzker*, the court held that NOAA Fisheries' actions must have a "fighting chance" of complying with the quotas, and that NOAA Fisheries' tolerance of recreational sector overharvesting constituted an unlawful *de facto* reallocation: "NMFS essentially guaranteed that the actual catch allocation would skew widely from the 51/49 allocation, as indeed it did. This violated [MSA] Section 304(b)... When an agency blinds itself to the high likelihood that its actions will cause overharvesting, the Court cannot characterize those actions as 'reasonably calculated to promote conservation' [as required by MSA National Standard 4]."³
- Indeed, this *de facto* reallocation has been allowed to take place *every year* since 2018. Between 2018 and 2021, the private angler sector has benefitted from a *de facto* reallocation totaling more than 4.1 million pounds, or greater than the entire 2020 private angler state season ACL (see Table 2 below).
- Simply put – private anglers continuously exceed their quotas, causing the recreational sector as a whole to overharvest its ACL, which is being exacerbated by NOAA Fisheries' failure to calibrate private angler landings to match the units in which their quotas were issued under Amendment 50; nor has NOAA Fisheries imposed any ACL paybacks for this chronic overharvesting as required by 50 C.F.R. § 622.23(b).

3. **There has been a recent rise in troubling signs of red snapper stock health decline.**

- Commercial and federal charter/for-hire fishermen are testifying to the Gulf Council, its Scientific and Statistical Committees (SSCs), and Advisory Panels with increasing frequency that they're observing intensified localized depletion of red snapper, especially following private angler state seasons. This testimony has been given at minimum at the October 2021, January 2022, and April 2022 meetings of the Gulf Council as well as the January 2022 and March 2022 meetings of the SSC.
- Additionally, the NOAA Fisheries Southeast Fisheries Science Center (SEFSC) Bottom Longline Survey shows a recent downward trend in red snapper relative abundance, especially in the Eastern Gulf of Mexico, where the 2021 data point is 14% lower than the 2019 data point and is lower than all data points from four of the previous five years (see Chart 1 below).
- The Gulf Council received a presentation from the SEFSC in January 2020 confirming that the recreational sector is responsible for discarding up to 9,000,000 individual red snapper annually in the Gulf of Mexico, or *more than 98% of the total amount of red snapper discards* (see Table 6 and Chart 2 below). The

³ *Guindon v. Pritzker*, 31 F. Supp. 3d 169, 193, 201 (D.D.C. 2014) (citing 16 U.S.C. §§ 1883(d), 1854(b), 1851(a)(4)).

commercial sector is further penalized by fishing under a total ACL that is reduced to account for mortality associated with these massive private angler discards.

- Indeed, existing SEDAR 74 documentation confirms that the total 2019 recreational discard amount is the fourth highest on record in the last 40 years – or more than *6.9 million individual red snapper* (see Chart 3 below). According to these SEDAR 74 data, 92% of those recreational discards were generated by the private angler sector.
- Simply put – fishermen and scientists are sounding the alarm about declining red snapper abundance while the private angler sector (and the recreational sector at large) is overharvesting its ACL and, in the case of the private anglers, discarding more red snapper than they have in most of the last forty years.

The Gulf States and the private angler sector cannot continue to be given what amounts to a free pass, especially in the face of declining red snapper abundance. They should not be allowed to continuously overharvest while commercial fishermen and charter/for-hire operators live within their quotas.

The Shareholders' Alliance is the largest organization of commercial snapper and grouper fishermen in the Gulf of Mexico and we represent hundreds of fishermen, at-sea and shoreside seafood businesses in all five Gulf states and throughout the United States. We cannot stand by and watch as a federally unpermitted, open-access, and largely unaccountable (at the sector level) private angler fishery with significant management uncertainty wipes out years of rebuilding efforts and business planning on behalf of our members.

NOAA Fisheries must put a stop to this dangerous game of chicken where the resource – and the seafood consumers and businesses that depend on it – ultimately end up on the losing side.

Sincerely,



Eric Brazer

Deputy Director, Gulf of Mexico Reef Fish Shareholders' Alliance

cc: Dr. Janet Coit, Assistant Administrator, NOAA Fisheries
Dr. Paul Doremus, Deputy Assistant Administrator for Operations, NOAA Fisheries
Mr. Sam Rauch, Deputy Assistant Administrator for Regulatory Programs, NOAA Fisheries
Mr. Dale Diaz, Chairman, Gulf of Mexico Fishery Management Council

APPENDICIES

Table 1 – 2021 Red Snapper Landings.

