



June 23, 2021

Dr. Thomas Frazer, Chair
Gulf of Mexico Fishery Management Council
4107 West Spruce Street, Suite 200
Tampa, FL 33607

Dear Dr. Frazer:

The Gulf of Mexico Reef Fish Shareholders' Alliance (Shareholders' Alliance) submits this supplemental letter regarding Amendment 53 to the Reef Fish FMP (Red Grouper Allocations and Annual Catch Levels and Targets), scheduled for Final Action this week by the Gulf of Mexico Fishery Management Council (Council).

The reallocation alternatives in Amendment 53 are deeply flawed and we urge the Council to adopt Alternative 2 in Action 1 as the only legally viable alternative. Preferred Alternative 3 and the other reallocation alternatives would decrease yields while increasing discards and risk of overfishing, and violate National Standards 4 and 9 of the Magnuson-Stevens Fishery Conservation and Management Act (MSA). Amendment 53 is also misleading to the public and devoid of supporting analysis and information necessary for the public and the Council to make an informed decision. These issues are discussed in detail below. We urge the Council to adopt Alternative 2 in Action 1, which would calibrate the overfishing limit (OFL)/allowable biological catch (ABC) without reallocating quota between the sectors.

The Premise for Reallocation is Flawed and Would Reward Recreational Overharvesting

Reallocation (Alternatives 3-6 in Action 1) would credit the recreational sector for revised landings estimates based on NOAA's Fishing Effort Survey (FES) over the base period 1986-2005 used to set the existing allocation under Amendment 30B.¹ But those alternatives ignore the fact that the recreational sector was likely exceeding its allocation during that time period.

In 1990, the Council adopted Amendment 1 to the Reef Fish Fishery Management Plan (FMP). That amendment allocated 35% of the catch limit for all groupers to the recreational sector.² In

¹ See Red Grouper Allocations and Annual Catch Levels and Targets: Amendment 53 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico, Revised Draft (April 2021) ("Amendment 53") at pp. xiv, 19 (Table 2.1.2).

² See Amendment 30B at p. 41 ("For grouper in aggregate, Amendment 1 created a recreational:commercial allocation of 35:65.").

2007, the Council adopted Amendment 30B, which set specific allocations for red grouper. Under Amendment 30B, the Council set the recreational sector's red grouper allocation at 24% based on Coastal Household Telephone (CHTS) landings estimates for that species over the base period (1986-2005). Now, after calibrating CHTS landings to Fishing Effort Survey (FES) landings, it appears that the recreational sector likely overharvested its grouper allocation between 1986-2005.³ Reallocation would give full credit to the recreational sector for those overages. This is flawed because, had the Council known about those overages during all those years, it would have attempted to constrain recreational landings. Indeed, the Council did so in 2005 when it reduced the red grouper bag limit and closed the season for two months. As explained in Amendment 30B:

For the recreational sector, landings data indicated that the recreational red grouper allocation was being exceeded despite the red grouper bag limit. Consequently, in 2005 an interim rule intended to reduce the red grouper bag limit from two to one fish per person per day, reduce the aggregate grouper bag limit from five to three grouper per day, and implement a one-time closure of the recreational fishery, from November - December 2005, for all grouper species.⁴

Had the Council known prior to 2005 that the recreational sector was exceeding its grouper allocation, it presumably would have taken similar actions to constrain recreational landings. Such actions would have reduced recreational red grouper landings over the base period. Amendment 53 does not address the recreational sector allocation in effect over the base period or how the revised FES landings estimates compare to that allocation, nor does it contain a comparison of FES landings to the recreational sector's allocations over the base period of 1986-2005. However, with what data have been made available to the public, it's clear that recreational overages have persisted since at least 2004.

Table 1. Comparison of recreational landings in CHTS and FES

³ See Amendment 53 at p. 18 (Table 2.1.2).

⁴ See Amendment 30B at p. vii.

