

# Wreckfish ITQ Review

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## **1.0 Introduction and Background**

This review is intended to evaluate progress made in meeting the goals of the Wreckfish Individual Transferable Quota (ITQ) program. The review does not attempt to comprehensively evaluate management of the snapper-grouper fishery. The South Atlantic Fishery Management Council (South Atlantic Council) is required by law to review the ITQ program every five to seven years. This will be the first official review of this program. This review provides a historical overview of the commercial wreckfish sector before and after ITQ implementation, discusses social, economic, and biological trends as they relate to ITQ management, and offers conclusions and recommended changes to the program based on this review. Data and information contained in this report were obtained from a variety of sources, including, but not limited to peer-reviewed literature, the Southeast Fisheries Science Center (SEFSC) coastal logbook program, SEFSC accumulated landings system, and National Institute of Occupational Safety and Health. This report constitutes the findings of the South Atlantic Council and their comprehensive review of the ITQ program.

### **1.1 Legal requirements for the review**

The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) specifies limited access privilege (LAP) programs are not permanent and may be revoked, limited, or modified at any time. If a program is meeting its stated objective then it will likely be continued, but the South Atlantic Council reserves the right to revoke the privilege for cause. The review provision specified by the Magnuson-Stevens Act requires the South Atlantic Council to evaluate the effectiveness of the system and discuss whether it should be modified, extended, or terminated. With regard to review of the program, the Magnuson-Stevens Act 303A(c)(1) specifically states:

*“(G) include provisions for the regular monitoring and review by the Council and the Secretary of the operations of the program, including determining progress in meeting the goals of the program and this Act, and any necessary modification of the program to meet these goals, with a formal and detailed review 5 years after the implementation of the program and thereafter to coincide with scheduled Council review of the relevant fishery management plan (but not less frequently than once every 7 years);”*

The date a program was established is the effective date of the action in the final rule that implemented the program. The initial review should be initiated no later than 5 years after the program was implemented. The Magnuson-Stevens Act does not preclude an earlier review, but it is not recommended. The Councils and National Marine Fisheries Service (NMFS) should be mindful that it takes time for program participants and related entities (e.g., dealers/first receivers, processors,

bait/tackle shops, etc.) to adjust to a new program. In turn, there will be a lag between when those behavioral adjustments occur and when they can be discerned, analyzed, and understood. The Councils and NMFS should also follow any timelines for additional program reviews specified by the Fishery Management Plan (FMP) or FMP amendment (hereinafter collectively referred to as “FMP”) that created or modified the Catch Share Program (CSP). All subsequent reviews should coincide with scheduled Council review of the relevant FMP, but no less frequently than once every 7 years. The review will be considered a Council document and once the review is completed, the results would be submitted to the Council for approval and NMFS for concurrence that the review meets the requirements of the Magnuson-Stevens Act and is consistent with this guidance.

The initial review will compare and analyze the fishery before and after the program’s implementation, to the extent necessary data prior to the program’s implementation are available. Best available scientific information should be used for the review. If quantitative analyses are not available, qualitative assessments may suffice. A review of a CSP is a retrospective evaluation of an established program. Thus, rather than analyzing the program’s expected effects, the task in a review is to describe and analyze the effects that have actually taken place since the “baseline” time period prior to the CSP’s implementation, or since the program’s implementation (i.e., an ex-post analysis). Therefore, Councils need to consider an appropriate baseline for comparison. A baseline period of at least 3 years is preferable, but this may be modified depending on circumstances surrounding the creation and implementation of each program. Additional data collection programs have been implemented in conjunction with most, if not all, CSPs, so the initial 5-year review may be somewhat limited by a lack of data for the time prior to when the CSP was established. Even if pre-program data are somewhat limited, the review should describe and analyze any changes that have taken place since the program’s implementation, with a general focus on performance trends over that time rather than performance in a specific year.

The review should contain an assessment of the program’s effects on net benefits to the Nation, keeping in mind that net benefits are not exclusively economic in nature. In general, the review should use as holistic an approach as possible given available data and resources. Interdependencies between related fisheries can generate spillover effects that may be unexpected or unintended. When this occurs and it is difficult to separate impacts from the CSP under review from impacts of other management measures, programs should be considered together. Councils should determine if analyzing the CSP alone will likely mischaracterize the program’s performance, and the effects on human communities, fish stocks, and the ecological communities/environment. In instances where two or more CSPs are found to have significant interdependencies, joint program reviews would lead to a more holistic approach and thus more accurate analysis, as well as reduce administrative costs associated with the conduct of these reviews. However, if the CSPs were established in different years, a joint initial review may not be feasible, particularly if they were established more than 5 years apart. Thus, joint reviews may be more likely for subsequent rather than initial reviews.