		Landings (lbs.)	Calibration Ratios	Calibrated Landings (lbs.)	ACL (lbs.)	Percent Landed (%)	ACL Overages (lbs.)
	Commercial Landings	6,894,004	1	6,894,004	6,937,838	99%	-43,834
	Charter/For-Hire Landings	2,651,883	n/a	2,651,883	3,130,000	85%	-478,117
Private Angler ACL	Total Private Angler Landings		n/a	5,326,309	4,242,366	126%	1,083,943
	Alabama	939,143	2.05	1,926,447	1,122,662	172%	803,785
	Florida	2,162,200	0.94	2,039,426	1,913,451	107%	125,975
	Louisiana	823,151	0.94	776,558	816,233	95%	-39,675
	Mississippi	143,042	2.60	372,505	151,550	246%	220,955
	Texas	211,373	1	211,373	238,470	89%	-27,097

Table 2 - Private Angler Overharvesting.

	Sector	Calibrated Landings (lbs.)	ACL (lbs.)	% of Private Angler ACL Harvested (%)	ACL Overage (lbs.)
2021	Private Angler	5,326,309	4,242,366	126%	1,083,943
2020	Private Angler	5,044,484	4,126,573	122%	917,911
2019	Private Angler	4,912,258	4,034,781	122%	877,477
2018	Private Angler	5,137,028	3,885,000	132%	1,252,028
Total <i>de facto</i> Reallocation (lbs.)		20,420,080	16,288,720	125%	4,131,360
Average Annual <i>de facto</i> Reallocation (lbs.)		5,105,020	4,072,180	125%	1,032,840

Table 3 – 2018-2021 *de facto* Charter/For-Hire Red Snapper Reallocations.

<i>De Facto</i> Reallocation from the Private Angler Sector to the Charter/For-Hire Sector			
2021	ACL (%)	Landings (%)	Δ
Private Angler	57.7%	66.8%	+ 15.7%
Charter/For-Hire	42.3%	33.2%	- 21.4%
2020	ACL (%)	Landings (%)	Δ
Private Angler	57.7%	68.0%	+ 17.8%

Charter/For-Hire	42.3%	32.0%	- 24.3%
2019	ACL (%)	Landings (%)	Δ
Private Angler	57.7%	65.8%	+ 14.0%
Charter/For-Hire	42.3%	34.2%	- 19.0%
2018	ACL (%)	Landings (%)	Δ
Private Angler	57.7%	67.4%	+ 16.8%
Charter/For-Hire	42.3%	32.6%	- 22.9%

Table 4 – 2018-2021 Recreational Red Snapper Overages.

	Commercial Landings (lbs.)	Commercial ACL (lbs.)	Commercial Overages (lbs.)	Recreational Landings (lbs.)	Recreational ACL (lbs.)	Recreational Overages (lbs.)
2021	7,652,344	7,701,000	0	7,978,192	7,372,366	605,826
2020	7,625,612	7,701,000	0	7,421,161	7,256,573	164,588
2019	7,658,140	7,701,000	0	7,470,992	7,164,781	306,211
2018	6,977,131	7,007,000	0	7,623,730	6,733,000	890,730
		Total Recreational ACL Overages 2018-2021 (lbs.)				1,967,356

Table 5 – 2018-2021 *de facto* Commercial Red Snapper Reallocations.

<i>De Facto</i> Reallocation from the Commercial to the Recreational Sector			
2021	ACL (%)	Landings (%)	Δ
Recreational	49.0%	51.0%	+ 4.2%
Commercial	51.0%	49.0%	- 4.0%
2020	ACL (%)	Landings (%)	Δ
Recreational	49.0%	49.3%	+ 0.7%
Commercial	51.0%	50.7%	- 0.6%
2019	ACL (%)	Landings (%)	Δ
Recreational	49.0%	49.4%	+ 0.8%
Commercial	51.0%	50.6%	- 0.7%
2018	ACL (%)	Landings (%)	Δ
Recreational	49.0%	52.2%	+ 6.6%
Commercial	51.0%	47.8%	- 6.3%

Chart 1 – Decline in Red Snapper Relative Abundance.

