

Amendment 47 to the Fishery Management Plan for the Snapper Grouper Fishery of the South Atlantic Region

DRAFT Scoping Document (For-Hire Permit Moratorium and Revising Harvest Closure for Species Landed in State Waters)



Amendment 47 to the Fishery Management Plan for the Snapper Grouper Fishery of the South Atlantic Region would implement a moratorium on the issuance of South Atlantic Charter/Headboat for Snapper-Grouper permits to new applicants. The amendment would also revise regulations that prevent federally permitted Snapper Grouper for-hire operators from possessing Snapper Grouper species in state waters when harvest of these species closes in federal waters.

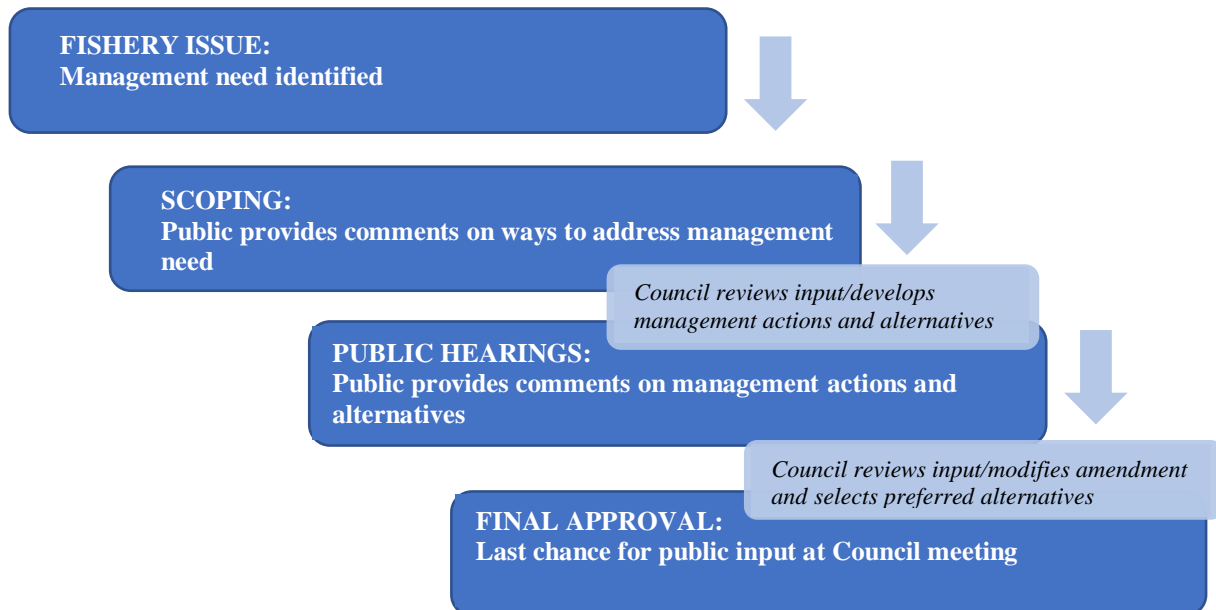
Revised
05/22/18
Attachment 10b

Note for Committee: Should the amendment be approved for scoping, this draft scoping document will be updated per guidance received at the June 2018 meeting and reformatted. The sections on MSA considerations and moratoriums in other for-hire fisheries that were included in the options paper were removed in an attempt to limit the length of the scoping document which is intended to gather public input.

What is Scoping?

Scoping is the first stage of the process to amend a fishery management plan after an issue has been identified (see steps in the process below). Scoping has two main purposes: (1) to inform you that the Council may propose new regulations or change existing ones and (2) to allow you the opportunity to comment on the issue or identify other issues that may need the Council's attention. You will have more opportunity to provide comments as the amendment is developed; however, scoping is the first and best opportunity to make suggestions for the Council to consider before an amendment is developed.

Council Process- *Fishery Management Plan Amendment*



What Issues are being considered in Snapper Grouper Amendment 47?

