

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

Options Paper (revised 11/21/13)



November 2013

Background

Amendment 22 to the Fishery Management Plan for the Snapper Grouper Fishery of the South Atlantic Region (Amendment 22) is being developed to closely control annual harvest levels of snapper grouper species with exceptionally low recreational annual catch limits (ACLs). In order to accomplish this, the South Atlantic Fishery Management Council (Council) requested that an amendment be developed to create a recreational tag program for these species. Recreational fishery participants would be issued tags through a pre-determined process implemented by NOAA Fisheries Service. 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 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. Subsequent to the publication of the 2011 NOI, the amendment has been modified twice; once to apply a recreational harvest tag program to deep water 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 is being published in the *Federal Register* to provide notice to the public of the broadened scope of Amendment 22.

Below are motions and guidance from the September 2013 Council meeting:

MOTION: ADOPT THE REVISED PURPOSE AND NEED:

Purpose: 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 SAFMC and the RA.

Need: achieve OY without overfishing the resource. Such a program is intended to maintain harvest at or below the recreational ACLs. A tag program for species with small ACLs would constrain the harvest to sustainable levels ensuring fairness and equitability.

MOTION: REMOVE ACTION 5 & 6 FROM THE OPTIONS PAPER.

****GUIDANCE TO CONVENE THE IPT AND STATE REPRESENTATIVES, AS APPROPRIATE, TO DISCUSS DETAILS OF THE PROGRAM SUCH AS ADMINISTRATION, COST, ETC.****

MOTION: REMOVE ACTION 2 FROM THE OPTIONS PAPER

Action 2. Establish criteria for adding and removing species from the program.

MOTION: REMOVE ALTERNATIVE 3 FROM ACTION 1 AND REMOVE THE WORD “PRIVATE” FROM ALTERNATIVE 2

Alternative 3. Establish a recreational harvest tag program for the private recreational sector and the for-hire sector.

TIMING AND TASKS:

- FOR AMENDMENT 22, CONVENE THE IPT AND STATE REPRESENTATIVES, AS APPROPRIATE, TO DISCUSS DETAILS OF THE POSSIBLE RECREATIONAL TAG PROGRAM SUCH AS ADMINISTRATION, COST, ETC.
- REVISE THE OPTIONS PAPER FOR AMENDMENT 22 FOR THE DECEMBER 2013 MEETING.

Possible 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 ACL.

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

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

Action 4. Cost recovery plan.

Proposed Timeline

- Council provided guidance at September 2013 meeting
- SSC reviewed document at their October 2013 meeting
- Council chooses preferreds for all actions and approves for public hearings at December 2013 meeting
- Hold public hearings in Jan/Feb 2014
- Council review public input at March 2014 meeting
- Approve for submission in March or June 2014
- Regulations implemented in late 2014

IPT Comment: Development of this amendment has not proceeded pending further guidance from the Council and NOAA GC. Hence, public hearings may need to be rescheduled.

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 SAFMC and the Regional Administrator (RA).

The *need* for action in Amendment 22 is to achieve OY without overfishing the resource. Such a program is intended to maintain harvest at or below the recreational ACLs. A tag program for species with small ACLs would constrain the harvest to sustainable levels ensuring fairness and equitability.

Considerations for Developing Actions and Alternatives

The proposed actions and alternatives should be developed to meet the purpose and need. Each action would contain a range of alternatives, including the no action (the current regulations).

I. Possible Recreational Harvest Tag Program Characteristics

Below is a list of tag program elements that the Council has discussed and agreed upon:

- Any U.S. Citizen may apply for a tag
- Tags would be non-removable, 1-time use tags (i.e., affixed to jaw) that would be issued once per fishing year.
- Tags would be issued through a lottery with replacement (if a fisherman receives a tag in a given year, the recipient should be allowed to participate in the lottery in the next year, and one lottery participant would not be able to receive multiple tags while others 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.

