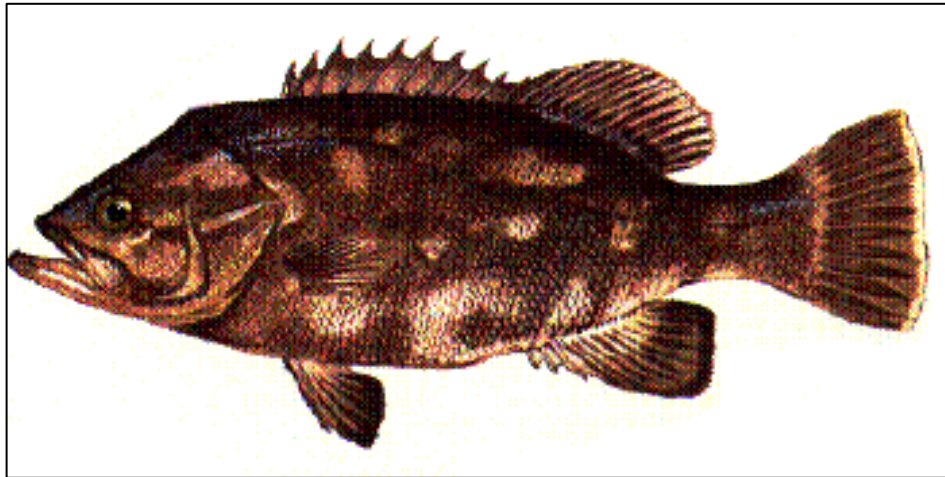


# **DECISION DOCUMENT**

for

## **AMENDMENT 20B**

**to the Fishery Management Plan  
for the Snapper Grouper Fishery  
of the South Atlantic Region  
(Wreckfish)**



**Savannah, GA  
March 2012**

## **Background**

In June 2011, the Council decided to split Amendment 20 into 20A and 20B. Amendment 20A included four actions that defined and reverted inactive wreckfish shares, redistributed reverted shares to remaining participants, defined a share cap, and established an appeals process. Amendment 20A was approved by the Council in December 2011 and submitted for Secretarial review and approval on December 21, 2011. The Notice of Availability published on January 12, 2012, and the comment period closes on March 12, 2012.

The remaining actions in Amendment 20 are included in Amendment 20B and would modify the Wreckfish ITQ to update the program and bring it into compliance with the Reauthorized Magnuson-Stevens Act requirements.

## **Actions in Amendment 20B**

1. Transfer Eligibility Requirements
2. Caps on ITQ Annual Pounds Ownership
3. Adjustments in Annual Allocations of Commercial TACs
4. Use it or Lose it Policy for ITQ Shares
5. Cost Recovery Plan
6. Guaranteed Loan Program
7. Approved Landing Sites
8. Annual Pounds Overage
9. Collection of Royalties from Resource Use
10. New Entrants Program
11. Incidental Catch Provisions
12. VMS Requirement

Staff Suggestion: Add an action to incorporate the wreckfish ITQ program into the existing SERO electronic accounting system.

**Question 1:** Does the Council want to proceed with development of Amendment 20B during 2012, or wait to see the outcomes of share redistribution and the new wreckfish commercial ACL and address in 2013?

Through the amended Comprehensive ACL Amendment, the commercial wreckfish ACL for 2012 is **223,250 lbs (ww)**. This is an 88% reduction from the prior wreckfish TAC of **2 million lbs (ww)**.

Proceed

Wait

Continue review of the actions and alternatives

If the Council prefers to wait to see the outcome of the new ACL, then we stop here and focus on other amendments until 2013.

## **Action 1. Transfer Eligibility Requirements**

**Alternative 1.** No action. Maintain current transfer eligibility requirement under the existing Wreckfish ITQ program which stipulate that ITQ shares can be transferred to anyone but that coupons can only be transferred to persons with quota share and a commercial wreckfish permit.

\* Preferred by wreckfish shareholders who attended wreckfish shareholders meeting held March 2010 (unanimous).

**Alternative 2.** ITQ shares or annual pounds can be transferred to commercial snapper grouper permit holders. Eligible individuals must be persons who are U.S. citizens or permanent resident aliens.

**Alternative 3.** ITQ shares or annual pounds can only be transferred to commercial snapper grouper permit holders during the first five years of the redesigned ITQ program and all U.S. citizens and permanent resident aliens thereafter. Eligible individuals must be persons who are U.S. citizens or permanent resident aliens.