For-hire permit moratorium

The South Atlantic Fishery Management Council (Council) is considering implementing a moratorium on issuing South Atlantic Charter/Headboat for Snapper-Grouper permits (Snapper Grouper for-hire permits). Your input is important for the Council to determine whether further

development of a moratorium should be pursued, and if so, what you would recommend for the potential structure of a moratorium.

For instance, some questions that could be considered are:

- Should the Council cap the number of permits at the current number, a higher number, or should the Council decrease the number of permits compared to the number that are currently held?
- If there is to be a moratorium on Snapper Grouper for-hire permits, what should be the eligibility criteria to receive a permit?
- Should there be exceptions to eligibility and should there be a mechanism to allow new entrants into the Snapper Grouper for-hire fishery?
- Should there be an end date or time limit established for a moratorium?

To help answer these questions, the Council would like to get your input on the following topics and other decision points as they further discuss whether to proceed with a moratorium on South Atlantic Snapper Grouper for-hire permits including:

- The start date of a for-hire permit moratorium
- Exceptions for eligibility
- Transferability of permits
- Allowing new entrants and establishing a permit pool
- Implementing a time limit or sunset provision for a moratorium
- Other provisions for a moratorium

Harvest prohibition on Snapper Grouper species in state waters when the species are closed to harvest in federal waters

Additionally, Amendment 47 may also revise or remove regulations that prevent federally permitted Snapper Grouper for-hire operators from possessing Snapper Grouper species in state waters when harvest of these species closes in federal waters. In some circumstances, these species may remain open to harvest in state waters but must be released by passengers onboard vessels with the federal for-hire permit due to regulations specified under the permit conditions.

Why is the Council Considering Action?

For-hire permit moratorium

The Council is considering a moratorium in order to evaluate whether a limited entry system or other modifications to how the for-hire Snapper Grouper fleet is managed or operates are desirable. The concept of limiting the number of Snapper Grouper for-hire permits that can be issued was raised in the past by the Snapper Grouper Advisory Panel (AP) and in the visioning process public comments that the Council received in 2014-2015. Currently, the Council is

considering implementing a moratorium on the issuance of South Atlantic Snapper Grouper for-hire permits. Some members of the Council felt that a moratorium could help with:

- Logbook reporting compliance
- Recreational data quality
- Stabilizing participation in the for-hire fishery, during which time the Council can evaluate the need for establishing limited entry
- Situations of localized vessel overcapacity
- Business planning
- Professionalizing the for-hire fleet
- Reducing fishing pressure on some fish stocks

During previous deliberations in 2016, 2017, and 2018, the Council has considered whether limiting the number of for-hire permits is the best way to address these issues and concerns. It was discussed that there may be other ways to address some issues in the for-hire fishery, such as changing reporting requirements to promote logbook reporting compliance and enhance the resulting recreational data quality. Some Council members pointed out that the for-hire logbook requirement has not been implemented, therefore it is unknown whether there will be a problem with reporting compliance. Also, it has been noted that non-reporting is currently not an egregious enough offense to remove a federal fishing permit. Other Council members expressed concern that logbook reporting compliance will be low without a moratorium, as permit holders can easily obtain a new for-hire permit if their current permit were ever revoked or not renewed due to non-compliance with the logbook reporting requirement.

In regards to stabilizing participation in the for-hire fishery so the Council can evaluate the need for establishing a limited entry system, some Council members felt that while the number of permits has been variable from year to year, over the long-term, participation in the for-hire Snapper Grouper fishery has been relatively stable and implementing a moratorium would not be necessary. Others noted that while the overall number of permits has been somewhat steady in the long-term, the regional distribution of those permits has changed over time. This change in permit distribution may have led to overcapacity in some circumstances. The Council has received public comment from for-hire operators, particularly those located in South Florida, the Florida Keys, and the Savannah, Georgia area, that overcapacity of for-hire operations is occurring in certain communities.

