

# Amendment 22 to the Fishery Management Plan for the Snapper Grouper Fishery of the South Atlantic Region

## Options Paper (revised 2/10/15)



**March 2015**

## Background

The purpose of Amendment 22 to the Fishery Management Plan for the Snapper Grouper Fishery of the South Atlantic Region (Amendment 22) is to create a recreational tag program to closely control annual harvest levels of snapper grouper species with exceptionally low recreational annual catch limits (ACLs). Recreational sector participants would be issued tags through a pre-determined process. Tags issued to individuals or entities would allow the tag holder to harvest a set number of fish from federal waters in the South Atlantic region.

A Notice of Intent (NOI) to Prepare a Draft Environmental Impact Statement for Amendment 22 was published on January 3, 2011, [76 FR 101]. The NOI listed several options the South Atlantic Fishery Management Council (Council) could consider when addressing long-term management for red snapper, including trip limits, bag limits, a catch share program, temporal and spatial closures including those to protect spawning stocks, a tag program, and gear prohibitions. The amendment has been modified twice since the publication of the NOI; once to apply a recreational harvest tag program to deepwater snapper grouper species in addition to red snapper, and again to remove all species-specific options and create a harvest tag program that could be applied to any snapper grouper species with a very small recreational ACL. Based on these modifications, a supplemental NOI was published in the *Federal Register* to provide notice to the public of the broadened scope of Amendment 22.

## Current Actions in Amendment 22

**Action 1.** Establish a recreational harvest tag program framework that can be applied to any South Atlantic snapper grouper species with a low recreational annual catch limit (ACL).

**Action 2.** Establish eligibility criteria for individuals/entities to participate in the recreational harvest tag program.

**Action 3.** Establish an annual harvest tag issuance process for snapper grouper species included in the recreational harvest tag program.

**Action 4.** Establish a cost recovery plan if the recreational harvest tag program is a LAPP.

## Timeline

- Scoping meetings were held in January and February 2011.
- A supplemental NOI was published on August 2, 2013.
- The Council discussed Amendment 22 in September 2012; June, September, and December 2013; and March, June, September, and December 2014.

## Purpose and Need

The *purpose* of Amendment 22 is to create a recreational tag program for the South Atlantic region that could be applied to any snapper grouper species with a small ACL as determined by the Council and the Regional Administrator.

The *need* for action in Amendment 22 is to achieve optimum yield of an affected species without causing overfishing. The tag program is intended to maintain harvest at sustainable levels at or below the recreational ACLs, while ensuring fairness and equitability to users of the snapper grouper resource.

## Decisions the Council has made to date

- Tags would be issued through a **lottery**.
  - Fishermen receiving a tag in a given year may participate in the lottery the next year,
  - One lottery participant would not be able to receive multiple tags while other lottery participants receive none.
  - If the number of tags is equal to or more than the number of lottery participants, each participant should receive the same number of tags with any remaining tags being allocated to participants via lottery.
- Any **U.S. Citizen** may apply for a tag or enter a lottery.
- Tags would be **non-removable, 1-time use tags** (i.e., affixed to jaw) that would be issued once per fishing year.
- There would be no data collection component for the tag program.
  - The Council's Scientific and Statistical Committee (SSC) requested that a data collection component be added to the tag program.
  - The Council has received two presentations on state-run catch card programs.
  - The Council decided to keep the tag program as simple as possible and only use it to control harvest rather than include a data collection component.
- The Options Paper for Amendment 22 currently contains four actions (see above).
  - Eligibility alternatives in Action 2 include needing a recreational license from a state, being a U.S. citizen, and having a Federal Snapper Grouper-Charter/headboat permit.
  - Issuance process alternatives identified in Action 3 include a Internet-based lottery program (Alternative 2) and a call-in option for those without Internet access (Alternative 3).
  - Cost recovery options (if program is a LAPP) in Action 4 include the lottery entrant being responsible for all costs either at the time of entering the lottery (Alternative 2), or prior to issuance of the tag (Alternative 3).

