



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

March 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 2 fish per vessel per day or per trip (depending on private recreational or for-hire component) of gag and black grouper. The Council had intended for this to be an **aggregate limit of 2 gag or black grouper per vessel**, but the amendment implemented a 2-fish vessel limit for each species. Given the stock status of gag (overfished and experiencing overfishing) and the aggregate bag limit in place of 1 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 2 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, or ropeless, 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 remove risk to 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 (See Appendix A) 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 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 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 scoping comments
- Provide guidance on actions and alternatives to be developed for consideration in the amendment

Tentative Amendment Timing

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
Summer 2024	Conduct public hearings
September 2024	Review public comment and approve for formal review
Early 2025	Regulations effective

DRAFT Purpose and Need Statements

Purpose: The *purpose* of this framework amendment is to revise the gag and black grouper recreational vessel limits and revise black sea bass commercial pot requirements to accommodate the use of on-demand pots.

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 the use 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 and provide direction for any necessary edits.

Scoping

Scoping webinars were conducted on February 12 and 13, 2024, and written comments were accepted through 5pm on February 16, 2024. Four written comments were submitted using the Council's online public comment form. These are viewable [HERE](#). Two comments were emailed to the Council and are available in the March 2024 Council Meeting Briefing Book, (although one of those was a copy of a comments submitted through the online form). Seven comments were given verbally at the scoping webinars. Most commenters were commercial fishery stakeholders, although at least one comment was received from the following stakeholder groups: for-hire, recreational, wholesale/dealer/retail, non-governmental organization, and other. Scoping comments pertaining to each of the considered actions are summarized with the draft

actions below. Two online comments discussed additional management topics, such as management of red snapper and a private recreational snapper grouper permit.

Draft Actions and Alternatives

Draft Action 1. Revise the vessel limits for gag and black grouper

Purpose of Action: This action considers revising the recreational vessel limits, which have been recently implemented through Amendment 53, to address the Council’s original intent of an aggregate vessel limit that includes both gag and black grouper.

Draft Alternative 1 (No Action).

- Private recreational vessels;
 - Gag: 2 fish [gag] per vessel per day not to exceed the daily bag limit of 1 fish [gag or black grouper] per person per day, whichever is more restrictive.
 - Black grouper: 2 fish [black grouper] per vessel per day not to exceed the daily bag limit of 1 fish [gag or black grouper] per person per day, whichever is more restrictive.
- For-hire vessels:
 - Gag: 2 fish [gag] per vessel per trip not to exceed the daily bag limit of 1 fish [gag or black grouper] per person per day, whichever is more restrictive.
 - Black grouper: 2 fish [black grouper] per vessel per trip not to exceed the daily bag limit of 1 fish [gag or black grouper] per person per day, whichever is more restrictive.

Draft Alternative 2. Remove the single species recreational (private and for-hire) vessel limits for gag and black grouper. Establish an aggregate **private recreational vessel limit** of 2 gag or black grouper per vessel per day, not to exceed the daily bag limit of 1 gag or black grouper per person per day, whichever is more restrictive.

Draft Alternative 3. Remove the single species recreational (private and for-hire) vessel limits for gag and black grouper. Establish an aggregate **for-hire recreational vessel limit** of 2 gag or black grouper per vessel per trip, not to exceed the daily bag limit of 1 gag or black grouper per person per day, whichever is more restrictive.

Discussion

- Recreational Bag Limit: No more than 3 grouper or tilefish per person. Of these 3 grouper or tilefish, no more than 1 fish may be a gag or black grouper. (Other species have additional restrictions to the grouper and tilefish aggregate bag limit)
 - Aggregating the recreational vessel limit would be consistent with the recreational aggregate bag limit for gag and black grouper.

Scoping

- Two comments supported the recreational aggregate vessel limits of two gag or black grouper per person per day/trip.

Committee Action:

Review the range of alternatives and provide guidance to help further develop and analyze alternatives.

Draft Action 2. Revise transit stowage requirements for black sea bass pots with on-demand gear.

Draft Alternative 1 (No Action).