Some Council members also felt that implementing a moratorium on for-hire Snapper Grouper permits would help with business planning and professionalizing the for-hire fleet. Providing a steadier level of participation in the for-hire sector may help better estimate annual revenue and better inform decisions as to when and whether or not to undergo business expenditures, such as equipment overhauls or upgrades. Also, it was noted that new for-hire operators may easily enter the sector with intentions other than full-time income (i.e. tax purposes, part-time income, or paying for personal fishing expenses) and may undercut the revenues of long-term “full-time” participants by charging lower than market rates or taking customers that would have otherwise booked with “full-time” participants. This viewpoint supported the notion that a moratorium may help reduce occurrences and would thus “professionalize” the for-hire fleet. Contrary to this viewpoint, other Council members felt that Snapper Grouper for-hire permit holders are

already acting in a professional manner by default, as there are multiple regulations that must be followed to operate a legal for-hire fishing business, such as securing and renewing several permits in a timely manner and following U.S. Coast Guard protocols. Additionally, it has been noted that market conditions and competition for charter or headboat trips will allow well run for-hire operations to stay in business over less professional operations.

Finally, some Council members have expressed concern over the notion that a moratorium would notably reduce or stabilize fishing pressure on some stocks. For many stocks, removals by the for-hire sector are not a major contributor to total harvest. Differing from this assertion, it was noted that management issues resulting from catches of red snapper, particularly in certain years and states, had a large for-hire component.

In addition to the above stated points and counterpoints, some members of the Council have expressed concerns over issues that may arise as a result of moving forward with a moratorium on Snapper Grouper for-hire permits that include:

- Conflicts between those who do and do not get permits
- Issues with the current control date of June 15, 2016, such as what will happen to permits obtained after that date
- The potential to lead to the creation of sector separation and associated conflicts such as those between individual recreational fishermen and the for-hire fleet
- Monetizing of the Snapper Grouper for-hire permits and how to allow new entrants into the fishery

Harvest prohibition on Snapper Grouper species in state waters when the species are closed to harvest in federal waters

Several for-hire Snapper Grouper permit holders have expressed concern over the inequity that occurs between operators that do and do not have the federal for-hire permit when a Snapper Grouper species is closed to recreational harvest in federal waters but recreational harvest remains open in state waters. In such circumstances, particularly in the state of Florida where many Snapper Grouper species can be found in state waters, customers onboard for-hire vessels with the federal for-hire Snapper Grouper permit are not able to harvest these species even though they are fishing in state waters where the species can be legally retained. For-hire operators without the federal permit are still able to allow their customers to retain such species, as long as they remain in state waters, thus creating an inequity between for-hire operators based on whether or not they hold a federal for-hire Snapper Grouper permit. Some of these permit holders have expressed that this situation not only creates an inequity, but also rewards for-hire operators that purposely do not obtain a federal permit although they may illegally conduct some for-hire trips harvesting Snapper Grouper species in the South Atlantic exclusive economic zone (EEZ).

Background

For-hire permit moratorium

Number of permits

At their June 2017 meeting, the South Atlantic Council approved a motion to direct staff to start work on an amendment that would establish a moratorium on federal Snapper Grouper for-hire permits. The National Marine Fisheries Service (NMFS) issues the Snapper Grouper for-hire permits, which are required to fish for species in the Snapper Grouper Fishery Management Plan (FMP) on charter boats and headboats in the South Atlantic EEZ. These permits are open access and must be obtained annually. There is no limit to the total number of Snapper Grouper for-hire permits that can be issued by NMFS. There were 1,703 valid permits as of May 21, 2018 (**Table 1**).

Table 1. Federal South Atlantic Charter/Headboat for Snapper-Grouper permits issued for 2018. State or region is based on the registered homeport of the vessel with the for-hire permit.

State	Number of Permits
NC	312
SC	174
GA	59
FL East	411
FL Keys	388
FL West	232
AL/MS/LA/TX	50
Mid Atlantic	65
New England	9
Non-Coastal States	3
TOTAL	1,703

Data source: [NMFS SERO Permits Webpage](#), accessed 05/21/18.

The number of Snapper Grouper for-hire permits issued each year has varied over time. **Table 2** shows the number of permits issued from 2008-2018 each year by state and then for all states combined. Overall, permit numbers tended to decrease throughout the beginning of the time series, with a reversal of this trend as permit numbers grew in 2015, 2016, 2017, and 2018 which may have partially been in reaction to the Council discussing limiting entry in the for-hire fishery and setting a control date of June 15, 2016.