### Currently:

Shares can be transferred to any person [with a SG permit].

Annual pounds can be transferred only to someone who owns shares.

Wreckfish permit after you buy shares.

SG permit- buy shares- wreckfish permit- eligible to lease pounds

### **1) Do you want to consider making changes in the transferability rules for wreckfish shares?**

If no, remove the action.

If yes:

### **2) Do you want to add or remove any alternatives?**

### **3) Do you want to modify the language in the alternatives?**

### **Staff recommendation for language:**

**Alternative 2.** ITQ shares or annual pounds can be transferred to commercial snapper grouper permit holders.

**Alternative 3.** ITQ shares or annual pounds can only be transferred to commercial snapper grouper permit holders during the first five years after share redistribution, and all U.S. citizens and permanent resident aliens thereafter.

## **Action 2. Cap on ITQ Annual Pounds Ownership**

**Alternative 1.** No action. Maintain the current regulations annual pounds ownership, which do not identify any ownership caps.

\* Preferred by wreckfish shareholders who attended wreckfish shareholders meeting held March 2010 (unanimous).

**Alternative 2.** Set the annual pounds cap equal to the corresponding share cap as defined in Action 15 times the annual quota. For any single fishing year, no person shall possess annual pounds in an amount that exceeds the annual pounds cap. However, persons grandfathered in at the time of share cap reapportionment or under the no action alternative under Action 4 will also be grandfathered in for more than the annual pounds cap. Anyone receiving annual pounds in excess of the annual pounds ownership cap would not be able to purchase additional annual pounds. Anyone receiving annual pounds that were less than the annual pounds ownership cap could purchase additional annual pounds up to the amount of the annual pounds ownership cap.

[Annual pounds cap = share cap= 49% = 109,392.5 lbs]

**Alternative 3.** Set the annual pounds cap equal to:

**Option a)** The share cap (specified in 20A) plus 1 percent times the annual quota. [111,625 lbs]

**Option b)** The share cap (specified in 20A) plus 5 percent times the annual quota. [120,555 lbs]

**Option c)** The share cap (specified in 20A) plus 10 percent times the annual quota. [131,717.5 lbs]

### **1) Do you want to consider a cap for annual pounds ownership?**

If no, remove the action.

Note: The action for a cap on annual pounds in the Golden Crab catch share amendment was removed.

If yes:

**2) Do you want to add or remove any alternatives?**

**3) Do you want to modify the language in the alternatives?**

### **Staff recommendation for language**

**Alternative 1.** No action. Do not establish a cap on annual pounds.

**Alternative 2.** Set the annual pounds cap equal to the share cap (49%). However, persons grandfathered in at the time of share reapportionment, or under the no action alternative under Action 4, any shareholder receiving reverted shares in excess of the share cap through reallocation will also be grandfathered in and be allowed to hold more than the annual pounds cap.

Anyone receiving annual pounds in excess of the annual pounds ownership cap would not be able to purchase additional annual pounds.

\* This should not be an issue with the proposed share cap in 20A.

**Alternative 3.** Set the annual pounds cap equal to:

**Sub-alternative a)** The share cap plus 1 percent times the commercial ACL (annual pounds cap = 50%).

**Sub-alternative b)** The share cap plus 5 percent times the commercial ACL (annual pounds cap =54%).

**Sub-alternative c)** The share cap plus 10 percent times the commercial ACL (annual pounds cap=59%).

### **Action 3. Adjustments in Annual Allocations of Commercial TACs**

**Alternative 1.** No action. Maintain the process used under the current Wreckfish ITQ which annually allocates adjustments in the commercial quota proportionately among eligible ITQ shareholders (e.g., those eligible at the time of the adjustment) based on the percentage of the commercial quota each holds at the time of the adjustment.

\* Preferred by wreckfish shareholders who attended wreckfish shareholders meeting held March 2010 (unanimous).

**Alternative 2.** Allocate adjustments in the commercial quota through an auction system. All Wreckfish ITQ shareholders are allowed to place bids.

#### **1) Do you want to consider different ways to adjust individual allocations?**

If no, remove the action.

Note: The action for adjustments in annual allocations in the Golden Crab catch share amendment was removed.

