

Gulf of Mexico Fishery Management Council
4107 Spruce Street
Tampa, FL 33607

April 7, 2021

Dear Dr. Frazer,

We write to you today as seven commercial fishermen’s organizations from the state of Florida – representing hundreds of fishermen from Pensacola to the Florida Keys – to express our concern about Amendment 53 to the Reef Fish Fishery Management Plan (FMP). **We cannot support the use of the National Oceanic and Atmospheric Administration (NOAA) Fisheries’ Fishing Effort Survey (FES) recalibration as a tool to reallocate commercial red grouper quota. We therefore urge the Gulf of Mexico Fishery Management Council (Gulf Council) to support Action 1, Alternative 2:**

Alternative 2: Maintain the sector allocations of the total ACL as 76% commercial and 24% recreational. Revise the OFL and ABC as recommended by the Scientific and Statistical Committee (SSC) based on Southeast Data Assessment and Review (SEDAR) 61 (2019). Set the stock ACL equal to the stock ABC.¹

Our organizations are united on this issue – the Gulf Council should not couple reallocation with recalibration – for the following reasons:

1. Legal viability.

Action 1, Alternative 2 is the only legally viable alternative that does not change the allocation percentages between sectors. It adheres to the FMP Objectives (especially Objectives 5 and 12) and to the National Standards in the Magnuson-Stevens Fishery Conservation and Management Act (MSA).

2. Reallocation based on recalibration is unfair.

Reallocation penalizes accountable commercial fishermen for staying within their quotas while rewarding a less accountable recreational sector for exceeding theirs. That flies in the face of National Standard 4 of MSA, which requires an allocation to be “fair and equitable” among other requirements. Rewarding the recreational sector for overharvesting in a period where the commercial sector stayed within its quotas is not fair and equitable.^{2 3}

Reallocation is also unfair because Amendment 53 would penalize the commercial sector for recreational discards. Under all of the reallocation scenarios, the ABC drops from approximately 4.9 mp to 4.3 mp, a loss of roughly 600,000 pounds. This is because “where more fish are allocated to the recreational sector, total landings have to be constrained more to account for the greater dead discards from recreational red grouper fishing.”⁴ Why should the commercial sector have to pay for recreational anglers to discard dead fish? This is a recreational sector problem and it’s only fair to make the recreational sector address it. If the Gulf Council ultimately decides to reallocate, it should deduct the entire ABC decrease attributable to increased recreational discards from the recreational sector’s quota.

Amendment 53 therefore unfairly punishes the commercial sector *twice*: first by basing the reallocation on a period when only the recreational sector exceeded its quotas, and second by reducing the overall ABC to account for greater recreational discards after reallocation.

¹ Gulf Council. [Amendment 53](#).

² 16 U.S.C. § 1851(a)(4); 50 C.F.R. §600.325. [National Standard 4—Allocations](#).

³ See *Guindon v. Pritzker*, 240 F. Supp. 3d 181, 195 (D.D.C. 2017) (striking down a reallocation as not “fair and equitable” as required by National Standard 4 because it rewarded the recreational sector for overharvesting when the commercial sector had eliminated management uncertainty and complied with its quotas, thus putting the commercial sector at a “permanent disadvantage” in the reallocation scheme).

⁴ See Amendment 53 (April 2021), at p. xv

3. Reallocation will hurt the red grouper stock at a time when we need to grow it.

The most recent stock assessment (SEDAR 61), using data through 2016,⁵ reported that red grouper biomass was “the lowest on record.”⁶ We are now finally starting to see more small fish than we have in years – a sign of stock recovery. The recreational sector discards almost *ten times more fish* than the commercial sector (2.6 million fish compared to 288,000 fish in 2017).^{7,8} Giving a larger percentage of the quota to the recreational sector means that overall discards and discard mortality increases. National Standard 4 requires that allocations must promote conservation,⁹ but reallocating quota to a sector that discards more fish does exactly the opposite.