II. Additional Issues for Council Discussion

- If the Council wants the states to run the program, should there be tag allocation action added to the document to lay out a framework for how to determine how many tags each state would receive?
- Should the program be administered by one state? Would this require an action in the amendment?
- If states were to implement the program, they have more flexibility in requiring data collection of different types, and could do so on their own.
- Would people of certain ages not be allowed to enter the lottery? In most states you do not need a recreational fishing license if you are under or over certain ages. How would we require them to get state licenses to be able to enter the lottery?

- What is the value in requiring a recreational permit, what will it accomplish? This requirement will be very cumbersome for the permits office to handle if NMFS were to administer the program through the permits office.
- The Permits office requests that the call in system under Action 3 be eliminated. The system should only be web based or mail based. Tracking phone calls can lead to significant record keeping issues, as well as language barrier problems.
- Most states charge a different fee for in state and out of state residents to obtain a fishing license. Therefore, would it be legal for us to require that every lottery entrant to have a fishing license from the state of which they will be fishing? It is understood that we cannot discriminate between residents of different states.
- Fishing for tag program fish would presumably not be taking place in state waters (otherwise all they would need is a state fishing license) so why would a lottery entrant be required to have a state fishing license?
- If the states were to take this on, all of the programs would have to meet some set of acceptable standards, and MOA's would have to exist between NMFS and the states, correct?
- Is this a catch share program? Determining this makes a huge difference in how costs of administration could be recovered. What would be the MSA requirements for this program if it is determined to be a catch share program?
- Could the Council run the program out of the Charleston office?
- An additional question posed by the IPT and forwarded to Monica was whether or not we can be silent on transferability of tags in the regulations.

III. Main Points of Meeting with Council State Representatives

- All states have some sort of infrastructure in place to be able to support a tag program, although they differ significantly from each other.
- If a fee is charged above and beyond the actual cost for states to implement the program they would all have to go through their legislatures to allow collection of those fees. That would put timing for this program implementation in to 2015.
- If states were to implement the program tags would have to be allocated to each state, which could be controversial.
- GA and SC prefer a centrally managed tag program administered by the federal government especially since tag holders would presumably be fishing in federal waters not state waters.
- Several people expressed concern about requiring a lottery participant to have a state fishing license. States have different license issuance restrictions such as age, residency (determines how much a person pays for a license), and whether or not a person owes child support.
- The states questioned why people fishing in federal waters with a federal tag need to have a state fishing license.
- If states did implement the program they would have more flexibility for data collection requirements than the federal government would.

IV. SSC Comments

- The Committee 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 Committee notes the potential for controversy over not having a for-hire allocation of tags.
- The Committee 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.

Recreational Harvest Tag Program Overview and Objectives

The objective of the recreational harvest tag program would be to closely control recreational harvest of snapper grouper species with low ACLs that are traditionally difficult to track in-season.

I. How Would the Harvest Tag Program Work?

- 1) The Council would determine which species would be included in the tag program.
- 2) An amendment would be developed to add the species chosen by the Council to the program.
- 3) If implemented, the recreational fishing community would be notified of the addition of a species to the harvest tag program with enough notice to allow potential entrants in the lottery to meet the lottery entry prerequisites.
- 4) The lottery would open at a predetermined date and time and would remain open for a set period of time.
- 5) Individuals or entities interested in obtaining a recreational harvest tag for a certain species would enter the lottery and would be notified of whether or not they have won a tag by either receiving a tag in the mail or receiving a letter/e-mail notifying them they did not win a tag.
- 6) When the fishing season opens, individuals or entities with tags may harvest one fish per tag and must affix the tag to the fish immediately upon harvest.

II. Example Species with Low Recreational ACLs

Snowy grouper: The recreational ACL is 523 fish and harvest is limited to one per vessel per day. The current recreational accountability measure is: If recreational landings, as estimated by the SRD, exceed the recreational ACL of 523 fish, the AA will file a notification with the Office of the Federal Register, at or near the beginning of the following fishing year, to reduce the length of the following recreational fishing season by the amount necessary to ensure recreational landings do not exceed the recreational ACL in the following fishing year. Recreational landings will be evaluated relative to the ACL as follows: For 2010, only 2010 recreational landings will be compared to the ACL; in 2011, the average of 2010 and 2011 recreational landings will be compared to the ACL; and in 2012 and subsequent fishing years, the most recent 3-year running average recreational landings will be compared to the ACL. The recreational ACL was exceeded in 2012 by 395%. Estimated landings were 2,065 fish.