- Current transit stowage requirements: Transit through a marine protected area (MPA) or special management zone (SMZ) with a black sea pot on board is allowed with fishing gear appropriately stowed. Transit means direct, non-stop progression through the MPA or SMZ. Fishing gear appropriately stowed means a sea bass pot is unbaited and all buoys must be disconnected from the gear; however, buoys may remain on deck.

Draft Alternative 2. On-demand black sea bass pots must be unbaited, but may have buoys connected to the gear during transit through a marine protected area or special management zone.

Draft Alternative 3. On-demand black sea bass pots must be unbaited but may have buoys connected to the gear and stowed within the sea bass pot during transit through a marine protected area or special management zone.

Discussion

Under current regulations, buoys are required to be disconnected from pots while transiting through an MPA or SMZ [50 CFR 622.183(a)(2)(vii)]. Preliminary input from on-demand black sea bass pot users under the current EFP indicates 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 current regulations, while transiting through one of the seasonally closed 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)]. **Draft Alternative 3** considers application of this requirement for on-demand black sea bass pots in MPAs and SMZs, as well.

Scoping

- Four commenters expressed general support for the expanded use of on-demand gear in the black sea bass pot fishery.
- Four commenters expressed support for not requiring that buoys be detached while stowed and transiting MPAs and SMZs. These commenters expressed support for allowing the buoy to be stored within the pot.

Committee Action:

Review the range of alternatives and provide guidance to help further develop and analyze alternatives.

Other Actions or Alternatives for On-Demand Gear

On-demand gear can have a variety of configurations for the retrieval mechanism. Scoping can further inform whether the drafted actions and alternatives meet the needs of the full spectrum of mechanisms that would be used in this component of the fishery. Additionally, Council and National Marine Fisheries Service (NMFS) staff are working with NOAA General Counsel (GC) to discuss how requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and Marine Mammal Protection Act (MMPA) (summarized in Appendix A) should be interpreted for on-demand gear with and without a vertical line and buoy. Staff and NOAA GC will provide the Council with an update on these discussions at the March 2024 Council Meeting.

Scoping

- No commenters expressed strong support for on-demand gear that does not include a rope and buoy.
- Two commenters expressed support for considering changes to the nearshore seasonal closures for the commercial black sea bass pot fishery, given the availability of on-demand gear.
- One commenter did not oppose the use of on-demand gear, but expressed caution if it were to lead to additional actions that would increase commercial effort on black sea bass.

Committee Action:

Review staff and GC update on any additional actions that would be necessary to accommodate on-demand gear.

Appendix A. Black Sea Bass On-Demand Gear Use Under Current Regulations



Figure 1. TR4RT configurations a) Cowdrey, 2022 (Longsoaker Guardian and SSS hybrid), b) Phillips, 2020, c) Hull, 2022.¹

Current regulations and requirements for black sea bass pots are summarized below. On-demand and other subsea buoy retrieval systems are not restricted by current regulations, as long as the gear adheres to the requirements applicable to all black sea bass pots in the South Atlantic Exclusive Economic Zone (EEZ).

NOTE: The following black sea bass pot regulation descriptions are summarized and not comprehensive of all terms and conditions. Stakeholders should reference the Code of Federal Regulations (CFR) for comprehensive [regulatory requirements for black sea bass pots](#), also noting regulations for the entire South Atlantic snapper grouper fishery and commercial sector.

- 1. Endorsement [50 CFR 622.170(e)]:** Vessels fishing with black sea bass pots must have a valid endorsement.
- 2. Gear Identification [50 CFR 622.177(a)]:** Sea bass pots used or possessed in the Exclusive Economic Zone (EEZ) between Cape Hatteras, NC, and Cape Canaveral, FL, must be marked with an identification tag issued by the Regional Administrator.
- 3. Special Management Zones (SMZ) [50 CFR 622.182(a)]:** Sea bass pots may not be used in SMZs.
- 4. Prohibited Area [50 CFR 622.182(d)]:** Sea bass pots may not be used in the EEZ south of Cape Canaveral, FL.
- 5. Area Closures [50 CFR 622.183(a)]:** While transiting through marine protected areas (MPA) and SMZs, sea bass pots cannot be baited and all buoys must be disconnected from the gear. Buoys may remain on deck.
- 6. Seasonal Closures [50 CFR 622.183(b)(6)]:**

¹ Sawicki, 2022. Expansion Project to Modernize Pot Fishing for the Southeast Commercial Black Sea Bass (BSB) Pot Portion of the Snapper-Grouper Fishery Using Subsea Buoy Retrieval Systems. Exempted Fishing Permit Application.