## Issues for Council Discussion

### **Is the tag program a limited access system?**

- A limited access system, per the Magnuson-Stevens Act 303A(a). "...[T]he Secretary may approve, for a fishery managed under a limited access system, a limited access privilege program to harvest fish if the program meets the requirements of this section.”:  
A limited access system is authorized under MSA section 303(b)(6):

“Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, may-

(6) establish a limited access system for the fishery in order to achieve optimum yield if, in developing such system, the Council and the Secretary take into account—

- (A) present participation in the fishery;
- (B) historical fishing practices in, and dependence on, the fishery;
- (C) the economics of the fishery;
- (D) the capability of fishing vessels used in the fishery to engage in other fisheries;
- (E) the cultural and social framework relevant to the fishery and any affected fishing communities;
- (F) the fair and equitable distribution of access privileges in the fishery; and
- (G) any other relevant considerations....”

### **Is the tag program a Limited Access Privilege Program (LAPP)?**

- The Magnuson-Stevens Act states that a LAPP program would: “prohibit any person other than a U.S. citizen, a corporation, partnership, or other entity established under the laws of the U.S. or any state, or a permanent resident alien, that meets the eligibility and participation requirements established in the program from acquiring a privilege to harvest fish...”
- A LAPP program must also:
  - assist in rebuilding (if species is overfished)
  - promote fishing safety
  - promote conservation
  - promote socioeconomic benefits
  - include regular monitoring by a fishery management council and the Secretary of Commerce
  - be enforceable
  - include an appeals process
  - provide for revocation of limited access privileges
  - review of any illegal acts of anti-competition

### **Funding for a Tag Program**

- If the tag program is designed as a LAPP, the federal cost recovery plan would cover implementation of the program.
- If the tag program is not designed as a LAPP the funding source is not clear.

### **Possible Issues with a tagging program run by the states**

- If the Council wants the states to run the program, there should be a tag allocation action added to the document to lay out a framework for how to determine how many tags each state would receive.
- There would likely need to be an agreement between NMFS and the states on how the tagging program would operate.
- The South Atlantic states have infrastructure in place to support a tag program; however, they differ significantly from each other.
- If a fee is charged above and beyond the actual cost for states to implement the program, the states would have to go through their legislatures to allow collection of those fees.
- If states were to implement the program, tags would have to be allocated to each state, which could be controversial.
- Georgia and South Carolina prefer a tag program be administered by the federal government.
- There is some concern regarding a requirement for a lottery participant to have a state fishing license.

## **SSC and Snapper Grouper Advisory Panel (AP) Recommendations for Amendment 22**

In October 2013, the SSC provided a number of comments and recommendations for how Amendment 22 may proceed:

- The SSC encourages the gathering of any data or information possible without unnecessarily complicating the tag program or adding to the program's expense. Data could be gathered during the application process, or after tags are distributed using the applicant database.
- The SSC notes the potential for controversy over not having a for-hire allocation of tags.
- The SSC recommends replacing "cost recovery" with "administrative fee" to distinguish between the nature of the program and intent of the charge. "Cost recovery" programs are used in the management of for-profit commercial fisheries.
- Eligibility restrictions may be unnecessary if tags are non-transferable, as anglers are less likely to apply for tags they cannot use, trade, or give away. Such restrictions make a program designed to measure landings appear as one designed for (re)allocation purposes.

In October 2013, the snapper grouper AP offered the following comments on Amendment 22:

- Tags should not be transferable.
- A percentage of the tags should go to the for-hire sector.
- Amendment 22 should consider issuing a larger number of tags than the ACL, and requiring that unused tags be returned at the end of the year or fishing season.
- Amendment 22 should consider that a non-profit agency or contractor administer the tag program,
- The Snapper Grouper AP did not have a strong opinion as far as which entity should manage the tag program.

The Snapper Grouper AP discussed the possibility of a stamp program for the recreational sector. The AP has, in the past, recommended to the Council that a stamp program be developed for the snapper grouper recreational sector. Advantages of a stamp program would include: broader participation than that allowed by a recreational harvest tag program, precursor to a recreational permit (which AP members have advocated in the past), and an estimate of potential recreational effort for the target species. Among the concerns that were expressed regarding a stamp program was the necessity to involve the Marine Recreational Information Program (MRIP) in its development and implementation. This would be necessary because the current methodology employed by MRIP would have to be altered to accommodate a stamp program. The Snapper Grouper AP made the following motion at their October 2013 meeting.