Year	OFL	ABC	Rec Catch Target /ACL ⁵	Landings (lbs.) (from 2019 Framework Action, MRIP CHTS) ⁶	Landings (lbs.) From SEFSC ACL Monitoring (FES) ⁷	% Caught Quota/ACL (CHTS)	% caught Quota/ACL using Amendment 53 landings (SEFSC ACL monitoring)
2004		6,560,000	1,250,000	3,531,970	7,983,239	283%	639%
2005		6,560,000	1,250,000	1,471,283	3,081,979	118%	247%
2006		6,560,000	1,250,000	1,153,940	1,638,076	92%	131%
2007		6,560,000	1,250,000	1,038,837	2,031,867	83%	163%
2008		6,560,000	1,250,000	864,311	1,604,398	69%	128%
2009		7,760,000	1,250,000	830,746	1,600,063	66%	128%
2010		7,760,000	1,850,000	795,106	1,963,762	43%	106%
2011	7,420,000	6,310,000	1,510,000	603,662	1,534,113	40%	102%
2012	8,100,000	7,930,000	1,900,000	1,614,456	4,131,722	85%	217%
2013	8,100,000	7,930,000	1,900,000	2,571,531	4,990,310	135%	263%
2014	8,100,000	7,930,000	1,900,000	1,664,934	5,368,575	88%	283%
2015	8,100,000	7,930,000	1,900,000	1,926,641	3,790,614	101%	200%
2016	14,160,000	13,920,000	2,580,000	1,405,252	2,632,907	54%	102%
2017	14,160,000	13,920,000	2,580,000	828,292	1,692,513	32%	66%
2018	14,160,000	13,920,000	2,580,000		2,053,526	0%	80%
2019	14,160,000	13,920,000	1,000,000		1,638,076	0%	164%

Moreover, if the Council was aware during 1986-2005 that the stock could sustain the higher total landings we now know about, it likely would have increased total catch limits and allowed for increased commercial sector landings. This too would have constrained the recreational sector's relative percentage of total landings.

⁵ See Amendment 53 at p. 10 and Secretarial Amendment 1 at p. vi.

⁶ Gulf Council. Framework Action. [Modification of Gulf of Mexico Red Grouper Annual Catch Limits and Annual Catch Targets](https://gulfcouncil.org/wp-content/uploads/FINAL-Red-Grouper-2019-ACL-Modification-042919-1.pdf). P 2 <https://gulfcouncil.org/wp-content/uploads/FINAL-Red-Grouper-2019-ACL-Modification-042919-1.pdf>.

⁷ Gulf Council. [Amendment 53](#). Table 2.1.2.

Year	Com m Quot a (mp)	Comm Landings (mp)	Rec Quota (mp)	Rec Landings (mp) (SEFSC ACL Monitoring)	Rec Overage (mp)	De Facto Reallocatio n to Rec sector (mp)	Ex-vessel \$/lb.	Comm Sector Dockside Value Lost
2004		5.541	1.250	7.983	6.733	4.737	\$1.96	\$9,268,197.49
2005		5.290	1.250	3.082	1.832	1.072	\$2.09	\$2,246,554.73
2006		5.025	1.250	1.638	0.388	0.0390	\$2.37	\$92,567.95
2007		3.590	1.250	2.032	0.782	0.6834	\$2.53	\$1,729,605.54
2008		4.669	1.250	1.604	0.354	0.0988	\$2.41	\$238,487.35
2009		3.637	1.250	1.600	0.350	0.3433	\$2.39	\$820,706.72
2010	5.750	2.911	1.850	1.964	0.114	0.7938	\$2.58	\$2,046,647.75
2011	5.320	4.784	1.510	1.534	0.024	0.01785	\$2.68	\$47,773.98
2012	6.030	5.219	1.900	4.132	2.232	1.888	\$2.73	\$5,143,750.85
2013	6.030	4.599	1.900	4.990	3.090	2.689	\$3.00	\$8,062,377.07
2014	6.030	5.602	1.900	5.369	3.469	2.736	\$3.20	\$8,755,584.62
2015	6.030	4.798,	1.900	3.791	1.891	1.729	\$3.34	\$5,778,033.70
2016	8.190	4.498	2.580	2.633	0.059	0.9216	\$3.37	\$3,107,116.65
2017	8.190	3.328	2.580	1.693	0		\$3.61	\$
2018	8.190	2.363	2.580	2.054	0		\$4.02	\$
2019	3.160	1.368	1.000	1.638	0.638	0.9166	\$4.48	\$4,106,380.99
2020	3.160	2.368	1.000					
<i>Totals</i>					<i>21.95</i>	<i>18.66</i>		<i>\$51,443,785.38</i>