## **1.2 Pre-ITQ management**

## **1.3 ITQ program description**

### 1.3.1 IFQ Goals and Objectives

According to Section 303A(c)(1)(G) of the MSA, a primary goal of the review is to assess progress in meeting the goals of the program and the MSA and the CS Policy indicates it is necessary to examine objectives as well, including those of the FMP. Thus, the goals and objectives in this case include those identified in the implementing Amendment, the FMP, the CS Policy, and the MSA, particularly those specific to LAPPs, though the primary focus should be on those identified in the implementing Amendment. The goals and objectives of the Amendment and FMP should be evaluated with respect to whether they are clear, measurable (at least qualitatively<sup>1)</sup> achievable (i.e., are two or more objectives mutually exclusive?), and still appropriate under the current circumstances. Fishery performance changes over time, and for other reasons than the effects of the program or other management measures. Such changes should be taken into account when evaluating the efficacy of the original goals and objectives. If certain goals and objectives are found not to be clear, measurable, achievable, and/or still appropriate, the review should note deficiencies for the Council to address. Thus, one specific purpose of the reviews is to encourage Councils and NMFS to clearly identify specific performance standards that can be used in assessing whether, or to what extent, the goals and objectives have been met.

If the program is performing as expected at the time of implementation, then the various goals and objectives either should have been achieved or substantial progress should have been made towards achieving them. If the analysis concludes otherwise, such conclusions may serve as the basis for future changes to the program.

In addition to the specific goals of the ITQ program, there are goals and objectives as related to the Magnuson-Stevens Act. The goals of Magnuson-Stevens Act as they relate to LAP programs, include but are not limited to:

- preventing overfishing,
- basing conservation and management measures on the best available science,
- establishing conservation and management measures that consider efficiency in utilization of resources, except that no such measure shall have economic allocation as its sole purpose,
- establishing conservation and management measures that, where practicable, minimize costs and avoid unnecessary duplication,
- establishing conservation and management measures that take into account variations among, and contingencies in fisheries, fishery resources, and catches,
- accounting for the importance of fishery resources to fishing communities by utilizing economic and social data to maintain sustained participation of such communities and to the extent practicable, minimize adverse economic impacts on such communities,
- minimizing bycatch and bycatch mortality to the extent practicable,
- promoting safety at sea,
- ensuring initial allocations are fairly and equitably distributed, and
- ensuring that limited access privilege holders do not acquire an excessive share of the limited access privilege program.

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<sup>1</sup> For example, qualitative objectives that provide a direction of the desired change may be used when quantitative objectives that provide explicit details on the magnitude of the change are not possible.

Given that the programs have been in place for several years, the Council should use this review to evaluate 1) whether the original goals of the program have been met or if further progress is needed toward achieving the goals, and 2) should new goals be added to address changes in the fishery that have come about as a result of the IFQ programs. For the goals, this review should help the Council to determine whether the goals have been achieved or further progress is necessary.

This review allows an opportunity for further clarification of goals and objectives. For example, a Council may have indicated that a goal of the program is to reduce overcapacity. Such a goal tells the review team the direction of the desired change in overcapacity, but not the magnitude of the desired change. For example, a goal is reduce overcapacity, and the Council may determine from the results of this review to define a desired capacity in the program or the reef fish fishery as a whole. If the Council actually meant to indicate that its goal was to eliminate overcapacity, then the goal needs to be clarified. If it has a particular target level of reduction in mind, or alternatively a particular level of harvesting capacity, then that level should be stated explicitly.

## **2.0 Data Collection and Reporting within the ITQ Program**

### **2.1 Overview**

According to Section 303A(c)(1)(H) of the MSA, each LAPP must include “an effective system for enforcement, monitoring, and management of the program, including the use of observers or electronic monitoring systems.” This review should highlight any important data gaps or deficiencies, including gaps in the ability to validate collected data and any cost estimates for filling any gaps or deficiencies as some data improvements may be cost prohibitive given current resources and other factors. This review should document the reporting burden on participants, evaluate if current data collection programs are redundant, and identify any potential means to reduce reporting burden.

## **3.0 Community and Environment**

### **3.1 Biological**

### **3.2 Economical**

### **3.3 Social**

## **4.0 Eligibility and Participation in the ITQ Program**

### **4.1 Overview**

Section 303A(c)(1)(D) of the MSA indicates that eligibility requirements must be established for LAPPs. Eligibility requirements determine who is allowed to hold shares or allocation (e.g., owner on board provisions, etc.). The section will determine if any restrictions on eligibility are inhibiting or precluding the achievement of the program's goals and objectives or if any additional restrictions are necessary to achieve particular objectives.