MOTION: THE COUNCIL SHOULD CONSIDER ESTABLISHING A SNAPPER GROUPE  
STAMP (FOR THE SG COMPLEX).  
APPROVED (11 IN FAVOR)

## Current Amendment 22 Actions and Alternatives with Snapper Grouper AP Recommendations

**Action 1. Establish a recreational harvest tag program framework that can be applied to any South Atlantic snapper grouper species with a low recreational ACL.**

**Alternative 1 (No Action).** Do not develop a recreational harvest tag program framework for snapper grouper species with very small ACLs and maintain the current system of ACLs and AMs for these species.

**Alternative 2.** Establish a recreational harvest tag program for the recreational sector.

### **SNAPPER GROUPE AP RECOMMENDATIONS:**

MOTION: SUPPORT ALTERNATIVE 2 UNDER ACTION 1 TO ESTABLISH A RECREATIONAL HARVEST TAG PROGRAM FOR SNAPPER GROUPE SPECIES WITH LOW RECREATIONAL ACLs.

APPROVED (8 IN FAVOR, 6 OPPOSED, 1 ABSTENTION)

MOTION: THE AP RECOMMENDS THAT THE COUNCIL CONSIDER RE-INTRODUCING AN ACTION TO DEFINE “LOW ACL” AND REMOVE THE TAG PROGRAM WHEN THE ACL IS NO LONGER CONSIDERED “LOW”.

APPROVED

**Action 2. Establish eligibility criteria for individual/entities to participate in the recreational harvest tag program.**

**Alternative 1 (No Action).** Do not establish eligibility criteria for individuals or entities who wish to obtain recreational harvest tags for snapper grouper species. Anyone could apply to receive a tag.

**Alternative 2.** To be eligible to receive a recreational harvest tag the applicant must be a U.S. Citizen or permanent resident alien, own a valid recreational fishing license from the state in which they will be fishing if granted a harvest tag, or have a valid/renewable Charter/Headboat for Snapper Grouper permit.  
(NOTE: this option would prohibit foreign vacationers from getting tags.)

**Alternative 3.** To be eligible to receive a recreational harvest tag the applicant must own a valid recreational fishing license from the state in which they will be fishing if granted a harvest tag, or have a valid/renewable Charter/Headboat for Snapper Grouper permit.  
(NOTE: this option would address the issue of Canadian and other non-citizens not being able to get tags.)

**Alternative 4.** To be eligible to receive a recreational harvest tag the applicant must be a U.S. Citizen or permanent resident alien.

**SNAPPER GROUPE AP RECOMMENDATIONS:**

MOTION: THE AP SUPPORTS ALTERNATIVE 2 UNDER ACTION 2 AS PREFERRED:

**Alternative 2.** To be eligible to receive a recreational harvest tag the applicant must be a U.S. Citizen or permanent resident alien, own a valid recreational fishing license from the state in which they will be fishing if granted a harvest tag, or have a valid/renewable Charter/Headboat for Snapper Grouper permit (if the Council chooses Alternative 3 under Action 1).

[this option would prohibit foreign vacationers from getting tags.]

APPROVED

**Action 3. Establish an annual harvest tag issuance process for snapper grouper species included in the recreational harvest tag program.**

**Alternative 1 (No Action).** Do not establish a harvest tag issuance process for the tag program established under Action 1.

**Alternative 2.** Tags would be issued via an electronic Internet-based lottery program.

**Alternative 3.** Tags would be issued primarily through an electronic Internet-based lottery with a secondary option to enter the lottery through a mail-in or call in system.

**SNAPPER GROUPE AP RECOMMENDATIONS:**

MOTION: THE AP RECOMMENDS ADDING AN ALTERNATIVE TO ACTION 3:

ALTERNATIVE 4. ESTABLISH A TAG ISSUANCE PROGRAM THAT WOULD BASE A PERCENTAGE OF THE TAGS ISSUED ON FOR-HIRE HISTORICAL PARTICIPATION AND CONSIDER A CONTROL DATE.