The foundational flaw in reallocation under Amendment 53 is that it looks at the revised recreational sector landings estimates in a vacuum, ignores that the recreational sector overharvested its allocation, gives full credit to the recreational sector for overages, and fails to address other factors that would have increased relative commercial sector landings. Reallocation on this basis is arbitrary.

Reallocation Would Decrease Yields While Increasing Risk of Overfishing

National Standard 1 requires that management measures “shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery for the United States fishing industry.”⁸ Reallocation both increases risk of overfishing while reducing landings, and thus violates the spirit of National Standard 1.

Because of massive dead discards in the recreational fishery (between 2.5 million and 6 million individual red grouper in recent years, and more than 8 million individual red grouper in 2004),⁹

⁸ 16 U.S.C. § 1851(a)(1).

⁹ See Amendment 53 at p. 36 (Table 3.1.6). Recreational discard mortality is estimated at 11.6% (Am. 53, p. 35).

reallocating more quota to that sector would necessitate a substantial reduction in the ABC. Under Alternatives 3-5, for example, the ABC would be reduced by approximately 600,000 pounds to cover recreational sector dead discards.¹⁰ Amendment 53 is clear about the cause of that reduction: “[W]here 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.”¹¹

This action would thus reduce the available yield streams and result in less fish for red grouper consumers and anglers alike. At the same time, “allocating a greater percentage of the ACL to a sector that has more uncertainty in landings...is more likely to result in overfishing/overfished Gulf red grouper,”¹² at a time when the overall biomass is the lowest on record.¹³ Reallocation results in both lower landings and increased risk of overfishing, and is thus inconsistent with the two objectives of National Standard 1.

Reallocation Would Violate MSA National Standards

National Standard 4

National Standard 4 requires that allocations shall be “fair and equitable” and “reasonably calculated to promote conservation.”¹⁴ Reallocation under Amendment 53 is neither.

Alternatives 3-6 in Amendment 53 are not “fair and equitable” for several reasons. NMFS’s National Standard 4 Guidelines explain that to be fair and equitable, “the motive for making a particular allocation should be justified in terms of the objectives of the FMP.”¹⁵ Amendment 53 concedes that any “reallocation must be consistent with the Reef Fish FMP objectives,”¹⁶ but nowhere explains how Preferred Alternative 3 or any other reallocation alternative would actually advance any particular FMP objective. To the contrary, reallocation would frustrate FMP Objectives 1, 2, 4, 5, 6, 9, and 12.¹⁷

In addition, reallocation would reduce the acceptable biologic catch (ABC) and thus force the commercial sector to subsidize dead discards in the recreational sector. It is unfair to reduce the commercial sector’s catch limit to pay for recreational sector dead discards. Indeed, reallocation would harm the commercial sector twice: once by the reduction in catch limits needed to cover

¹⁰ See Am. 53 at p. 15, Table 2.1.1. Under Alternative 2 (status quo allocations), the ABC is 4.90 million pounds (“mp”). Under Alternatives 3-5, the ABC is reduced to 4.26, 4.30, and 4.28 mp, respectively, or by roughly 600,000 pounds.

¹¹ Am. 53 at p. xvi (emphasis added).

¹² Am. 53 at p. xvii (emphasis added).