Table 2. The number of federal South Atlantic Charter/Headboat for Snapper-Grouper permits issued, 2008-2018. State is based on the registered homeport of the vessel with the for-hire permit.

Year*	North Carolina	South Carolina	Georgia	Florida	Other States	All States Combined	% Variation from the Previous Year***
2008	289	110	21	953	154	1,527	
2009	279	126	23	949	160	1,537	0.7%
2010	269	102	24	941	152	1,488	-3.2%
2011	272	105	22	927	164	1,490	0.1%
2012	253	110	22	937	157	1,479	-0.7%
2013	246	127	24	884	151	1,432	-3.2%
2014	241	134	28	878	146	1,427	-0.3%
2015	262	157	32	886	132	1,469	2.9%
2016**	286	169	49	899	140	1,543	5.0%
2017**	291	183	56	984	130	1,644	6.5%
2018**	281	160	57	974	122	1,703	3.6%

Source: NMFS SERO Permits Dataset.

*For 2008-2015, permit numbers are based on the number of permits as of December 31 of each year. For 2016, permit numbers are based on accessing the permit dataset on Nov 15, 2016. For 2017, permit numbers are based on accessing the permit dataset on Nov 2, 2017. For 2018, permit numbers are based on accessing the permit dataset on May 21, 2018.

**At their June 2016 meeting, the Council set a control date of June 15, 2016. These dates are highlighted to point out that they occurred after the control date was announced.

**Only considered variations in permits for “All States Combined”.

Harvest prohibition on Snapper Grouper species in state waters when the species are closed to harvest in federal waters

Regulations specifying the harvest prohibition for federal for-hire Snapper Grouper permit holders on Snapper Grouper species in state waters when the species close to harvest in federal waters are largely held in §622.190 *Quotas* and/or in §622.193 *Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs)*. The exact language varies slightly between regulations and between species but is largely written as “...these bag and possession limits apply in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, i.e., in state or Federal waters.” Under such regulations, if a Snapper Grouper species is closed to harvest in federal waters, in-season or otherwise, a vessel with a federal for-hire Snapper Grouper permit may not retain that species even if the species is still legal to retain in state waters and is caught from state waters.

Under a moratorium, what should be the eligibility criteria to receive a Snapper Grouper for-hire permit?

Should a moratorium be pursued by the Council, requirements will need to be developed that determine the eligibility of who receives a Snapper Grouper for-hire permit. In this case, the Council may want to consider:

- The start date of the moratorium
- Exceptions for eligibility
- A target for the number of valid permits in the fishery

Start date of the moratorium

The start date of a moratorium is important for determining which permit holders receive a permit once a moratorium is imposed. **The Council approved a control date of June 15, 2016** for the for-hire sector of the Snapper Grouper fishery. This control date could be used to determine eligibility to receive a Snapper Grouper for-hire permit, or the Council could consider another date or set of dates that fall either after or before the current control date.

What is a Control date?

A control date is a publicized date specified by the Council to notify current and potential future fishery participants that the Council is considering restrictions limiting participation in a fishery. Participants who enter the specified fishery or sector will not be assured of future access should a management change that limits participation in the sector be prepared and implemented.

Some Council members have expressed some concern over potential “permit speculation” or “a run on permits” where some permit holders may have purchased or will purchase the for-hire permit in hopes of benefitting from the sale of these permits in the future. The Council is interested in getting feedback on this potential scenario and options that should be considered to address this concern.

Public Input Questions

- 1) If a moratorium is imposed, what date(s) should the Council consider when determining who receives a permit?
- 2) Should the Council aim to set the number of permits at the current number, a higher number, or should the Council decrease the number of permits?
- 3) Should the Council be concerned over “permit speculation” and if so, what should the Council do to avoid a “run on permits”?

Exceptions for eligibility

The Council may want to consider exceptions under certain circumstances to allow fishery participants who do not meet the moratorium control or start date eligibility requirements to still obtain a Snapper Grouper for-hire permit. Some examples could include:

- 1) **Historic captains:** The Council could establish a way to identify individuals who have worked on vessels under the for-hire permit of another person or a corporation, such as:
 - Minimum proportion of personal income from working as a for-hire captain; or
 - Proof of working as a for-hire captain before a certain date (e.g. a control date); or
 - Others?

