



January 17, 2023

Mr. Dale Diaz  
Chairman  
Gulf of Mexico Fishery Management Council  
4107 West Spruce Street, Suite 200  
Tampa, Florida 33607

Dear Chairman Diaz and I Members of the Council,

The American Sportfishing Association, Center for Coastal Conservation, and the Congressional Sportsman's Foundation would like to communicate our positions and concerns about the processes and outcomes related to the MRIP-CHTS to MRIP-FES conversions. In our view the Council's approach to handling the conversion process has resulted in a significant misunderstanding of outcomes, particularly as it is applied to allocations. The result has been increased divisiveness and animosities across the fishing sectors and within the Council itself. The sectors and the Council members themselves have expressed confusion and dissatisfaction with the process. It is our hope that the Council will recognize that continuing to handle the conversions in the same way without bringing a greater understanding of how the conversions are made, will further increase confusion and divisiveness.

Our Understanding of the MRIP-CHTS to MRIP-FES data and assessment conversions:

The upgrade from recreational MRFSS to MRIP and the changes from a telephone (CHTS) to mail (FES) survey has been in process for a number of years. The intent of the new system is to increase the accuracy of the recreational data as applied to stock assessments and management. For each species managed, recreational catch and effort data are calibrated across the two data systems so historical data collected using CHTS can inform stock assessment models and to generate a new overfishing limit (OFL), acceptable biological catch (ABC), and annual catch limit (ACL) based on FES currency. Simply put, because the CHTS is no longer in use or considered best scientific information available (BSIA), the old CHTS data are no longer useable or of value in the management process without conversion to the current FES survey. Pre-existing allocations between sectors that are based on a timeseries of CHTS-based historical landings face the same problem. After the conversion from CHTS to FES is made for a species that results in a new OFL, ABC, and total ACL, the old allocation values, based on the uncalibrated CHTS historical landings, are simply no longer valid and have no objective basis for being used nor can they be used to compare allocation changes. The allocations must be recalculated based

on the recalibrated FES landings for the same time series used in the pre-existing allocations to match the recalibrated ACL. This is probably the most misunderstood and thus controversial issue associated with each species data conversions. Unfortunately, the misunderstanding is reinforced by the terminology used to describe the allocations by all of us including the fishing public, Council staff, and Council members. On occasion, NOAA legal staff try to clarify the terminology, but it seems to go unheeded.

The allocation issue:

Understanding that allocation will be controversial no matter how it is presented, we recommend that the Council determine how to focus on the complete conversion of management targets and thresholds such as catch limits and allocations that are based on old CHTS data to MRIP-FES, and that this be handled separately from allocation decisions. This approach has been discussed in Council but dismissed because of lack of understanding or ignoring the fact that the recalibrated allocations based on the same time series represent a straightforward mathematical change from the old CHTS to the new FES system. Allocations converted to FES should be considered the base-line allocation and any changes from that a re-allocation. This was simply explained by staff using the example of a change in currency. As an example, if we were to change a currency system from pesos (CHTS) to dollars (FES) you have to change the entire system to dollars. You can't purchase a \$10 fish with 10 pesos because a peso is only worth 50 cents. It is the same with these data conversions. You can't leave allocation in pesos while now operating in dollars and furthermore a percent of allocation in CHTS is not the same as a percent of allocation in FES. A statement by Dr. Roy Crabtree at the August 2015 Council meeting summarizes this problem:

*"Imagine you had a stock with two sectors fishing it, and each sector catches 100 pounds per year. The total allowable catch is 200 pounds and this goes on for a while. The catches are estimated by a survey and so imagine you discover, through looking at the survey, that in fact one sector has actually been catching 200 pounds a year all along. Now, so the original allocation was 50/50, 100 pounds each and the TAC was 200. Now you realize in fact you've been harvesting 300 pounds all the time and so the TAC really is 300 pounds. Now, if you say we're going to stick with the original allocation of 50/50, everybody gets 150 pounds and so one sector that's only been catching 100 all along gets a bonus of fifty pounds. The sector that's been catching 200 pounds all along now is getting cut, because they are only getting 150 pounds from now on. That is what happens if you readjust the historical timeframe and the productivity but you don't make a shift in the allocation.*

*It is a de facto reallocation away from the sector whose catches have been recalibrated to the other one and I say that is very oversimplified, probably, but that gives you the gist of it."*

Greater amberjack, (Reef Fish Amendment 33), provides a good illustration of our position. For this amendment the Council agreed to the new FES conversion for setting the OFL, ABC, and ACLs. As part of that total conversion, a recalculated allocation based on the original recalibrated historic landings resulted in an allocation of 84% recreational and 16% commercial. The old, and no longer relevant, allocation was 73% recreational and 27% commercial. Many argued that the recreational sector was getting a huge jump in allocation and thus taking away fish from the commercial sector. There was an

immediate effort in the amendment alternatives to “stop the steal.” The fact is, we went from pesos to dollars and a percent of allocation in CHTS is not the same as a percent of allocation in FES. The old allocation of 73%-27% simply has no validity or basis for existing in the new system. In fact, from a straightforward data recalibration perspective, if the old allocations were kept in the new FES system in Amendment 33, the recreational sector would be giving up 11% of its allocation based on using the original time series. The outcome of Amendment 33 was the use of a different time series that resulted in a 4% reduction to the recreational sector. While this was not our preferred outcome, we agreed to it because we could see that the Council did not fully comprehend that even this was a reduction to the recreational sector. There was still a latent misconception that the old CHTS allocations of 73%-27% were the base for comparison in considering reallocation and not the new 84%-16%.