¹³ The stock would also be considered overfishing under the parameters of the prior stock assessment. See SEDAR 61 at p 175.

¹⁴ 16 U.S.C. § 1851(a)(4).

¹⁵ 50 C.F.R. § 600.325(c)(3)(i).

¹⁶ Amendment 53 at p. 7.

¹⁷ See Amendment 53 at p. 8 (listing FMP objectives).

recreational dead discards, and then again by the percentage loss of allocation to the recreational sector.

Moreover, as explained above, reallocation is premised on a flawed theory that is unfair to the commercial sector and ignores the fact that the recreational sector exceeded its allocation in effect over the base period. The commercial sector was subject to strict reporting requirements during those years, remained within its allocation for most years, and presumably would have landed more fish if given the opportunity. But Amendment 53 does not consider any of those factors. Thus, reallocation of red grouper suffers from a similar “fundamental flaw” that doomed reallocation of red snapper¹⁸: it’s a one-way ratchet that can only benefit the recreational sector.

Reallocation is also not “reasonably calculated to promote conservation” as required by National Standard 4 because it admittedly is “more likely to result in overfishing”¹⁹ and would substantially increase dead discards.²⁰ In addition, NMFS’s National Standard 4 Guidelines explain that an allocation may “promote conservation by encouraging a rational, more easily managed use of the resource.”²¹ This cannot be achieved by reallocating more fish “to a sector that has more uncertainty in landings.”²²

National Standard 9

Reallocation would also violate the requirement of National Standard 9 that management measures minimize bycatch to the extent practicable.²³ NMFS’s National Standard 9 Guidelines explain that bycatch “can, in two ways, impede efforts to protect marine ecosystems and achieve sustainable fisheries and the full benefits they can provide to the Nation.”²⁴ First, bycatch can “increase...the uncertainty concerning total fishing-related mortality,” and “may also preclude other more productive uses of fishery resources.”²⁵ Accordingly, the Guidelines specify that “Councils must...[s]elect measures that, to the extent practicable, will minimize bycatch and bycatch mortality.”²⁶

Reallocation of red grouper increases recreational sector bycatch and dead discards, increasing uncertainty for a sector whose catch is already uncertain, and forces a reduction in ABC to account for recreational dead discards, precluding more productive uses of fish discarded dead. In other words, fish that could sustainably be served to consumers in restaurants will instead be floating off dead in the Gulf of Mexico after being discarded by private anglers. This does not

¹⁸ See *Guindon v. Pritzker*, 240 F. Supp. 3d 181, 195 (D.D.C. 2017) (“Amendment 28 enables the recreational sector to catch more fish in the future because they caught more fish in the past, in excess of applicable restrictions... The flaw with that system is that the commercial sector can never obtain an increase in their allocation...”).

¹⁹ See Amendment 53 at p. xvii.

²⁰ See Amendment 53 at p. xvi (“greater dead discards from recreational red grouper fishing” result “where more fish are allocated to the recreational sector”).

²¹ See 50 C.F.R. § 600.325(c)(3)(ii).

²² See Amendment 53 at p. xvii.

²³ 16 U.S.C. § 1851(a)(9).

²⁴ 50 C.F.R. § 600.350(b).

²⁵ *Id.*

²⁶ 50 C.F.R. § 600.350(d)(3).

comport with National Standard 9. Of the action alternatives, Alternative 2 -- maintaining status quo allocations -- minimizes bycatch “to the extent practicable.” That standard cannot be met by the other Alternatives because they would all increase bycatch.