- 2) **Commercial License Holders:** In past discussions of the Advisory Panel, it was noted that some Snapper Grouper commercial permit holders intend to include for-hire fishing activity in their future business plans, either as a way to diversify their income or as an option for retirement from commercial fishing. In response, the Council could include an exemption that would allow commercial Snapper Grouper permit holders to obtain a Snapper Grouper for-hire permit.

Public Input Questions

Should there be exceptions to the eligibility requirements or start date(s) set by the Council? If so do you have suggestions as to what they should be?

How will new entrants be allowed into the Snapper Grouper for-hire fishery?

The Council may want to consider ways to allow new entrants into the Snapper Grouper for-hire fishery, or to recoup the use of permits that are retired over time. There are several options that could involve:

- Specifying the transferability of existing permits to new entrants
- Establishing a permits pool for new entrants
- Establishing a “new entrants” permit (i.e. a “greenhorn” permit)

Transferability of permits

The Council may consider several options for transferability of Snapper Grouper for-hire permits, including allowing no transfers, limited transfers, or open transfers. The Council could only allow transfers between immediate family members or between vessels with the same owner. Transfers could be prohibited initially but allowed to occur after a specified period of time (ex: 1 year, 3 years or 5 years). The Council may also opt to prohibit any Snapper Grouper for-hire permits from being transferred after a moratorium. In this case, when a permit holder

exits the fishery, the permit would be retired but could be entered into a permits pool to allow new entrants into the fishery (see next section).

Public Input Questions

- 1) Should for-hire Snapper Grouper permits be transferable? If so, should there be restrictions on how and to who the permits can be transferred?
- 2) Should leasing be allow for Snapper Grouper for-hire permits?

New entrants pool

The Council could establish a permits pool as a way to allow new entrants into the for-hire Snapper Grouper fishery and recoup the use of permits as they are retired over time. An option would be to set a minimum threshold for the number of valid permits in the fishery that would trigger additional permits becoming available to a permits pool for new entrants. This could be based on a minimum number of valid permits or a certain percentage of the original number of valid permits in the fishery as of the start date of the moratorium. Should retired permits be put into a pool for new entrants, one question that the Council may want to consider is:

- When would retired permits be made available again?
 - As soon as they are retired?
 - On specified date(s) each year?
 - When the number of valid permits reaches a minimum number due to permits not being renewed/transferred and therefore being retired?
 - Others?

If the Council decides to establish a permits pool that would allow new entrants into the fishery, it should be specified how the permits are distributed. Some options could include a lottery system or a waiting list where permits would be made available to new entrants in a specified manner.

Public Input Questions

Under a moratorium, should a permits pool be established to allow new entrants into the Snapper Grouper for-hire fishery? If so, how should these permits be made available to new entrants?

New entrants permit

Additionally, the Council could consider a “new entrants” (or “greenhorn”) permit that would allow previously unpermitted vessel owners to enter into the Snapper Grouper for-hire fishery. The number of “new entrants” permits available each year would be limited in number. This permit could be renewed for a limited number of years, after which time the “new entrants” permit holder would be eligible to receive a Snapper Grouper for-hire permit if he or she could

provide documentation of for-hire fishing activity. Documentation could include items such as proof of for-hire fishing activity submitted via the South Atlantic for-hire logbook or a percentage of income derived from for-hire fishing activity.

Other provisions that could be considered for the “new entrants” permit:

- Establish a probationary period
- Require an annual USCG safety inspection and placement of a safety decal for uninspected passenger vessels through the USCG voluntary inspection program.
- Pass a boating safety course
- Proof of Captains License
- Additional fee
- Only allow harvest of certain Snapper Grouper species for the “new entrants” permit
- Letters of reference
- Require logbook training
- Make permits renewable for a calendar year on the same data for ease of enforcement
- Others?

Public Input Questions

Should a “new entrants” (i.e. “greenhorn”) permit be established to allow new entrants into the for-hire fishery? If so, what provisions should accompany this permit? Also, how many “new entrants” permits should be available each year?

Should there be a time limit or sunset provision for a moratorium?