4. Reallocation will hurt commercial fishermen and a commercial fishing industry recovering from the COVID-19 pandemic.

2020 was a devastating year and one of the most challenging we have ever dealt with. Reducing commercial quotas at this time will stifle our economic recovery. We are cautiously optimistic about this year as restaurants reopen and return to fuller capacities. Demand is returning. So far, in 2021, we are landing more fish than we have in recent years – as of March 25, commercial fishermen have landed approximately 27%¹⁰ of the 2021 commercial red grouper quota up from about 20%¹¹ of the commercial quota at that time in 2019 and 2020. Reducing the commercial quota will only stifle our potential recovery and perpetrate the damages done in 2020.

5. The Gulf Council has been *de facto* reallocating to the benefit of the recreational sector for years.

Supporters of recalibration say that “if recreational landings were historically higher, then the stock was historically larger, so the current allocations are inaccurate and not changing them is a *de facto* reallocation to the commercial sector.” This logic is flawed. First, we have seen no data confirming what a historically larger stock and quotas may have looked like. Unless that information is available, the argument is simply speculation and lacks any scientific foundation. Second, if we assume the stock was, in fact, larger, and quotas could have been raised to the new level of estimated landings during historical periods, commercial fishermen were prevented from catching that extra fish. Had commercial fishermen been given the opportunity to catch those fish, we would have caught them. But we stayed within our quotas set by management.

6. Reallocation through recalibration will set a dangerous precedent.

Recreational landings estimates are uncertain and variable. The progression from MRFSS to MRIP to FES generally suggested that NOAA Fisheries was historically underestimating recreational landings. Now the data collection systems implemented by the Gulf States are suggesting that NOAA Fisheries historically overestimated recreational landings. Which is it? Triggering a reallocation any time historical landings estimates are refined could overwhelm the Gulf Council, create instability and uncertainty, and reallocate into perpetuity. This is a bad precedent, and one that could be applied to any mixed-use fishery with separate commercial and recreational quotas – including red snapper, amberjack, yellowtail snapper, gag grouper, gray triggerfish and more.

7. Reallocation will not guarantee a longer recreational season.

In every alternative under Action 1, there is a possibility that the recreational season will not close.¹² Concerns with recreational season lengths are not a valid reason to reallocate because reallocation does not solve the fundamental problems causing short recreational seasons.

Recalibration and reallocation are two separate, distinct management actions with different purposes and needs. The purpose of recalibration is to set yield projections and future catch limits using the best scientific information available.

⁵ [SEDAR 61 Gulf of Mexico Red Grouper Assessment Terms of Reference.](#)

⁶ [SEDAR 61. Figure 4.41](#)

⁷ [SEDAR 61. Table 2.19](#)

⁸ [SEDAR 61. Table 2.36](#)

⁹ §600.325. [National Standard 4—Allocations.](#)

¹⁰ NOAA Fisheries. [Southeast Regional Office Catch Share Programs.](#)

¹¹ Stephen, J., Gray, A. November 30, 2020. Presentation to the Gulf of Mexico Fishery Management Council. [2020 IFQ Fishery Pandemic Impacts.](#) Slide 5.

¹² Gulf Council. [Amendment 53.](#) Table 2.1.4.

Allocations are subject to different requirements (e.g., fairness and equity) and policy guidance. Linking them together is arbitrary and wrong.

Reallocation through recalibration hurts commercial fishermen and seafood suppliers. It is unfair, precedent-setting, and reduces quotas for all fishermen. It will increase discards and could hurt the stock we've spent years trying to recover. It's not the right thing to do. We urge the Gulf Council not to reallocate the red grouper quota based on recalibrated recreational landings estimates, by supporting and ultimately implementing Action 1, Alternative 2.

Thank you for your consideration,



Jim Zurbrick, Director
Fish for America USA
jim@jollyrogersii.com



Capt. Bill Kelly, Executive Director
Florida Keys Commercial
Fishermen's Association
FKCFA1@hotmail.com



Glen Brooks, President
Gulf Fishermen's Association
Brooks3glen@yahoo.com



Eric Brazer, Deputy Director
Gulf of Mexico Reef Fish
Shareholders' Alliance
eric@shareholdersalliance.org



Jerry Sansom, Executive Director
Organized Fishermen of Florida
fishhawk@aol.com



Tony Lombardi, President
Southeastern Fisheries Association
tony@lombardis.com



Edward Maccini, President
Southern Offshore Fishing
Association
tahdah5@gmail.com