



Regulatory Amendment 36 to the Fishery Management Plan for the Snapper Grouper Fishery of the South Atlantic Region

Gag and Black Grouper Vessel Limit and Black Sea
Bass On-Demand Gear

Decision Document

September 2024

Background

Gag and Black Grouper

In March 2023, the South Atlantic Fishery Management Council (Council) approved Amendment 53 to the Fishery Management Plan (FMP) for the Snapper Grouper Fishery of the South Atlantic Region (Snapper Grouper FMP), and its regulations were effective October 23, 2023. Amendment 53 established recreational vessel limits of two fish per vessel per day or per trip (private recreational and for-hire component, respectively) of gag **and** black grouper. The Council had intended for this to be an **aggregate limit of two gag or black grouper per vessel**, but the amendment implemented a two-fish vessel limit for each species. Given the stock status of gag (overfished and experiencing overfishing) and the aggregate bag limit in place of one fish of either of these species per person, the Council decided in September 2023 to initiate

development of Regulatory Amendment 36 to modify the aggregate vessel limits to two fish (gag or black grouper) per vessel.

Black Sea Bass On-demand Gear

In August 2023, a workshop was held to discuss the experimental use of on-demand (ropeless) pot gear in the commercial black sea bass portion of the fishery. Traditional black sea bass pot fishing gear includes vertical end lines and buoys which stay in the water column for hours while the gear is deployed, presenting an entanglement risk to cetaceans and other protected species. Traditional roped and on-demand gear use the same black sea bass pots (same dimensions, mesh size, escape panels, etc.), and pots equipped with on-demand gear are fished the same way as roped pots, in terms of soak times, bait, etc. On-demand types of gear differ from roped gear by storing buoys and their retrieval devices at depth, existing in the water column only when fishers are present to retrieve the gear. Adaptation of on-demand gear for this style of pot fishing would lower the probability of negative interactions with whales and other marine animals that suffer entanglements. The exempted fishing permit (EFP) that has allowed experimental use of this gear and exemption from time, area, and other sea bass pot requirements expires on April 30, 2025.

In September 2023, the Council discussed the continued use of on-demand pot gear beyond the EFP time period. The Council recognizes that the EFP allows this gear to experimentally operate in nearshore waters of the southeast U.S. during winter months, when North Atlantic right whales migrate through that area. However, **this framework amendment does not consider opening areas that are currently closed to pot fishing in the South Atlantic**. Such an action would require more extensive evaluation and discussion, especially given the results of the SEDAR 76 stock assessment that indicates the South Atlantic black sea bass stock is at historically low levels. Consideration of revising stowage or other requirements that may be impractical for the use of on-demand pots in areas currently open to commercial pot fishing can be addressed more quickly through a framework amendment. Therefore, the Council decided to consider regulatory changes to transit stowage requirements (or exemptions to such requirements) that would allow more practical use of on-demand pots in Regulatory Amendment 36.

Proposed Management Changes in this Amendment

- Revise the gag and black grouper recreational vessel limit
- Revise transit stowage requirements for commercial black sea bass pots

Objectives for this Meeting

- Review public hearing comments
- Review actions and alternatives
- Review preferred alternatives, draft rationale, and draft codified text
- Consider approval for Secretarial review

Amendment Timeline

December 2023	Review decision document and consider approval for scoping
February 12 and 13, 2024	Conduct scoping hearings
March 2024	Review scoping comments and provide guidance on draft actions and alternatives
June 2024	Review modifications to the amendment, select preferred alternatives, and approve for public hearings
July 31 and August 1, 2024	Public hearings
September 2024	Review public comment and approve for formal review
Early-Mid 2025	Regulations effective

Purpose and Need Statements

Purpose: The *purpose* of this framework amendment is to revise the gag and black grouper recreational vessel limits and specify requirements for on-demand pots while transiting through closed areas.

Need: The *need* for this framework amendment is to make recreational vessel limits for gag and black grouper consistent with the goals of the aggregate bag limit for both species and rebuilding of the South Atlantic gag stock, and to allow more practical transit of a new fishing gear modification that lowers the probability of negative interactions with marine mammals, while minimizing negative social and economic effects to the extent practicable, consistent with the Magnuson-Stevens Fishery Conservation and Management Act and its National Standards.

Committee Action:

- REVIEW PURPOSE AND NEED STATEMENTS.