Further complicating the process and outcomes is the fact that many of the conversions from CHTS to FES also coincide with a determination of overfishing or overfished status determination, which triggers significant management actions and results in large cuts in annual catch limits for all fishery components. The result has been a misconception, again, that the recreational sector is trying to take allocation from the commercial sector when in fact we are simply trying to maintain the status quo when making the conversions.

Recent relevant Court Case:

In a recent court ruling (Civil Action No. 22-1260 TJK), with a summary judgement in favor of NOAA on all claims, the following statements, among many, support our understanding of the FES conversions and allocation. These statements also seem to support our recommendations related to treating the FES based allocation calibration the same as the at the OFL, ABC, and ACL calibrations.

On Page 16, when discussing the validity of using the CHTS time series converted to FES allocation for red grouper (Amendment 53) the following was stated: *The Service selected that alternative after concluding that allocation would pre-serve the basic policy of A30B while updating the limits based on the best scientific information available, apply the necessary reduction in total catch roughly equally among the sectors, and cause “the greatest net economic benefits” among the possible allocations. AR 7995.*

On page 36 when discussing economic benefits the Court noted the following: *The record reflects that the Service selected A53’s allocation mainly because it wished to keep its policy consistent by basing the allocation on “the same timeframe as [A30B]” while also using “FES landings” to set the limits—not because of its projected economic effects. AR 7967.*

On page 20, when discussing the CHTS to FES conversions and how allocation is treated and particularly that the CHTS determined allocations are no longer relevant the following was stated: *If the Service is right about the relationship between CHTS estimates and FES estimates, the now-immutable use of FES for estimating recreational catch means that preserving the prior nominal allocation would actually have reduced real-world recreational fishing opportunities dramatically.*

Allocation Policy:

There is a second issue that arises when considering actual reallocation in addition to making the conversion to MRIP-FES. The Council has seemingly abandoned its new policies and processes for

considering allocation changes. The Council's allocation policy, which is located on the Council website, sets a process for allocation decisions that includes time schedules, a review panel, data and information gathering, application of more than just landing series, and a measured approach to determining the need for an allocation change. The fact that these policies have been effectively abandoned confirms our original concerns that the policies have no binding effect on the Council and were, in fact, designed to give the Council free will to abandon them. The recreational community pushed hard for over a decade to have accountable and objective policies and procedures for determining allocations and we have yet to see them applied during a time when multiple allocation changes have been occurring. While there has been an attempt to connect some of these allocation decisions to the allocation policy (i.e. greater amberjack), the Council has seemingly cherry-picked pieces of the policies and guidelines while leaving out others, all without following its process. This approach has exacerbated the perception that the recreational sector is trying to take commercial allocation when in fact we are just advocating for maintaining status quo in the new, BSIA currency as these conversions are carried out.

The NOAA Fisheries Transition Plan for the Fishing Effort Survey published May 2018 attempted to provide guidance on approaches to effectively managing the FES conversions and calibrations. While providing good guidance for handling the conversions, it did not provide adequate guidance to councils for handling the allocation conversions. There was an acknowledgement that proper messaging and outreach was needed to avert public misunderstanding and misconceptions with the conversions, and it seems that this has not been fully accomplished. It was also acknowledged that allocation would be a significant challenge, but we don't see that the magnitude of that challenge was understood nor has an effective outreach plan been employed. Most importantly, a defined policy on how the Councils and NOAA should approach the allocation conversions has not been developed which continues to lead to confusion, misunderstanding, and thus a catalyst to unnecessary contention within the Council related to allocation.

#### Summary and recommendations

We are concerned that the conversion process from MRIP-CHTS to MRIP-FES has become unnecessarily divisive because the allocation conversions are being misunderstood as a reallocation when in fact, they are simply a mathematical change that converts the old CHTS to the equivalent FES allocations. This direct conversion is not a reallocation, and we will continue to strongly oppose reallocations during these conversions. While we understand that there are issues tied to the CHTS to FES conversions, these data are considered the best scientific information available and are being used as the basis for assessment and management decisions. We also understand that the conversions and concurrent overfishing and overfished findings present an illusion that the resultant recalibrated allocations are taking fish from the commercial sector when that is not the case. With that in mind, we offer the following specific recommendations for your considerations:

1. Better educate and continually re-educate all of us on the CHTS to FES conversions with focus on the allocation conversion. For example, how can you convey that a percent of allocation in CHTS is not the same as a percent of allocation in FES.
2. Develop consistent terminology for discussing CHTS to FES conversions and allocations.
3. Currently, terminology and explanations for allocation, used in public materials and amendments and frameworks, reinforce the confusion about FES converted allocation values and should be better articulated to reduce the confusion.

4. The Council should separate the FES conversion process from allocation decisions. The FES conversion should include the recalibrated historic data, OFLs, ABCs, ACLs and the recalibrated allocation. The recalibrated allocation should be the new base allocation.
5. With the FES base allocation, the Council should either determine that no further action is required, and allocation will be evaluated as scheduled in current policy or that an allocation review is needed and initiate the allocation review process as adopted by the Council. If changes from the base-line allocation are warranted, the allocation process should result in a separate allocation amendment.
6. A Policy should be developed for the FES conversions, including the FES allocation conversion and that Policy should include other similar conversions (ie. State data conversions, SEFHIER, future improvements to MRIP FES).
7. For allocations based on historical landings, consider setting allocations as a formula in which current BSIA landings currencies are inserted to arrive at allocations rather than codifying allocations as fixed percentages.

Council members, thank you for your consideration of our concerns and recommendations.

Sincerely,

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American Sportfishing Association

Ken Haddad  
American Sportfishing Association

Ted Venker  
Coastal Conservation Association

Chris Horton  
Congressional Sportsmen's Foundation