APPROVED

MOTION: AP RECOGNIZES THE DIFFICULTY OF ACHIEVING ALLOCATION AND DISTRIBUTION AND WOULD SUGGEST THAT THE COUNCIL ALLOCATE TO THE EXTENT

POSSIBLE TO HISTORICAL PARTICIPANTS AND RESORT TO LOTTERY DISTRIBUTION WHEN ABSOLUTELY NECESSARY.  
APPROVED (1 OPPOSED).

MOTION: THE AP RECOMMENDS ALTERNATIVE 3 UNDER ACTION 3 AS PREFERRED:  
**Alternative 3.** Tags would be issued primarily through an electronic Internet-based lottery with a secondary option to enter the lottery through a mail-in or call in system.  
APPROVED

**Action 4. Cost recovery plan.**

(Note: This action would be included if the tag program is determined to be a LAPP)

**Alternative 1 (No Action).** Do not implement a cost recovery plan for the recreational harvest tag program. Collection of such fees is necessary to recover cost for enforcement and program administration including data collection, management, and distribution.

**Alternative 2.** All cost recovery fees would be the responsibility of the recreational harvest tag lottery entrant. Fees would be assessed at the time of entering the lottery.

**Alternative 3.** All cost recovery fees would be the responsibility of the recreational harvest tag lottery entrant. Fees would be assessed prior to issuance of the harvest tag.

**SNAPPER GROUPER AP RECOMMENDATIONS:**

MOTION: THE AP RECOMMENDS ALTERNATIVE 2 AS PREFERRED:

**Alternative 2.** All cost recovery fees would be the responsibility of the recreational harvest tag lottery entrant. Fees would be assessed at the time of entering the lottery.

APPROVED

**Possible Committee Actions for March 2015 Meeting:**

**DEVELOPMENT OF AMENDMENT 22**

**OPTION 1.** CONTINUE DEVELOPMENT IN 2015

**OPTION 2.** SUSPEND DEVELOPMENT UNTIL FURTHER NOTICE

**OPTION 3.** DO NOT PURSUE DEVELOPMENT OF A TAG PROGRAM

**OTHERS??**

**If Option 1 above is chosen:**

**DETERMINE SPECIES INCLUSION CRITERIA**

**OPTION 1.** BASED ON "LOW" RECREATIONAL ACL (COUNCIL WOULD NEED TO DEFINE)

**OPTION 2.** BASED ON PSE THRESHOLD

**OPTION 3.** BASED ON FREQUENCY OF RECREATIONAL ACL OVERAGES

**OPTION 4.** NO CRITERIA NEEDED. INCLUSION OF A SPECIES IN TAG PROGRAM WOULD BE BASED ON DECISION BY COUNCIL

**OTHERS??**



**PROGRAM ADMINISTRATION**

**OPTION 1.** NMFS TO IMPLEMENT AND ADMINISTER THE PROGRAM (if it is designed as a LAPP the cost recovery plan would fund the program)

**OPTION 2.** STATES TO ADMINISTER THE PROGRAM

**OPTION 3.** CONTRACTOR TO ADMINISTER THE PROGRAM (paid for by whom?)

**OTHERS??**

**If Option 2 above is chosen:**

**OPTION 1.** REQUEST THAT, BY THE JUNE 2015 COUNCIL MEETING, EACH STATE PROVIDE A SYNOPSIS OF HOW A POSSIBLE HARVEST TAG PROGRAM WOULD BE ADMINISTERED, INCLUDING COST ESTIMATES AND TIMING FOR IMPLEMENTATION

**OPTION 2.** REQUEST THAT, BY THE SEPTEMBER 2015 COUNCIL MEETING, EACH STATE PROVIDE A SYNOPSIS OF HOW A POSSIBLE HARVEST TAG PROGRAM WOULD BE ADMINISTERED, INCLUDING COST ESTIMATES AND TIMING FOR IMPLEMENTATION