Public Hearing Summary

Public hearings were conducted via webinar on July 31 and August 1, 2024, and written comments were accepted from July 17 through August 2, 2024.

Two comments relevant to Action 1 were received during this comment period through the [online public comment form for Regulatory Amendment 36](#). The online form also includes comments received between official comment periods. Most comments received after scoping, but prior to and during the public hearing comment period were recreational stakeholders that

expressed disagreement with the use of vessel limits for for-hire recreational vessels, especially those that carry more than 6 passengers (i.e. headboats).

No comments relevant to Action 2 were received during public hearing webinars or the public hearing comment period.

Actions and Alternatives

Action 1. Revise Recreational Vessel Limits for Gag and Black Grouper

Purpose of Action: This action considers revising the recreational vessel limits, which were recently implemented through Amendment 53, to address the Council’s intent of an aggregate vessel limit that includes both gag and black grouper to aid in rebuilding of the South Atlantic gag stock.

Alternative 1 (No Action). The vessel limits for the private component of the recreational sector are two gag per vessel per day and two black grouper per vessel per day, not to exceed the daily bag limit of one gag or black grouper per person per day, whichever is more restrictive. The vessel limits for the for-hire (charter and headboat) component of the recreational sector are two gag per vessel per trip and two black grouper per vessel per trip, not to exceed the daily bag limit of one gag or black grouper per person per day, whichever is more restrictive.

Preferred Alternative 2. Remove the single species recreational private vessel limits for gag and black grouper. Establish an aggregate **private recreational vessel limit** of two gag or black grouper per vessel per day, not to exceed the daily bag limit of one gag or black grouper per person per day, whichever is more restrictive.

Preferred Alternative 3. Remove the single species recreational for-hire vessel limits for gag and black grouper. Establish an aggregate **for-hire (charter and headboat) recreational vessel limit** of two gag or black grouper per vessel per trip, not to exceed the daily bag limit of one gag or black grouper per person per day, whichever is more restrictive.

Discussion

Recreational retention of gag and black grouper is limited by vessel limits (two gag per vessel and two black grouper per vessel) and aggregate bag limits. The aggregate grouper and tilefish bag limit allows retention of three fish of any grouper or tilefish species per person, subject to retention limits of individual species. The aggregate gag and black grouper bag limit allows retention of one fish, either gag or black grouper, per person. Retention of a gag or black grouper would also count toward the aggregate grouper and tilefish bag limit.

Draft Council Conclusion

Draft rationale for the Council’s current preferred alternatives for Action 1 is in Section 5.1.5 of the amendment document. This rationale is summarized below:

- The Council has selected **Preferred Alternative 2** and **Preferred Alternative 3**, which would remove the species-specific vessel limits for both the private and for-hire (charter and headboat) components of the recreational sector and establish aggregate vessel limits of two fish per vessel per day for the private component and two fish per vessel per trip for the for-hire component.
- Aggregate vessel limits were the Council’s original intention when the current vessel limits for gag and black grouper were established through Amendment 53.

- Few trips catch both species (less than 3%), so most trips are expected to be unaffected by the change from current vessel limits.
- The small reduction in catch could benefit rebuilding of the gag stock, which is currently overfished and in a rebuilding plan.

Committee Action:

- REVIEW PREFERRED ALTERNATIVES AND PUBLIC COMMENTS.
- REVIEW DRAFT CONCLUSION AND MODIFY AS NEEDED.

Action 2. Revise Transit Stowage Requirements for Black Sea Bass Pots With On-Demand Gear

Alternative 1 (No Action). Transit through a marine protected area (MPA), ~~special management zone (SMZ)~~, or spawning special management zone (SMZ) with a black sea bass pot on board is allowed with fishing gear appropriately stowed. Transit means direct, non-stop progression through the MPA, ~~SMZ~~, or spawning SMZ. Fishing gear appropriately stowed means sea bass pots are not baited and all buoys must be disconnected from the gear; however, buoys may remain on deck.

Preferred Alternative 2. Transit through a marine protected area (MPA), ~~special management zone (SMZ)~~, or spawning special management zone (SMZ) with a black sea bass pot on board is allowed with fishing gear appropriately stowed. Transit means direct, non-stop progression through the MPA, ~~SMZ~~, or spawning SMZ. Fishing gear appropriately stowed means on-demand black sea bass pots are not baited but may have buoys connected to the gear during transit through a marine protected area, special management zone, or spawning special management zone.