If yes:

#### **2) Do you want to add alternatives?**

#### **3) Do you want to modify the language in the alternatives?**

#### **Staff recommendation for language**

### **Action 3. Adjustments in Annual Allocations of Commercial TACsACL**

## **Action 4. Use it or Lose it Policy for ITQ Shares**

**Alternative 1.** No action. Do not specify a minimum landings requirement for retaining ITQ shares. The current Wreckfish ITQ program has no minimum landings requirement.

\* Preferred by wreckfish shareholders who attended wreckfish shareholders meeting held March 2010 (unanimous).

**Alternative 2.** ITQ shares that remain inactive for three years will be revoked and redistributed proportionately among the remaining shareholders. "Inactive" is defined as less than 30 percent of the aggregate annual average utilization of allotted ITQ shares over a three year moving average period.

**Alternative 3.** ITQ shares that remain inactive for three years will be revoked and redistributed proportionately among the remaining shareholders. "Inactive" is defined as less than 50 percent of the aggregate annual average utilization of allotted ITQ shares over a three year moving average period.

**Alternative 4.** If needed, set a control date whereby fishermen would need landings to qualify.

\* Preferred by a majority of wreckfish shareholders who attended wreckfish shareholders meeting held March 2010.

### **1) Do you want to consider establishing a use or lose policy for wreckfish shares?**

If no, remove the action.

- The Golden Crab catch share amendment includes an action to establish a use or lose policy. The alternatives include a definition of 'inactive' as: Alternative 2: less than **10%** of the aggregate annual average utilization of the quota over a 3-year moving period of (a) landed crabs or (b) landed crabs or transferred annual pounds for 3 consecutive years; or Alternative 3: less than **30%** of the aggregate annual average utilization of the quota over a 3-year moving period of (a) landed crabs or (b) landed crabs or transferred annual pounds for 3 consecutive years. (No Preferred selected at this time)

- The Gulf Red Snapper IFQ program does not have a use or lose policy.

If yes:

### **2) Do you want to add or remove alternatives?**

### **3) Do you want to modify the language in the alternatives?**

## **Action 5. Cost Recovery Plan**

**Alternative 1.** No action. No ITQ cost recovery plan will be implemented. The current Wreckfish ITQ program does not have a cost recovery plan.

\* Preferred by some of the wreckfish shareholders who attended wreckfish shareholders meeting held March 2010.

**Alternative 2.** Implement an ITQ cost recovery plan. All ITQ cost recovery fees shall be the responsibility of the recognized IFQ shareholder. The cost recovery plan will have the following conditions:

**Option a)** ITQ cost recovery fees will be calculated at the time of sale of fish to the registered ITQ dealer based on (i) the actual ex-vessel value of the wreckfish landings or (ii) the standard ex-vessel price of the wreckfish landings as calculated by NMFS.

**Option b)** The fee collection and submission shall be the responsibility of (i) the ITQ shareholder or (ii) the ITQ dealer.

**Option c)** The collected fees would be submitted to NMFS (i) quarterly or (ii) monthly.

### **1) Do you want to consider establishing a cost recovery plan for the wreckfish ITQ program?**

Cost recovery is required by the Reauthorized MSA.

Note: The current Preferred Sub-alternatives in the Golden Crab catch share amendment will require fees submitted quarterly by the dealer, based on standard ex-vessel value.

Standard ex-vessel value would be set by specific geographic area based on what NOAA Fisheries Service determines to be appropriate and would be set to reflect changes in prices received in various ports. The standard ex-vessel value may or may not accurately reflect actual ex-vessel prices at all times, but provides consistency in cost recovery fees.

### **2) Do you want to add or remove alternatives or options?**

### **3) Do you want to modify the language in the alternatives or options?**

### **Staff Recommendations for Language**

**(same language as the Golden Crab catch share amendment)**

**Alternative 2.** Cost recovery fees would be calculated at the time of sale at a registered dealer:

**Sub-alternative 2a.** Cost recovery fees would be based on actual ex-vessel value of landings.

**Sub-alternative 2b.** Cost recovery fees would be based on standard ex-vessel value of landings.

**Alternative 3.** Fee collection and submission shall be the responsibility of the:

**Sub-alternative 3a.** Shareholder.

**Sub-alternative 3b.** Dealer.

**Alternative 4.** Fees submitted to NMFS:

**Sub-alternative 4a.** Quarterly

**Sub-alternative 4b.** Monthly

**Sub-alternative 4c.** Annually.

## **Action 6. Guaranteed Loan Program**

**Alternative 1.** No action. Do not establish an ITQ loan program.

\* Preferred by wreckfish shareholders who attended wreckfish shareholders meeting held March 2010 (unanimous).

