

**PUBLIC HEARING
SUMMARY**
of
AMENDMENT 20A
to the Fishery Management Plan
for the Snapper Grouper Fishery
of the South Atlantic Region
(Wreckfish)

When the Wreckfish ITQ program was implemented in 1992, the Total Allowable Catch (TAC) was set at 2 million pounds whole weight (ww). The fishery has changed significantly over the last two decades, and while the effort of the active shareholders account for all of the landings, their ITQ shares represent less than 60% of the total shares. The 2012 ACL is expected to be set at 250,000 lbs (ww) through the Comprehensive ACL Amendment. The commercial ACL will be set at 237,500 lbs, (95% commercial/5% recreational allocation). This quota level represents an 87% decrease from the current TAC. With this significant reduction in the commercial sector's allocation, the annual pounds (coupons) each shareholder will receive under the new ACL will also be reduced by more than 87%. Thus, active shareholders, captains, crew, and dealers who depend on a certain level of wreckfish production to maintain their operations will be particularly affected by the reduction in the commercial ACL.

The purpose of the amendment is to identify and revert inactive wreckfish shares for redistribution among remaining shareholders, and establish a share cap and appeals process. The primary actions are necessary to achieve the optimum yield from the commercial wreckfish fishery in accordance with National Standard 1 of the Magnuson-Stevens Fishery Conservation and Management Act (MSA), and result in more efficient use of wreckfish as supported by National Standard 5. Establishment of a share cap and appeals process are necessary to comply with requirements for limited access privilege programs under Section 303A of the MSA. The intended effect is to promote the management provisions of the Fishery Management Plan for Snapper Grouper and to allow the commercial fishery to maximize harvest potential within the constraints of the Annual Catch Limit.

This document is intended to serve as a SUMMARY for all the actions and alternatives in Amendment 20A. It also provides background information and includes a summary of the expected biological and socio-economic effects from the management measures.

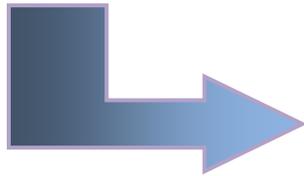
Why is the South Atlantic Council taking Action?

With this significant reduction in the commercial sector's allocation, the annual pounds (coupons) each shareholder will receive under the new ACL will also be reduced by more than 87 percent. Thus, active shareholders, captains, crew, and dealers who depend on a certain level of wreckfish production to maintain their operations will be particularly affected by the reduction in the commercial ACL.

The purpose of Amendment 20A is to facilitate the maximum harvest in the commercial sector of the wreckfish fishery that would otherwise not occur due to a combination of inactive shares and a significantly reduced commercial annual catch limit (ACL).

What Are the Proposed Actions?

There are four actions in Amendment 20A. Each *action* has a range of *alternatives*, including a 'no action alternative' and a 'preferred alternative'.



Proposed Actions in Amendment 20A

1. Define and revert inactive wreckfish shares.
2. Redistribute reverted shares to remaining shareholders.
3. Establish a share cap.
4. Establish an appeals process.

Action 1. Define and revert inactive shares

Alternative 1: No Action. Do not define or revert inactive shares for redistribution.

Alternative 2: Define inactive shares as shares belonging to any ITQ shareholder who has not reported wreckfish landings in 2009-10 and/or 2010-11, and revert for redistribution.

Alternative 3 (Preferred): Define inactive shares as shares belonging to any ITQ shareholder who has not reported wreckfish landings in 2006-07 through 2010-11, and revert for redistribution.

Proposed Actions in Amendment 20A

1. Define and revert inactive shares.
2. Redistribute reverted shares to remaining shareholders.
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What Are the Expected Effects?

Biological Impacts

Alternative 1 (No Action) could result in the lowest overall commercial harvest of wreckfish and is considered the most biologically beneficial alternative for the wreckfish stock when compared to **Alternatives 2 and 3 (Preferred)**. Out of 25 wreckfish shareholders, currently there are either 18 inactive shareholders (**Alternative 2**), or 17 inactive shareholders (**Alternative 3 (Preferred)**) holding shares that would be redistributed among a group of 7-8 remaining active wreckfish shareholders (**Table S-1**).

Economic Impacts

Alternative 1 (No Action) would result in the most negative economic impacts. **Alternative 2** is not expected to affect these vessels' current operations, though it would take away the option of fishing for wreckfish in the future. **Alternative 3**

(Preferred) is not expected to affect these vessels' current operations, though it would take away the option of fishing for wreckfish in the future. Based on the average market value of a 1% share, the total loss of quota share to these 18 shareholders is estimated to be approximately \$264,000, or \$14,667 per shareholder.