Amendment 53 contains an extensive practicability analysis (Appendix B), but that analysis is flawed because it compares all of the Action Alternatives together against Alternative 1 (status quo).²⁷ Appendix B concedes that Alternative 1 is “not legally viable,”²⁸ and it is therefore irrational to use that alternative as the baseline for comparison. From that flawed starting point, Appendix B only examines the impacts on bycatch from reducing the OFL and ABC from status quo levels. What Appendix B fails to analyze is the *effect* of reallocation: specifically, as explained elsewhere in the document, that “the recreational sector is responsible for more discards and more dead discards,” and that “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.”²⁹

Thus, a comparison *between the Action Alternatives* is necessary to determine their effects on bycatch. That analysis would show that Alternatives 3-6 would substantially increase bycatch compared to Alternative 2. This is precisely why the ABCs for Alternatives 3-5 are all roughly 600,000 pounds less than for Alternative 2: because those alternatives will result in 600,000 pounds more dead discards from reallocating quota to the recreational sector. Appendix B ignores this reality and obscures the true negative impacts from reallocation. An action resulting in 600,000 more pounds of discarded dead fish in the Gulf of Mexico cannot satisfy the requirement to minimize bycatch to the extent practicable.

Amendment 53 Lacks Necessary Analyses and Explanations

Apart from the substantive flaws addressed above, Amendment 53 also lacks the supporting analyses and justifications for an action of this magnitude. Some of these issues are discussed below.

Unexplained Use of Revised Commercial Sector Landings Estimates

Amendment 53 would not only use revised recreational sector landings estimates to adjust the allocations, but would also apparently use revised commercial landings from the SEFSC. Nowhere is this explained in the document.

Table 2.1.1 on page 19 provides SEDAR 12 Landings (presumably what were used for the existing allocation under Amendment 30B), and SEFSC ACL Monitoring Landings. Except for 1993 and 1998, the commercial landings are all lower for each year in the SEFSC data set. Yet it appears that those downwardly revised commercial landings are now being used for calculating

²⁷ See Amendment 53 at p. 180 (“each of the three action alternatives would likely result in a decrease in bycatch and in dead discards of red grouper when compared to current management”) (emphasis added).

²⁸ Amendment 53 at p. 184.

²⁹ Amendment 53 at p. 92.

the reallocation percentages, which harms the commercial sector. There is no explanation in the document for why the SEFSC-tracked commercial landings numbers are generally lower now than they were before, or why the Council is using these new numbers for reallocation.

Use of FES Landings Estimates Despite Conflicting Information

Amendment 53 would use revised recreational landings estimates for the historical period (1986-2005), which were presumably developed by the SEFSC based on a comparison of CHTS and FES over the years 2015, 2016, and 2017 when both surveys were run simultaneously. The document does not explain how the SEFSC performed that comparison, developed a calibration factor, or whether that factor was applied generally across all MRIP-tracked species or whether specific adjustments were made for each individual species like red grouper. The numbers appear to come from a black box; to date the Shareholders' Alliance has been unable to determine how these numbers were generated or to recreate them. The MSA requires more information and transparency, and Council members should expect more in order to make an informed decision.³⁰

Use of these revised historical landings estimates going back decades as one input for a stock assessment that contains many data inputs is one matter; using them for reallocation, where they are the sole data that determine the outcome, is another. Merely because a data set may be suitable for one purpose, like a stock assessment, does not *automatically* make that data set suitable for all management purposes, such as reallocation. To the extent the Council intends to rely upon these revised landings estimates to make allocation decisions, it should “openly acknowledge gaps in scientific information”³¹ and justify its reliance on the revised estimates despite these gaps. Amendment 53 does not do this, and fails to address any of the discrepancies and inconsistencies in the revised historical landings estimates.

For example, the SEFSC itself has suggested that using the CHTS/FES calibration to re-determine historical landings prior to the year 2000 may be unreliable:

It is clear that CHTS-based estimates since 2000 are not really comparable to CHTS-based estimates prior to 2000, and they have become increasingly less comparable over the more recent years. For these reasons, MRIP stopped conducting the CHTS. Due to the continued decline of coverage and response rates for the CHTS from 2000 to 2017, future conduct of the CHTS cannot be justified. Any attempt to convert FES-based estimates for 2018 and later years into estimates comparable to CHTS-based estimates prior to 2000 will be difficult

³⁰ See 50 C.F.R. § 600.315(a)(6)(iv)(A) (“The [MSA] provides broad public and stakeholder access to the scientific information upon which the process and management measures are based.”); *id.* § 600.315(a)(6)(vi)(A) (“the data and procedures used to produce the scientific information [should be] documented in sufficient detail to allow reproduction of the analysis by others with an acceptable degree of precision”).