- a. From November 1-30 and April 1-30, no harvest or possession of black sea bass in or from the closed area defined in 50 CFR 622.183(b)(6)(i) using sea bass pots or from a vessel with sea bass pots on board that are not appropriately stowed. In addition, sea bass pots must be removed from the water in the applicable closed area within the South Atlantic EEZ before the applicable time period.
 - b. From December 1 through March 31, no harvest or possession of black sea bass in or from the closed area defined in 50 CFR 622.183(b)(6)(ii) using sea bass pots or from a vessel with sea bass pots on board that are not appropriately stowed. In addition, sea bass pots must be removed from the water in the applicable closed area within the South Atlantic EEZ before the applicable time period.
 - c. While transiting seasonal closed areas, sea bass pots may be on board if all buoys are either disconnected from the gear or stowed within the sea bass pot. Disconnected buoys may remain on deck. [50 CFR 622.183(b)(6)(iii)]
7. **Tending [50 CFR 622.189(a)]:** Sea bass pots can be pulled or tended by the vessel permitted to fish those pots or by another vessel that has written consent of the permitted vessel's owner or operator.
8. **Configuration [50 CFR 622.189(b)]:** Two or more pots may not be attached one to another so that their overall dimensions exceed those allowed for an individual sea bass pot. This does not preclude connecting individual pots to a line, such as a "trawl" or trot line.
9. **Construction:**
- a. Sea bass pots must have escape mechanisms and mesh sizes adhering to requirements defined in 50 CFR 622.189(c) and (d).
10. **Removal [50 CFR 622.189(e)]:** Pots must be removed from the water at the conclusion of each trip and after the quota is reached. After a closure is in effect, a black sea bass may not be retained by a vessel that has a sea bass pot on board.
11. **Number of pots [50 CFR 622.189(f)]:** 35 black sea bass pots per vessel per permit year.
12. **Buoy line Marking Requirements**

NOTE: Italicized regulations beginning with 50 CFR 229.32... are part of the Marine Mammal Protection Act and not under the Council's management authority.

- [50 CFR 229.32(b)(2)(ii)] Buoy line must be marked at least three times (top, middle, bottom) and each mark must total at least 12 inches (30.5 cm) in length. If the mark consists of two colors, then each color mark may be at least 6 inches (15.2 cm) for a total mark of 12 inches (30.5 cm).
- [50 CFR 229.32(b)(3)] Color codes for trap/pot gear:
 - Southern Nearshore: Orange
 - Southeast Restricted Area North (state waters): Blue and orange
 - Southeast Restricted Area North (federal waters): Green and orange
 - Offshore: Black
- [50 CFR 229.32(b)(2)(iv)] All surface buoys must be marked to identify the vessel or fishery with one of the following: The owner's motorboat registration number, the owner's U.S. vessel documentation number, the Federal commercial fishing permit number, or whatever positive identification marking is required by the vessel's home-port state. When marking of surface buoys is not already required by state or Federal regulations, the letters and numbers used to mark the gear to identify the vessel or fishery must be at least 1 inch (2.5 cm) in height in block

letters or Arabic numbers in a color that contrasts with the background color of the buoy.

- [50 CFR 622.189(g)] In addition to the gear marking requirements specified above, from November 15 through April 15, each year, in the Southeast U.S. Restricted Area North and from September 1 through May 31, each year in the Offshore Trap/Pot Waters Area and the Southern Nearshore Trap/Pot Waters Area, the buoy line must be marked with a purple color band. The colored band must be clearly visible when the gear is hauled or removed from the water, including if the color of the rope is the same as, or similar, to the colored band. The purple band must be marked directly onto the line and adjacent to the buoy line markings specified above, that is, at the top, middle, and bottom of each buoy line deployed by, or on board, the vessel. Each of the three purple bands must be a 12-inch (30.5 cm) color mark.