Social Impacts

Alternative 1 (No Action) would result in the most negative social impacts. If the inactive shares are not redistributed to active shareholders it is assumed that the amount of wreckfish being fished and delivered would also be reduced at the same level. **Alternative 2** and **Alternative 3 (Preferred)** are the most socially beneficial because these alternatives revert inactive shares to active shareholders and allow for their continued participation at a comparable level to pre-Comprehensive ACL levels. **Alternatives 2 and 3 (Preferred)** will also cause some negative social impacts by removing the ability of those shareholders deemed inactive to utilize their shares in the future.

Table S-1. Inactive shares held by ITQ shareholder with no landings during the time periods specified under each alternative.

| Alternative | Number of Active Shareholders | Percentage of Shares Held by Active Shareholders | Number of Inactive Shareholders* | Percentage of Shares Held by Inactive Shareholders |
|--|--------------------------------------|---|---|---|
| Alternative 2 (No landings during the 2009-10 thru 2010-11 fishing years) | 7 | 45.55% | 18 | 54.45% |
| Alternative 3 (Preferred) (No landings between and during the 2006-07 thru 2010-11 fishing years) | 8 | 58.8% | 17 | 41.2% |

Action 2. Redistribute reverted shares to remaining shareholders

Alternative 1: No Action. Do not redistribute reverted shares.

Alternative 2: Redistribute reverted shares to remaining shareholders based on 50% equal allocation + 50% landings history.

Option a: landings history in fishing years 2009-10 through 2010-11.

Option b: landings history in fishing years 2006-07 through 2010-11.

Proposed Actions in Amendment 20A

1. Define and revert inactive shares.
2. Redistribute reverted shares to remaining shareholders.
3. Establish a share cap.
4. Establish an appeals process.

Alternative 3 (Preferred): Redistribute reverted shares to remaining shareholders based landings history.

Option a: landings history in fishing years 2009-10 through 2010-11

Option b (Preferred): landings history in fishing years 2006-07 through 2010-11.

Alternative 4: Redistribute reverted shares based on proportion of remaining shares held by each remaining shareholder after inactive shares are reverted.

What Are the Expected Effects?

Biological Impacts

Alternative 2 is the most complex of the alternatives considered. **Option a** would benefit individuals who recently entered the fishery and do not have extensive landings histories, whereas **Option b** would include a broader time series of

landings histories among current active shareholders and would also include those active shareholder who have recently entered the fishery (**Table S-2**). Therefore, adverse biological impacts that could result from this action would be expected to be negligible unless the fishery far exceeds the ACL repeatedly over the course of several years. Regardless of how those shares are allocated among the active fishery participants, the total number of redistributed shares would not change, limiting effort to the total percentage of shares issued to each shareholder. The biological impacts of **Alternative 3 (Preferred)** would be similar to those under **Alternative 2** for the same reasons given above. No significant biological impacts are expected to result from redistributing reverted shares to active shareholders based on landings histories. Assuming the largest active shareholders are the most likely to fish all shares they own because they are the most active fishery participants, **Alternative 4** may have the potential to have slightly higher biological implications for the species when compared to **Alternatives 2 and 3 (Preferred)**. However, because overall harvest would be limited by the system of ACLs and AMs included in the Comprehensive ACL Amendment, significant biological impacts would not be expected.

Social and Economic Impacts

Alternative 2, Option a would benefit shareholders that are new to the fishery; whereas **Alternative 2, Option b** would benefit shareholders with a longer landing history. As with **Alternative 2, Alternative 3 (Preferred), Option a** would benefit shareholders that are new to the fishery because this option would redistribute reverted shares to remaining shareholders based on landings history in fishing years 2009/10 to 2010/11. Conversely, **Alternative 3, Option b (Preferred)** would benefit shareholders with a longer landing history because this alternative would redistribute reverted shares to remaining shareholders based on landings history in fishing years 2006/07 to 2010/11. **Options a and b under Alternative 3 (Preferred)** have a high likelihood of being perceived as fair redistribution methods because they are based on past participation. **Alternative 4** would benefit shareholders who have recently purchased additional or new shares.

