



June 14, 2013

Mr. Doug Boyd, Chairman
Gulf of Mexico Fishery Management Council
2205 North Lois Avenue, Suite 1100
Tampa, Florida 33607

RE: Red Snapper Catch Limits and Regional Management (Amendment 39)

Dear Chairman Boyd:

On behalf of The Pew Charitable Trusts, we offer the following comments on red snapper catch limits following the review of the new stock assessment (SEDAR 31) and in light of the regional management approach proposed under Amendment 39 to the Gulf of Mexico Fishery Management Council's (Council) Reef Fish Fishery Management Plan. SEDAR 31 indicates that the population is strongly recovering from decades of overfishing. Although overfishing is no longer occurring, red snapper are still overfished. While an increase in catch levels is warranted, we recommend applying caution in setting annual catch limits (ACL), particularly considering both the lack of scientific certainty incorporated into the new allowable biological limits (ABC) from the Council's Scientific and Statistical Committee (SSC) and the substantial level of management uncertainty in the red snapper fishery. The proposed regional management plan (Amendment 39) introduces additional management uncertainty that should also be factored into the catch setting process. Moreover, we strongly encourage the application of post-season accountability measures (*e.g.*, overage payback provisions) as part of Amendment 39 to ensure that the regional management plan is set up in a way that will prevent overfishing and maintain rebuilding.

In short, we recommend:

- Adding sufficient buffers when setting red snapper ACLs for 2013 - 2015 to account for the fact that the new ABCs are set extremely close to the overfishing limit (OFL) and to account for the high level of management uncertainty. Specifically, at least a 20% buffer should be used to set the recreational ACL and at least a 5% buffer should be used to set the commercial ACL.
- Ensuring regional management operates under the federal umbrella to ensure continuity of the science-based rebuilding plan and recovery of this species, while giving each state authority to manage their percentage of the ACL.[Amendment 39, Action 1, Preferred Alternative #2].

- Applying state-based payback provisions when the Gulf-wide ACL is exceeded to keep the rebuilding plan on track [Amendment 39, Action 6, Preferred Alternative #3].
- States should consider use of an annual catch target (ACT) to further capture additional management uncertainty incurred by regional management.

Additional Buffers Needed in Setting Catch Limits

The Council and the National Marine Fisheries Service (NMFS) are responsible for establishing management measures, including catch limits and accountability measures that enable rebuilding while preventing overfishing.¹ Overfishing levels (OFL) produced by the new assessment and accepted by the Council's SSC are designed to continue rebuilding the population towards the maximum sustainable yield (MSY) level, and function as the threshold to prevent overfishing. Exceeding the OFL level constitutes overfishing, and subsequent reductions in fishing and catch limits would be necessary. In general, ABC levels are intended to capture the scientific uncertainty in the OFL (*i.e.*, a measure of how well that OFL is estimated), with wide buffers representing high uncertainty and narrow buffers representing low uncertainty about OFL estimates. However, that is not the case with the SSC's recommended red snapper ABCs for 2013 – 2015 based on SEDAR 31.

The new ABC recommendations from the SSC illustrate the need to be cautious when setting new catch limits designed to keep rebuilding on track. As acknowledged by the SSC and the Southeast Science Center at the May 2013 SSC meeting, the ABC projections from the assessment underestimate uncertainty around the OFL estimates. Specifically, ABCs produced by these calculations of OFL, combined with application of the ABC control rule, do not fully capture scientific uncertainty and result in a very narrow buffer between OFL and ABC. Past buffers for red snapper have been set at 25% below the OFL, resulting in a 2.5 million pound (mp) buffer under the current limits. Under that relatively high buffer, setting the ACL equal to the ABC was fairly safe, even with large overages in the recreational fishery. This 25% buffer was a calculation of optimum yield based on NMFS technical guidance and was intended to capture both scientific and management uncertainty. However, the new assessment and SSC's ABC recommendations are just 1-2% below the OFLs, representing buffers of just 100,000 to 200,000 over the next three years.

NMFS technical guidance to implement ACLs (*i.e.*, National Standard 1 guidelines) specifies that ACL cannot be set equal to the ABC when ABC is equal to the OFL.

If a Council recommends an ACL which equals ABC, and the ABC is equal to OFL, the Secretary may presume that the proposal would not prevent overfishing, in the absence of sufficient analysis and justification for the approach.²

¹ MSA § 303(a)(15)

² NS1 guidelines 600.310(f)(5)(i)

ABC must be set so the risk of overfishing is less than a 50% probability. Since the ABCs approved by the SSC are so close to the OFL estimates, a strong rationale would be needed to justify setting ACL equal to ABC.

In light of this very narrow scientific buffer, the Council must set ACL below the ABC based on the relative amount of management uncertainty estimated for both the recreational and commercial fisheries. Management uncertainty includes factoring in the ability to accurately estimate catch and the ability to maintain catch within the prescribed limits. With a difference in ABC and OFL of only 100,000 to 200,000 pounds, there is very little margin for error if the Council sets the ACL equal to the ABC, as has been the previous practice for red snapper. This is problematic given that the recreational overages over the past six years average 1.42 million pounds (excluding 2010, the year of the Deepwater Horizon disaster).

