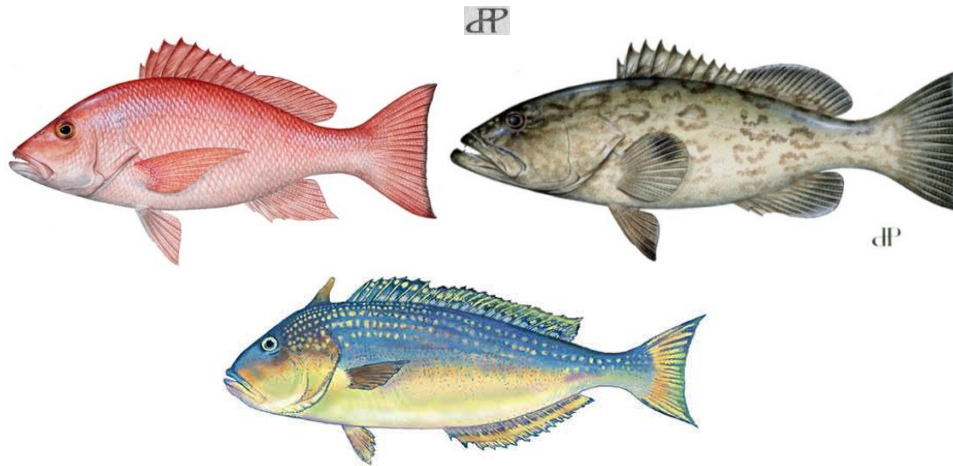


# **Modifications to Commercial Individual Fishing Quota Programs**



## **Draft Amendment 36B to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico**

**August 2019**



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## ABBREVIATIONS USED IN THIS DOCUMENT

ACL	annual catch limit
ACT	annual catch target
Council	Gulf of Mexico Fishery Management Council
DWG	deep-water grouper
GG	gag (grouper)
GT-IFQ	grouper-tilefish individual fishing quota (program)
Gulf	Gulf of Mexico
gw	gutted weight
IFQ	individual fishing quota
NMFS	National Marine Fisheries Service
NPFMC	North Pacific Fishery Management Council
PP	public participant
RG	red grouper
RS-IFQ	red snapper individual fishing quota (program)
SERO	Southeast Regional Office
SWG	shallow-water grouper
TF	tilefish
ww	whole weight

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# CHAPTER 1. INTRODUCTION

## 1.1 Background

There are two commercial individual fishing quota (IFQ) programs in the Gulf of Mexico (Gulf). The red snapper IFQ (RS-IFQ) program began on January 1, 2007 (GMFMC 2006), and the grouper-tilefish IFQ (GT-IFQ) program began on January 1, 2010 (GMFMC 2008). The programs were implemented to reduce overcapacity in the commercial harvest of red snapper, grouper, and tilefish, and to the extent possible, the problems associated with derby fishing conditions.<sup>1</sup> As mandated by the Magnuson-Stevens Fishery Conservation and Management Act, the Gulf of Mexico Fishery Management Council (Council) and the National Marine Fisheries Service (NMFS) collaboratively conducted a 5-year review of the RS-IFQ program (GMFMC and NMFS 2013), which was formally approved at the April 2013 Council meeting, and a 5-year review of the GT-IFQ program (GMFMC and NMFS 2018), which was formally approved at the April 2018 meeting.<sup>2</sup> The next review has begun and will assess both the RS-IFQ and GT-IFQ programs together.

The 5-year reviews concluded that each IFQ program has had moderate success in reducing overcapacity. The 5-year reviews also concluded that the programs have been successful in providing fishermen with the opportunity to harvest and land red snapper, grouper, and tilefish year-round, provided they can obtain the necessary allocation (GMFMC and NMFS 2013, 2018). Further, safety-at-sea has increased and annual fatalities related to fishing have declined. Therefore, the Council indicated that because derby fishing has been eliminated through the IFQ programs, this could be removed as a program goal.

Following approval of the RS-IFQ Program 5-year Review, the Council initiated an amendment (Amendment 36A) to consider modifications to improve the performance of the IFQ programs. The Council took final action on Amendment 36A at its April 2017 meeting (GMFMC 2017). Amendment 36A expanded the hail-in requirement to all commercial reef fish vessels landing any reef fish species, returned shares held in non-activated accounts to NMFS, and provided the Regional Administrator the authority to withhold IFQ allocation at the beginning of a year in which a quota reduction is to occur. Amendment 36B addresses additional modifications to the IFQ programs to reflect changes in the fishery since implementation of the IFQ programs.

The IFQ programs have fundamentally changed the way the commercial reef fish fishery is prosecuted, including fishing behavior and relationships among those involved in the fishery. This is especially true for red snapper, which have become more common in the eastern Gulf under the red snapper rebuilding plan. At times, this has led to tension between the goal of reducing overcapitalization and ensuring multi-species reef fish fishermen are able to obtain quota for IFQ-managed species, as fishermen must have sufficient allocation in order to land the respective IFQ-managed species. When reef fish permitted vessels without IFQ allocation encounter IFQ-managed species while fishing, they are required to discard those fish or obtain additional allocation. Further, the structure of the IFQ programs has allowed for the emergence

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<sup>1</sup> Appendix A provides the goals of the programs from the respective amendments implementing each IFQ program.