## **5.0 Allocations, Transferability, and Caps within the ITQ Program**

### **5.1 Overview**

The MSA requires initial allocations to be fair and equitable under all LAPPs. Section 303A(c)(7) of the MSA requires a Council to establish a policy and criteria for the transferability of limited access privileges (shares and allocation). Transferability is generally thought to improve technical efficiency and thus aid in achieving economic efficiency in a fishery (i.e., National Standard 5 goal). Restrictions on transferability may serve to meet other objectives, such as equity (i.e., National Standard 4 goal), providing for the sustained participation of and minimizing adverse economic effects on fishing communities (i.e., National Standard 8 goal), or reducing adverse effects on particular types of habitat. Section 303A(c)(5)(D) of the MSA requires Councils and NMFS to establish limits or caps to prevent the excessive accumulation of harvesting privileges. The accumulation of excessive shares is thought to potentially create market power in the product market, input markets (e.g., gear, bait, labor, etc.), and/or the markets for shares and allocation. Market power creates economic inefficiency, and excessive shares should be avoided for equity/distributional reasons. One of the anticipated effects of limits and caps is to limit the degree of consolidation within the fleet. Consolidation would typically be expected to result in a reduction in capacity and overcapacity, which is a goal of most CSPs. Since allocation, transferability, and caps are explicitly linked together and changes in one may have potential changes in the others, they are reviewed together in this section. This section will review:

- allocations between individuals or entities within the program and the allocations between subgroups within the program
- if the equity/distributional impacts of existing caps and the impacts those caps have had on the creation of market power by affected entities
- whether existing transferability provisions are conducive to achieving the specified objectives, keeping in mind that trade-offs often exist between objectives.

## **6.0 Price Analyses**

## **7.0 Catch and Sustainability**

### **7.1 Overview**

MSA section 303(a)(15) requires that FMPs must establish mechanisms for specifying annual catch limits (ACLs) at a level such that overfishing does not occur in the fishery, including measures to ensure accountability. This section will review if the ITQ has helped to keep harvests/landings within the applicable limits, if the program is encouraging full utilization of the quota, and describe and analyze changes in the status of stocks within the ITQ. The section will also review if changes in bycatch and discard mortality, consistent with National Standard 9.

## **8.0 Safety at Sea**

## **9.0 New Entrant in the ITQ Program**

### **9.1 Discussion**

The issue of new entrants is one that cuts across multiple program design features, including but not necessarily limited to allocations, transferability, duration, and auctions. Consistent with Section 303A(g) of the MSA, there should be considerations of loan programs to help new entities. This section will review the costs for new entrants, existing or potential loan programs, and potential means to aid new entrants.

## **10.0 Monitoring and Enforcement in the ITQ Program**

### **10.1 Overview**

According to Section 303A(c)(1)(H) of the MSA, each LAPP must include “an effective system for enforcement, monitoring, and management of the program, including the use of observers or electronic monitoring systems.” Wide-spread non-compliance can adversely affect the ability of other CSP attributes to achieve their desired goals and objectives. This section assesses whether the current enforcement provisions and activities, including resources for conducting the latter, are sufficient to ensure a high rate of compliance with program requirements.

## **11.0 Administration and Cost Recovery in the ITQ Program**

### **11.1 Overview**

According to Section 303A(c)(1)(H) of the MSA, each LAPP must include “an effective system for enforcement, monitoring, and management of the program, including the use of observers or electronic monitoring systems.” This section will review if the total administrative costs are being minimized to the extent practicable, which is consistent with National Standard 7. It is likely there will be trade-offs in the various types of administrative costs.

## **12.0 Privilege Duration and Subsequent Distribution in the ITQ Program**

### **12.1 Overview**

Shares are not issued in perpetuity. According to Section 303A(f) of the MSA, their lifespan is limited to 10 years if the program was established after January 12, 2007, though they will be renewed if not revoked, limited, or modified.<sup>2</sup>

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<sup>2</sup> For example, see the rules to revoke inactive QS in the wreckfish ITQ program (<https://www.federalregister.gov/articles/2012/09/26/2012-23731/fisheries-of-the-caribbean-gulf-of-mexico-and-south->

## **13.0 Conclusions**

### **13.1 Progress Towards Goals and Objectives**

#### **13.1 Suggested Modifications to the ITQ Program**

### **13.3 Future Research Needs**

## **Appendix 1 Overview of review data sources**