Table S-2. Summary of total % shares that would be held by each shareholder after redistribution under **Action 2**.

| % shares after redistribution | Shareholders after redistribution - Action 1, Alt 2 | | | | | Shareholders after redistribution - Action 1, Alt 3 (Preferred) | | | | |
|-------------------------------|---|----------|----------|-----------------|-------|---|----------|----------|-----------------|-------|
| | Alt 2(a) | Alt 2(b) | Alt 3(a) | Alt 3(b) (Pref) | Alt 4 | Alt 2(a) | Alt 2(b) | Alt 3(a) | Alt 3(b) (Pref) | Alt 4 |
| 0-5% | 1 | 2 | 3 | 3 | 3 | 3 | 3 | 3 | 3 | 3 |
| 5.01-10% | 2 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 10.01-15% | 1 | 0 | 1 | 1 | 1 | 2 | 2 | 3 | 2 | 1 |
| 15.01-20% | 1 | 2 | 1 | 0 | 1 | 1 | 1 | 0 | 1 | 2 |
| 20.01-25% | 1 | 1 | 1 | 2 | 1 | 1 | 2 | 1 | 1 | 1 |
| 25.01-30% | 0 | 1 | 0 | 0 | 0 | 1 | 0 | 0 | 1 | 1 |
| 30.01-35% | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 35.01-40% | 0 | 0 | 0 | 1 | 1 | 0 | 0 | 1 | 0 | 0 |
| 40.01-45% | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 45.01-50% | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

Action 3. Establish a share cap

Alternative 1: No Action. Do not establish share cap.

Alternative 2: Establish share cap as 15% of the total shares.

Alternative 3: Establish share cap as 25% of the total shares.

Alternative 4 (Preferred): Establish share cap as 49% of the total shares.

Alternative 5: Establish share cap as 65% of the total shares.

Alternative 6: Establish share cap as the percentage of total shares held by largest shareholder after redistribution.

Proposed Actions in Amendment 20A

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What Are the Expected Effects?

Biological Impacts

The level at which the Council chooses to cap total shares held by any one active shareholding entity would not be expected to impact the biological environment. Regardless of the level at which shares are capped, the fishery may not exceed the proposed commercial ACL of 237,500 pounds ww in the Comprehensive ACL Amendment, without triggering corrective AMs. Biological impacts under **Alternative 6** may be slightly higher than under **Alternatives 2-4 (Preferred)**, but may be lower than **Alternative 5** since no shareholder currently holds 65% of the shares. Capping the number of shares held by a single active shareholder would not result in an increase or decrease in overall harvest of wreckfish in the commercial sector unless a large number of shares are held by relatively inactive fishermen who may not catch their allocated poundage. However, it is expected that any re-allocated shares would be, for the most part, fished to their respective poundage limits in order to maximize yield among the current universe of active shareholders.

Social and Economic Impacts

The number of shareholders who would be over the different share caps, and by how much, is shown in **Table S-3** and this would depend on the preferred alternatives in Actions 1 and 2. **Alternative 2** would allow for equal participation by all entities at some point in time; however it would cap the shares of 3 to 4 entities throughout the various alternatives assuming **Alternative 2** under **Action 1**, and would cap the shares of 2 to 3 entities assuming **Alternative 3** under **Action 1**. This would reduce the possible participation of the largest shareholders and although it is assumed the other participants would fish their shares and therefore the commercial sector's ACL would be harvested and OY would be achieved, this would act in opposition to the underlying social and economic purpose of this amendment which includes not adversely impacting those who depend on wreckfish for their livelihoods. **Alternative 3** would cap the shares of 1 to 2 entities assuming **Alternative 3** under **Action 1**. These entities are the largest shareholders and as was explained above in **Alternative 2**, although other participants would likely fish the shares removed by implementation of a 25% cap, this would act in opposition to the underlying social and economic purpose of this amendment which includes not adversely impacting those who depend on wreckfish for their livelihoods.

Alternative 4 (Preferred) would establish a share cap at 49% and would prevent any one entity from holding the majority of shares in the fishery. The share cap would currently only impact 1 entity (at their current share level with any of the various alternatives and options) under **Action 2** assuming **Alternative 3** under **Action 1** for **Alternative 3 Sub-alternative a** (redistribute shares based on landings history in fishing years 2009/10 to 2010/11) and **Alternative 3 Option b** (redistribute shares based on landings history in fishing years 2006/07 to 2010/11).