**Alternative 2.** Set aside 15% of cost recovery fees to establish a guaranteed loan program.

**Alternative 3.** Set aside 25% of cost recovery fees to establish a guaranteed loan program.

### **1) Do you want to consider establishing a guaranteed loan program?**

A loan program to purchase shares can be established through the Fisheries Finance Program.

Note: The action to establish a loan program was removed from the Golden Crab catch share amendment.

### **2) Do you want to add or remove alternatives?**

### **3) Do you want to modify the language in the alternatives?**



## **Action 7. Approved Landing Sites**

**Alternative 1.** No action. Do not establish approved landing sites for the Wreckfish ITQ program. The current Wreckfish ITQ program does not specify approved landing sites.

\*Preferred by a majority of wreckfish shareholders who attended wreckfish shareholders meeting held March 2010.

**Alternative 2.** Establish approved landing sites for the Wreckfish ITQ program. All ITQ participants must land at one of these sites to participate in the ITQ program.

\* Preferred by some wreckfish shareholders who attended wreckfish shareholders meeting held March 2010.

**Option a)** Approved landing sites will be selected by fishermen but must be approved by NMFS Office of Law Enforcement (OLE) prior to use.

**Option b)** Approved landings sites will be selected by the Council and NMFS, based on industry recommendations and resource availability.

**1) Do you want to consider establishing approved landing sites?**

If no, remove the action.

If yes,

**2) Do you want to add or remove alternatives or options?**

**3) Do you want to modify the language in the alternatives or options?**

### **Staff Recommendations for Language**

(same language as the Golden Crab catch share amendment)

**Alternative 2.** Establish approved landing sites for the Wreckfish ITQ program. All ITQ participants must land at one of these sites to participate in the ITQ program.

**Sub-alternative 2a.** Approved landing sites will be selected by fishermen but must be approved by NMFS Office of Law Enforcement (OLE) in consultation with the appropriate state law enforcement agency prior to use.

\*this is the Preferred Sub-Alternative for Golden Crab

**Sub-alternative 2b.** Approved landings sites will be selected by the Council and NMFS in consultation with the appropriate state law enforcement agency, based on industry recommendations and resource availability.

## **Action 8. Annual Pounds Overage**

**Alternative 1.** No action. Do not allow fishermen under the current or redesigned Wreckfish ITQ to exceed their annual pounds.

\* Preferred by wreckfish shareholders who attended wreckfish shareholders meeting held March 2010 (unanimous).

**Alternative 2.** A person on board a vessel with the shareholder's only remaining wreckfish allocation may exceed, by up to 5 percent, the shareholder's annual pounds remaining on the last fishing trip of the year.

**Alternative 3.** A person on board a vessel with the shareholder's only remaining wreckfish allocation may exceed, by up to 10 percent, the shareholder's annual pounds remaining on the last fishing trip of the year.

### **1) Do you want to consider an annual pounds overage?**

If no, remove the action.

Note:

- The Golden Crab catch share amendment includes an action to allow an annual pounds overage of 10% or 20%, with a payback in the subsequent fishing year. No Preferred selected at this time.
- The Gulf Red Snapper IFQ program allows an annual pounds overage of up to 10%, with a payback in the subsequent fishing year.

If yes,

### **2) Do you want to add or remove alternatives?**

### **3) Do you want to modify the language in the alternatives?**

## **Staff Recommendations for Language**

(same language as the Golden Crab catch share amendment)

**Alternative 1.** No action. Do not allow fishermen to exceed their allotted annual pounds.

**Alternative 2.** A person on board a vessel with the shareholder's only remaining wreckfish annual pounds may exceed, by up to 5%, the shareholder's annual pounds remaining on the last fishing trip of the year. Shareholders who incur an overage will be required to pay back the annual pounds in the subsequent fishing year.

**Alternative 3.** A person on board a vessel with the shareholder's only remaining wreckfish annual pounds may exceed, by up to 10%, the shareholder's annual pounds remaining on the last fishing trip of the year. Shareholders who incur an overage will be required to pay back the annual pounds in the subsequent fishing year.