To buffer ACL from the ABC, the Council should use its ACL/ACT control rule adopted as a part of the 2011 Generic ACL Amendment to account for management uncertainty. However, the Council must ensure that the ACL calculated using this control rule provides a sufficient buffer for each fishery to prevent overages. For instance, the control rule calculates a 20% buffer for the recreational fishery, which is the equivalent of a 1.32 mp buffer in 2013, a 1.17 mp buffer in 2014, and a 1.04 mp buffer in 2015 (see Table 1 below). By comparison, recreational fishery overages since 2007 range from 0.73 mp (2011) to 2.18 mp (2009) and have been near to or greater than these 20% buffers in 4 out of 5 years of overages (see Table 2 below). Thus, buffers at least 20% to capture the full amount of management uncertainty in the recreational fishery and stronger accountability measures such as overage paybacks should be adopted. For the commercial fishery, which has not exceeded their portion of the red snapper ACL in recent years, a buffer of at least 5% should be used to set the ACL to provide a higher probability of not overfishing.

Table 1. Illustration of the recreational ACL reduced from the ABC by 20% and the actual amount of buffer (in million pounds).

(in million pounds)	OFL	ABC	Recreational ABC (49% allocation)	Recreational ACL (ABC reduced by 20%)	Actual Buffer at 20% reduction
current	11.11	8.46	4.15		
2013	13.69	13.50	6.61	5.29	1.32
2014	12.04	11.91	5.83	4.67	1.17
2015	10.72	10.58	5.18	4.15	1.04

Table 2. The recreational quotas and landed catch since 2007 with actual amount of the overages.

Year	Recreational ACL and Catch (in million pounds)		
	Quota	Actual landings	Overages
2007	3.185	4.443	1.26
2008	2.450	3.713	1.26
2009	2.450	4.625	2.18
2010	3.403	2.239	-1.16
2011	3.865	4.590	0.73
2012	3.959	5.660	1.70

Regional Management Should Incorporate Management Uncertainty in Establishing ACLs and Applying Accountability Measures

Delegating management authority to the individual Gulf states under the Preferred Alternative #2 in Action 1 of Amendment 39 whereby the Gulf-wide ACL is apportioned to the states and each state is held accountable for not exceeding its ACL is the only way regional management will work to prevent overfishing and rebuild the red snapper population. Additionally, this regional approach also maintains federal oversight intended to ensure state management plans adhere to catch limit requirements under the Magnuson Stevens Fishery Conservation and Management Act (MSA).³

While regional management under Amendment 39, has some merit, is also adds further management uncertainty. Under the current Gulf-wide system, NMFS estimates the catch based on federal and state regulations, and projects season length accordingly. However, this process has not been effective in preventing recreational overages. Under Amendment 39, each of the five states will have their own individual process to project catch based on the management measures they select such as bag limits and season length. There will also be differing methods used to monitor and sample the fishery, and track catch to ensure state-based ACLs aren't exceeded.

Additionally, catch sampling and monitoring programs in some states may not be adequate to sufficiently track and estimate red snapper catch, adding further management uncertainty. Existing Gulf-wide data sampling and fisheries monitoring programs rely on data that already have a fair amount of associated error around catch estimates. Carving that data into state-based data means smaller sample sizes and higher margins of error. To improve these estimates to better track the recreational fishery and constrain catch to the prescribed limits, some states may have to increase or supplement red snapper sampling.

³ Ibid.

The apportionment of the Gulf-wide ACL to individual states should factor in these additional sources of management uncertainty accordingly. This means each state should consider its ability to adequately track catch, sufficiently constrain catch to adhere to its limit, and effectively project management effects and catch when adopting regulations. States should consider the use of an annual catch target (ACT) as an in-season accountability measure (AM), and set regulations to the ACT level, or an additional buffer, to explicitly build in this added management uncertainty.

Most importantly, management measures adopted in Amendment 39 should also include post-season accountability measures such as payback provisions when ACLs are exceeded. The Preferred Alternative #3 in Action 6 of Amendment 39 establishes state-based overage paybacks when the Gulf-wide ACL is exceeded, and paybacks should be adopted as part of the Amendment. State-based paybacks help ensure each state maintains its responsibility in rebuilding the red snapper population by preventing overfishing and making necessary adjustments when overages occur.

In summary, applying precautionary buffers to ACLs and instituting post-season payback provisions when state-based ACLs are exceeded are important elements to prevent overfishing and rebuild the red snapper population. Under the proposed new regional management plan, states will take on a higher level of responsibility to manage recreational fisheries while adhering to the MSA.

Thank you for accepting these comments regarding red snapper limits and regional management. We look forward to working with the Council, NMFS, and the States to ensure continued recovery of the red snapper population and effective management that allows for ample fishing opportunity while preventing overfishing.

Sincerely,



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The Pew Charitable Trusts