³¹ 50 C.F.R. § 600.315(a)(6)(iv)(B).

*to accomplish with any reasonable degree of certainty. Therefore...use of CHTS-based estimates will not be feasible moving forward.*³²

In other words, with the rise of cell phone use, the reliability of CHTS decreased significantly starting in 2000 – *fifteen years* prior to the side-by-side surveys. The years used to develop the CHTS-FES calibration model were 2015-2017, at a time when CHTS was the most unreliable. If, as the SEFSC explains, it is not defensible to take an FES-based landings estimate after 2018 and convert it into a “currency” that’s comparable to CHTS prior to 2000, then how did the SEFSC calibrate recreational landings across the entire historical time series going back to the early 1980s, and what is the degree of uncertainty for the estimates that were produced with this methodology? The Council should understand these shortcomings before proceeding with a reallocation that may be based upon highly uncertain landings estimates.

Indeed, there is a wide discrepancy in the revised historical landings estimates that seems to track the uncertainty highlighted by the SEFSC. Looking at Table 2.1.2 on page 19 of Amendment 53, in some years the ratio of SEDAR 12 (CHTS) and SEFSC Landings (FES) is close to 1:1 (see, e.g., 1996). In some years, the ratio is nearly triple that, to nearly 1:3 (see, e.g., 1989, where recreational landings estimates increased from 2,761,150 pounds to 7,632,792 million pounds). That wide variation conflicts with the assumed CHTS:FES ratio going forward of 1:2.10 (see p. 99, Table 4.1.4.1), the source of which is not explained. This lack of consistency and failure to explain it gives the public the impression that these numbers are pulled from thin air.

Table 2.1.2 From Amendment 53: Commercial and recreational landings for red grouper in pounds gutted weight (gw) from SEDAR 12 (MRFSS) and the SEFSC ACL monitoring datasets (MRIP FES) used to calculate sector allocations.

Year	SEDAR 12 Landings		SEFSC ACL Monitoring Landings	
	Comm	Rec	Comm	Rec
1986	6,312,986	2,400,380	6,222,162	3,348,897
1987	6,717,890	1,464,710	6,567,225	2,495,130
1988	4,742,496	2,476,070	4,559,441	4,652,818
1989	7,367,911	2,761,150	7,270,424	7,632,792
1990	4,809,282	1,131,710	4,744,711	3,565,320
1991	5,094,501	1,775,110	5,071,083	3,755,576
1992	4,463,277	2,658,180	4,456,473	6,046,978
1993	5,379,626	2,091,160	6,364,065	4,057,934
1994	4,902,862	1,808,240	4,890,106	3,827,267
1995	4,746,140	1,862,570	4,652,487	3,496,544
1996	4,454,146	893,755	4,336,214	910,313
1997	4,848,486	562,328	4,673,786	1,142,958
1998	3,948,566	643,058	3,703,816	1,513,890
1999	5,974,706	1,152,810	5,800,592	3,428,553
2000	5,838,300	2,107,730	5,702,622	4,242,231

³² NOAA Fisheries, SEFSC, *Recommended Use of the Current Gulf of Mexico Surveys of Marine Recreational Fishing in Stock Assessments* (July 2019), at p. 25, available at: <https://media.fisheries.noaa.gov/dam-migration/94100569.pdf>.