Alternative 5 would establish a share cap at 65% and currently would not impact any entity at their current share levels with any of the various alternatives and sub-alternatives. If the largest entity were to acquire more shares prior to the freeze on transfers, this could change **Alternative 6** and could allow for a possible situation similar to that of **Alternative 5** where one entity would have the majority of the shares in the fishery. Both **Alternative 5** and **Alternative 6** have the capability of creating a majority shares held by an entity situation which could negatively impact other shareholders and dealers; however for years (including the time period of 2006-2011 considered by this amendment) the bulk of wreckfish landings have been delivered primarily by a few individuals and this does not appear to have caused negative social impacts.

Table S-3. Number of shareholders and shares exceeding share cap under alternatives for **Action 3** for each alternative under **Action 2** assuming **Alternative 3 (Preferred)** under **Action 1**.

| Alternative under Action 2 | Alt2 | Alt3 | Alt4 (Pref) | Alt5 | Alt6 | Alt2 | Alt3 | Alt4 (Pref) | Alt5 | Alt6 |
|----------------------------|------|------|-------------|------|------|-------|-------|-------------|------|------|
| 2a | 2 | 1 | 0 | 0 | 0 | 32.24 | 16.27 | 0 | 0 | 0 |
| 2b | 2 | 1 | 0 | 0 | 0 | 32.24 | 16.50 | 0 | 0 | 0 |
| 3a | 2 | 1 | 1 | 0 | 0 | 40.28 | 24.92 | .92 | 0 | 0 |
| 3b (Pref) | 2 | 1 | 1 | 0 | 0 | 40.29 | 25.39 | 1.39 | 0 | 0 |
| 4 | 3 | 2 | 0 | 0 | 0 | 38.23 | 15.90 | 0 | 0 | 0 |
| 5 | 3 | 1 | 0 | 0 | 0 | 24.54 | 7.62 | 0 | 0 | 0 |

It is the Council’s intent that NMFS administratively prohibit transfers of wreckfish shares for the necessary amount of time, not to exceed 45 days, until the reverted shares are redistributed.

This action would allow for exact calculations of shareholdings to be finalized for redistribution of shares.

Action 4. Establish an appeals process

Alternative 1: No Action. Do not specify provisions for an appeals process associated with the ITQ program.

Alternative 2 (Preferred): A percentage of the wreckfish shares for fishing year 2012/2013 will be set-aside to resolve appeals for a period of 90-days starting on the effective date of the final rule. The Regional Administrator (RA) will review, evaluate, and render final decisions on appeals. Hardship arguments will not be considered. The RA will determine the outcome of appeals based on NMFS' logbooks. If NMFS' logbooks are not available, the RA may use state landings records. Appellants must submit NMFS' logbooks or state landings records to support their appeal. After the appeals process has been terminated, any amount remaining from the set-aside will be distributed back to remaining ITQ shareholders according to the redistribution method selected under Action 2.

Sub-alternative 2a: Three percent of wreckfish shares will be set aside for appeals.

Sub-alternative 2b (Preferred): Five percent of wreckfish shares will be set aside for appeals.

Sub-alternative 2c: Ten percent of wreckfish shares will be set aside for appeals.

Alternative 3: A percentage of the wreckfish shares for fishing year 2012/2013 will be set-aside to resolve appeals for a period of 90-days starting on the effective date of the final rule. The Regional Administrator (RA) will review, evaluate, and render final decisions on appeals. Hardship arguments will not be considered. A special board composed of state directors/designees will review, evaluate, and make individual recommendations to RA on appeals. The special

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board and the RA will determine the outcome of appeals based on NMFS' logbooks. If NMFS' logbooks are not available, the RA may use state landings records. Appellants must submit NMFS' logbooks or state landings records to support their appeal. After the appeals process has been terminated, any amount remaining from the set-aside will be distributed back to remaining ITQ shareholders according to the redistribution method selected under Action 2.

Sub-alternative 3a: Three percent of wreckfish shares will be set aside for appeals.

Sub-alternative 3b: Five percent of wreckfish shares will be set aside for appeals.

Sub-alternative 3c: Ten percent of wreckfish shares will be set aside for appeals.

What Are the Expected Effects?

Biological Impacts

The wreckfish shareholders' appeals process is largely an administrative action that would have few if any biological implications. **Sub-Alternatives 2a-2c** and **3a-3c** may result in some short-term biological benefit during the 2012/2013 wreckfish fishing season, since 3%, 5% (**Preferred**), or 10% respectively, of the wreckfish shares would not be fished during that season unless those shares are distributed to successful appellants. After the 2012/2013 season, the long-term biological impacts of all the sub-alternatives would be the same, assuming all shares would be redistributed to active shareholders who are likely to fish the redistributed shares.