## **Action 9. Collection of Royalties from Resource Use**

**Alternative 1.** No action. Do not collect royalties from shareholders for use of the wreckfish fishery.

\* Preferred by wreckfish shareholders who attended wreckfish shareholders meeting held March 2010 (unanimous).

**Alternative 2.** Hold an annual auction of portions of the TAC to fishermen with a federal commercial snapper grouper permit. Place funds collected through the auction into an account where the funds help pay for wreckfish fishery management.

**Alternative 3.** Redefine wreckfish shares so that they expire every 5 years with a start date upon implementation of this amendment. The Council will determine if the share owner is re-issued the shares for another 5 years after the time has expired. An auction will be used to determine the next owner. Auction participants must own a federal commercial snapper grouper permit. Place funds collected through the auction into an account where the funds help pay for wreckfish fishery management.

**Alternative 4.** Redefine wreckfish shares so that they expire every 5 years with a start date upon implementation of this amendment. The Council will determine if the share owner is re-issued the shares for another 10 years after the time has expired. An auction will be used to determine the next owner. Auction participants must own a federal commercial snapper grouper permit. Place funds collected through the auction into an account where the funds help pay for wreckfish fishery management.

**Alternative 5.** Assess a tax on shareholders equal to an estimation of “super profits” (profits that exceed “normal profit”) made in the fishery.

### **1) Do you want to consider collection of royalties?**

If no, remove the action.

Note: The action to collect royalties in the Golden Crab catch share amendment was removed.

If yes,

### **2) Do you want to add or remove alternatives?**

### **3) Do you want to modify the language in the alternatives?**

## **Staff Recommendations for Language**

**Alternative 2.** Hold an annual auction of portions of the commercial wreckfish ACL to fishermen with a federal commercial snapper grouper permit. Place funds collected through the auction into an account where the funds help pay for wreckfish fishery management.

## **Action 10. New Entrants Program**

**Alternative 1.** No action. Do not create provisions that assist new entrants in entering the fishery. There is no such provision in the current Wreckfish ITQ program.

\* Preferred by wreckfish shareholders who attended wreckfish shareholders meeting held March 2010 (unanimous).

**Alternative 2.** Set aside 2% of the wreckfish TAC each year to be auctioned off to snapper grouper commercial permit holders that do not possess wreckfish shares.

**Alternative 3.** Set aside 5% of the wreckfish TAC each year to be auctioned off to snapper grouper commercial permit holders that do not possess wreckfish shares.

**Alternative 4.** Set aside 10% of the wreckfish TAC each year to be auctioned off to snapper grouper commercial permit holders that do not possess wreckfish shares.

### **1) Do you want to consider establishing a new entrants program?**

If no, remove the action.

If yes,

### **2) Do you want to add or remove alternatives?**

### **3) Do you want to modify the language in the alternatives?**

Note: the Golden Crab catch share amendment includes an alternative in a similar action that would set aside annual pounds for new entrants when quota is (i) released as part of a violation, (ii) lost quota (use it or lose it provision); and (iii) when the ACL exceeds 3 million lbs, and alternatives identical to the above alternatives.

## **Staff Recommendations for Language**

**Alternative 1.** No action. Do not create provisions that assist new entrants in entering the fishery.

**Alternative 2.** Set aside 2% of the wreckfish commercial ACL each year to be auctioned off to snapper grouper commercial permit holders that do not possess wreckfish shares.

**Alternative 3.** Set aside 5% of the wreckfish commercial ACL each year to be auctioned off to snapper grouper commercial permit holders that do not possess wreckfish shares.

**Alternative 4.** Set aside 10% of the wreckfish commercial ACL each year to be auctioned off to snapper grouper commercial permit holders that do not possess wreckfish shares.

## **Action 11. Incidental Catch Provisions**

**Alternative 1.** No action. Do not establish incidental catch provisions for wreckfish landings for commercial snapper grouper permit holders that do not possess annual pounds. Under the current wreckfish ITQ, no one may possess wreckfish without wreckfish shares, coupons, a commercial wreckfish permit, and a commercial snapper grouper permit.

\* Preferred by wreckfish shareholders who attended wreckfish shareholders meeting held March 2010 (unanimous).

**Alternative 2.** Establish an incidental catch allowance of 50 pounds of wreckfish per trip for commercial snapper grouper permit holders who do not possess annual pounds.