2001	5,964,506	1,327,770	5,802,442	2,435,456
2002	5,907,248	1,611,110	5,791,795	3,172,348
2003	4,937,970	1,275,830	4,832,294	2,201,496
2004	5,749,039	3,000,140	5,635,577	7,983,239
2005	5,410,594	1,630,140	5,380,603	3,081,979
2006			5,109,824	2,655,065
2007			3,650,777	2,031,867
2008			4,748,224	1,604,398
2009			3,698,227	1,600,063
2010			2,910,970	1,963,762
2011			4,783,668	1,534,113
2012			5,219,133	4,131,722
2013			4,599,001	4,990,310
2014			5,601,905	5,368,575
2015			4,798,007	3,790,614
2016			4,497,582	2,632,907
2017			3,328,271	1,692,513
2018			2,363,280	2,053,526
2019			2,037,046	1,638,076
Alternatives 1 and 2 (1986-2005)	76%	24%		
Alternative 3 (1986-2005)			59.3%	40.7%
Alternative 4 (1986-2009)			60.5%	39.5%
Alternative 5(1986-2018)			59.7%	40.3%

Table 3.1.5 From Amendment 53: Red grouper landings in pounds gutted weight for recreational fleets.

Year	Charter	Headboat	Private	Total
2001	334,963	30,181	2,070,312	2,435,456
2002	268,079	23,508	2,880,760	3,172,348
2003	269,853	38,489	1,893,154	2,201,496
2004	519,621	65,145	7,398,473	7,983,239
2005	513,070	75,009	2,493,900	3,081,979
2006	262,350	25,479	2,367,236	2,655,065
2007	145,391	24,674	1,861,802	2,031,867
2008	293,645	37,604	1,273,149	1,604,398
2009	193,864	29,583	1,376,617	1,609,247
2010	326,603	26,064	1,611,095	1,963,762
2011	244,092	36,697	1,253,324	1,534,113
2012	575,589	83,324	3,472,809	4,131,722
2013	796,929	77,542	4,115,840	4,990,310
2014	586,680	45,107	4,737,128	5,368,916
2015	500,305	50,621	3,239,928	3,790,853
2016	406,066	56,851	2,169,801	2,632,718
2017	342,871	21,423	1,328,134	1,692,428

2018	362,021	22,310	1,669,115	2,053,446
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In addition, some Council members have recently questioned whether enough APAIS dockside intercepts occurred with FES to meet the standards for reliability. For some MRIP reporting waves, it appears there were no or very few APAIS intercepts, and so the calibration model appears to have “borrowed” data from somewhere else. The effect of this seems to dramatically inflate recreational landings estimates and skew the reallocation percentages. Amendment 53 does not address this issue.

Moreover, at the April 2021 Council meeting, several Council members expressed severe reservations with FES-based landings estimates. Eight Council members voted in favor of approving landings data collected by the Gulf States as constituting the best scientific information available. Amendment 53 contains reference to Florida’s Gulf Reef Fish Survey (see p. 27 at Table 2.2.5), which tracks more closely to CHTS than to FES, but Amendment 53 fails to explain why the Council is nevertheless electing to reallocate on the basis of FES despite its own misgivings with that survey and Florida’s conflicting data.

Before proceeding further with reallocation, more work must be done to develop a reliable set of data in which the Council and the public have sufficient confidence to use for management purposes. Several efforts are underway to achieve this objective. The Council should not rush ahead now, but should defer consideration of reallocation until reliable data are available.

Mischaracterized Findings of SSC

The document the Council sent out for public hearing wrongly asserted that the Council’s SSC “affirm[ed] that the MRIP FES recreational landings represented the best scientific information available.”³³ The SSC has never affirmed that the revised FES landings constitute the best scientific information available, and it is highly misleading to the public to suggest the SSC has endorsed these landings estimates for use in allocation. Even Council Staff has clarified that the SSC has “not blanket accepted any survey as being the best scientific information available.”³⁴ The revised document dated June 2021 fixes this misstatement,³⁵ but why was the public not informed of this during public hearings?