Alternative 3. Transit through a marine protected area (MPA), ~~special management zone (SMZ)~~, or spawning special management zone (SMZ) with a black sea bass pot on board is allowed with fishing gear appropriately stowed. Transit means direct, non-stop progression through the MPA, ~~SMZ~~, or spawning SMZ. Fishing gear appropriately stowed means on-demand black sea bass pots are not baited and all buoys must be disconnected from the gear or stowed within the sea bass pots during transit through a marine protected area, special management zone, or spawning special management zone.

Discussion

Under current regulations, buoys are required to be disconnected from pots while transiting through an MPA [50 CFR 622.183(a)(1)(ii)] or spawning SMZ [50 CFR 622.183(a)(2)(vii)]. On-demand black sea bass pot users who operated under the current exempted fishing permit (EFP) indicated through public engagements (workshops, comment periods, etc.) that buoys are more difficult to disconnect from on-demand gear than traditional, roped gear. Therefore, revision of the transit stowage requirements is being considered to accommodate more practical use of on-demand gear. Under both **Preferred Alternative 2** and **Alternative 3** revisions to stowage requirements during transit through MPAs and spawning SMZs would only apply to black sea bass pots equipped with on-demand gear. Current regulations would still apply to traditional roped pots, even if those pots are on the same vessel as pots equipped with on-demand gear.

Preferred Alternative 2 would remove the requirement that buoys be disconnected from on-demand black sea bass pots while transiting through MPAs and spawning SMZs. However, this alternative would not change regulations for transit through nearshore areas that are seasonally (November and April, as well as December-March) closed to fishing with black sea bass pots. In these areas, buoys are required to be disconnected or can remain connected to the pot if the buoy is stowed within the pot [50 CFR 622.183(b)(6)]. Fishermen would need to account for these different regulations in determining how to stow their gear. Stowing the buoy within the pot

would allow continuous transit through MPAs, spawning SMZs, and nearshore closed areas under **Preferred Alternative 2**, during the months when nearshore closures are in effect. However, keeping the buoy attached to the pot without storing it within the pot would require a change in stowage upon entering the nearshore closed areas.

Alternative 3 would remove the requirement for on-demand black sea bass pots that buoys be disconnected from the gear while transiting through MPAs and spawning SMZs, provided that the buoys are stored within the pots. This alternative would have the same transit requirements in MPAs and spawning SMZs as those for the seasonally closed nearshore areas.

Draft Council Conclusion

Draft rationale for the Council's current preferred alternative for Action 2 is in Section 5.2.5 of the amendment document. This rationale is summarized below:

- The Council has selected **Preferred Alternative 2** for Action 2, which would remove the requirement for black sea bass pots equipped with on-demand gear to disconnect buoys during transit through MPAs and spawning SMZs.
- This action is not expected to significantly impact harvest of black sea bass but does respond to the development of new gear technology that has support from marine mammal conservation and fishing communities.
- **Preferred Alternative 2** maintains the requirement for on-demand pots to not be baited during transit, which mitigates potential risk of on-demand pot deployment in illegal areas.
- Implementation of **Preferred Alternative 2** may encourage more pot fishermen to use on-demand gear and provide the benefit of reduced probability of whale entanglements in the South Atlantic.

Committee Action:

- REVIEW WORDING MODIFICATIONS AND PREFERRED ALTERNATIVES.
- REVIEW DRAFT CONCLUSION AND MODIFY AS NEEDED.

Committee Action:

- CONSIDER APPROVAL OF REGULATORY AMENDMENT 36 FOR FORMAL REVIEW.

DRAFT MOTION: APPROVE REGULATORY AMENDMENT 36 TO THE FISHERY MANAGEMENT PLAN FOR THE SNAPPER GROUPER FISHERY OF THE SOUTH ATLANTIC REGION FOR FORMAL SECRETARIAL REVIEW AND DEEM THE CODIFIED TEXT AS NECESSARY AND APPROPRIATE. GIVE STAFF EDITORIAL LICENSE TO MAKE ANY NECESSARY EDITORIAL CHANGES TO THE DOCUMENT/CODIFIED TEXT AND GIVE THE COUNCIL CHAIR AUTHORITY TO APPROVE THE REVISIONS AND RE-DEEM THE CODIFIED TEXT.