Golden Tilefish: The recreational ACL is 3,019 fish and harvest is limited to one per vessel per day. The current recreational accountability measure is: If recreational landings for golden tilefish, as estimated by the SRD, meet or are projected to meet the recreational ACL of 3,019 fish, the AA will file a notification with the Office of the Federal Register to close the recreational sector for the remainder of the fishing year. If recreational landings for golden tilefish, as estimated by the SRD, exceed the recreational ACL, then during the following fishing year, recreational landings will be monitored for a persistence in increased landings and, if necessary, the AA will file a notification with the Office of the Federal Register, to reduce the length of the following recreational fishing season by the amount necessary to ensure recreational landings do not exceed the recreational ACL in the following fishing year. However, the length of the recreational season will also not be reduced during the following fishing year if the RA determines, using the best scientific information available, that a reduction in the length of the following fishing season is unnecessary.

In 2011, the recreational ACL for golden tilefish was 1,578 fish. Estimated landings for 2011 were 9,863 (625% overage). The recreational ACL was increased in 2012 to 3,019 fish. Estimated landings in 2012 were 3,627 (120% overage).

Wreckfish: The recreational ACL is 11,750 pounds whole weight (ww) and harvest is limited to one per vessel per day. Harvest is allowed annually during July and August. The current recreational accountability measure is: If recreational landings for wreckfish, as estimated by the SRD, exceed the recreational ACL of 11,750 pounds ww, then during the following fishing year, recreational landings will be monitored for a persistence in increased landings and, if necessary, the AA will file a notification with the Office of the Federal Register, to reduce the length of the following recreational fishing season by the amount necessary to ensure recreational landings do not exceed the recreational ACL in the following fishing year. However, the length of the recreational season will also not be reduced during the following fishing year if the RA determines, using the best scientific information available, that a reduction in the length of the following fishing season is unnecessary. In 2012, estimated wreckfish recreational landings were 964 pounds ww; 8% of the recreational ACL.

SSC and AP Recommendations

The SSC provided a number of comments and recommendations for how Amendment 22 may proceed:

- The Committee 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 Committee notes the potential for controversy over not having a for-hire allocation of tags.
- The Committee 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.

The snapper grouper advisory panel offered the following general comments on the amendment:

- TAGS SHOULD NOT BE TRANSFERABLE
- A PERCENTAGE OF THE TAGS SHOULD GO TO THE FOR-HIRE SECTOR?
- CONSIDER ISSUING A LARGER NUMBER OF TAGS THAN THE ACL AND REQUIRING THAT UNUSED TAGS BE RETURNED AT THE END OF THE YEAR/SEASON?
- CONSIDER A NON-PROFIT AGENCY OR CONTRACTOR TO ADMINISTER THE TAG PROGRAM?
- AP DID NOT HAVE A STRONG OPINION AS FAR AS WHICH ENTITY SHOULD MANAGE THE TAG PROGRAM.

The 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.

**MOTION: THE COUNCIL SHOULD CONSIDER ESTABLISHING A SNAPPER GROUPE
STAMP (FOR THE SG COMPLEX).**

APPROVED (11 IN FAVOR)

Possible Actions and Alternatives

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 GROUPER AP RECOMMENDATIONS:

MOTION: SUPPORT ALTERNATIVE 2 UNDER ACTION 1 TO ESTABLISH A RECREATIONAL HARVEST TAG PROGRAM FOR SNAPPER GROUPER 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 (if the Council chooses Alternative 3 under Action 1). [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 (if the Council chooses Alternative 3 under Action 1). [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 GROUPER 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 web-based lottery program.

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

APPROVED

Action 4. Cost recovery plan.

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 GROUPE 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