**Alternative 3.** Establish an incidental catch allowance of 100 pounds of wreckfish per trip for commercial snapper grouper permit holders who do not possess annual pounds.

### **1) Do you want to consider incidental catch provisions?**

If no, remove the action.

If yes,

### **2) Do you want to add or remove alternatives?**

### **3) Do you want to modify the language in the alternatives?**

## **Staff Recommendations for Language**

**Alternative 1.** No action. Do not establish incidental catch provisions for wreckfish landings for commercial snapper grouper permit holders that do not possess annual pounds. ~~Under the current wreckfish ITQ, no one may possess wreckfish without wreckfish shares, coupons, a commercial wreckfish permit, and a commercial snapper grouper permit.~~ Currently (through the Comprehensive ACL Amendment) commercial snapper grouper permit holders that do not possess annual pounds will be subject to the recreational bag limit of one wreckfish per vessel per day during the recreational season of July-August. Possession of wreckfish over the recreational bag limit in July-August and any wreckfish the commercial wreckfish season (April 16-January 14) requires a commercial snapper grouper permit, a wreckfish permit, wreckfish shares and wreckfish annual pounds.

## **Action 12. VMS Requirement**

**Alternative 1.** No action. Do not require commercial wreckfish vessels to be equipped with VMS.

\* Preferred by wreckfish shareholders who attended wreckfish shareholders meeting held March 2010 (unanimous).

**Alternative 2.** Require all fishing vessels engaged in harvesting wreckfish under the ITQ program to be equipped with VMS. The purchase, installation, and maintenance of VMS equipment must conform to the protocol established by NMFS in the Federal Register.

**Sub-alternative a)** the purchase, installation, and maintenance of the VMS equipment and communications costs will be paid for or arranged by the owner of the ITQ shares.

**Sub-alternative b)** the purchase, installation, and maintenance of the VMS equipment and communications costs will be paid for or arranged by NMFS.

**Sub-alternative c)** the purchase, installation, and maintenance of the VMS equipment and communications costs will be paid for jointly by the owner of the ITQ shares and NMFS.

**Sub-alternative d)** the purchase, installation, and maintenance of the VMS equipment will be paid for by NMFS. Communications costs will be paid for or arranged by the owner of the ITQ shares.

### **1) Do you want to consider a VMS requirement?**

If no, remove the action.

The Golden Crab catch share amendment includes an identical action, but there is no Preferred Sub-alternative selected at this time.

If yes,

### **2) Do you want to add or remove alternatives or options?**

### **3) Do you want to modify the language in the alternatives or options?**

## **Staff Suggestion for Additional Action**

### **Action 13: Modify accounting process for the Wreckfish ITQ program.**

**Alternative 1.** No Action. Do not modify the current process.

**Alternative 2.** Require Wreckfish ITQ share and allocation debits and transfers to be tracked using an electronic accounting/reconciliation process developed by NMFS.

Note: NMFS plans to incorporate wreckfish and golden crab into the online system upon approval and implementation of Amendment 20B.

This can also be included as a general discussion in Amendment 20B instead of an action.

Here is an example, the language from Gulf Amendment 26 (Red Snapper IFQ):

IFQ share certificate and allocation debits and transfers would be tracked using an electronic accounting/reconciliation process developed by NMFS, in which the IFQ share certificate holder, dealer, NMFS, and NMFS General Counsel for Enforcement and Litigation (GCEL) would participate. The IFQ share certificate holder and dealer accounts would record IFQ share transactions. The NMFS accounts would monitor IFQ share transactions, as well as quota shares suspended prior to issuance and other legal actions taken against IFQ share certificate holders in which IFQ is garnished by GCEL. Only pursuant to sanctions or rule violations would IFQ share certificates or portions thereof revert to the management program. Any IFQ shares permanently revoked would be eliminated enabling the TAC to be reallocated among the eligible participants.

The following data and information would be collected and monitored through the electronic accounting/reconciliation process:

- When an IFQ share certificate holder has sold red snapper, and the IFQ share certificate holder's ID number.
- Sale price of red snapper or IFQ share certificates.
- The weight of the catch.
- To whom the catch was sold and their dealer/permit number.
- Whether initial recipients hold enough IFQ share certificates to complete the sales transaction.
- Reconciliations of IFQ share certificate holder and the IFQ dealer transactions, which would be confirmed and authorized using NMFS approval codes.