Updated Gulf-Wide Red Snapper Relative Abundance

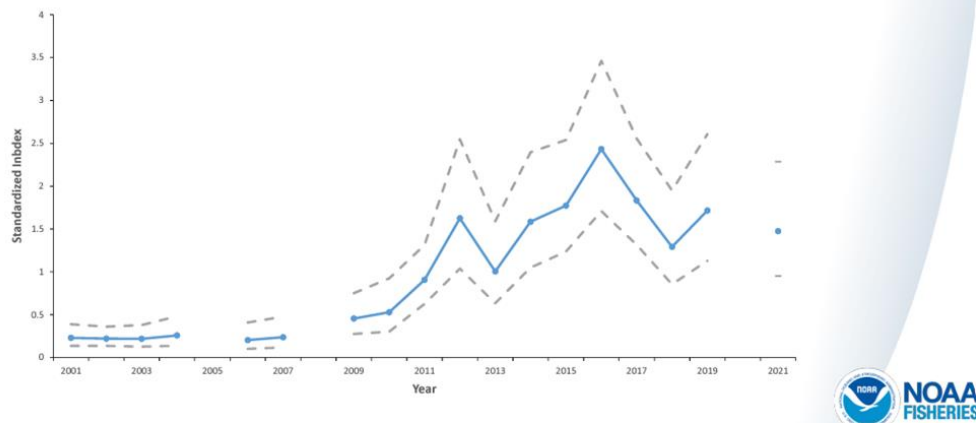


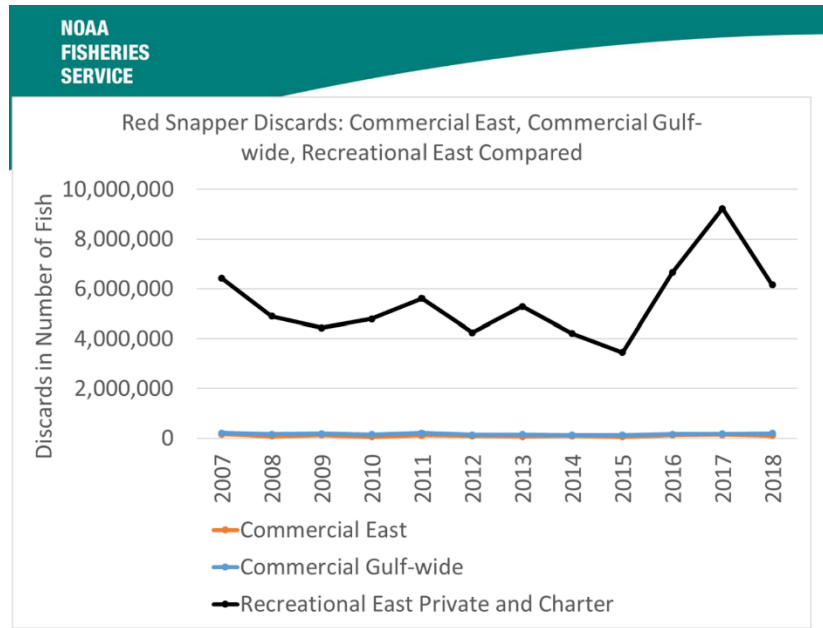
Table 6 – Recreational Red Snapper Discards (2007-2018).

Commercial Fishery (Vertical Line and Bottom Longline) and Recreational Fishery Red Snapper Estimated Discards Compared
(total discards in number of fish)

Year	Commercial East	Recreational East Discards (B2)	Commercial Discards % of Total
2007	158,909	6,426,573	2.4
2008	79,550	4,899,209	1.6
2009	122,181	4,432,976	2.7
2010	59,459	4,786,077	1.2
2011	108,745	5,607,985	1.9
2012	87,136	4,245,404	2.0
2013	68,137	5,294,055	1.3
2014	93,817	4,205,008	2.2
2015	59,666	3,455,311	1.7
2016	128,153	6,649,843	1.9
2017	143,821	9,227,951	1.5
2018	100,306	6,153,547	1.6

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Chart 2 – Recreational Red Snapper Discards (2007-2018).



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Chart 3 – Recreational Red Snapper Discards (1981-2019).