<sup>2</sup> The conclusions of the reports are provided in Appendix B.

of new participation roles such as brokers, who trade (buy and sell) allocation and shares, but may not land IFQ species.

To address some of the changes resulting from the IFQ programs, the Council intends to modify the program using quota set-asides to assist small participants and new entrants, and to reduce discards. In addition, the Council intends to increase access to shares to actively fishing eligible commercial fishermen. The GT-IFQ program 5-year review concluded that fostering access for new entrants would be consistent with the program objectives, as new entrants are often participants in the fishery, e.g., crew and hired captains who do not own shares but could buy allocation. The review suggested consideration of loan programs, share redistributions, and quota banks to provide access to quota (GMFMC and NMFS 2018).

The Council's intent is consistent with issues identified in IFQ programs outside of the Gulf. As the first generation of shareholders gives way to the second, it becomes increasingly difficult for the next generation of fishermen to obtain shares. This has been documented in other IFQ-type programs (Copes 1997; GAO 2004; Carothers et al. 2010; Szymkowiak and Himes-Cornell 2015). Reasons for this include shareholders gifting shares to non-fishing descendants as inheritance, shares regarded as marital assets and awarded to non-fishing spouses during a divorce, and an increase in the cost of entry due to consolidation of IFQ ownership (McCay 2008). Additional studies have shown that it is difficult for small-scale operators to remain in the fishery due to the concentration of quota among fewer entities who have access to capital to further expand their shareholdings (Copes and Charles 2004; McCay et al. 1995; Stewart and Walshe 2008). Quota leasing, the practice where a quota holder sells their allocation to fishermen who actually catch the fish, has resulted in decreased profits for those who catch the fish (Pinkerton and Edwards 2009). These negative impacts are generally focused on the economically weaker and less powerful participants in the fishery such as captains and crew (Copes 1997; Olson 2011; Griffith 2018). Finally, IFQs in multi-species fisheries can result in bycatch problems because a fisherman's quota holdings may not line up with his landings (Squires et al. 1998).

Concerning the issue of shares and allocation being accessible to those who actively fish, the North Pacific Fishery Management Council (NPFMC) included active participation measures in designing the Alaska Halibut and Sablefish IFQ program. The NPFMC was concerned that a class of absentee shareholders would emerge in the fishery. The active participation measures aimed at maintaining the existing owner-operated vessels, transitioning away from corporate-held quota shares, and limiting the use of hired skippers by the initial recipients of quota shares. However, these measures did not achieve their intended goals. Szymkowiak and Himes-Cornell (2015) concluded that this was because existing participants "will exploit loopholes if sufficient economic incentives existed to do so." Participants were not violating IFQ program rules, but acting rationally within the new management structure. Given that the Gulf IFQ programs have been in place for several years, participants have become accustomed to the new regulatory regime and will seek ways to maintain their individual behavior within the new social context (Nyerges 1997). Thus, program modifications requiring participants to change their behavior may result in unintended consequences, as participants rationally seek continuity in their behavior and social position; that is, to continue their practice (Nyerges 1997).

## 1.2 Purpose and Need

The purpose of this action is to assist small participants and new entrants to the IFQ programs; to reduce discards, and to increase access to shares to actively fishing eligible commercial fishermen.

The need is to modify the IFQ programs to reflect changes in the fishery since implementation of the programs; to address social and economic issues that have affected fishing communities and participation in the fisheries; to prevent overfishing; to achieve, on a continuing basis, the optimum yield from federally managed fish stocks; and to rebuild the red snapper stock.

## 1.3 Overview and Structure of the IFQ Programs

The RS-IFQ and GT-IFQ programs are both managed using a common online system. This means changes affecting this system for one program are likely to affect the other program as well. Both IFQ programs use shares and allocation to distribute and monitor fishing quotas. Shares for each species or species group (share category) represent a percentage of the commercial quota for that share category, such that 100% of shares represent the total commercial quota for a given IFQ managed species or share category. These shares are durable; that is, they may remain with the shareholder year after year unless transferred to another shareholder account or are revoked, limited, or modified by NMFS. Allocation refers to the pounds of quota represented by the shares (percent of quota) held by a shareholder and is distributed to shareholder accounts by the first of each year or during the year if an in-season quota increase occurs. Allocation may only be used in the year for which it was distributed; remaining annual allocation is removed from all accounts at the end of the year.

Shares and allocation can be transferred among IFQ program participants. The transfer of shares changes ownership of those shares and the transfer of allocation is a one-time transaction for the right to catch the quantity of pounds sold, often referred to as “leasing.” NMFS does not define leasing; when allocation is moved between accounts, it is called an allocation transfer. Leasing is a term used by fishermen, the public, and academics to refer to the broader transaction between IFQ program participants: both transferring allocation through the online IFQ system and the private financial transaction in which the entity receiving the allocation pays a price per pound of transferred allocation (Pinkerton and Edwards 2009). Appendix C contains a glossary of terms used in the IFQ programs.