The Council could establish a time limit or sunset provision so the moratorium expires on a specific date, or under specified conditions, such as a change in stock status for a given species or group of species. A time-limited moratorium could allow the Council to evaluate the current for-hire sector conditions and to design a more permanent limited entry system without a large fluctuation in the number of permits. At the end of the moratorium, a plan amendment could be implemented establishing an indefinite limited entry system that would remain in place until it was changed by the Council.

Some examples of how a time limited moratorium has used in the past include:

1) King mackerel commercial permit:

- Moratorium on new permits starting Oct 16, 1995, until Oct 15, 2000 (CMP Amendment 8)
- Moratorium was extended to Oct 15, 2005 (CMP Amendment 12)
- Established indefinite limited entry as of July 7, 2005 (CMP Amendment 15)

2) Gulf Reef Fish and Gulf CMP charter/headboat permits:

- Moratorium on new permits starting June 16, 2003, until June 16, 2006 (RF Amendment 20/ CMP Amendment 14)
- Established indefinite limited entry in June 2006 (RF Amendment 25/ CMP Amendment 17)

Public Input Questions

Should there be a specified end date or time limit established if a moratorium on Snapper Grouper for-hire permits is implemented? If so, what length of time should be considered?

Are there other requirements that should be considered for a moratorium or how for-hire permits are issued?

The options presented in this document are intended as a starting point for a discussion on how the Council could go about implementing a moratorium on Snapper Grouper for-hire permits or changing how the permits are issued. The Council is interested in receiving input on other options that should be considered in Snapper Grouper Amendment 47. For example, it has been suggested that a for-hire permit should be tied to an individual rather than a vessel. This could help with professionalizing the for-hire industry and would allow operators the flexibility to easily change vessels.

Public Input Questions

- 1) Should a permit remain tied to a vessel or should it be tied to an individual (person, business, etc.)?**
- 2) Are there other options that the Council should consider in relation to a moratorium on Snapper Grouper for-hire permits?**

Should the Council reconsider the prohibition on retention of Snapper Grouper species in state waters onboard federally permitted for-hire vessels when the species close to harvest in federal waters?

As previously mentioned, several Snapper Grouper for-hire permit holders have expressed concern over the inequity that occurs onboard vessels that do and do not have the federal for-

hire permit when a Snapper Grouper species is closed to recreational harvest in federal waters but recreational harvest remains open in state waters. Under such circumstances customers onboard for-hire vessels with the federal Snapper Grouper permit may not harvest these species even though they may be fishing in state waters where the species can be legally retained. In response to this stated concern, the Council could amend or remove the federal regulations that prohibit retention of Snapper Grouper species in state waters for federal for-hire Snapper Grouper permit holders if the species is closed to harvest in federal waters.

Public Input Question

Should the Council change or remove the harvest prohibition for federal for-hire Snapper Grouper permit holders on Snapper Grouper species in state waters when the species close to harvest in federal waters?

Proposed Timing of Amendment

Process Steps	Dates
Scoping webinar hearings	July/August 2018
Review scoping comments and revise actions/alternatives	September 2018
Review and revise action/alternatives	December 2018
Approval for public hearings	March 2019
Public hearings	April/May 2019
Review public hearing comments and approve all actions/alternatives	June 2019
Final action to approve for secretarial review	September 2019

How do I comment?

The Council requests that written comments be submitted using the online public comment form for each amendment available from the Public Hearings and Scoping Meetings page at <http://safmc.net/amendments-under-development/snapper-grouper-amendment-47>.

Comments submitted using the online comment form are immediately posted to the Council's website and available for all Council members and the public to view.

Written comments must be received by 5:00 PM on **August, X 2018**.

Comments by mail: Send comments to Gregg Waugh, Executive Director, SAFMC, 4055 Faber Place Drive, Suite 201, N. Charleston, SC 29405.

Comments by fax: 843/769-4520.

View presentations and access the public hearing and scoping documents from <http://safmc.net/amendments-under-development/snapper-grouper-amendment-47> or contact the Council office at 843/571-4366 (toll free 866/SAFMC-10).

July/August 2018 Scoping Dates

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