Social and Economic Impacts

The absence of an appeals process, as would occur under **Alternative 1 (No Action)**, would be expected to increase the likelihood that one or more appropriate qualifiers would have either been deemed inactive and would not receive reverted shares or would not have received the proper amount of reverted shares through some sort of error, resulting in less social benefits. **Alternative 2 (Preferred)** and **Alternative 3** allow for an appeals process and would be expected to result in greater social benefits than **Alternative 1 (No Action)**. **Sub-alternative 2c** and **Sub-alternative 3c** set aside the largest amount of shares, ten percent, for appeals and if this amount of shares is not ultimately necessary for settling appeals, these two sub-alternatives have the potential to provide the most negative social impact to the remaining shareholders because these shares would be unavailable for use until all appeals are settled and they are redistributed (but then the social benefits of these additional shares would be received after redistribution of the remaining set-aside

shares). Conversely, if ten percent of the shares are required for the appeals process and they are not set aside, those appealing could be negatively impacted as they would not receive the shares to which they are entitled.

Sub-alternative 2b (Preferred) and **Sub-alternative 3b** set aside five percent of shares for appeals and provide a mid-point between the other options for setting aside shares (ten percent or three percent) for the appeals process. These sub-alternatives would likely provide more immediate positive social benefits for active shareholders in that these sub-alternatives would allow a larger amount of the pool of latent shares to be redistributed and immediately harvested by those recognized immediately as active shareholders. However, as with **Sub-alternatives 2c** and **3c**, if not enough shares have been set aside for the appeals process then those appealing and entitled to those shares could be negatively impacted.

Sub-alternative 2a and **Sub-alternative 3a** set aside three percent of shares for appeals. These sub-alternatives would likely provide the most immediate positive social benefits for recognized active shareholders in that these sub-alternatives would allow a larger amount of the pool of latent shares to be redistributed and immediately harvested by those recognized as active shareholders. However, these sub-alternatives could have the most negative impact on appealing shareholders (if not enough shares have been set aside for the appeals process) since the percent set aside for these sub-alternatives is the lowest out of all the options.

PUBLIC HEARING DATES & LOCATIONS

All hearings are from 4 pm – 7 pm except
Charleston and Raleigh

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| <p><u>Monday, November 14, 2011</u> Avista Resort 300 N. Ocean Blvd. North Myrtle Beach, SC 29582 (843) 249-2521</p> <p>Hampton Inn & Suites Savannah/Midtown 20 Johnston Street Savannah, GA 31405 (912) 721-3700</p> | <p><u>Wednesday, November 16, 2011</u> Radisson Resort at the Port 8701 Astronaut Boulevard Cape Canaveral, FL 32920 (321) 784-0000</p> |
| <p><u>Tuesday, November 15, 2011</u> – Charleston Marriott Hotel* 170 Lockwood Blvd. Charleston, SC 29403 (843) 723-3000 *Hearing from 5:30 – 7:30 pm</p> <p>Jacksonville Marriott 4670 Salisbury Rd. Jacksonville, FL 32256 (904) 296-2222</p> | <p><u>Thursday, November 17, 2011</u> Key Largo Bay Marriott 103800 Overseas Highway Key Largo, FL 33037 (305) 453-0000</p> |
| | <p><u>Tuesday, December 6, 2011</u> Holiday Inn Brownstone* 1707 Hillsborough Street Raleigh, NC 27605 (919) 828-0811 *Hearing begins at 5:30 pm</p> |

Written Comments:

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What's Next?

- Snapper Grouper Advisory Panel (10/5/11-10/6/11) in Charleston, SC; final review of Amendment 20A
- Scientific & Statistical Committee (11/8/11 - 11/10/11) in Charleston, SC; final review of Amendment 20A
- Public Hearings from SC thru FL (11/14/11-11/17/11)
- Comments due by 5 p.m. on Monday, November 21, 2011
- Public Hearing during Council meeting (12/6/11) in Raleigh, NC
- Snapper Grouper Committee & Council review hearing comments and approve all actions (12/7/11-12/9/11) in Raleigh, NC
- Council (12/8/11-12/9/11) in Raleigh – Final Approval
- Send to Secretary of Commerce by December 15, 2011
- Public Comment on proposed rule
- Public Comment on amendment to Secretary of Commerce