Erroneous Contention that the Recreational Sector Only Exceeded its ACL in 2013

Amendment 53 repeatedly asserts that “the recreational ACL has only been exceeded in 2013.”³⁶ This is incorrect. The revised FES-based landings estimates upon which reallocation is based indicate that the recreational sector exceeded its catch limits for at least two years in the base period, 2004 and 2005 (see Table 1 above). It is arbitrary and misleading to suggest on the one hand that the recreational sector complied with its catch limits, but then assert on the other hand

³³ Amendment 53 (April 2021) at p. 6.

³⁴ Gulf Council. April 2021 [Meeting Minutes](#), page 200.

³⁵ *Compare id.* to Amendment 53 (June 2021) at p. 6

³⁶ *See, e.g.*, Amendment 53 at p. 17.

that the recreational sector should be credited for landings in excess of those limits. Amendment 53 fails to contain a table showing what the recreational catch limits were during 1986-2005, what CHTS-based landings estimates were, and what FES-based landings estimates are now over all those years. The failure to include such a chart obscures the true nature of the reallocation.

Failure to Assess Economic Impacts

Amendment 53 fails to assess the extensive economic harms of reallocation on the commercial sector. In particular, Amendment 53 does not examine effects of reallocation on IFQ share values or allocation prices. These impacts are substantial (see Table³⁷ below) – using 2020 data, reallocation of 600,000 pounds of red grouper would present a loss of more than \$3.7 million (600,000 pounds x \$6.17/pound) in foregone value of shares. Further, Amendment 53 fails to analyze the resulting scarcity of IFQ allocation that would result from reallocating fish away from the commercial sector, and the impacts on IFQ share and allocation prices. In a year where the commercial sector is poised to harvest 100% of its allocation and the Council has heard testimony³⁸ to the scarcity of IFQ allocation and overall increasing share and allocation prices, it is reasonable to expect that reallocation will present cascading effects to red grouper IFQ share owners and allocation lessors alike. Consumer demand for red snapper is rising, as shown by increasing CPUE and average ex-vessel prices in the commercial sector. Yet the Council is considering reducing the commercial sector supply in the face of this rising demand, but without any analysis of impacts to the IFQ marketplace or the seafood supply chain. The Council should assess these impacts prior to any reallocation.

	Avg Share Prices	Avg. Allocation Prices	Avg. Ex-Vessel Prices	Commercial Quota (pounds)
2012	\$9.01	\$0.88	\$3.61	5,370,000
2013	\$14.53	\$1.07	\$3.91	5,530,000
2014	\$14.16	\$1.06	\$4.09	5,630,000
2015	\$13.80	\$1.15	\$4.23	5,720,000
2016	\$10.74	\$0.95	\$4.26	5,720,000
2017	\$5.39	\$0.44	\$4.45	7,780,000
2018	\$4.17	\$0.33	\$4.83	7,780,000
2019	\$5.69	\$0.59	\$5.31	3,000,000
2020*	\$6.17	\$0.47	\$5.09	3,000,000

*Preliminary

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In short, Amendment 53 is unfair at its core, arbitrary in its execution, and incomplete in its current form. The Council cannot adopt status quo and table the amendment because status quo

³⁷ See Red Snapper and Grouper Tilefish Individual Fishing Quota Programs Review, June 2021, page 41 & 44.

³⁸ Amendment 53 Public Hearing, Ft. Myers, Florida, June 8, 2021.

is not legally viable according to the document. Thus, the only recourse is to adopt Alternative 2, revisit any allocation decisions at a later time, and formally resolve the calibration shortcomings identified here.

Instead of proceeding with reallocation, the Council should immediately initiate a Framework Action to implement the results of the Interim Assessment (IA) and to direct SEFSC staff to conduct the necessary analyses so that they can be translated into catch advice that could potentially increase the total quota by up to approximately 1 million pounds, as indicated by the IA.

Thank you for considering our comments.

Sincerely,

A handwritten signature in black ink that reads "Eric Brazer". The signature is written in a cursive style with a large initial "E" and a long, sweeping underline.

Eric Brazer
Deputy Director, Gulf of Mexico Reef Fish Shareholders' Alliance
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