**Example: [shares] x [quota] = pounds of allocation**

**Shares** = percentage of the total quota.

**Allocation** = pounds of the total quota represented by the shares.

Year 1

A shareholder has 3% of shares.

Quota is 1.0 mp.

The shareholder receives 30,000 lbs of allocation at beginning of year 1.

Year 2

The next year, the shareholder still has 3% of shares.

Quota increases to 1.5 mp.

The shareholder receives 45,000 lbs of allocation at beginning of year 2.

Year 3

During year 2, the shareholder sells 1% of shares (he now has 2% of shares).

Quota increases to 2.0 mp.

The shareholder receives 40,000 lbs of allocation at beginning of year 3.

Although the RS-IFQ and GT-IFQ programs were established through separate amendments and IFQ shares were initially distributed independently for each program, both programs use the same web-based monitoring and reporting system. Therefore, the same IFQ accounts are used to participate in both programs (i.e., a fisherman has one IFQ account that can be used for both the RS-IFQ and GT-IFQ programs). For example, in 2016, of the 749 accounts that held shares, 278 (37%) held both RS and GT-IFQ shares (J. Stephen, Southeast Regional Office, pers. comm.), and since implementation of the GT-IFQ program on January 1, 2010, a majority of vessels that land red snapper also land grouper-tilefish species, and vice versa (Table 1.3.1). In addition, both programs follow the same regulations for landing notifications (hail-ins), offloading, cost-recovery fees, and account status determinations (e.g., active or inactive). Thus, the actions in this amendment address both IFQ programs.

**Table 1.3.1.** Overlap between vessels landing red snapper and grouper-tilefish.

Year	# Vessels landing GT	% Vessels landing GT also landing RS	# Vessels landing RS	% Vessels landing RS also landing GT
2010	452	78%	384	91%
2011	440	75%	362	91%
2012	449	77%	371	94%
2013	414	81%	368	91%
2014	434	83%	401	90%
2015	446	85%	415	91%
2016	441	87%	430	89%

Source: Tables 8 and 10 for grouper-tilefish vessels (NMFS 2017b); Table 6 for red snapper vessels (NMFS 2017a).

While the RS-IFQ program includes a single stock, 13 reef fish species are currently managed under the GT-IFQ program under five share categories. Gag and red grouper represent their own share categories, and the remaining species are managed as multi-species share categories (Table 1.3.2). The deep-water grouper (DWG) share category includes four species; the shallow-water grouper (SWG) category includes four species; and the tilefish (TF) category includes three species. Additional flexibility is provided to allow some species to be landed under the allocation of another share category. A proportion of gag (GG) and red grouper (RG) allocation may be designated annually as multi-use and converted to gag multi-use and red grouper multi-use allocation. The multi-use allocation is determined based on a formula utilizing the commercial quota, annual catch limits, and the status of the stock. If either stock is under a rebuilding plan, the percentage of the other species multi-use allocation will equal zero. Red grouper multi-use allocation can be used to harvest gag once all gag and gag multi-use allocation in an account has been harvested or transferred out of the vessel and associated shareholder account, and vice versa. Scamp are designated as a SWG species, but may be landed using DWG allocation after all SWG allocation in an account has been harvested or transferred out of the vessel and associated shareholder account. Similarly, warsaw grouper and speckled hind are designated as DWG, but may be landed using SWG allocation after all DWG allocation in an account has been harvested or transferred out of the vessel and associated shareholder account. For all multi-use or flexibility measures, the system determines the allocation category automatically. In each of the three multi-species share categories, one species comprised the majority of the landings in 2015: yellowedge grouper represented 77% of the DWG category; scamp represented 76% of the SWG category; and tilefish (golden) represented 90% of the TF category (NMFS 2016).

**Table 1.3.2.** Share categories for species managed in the GT-IFQ program.

Multi-species share category	Share category Abbreviation	Species Included
Deep-water grouper	DWG	Snowy grouper Speckled hind Warsaw grouper Yellowedge grouper
	GG	Gag
	RG	Red grouper
Shallow-water grouper	SWG	Black grouper Scamp Yellowfin grouper Yellowmouth grouper
Tilefish	TF	Blueline tilefish Tilefish (golden) Goldface tilefish

## **IFQ Program Accounts**

The Southeast Regional Office (SERO) online IFQ system houses both the RS-IFQ and GT-IFQ programs. Participants log into one shareholder account that accesses both programs, and the same account can hold shares and allocation from both programs. Participants in each program are determined annually through the account activity in each program: holding shares, holding allocation, or landing species.

There are three main account types in the SERO IFQ system: shareholder, vessel, and dealer accounts. Shareholder accounts may hold shares and allocation or just hold allocation. Vessel accounts must be associated with shareholder accounts and may hold allocation; they do not hold shares. A vessel account must be linked to a commercial reef fish permit. Because a reef fish permit is required to harvest IFQ species, the IFQ system will deactivate any vessel account without an associated reef fish permit. Dealer accounts are associated with federal dealer permit holders. Allocation must be transferred from a shareholder account to a vessel account, prior to a dealer completing a landing transaction through a dealer account.

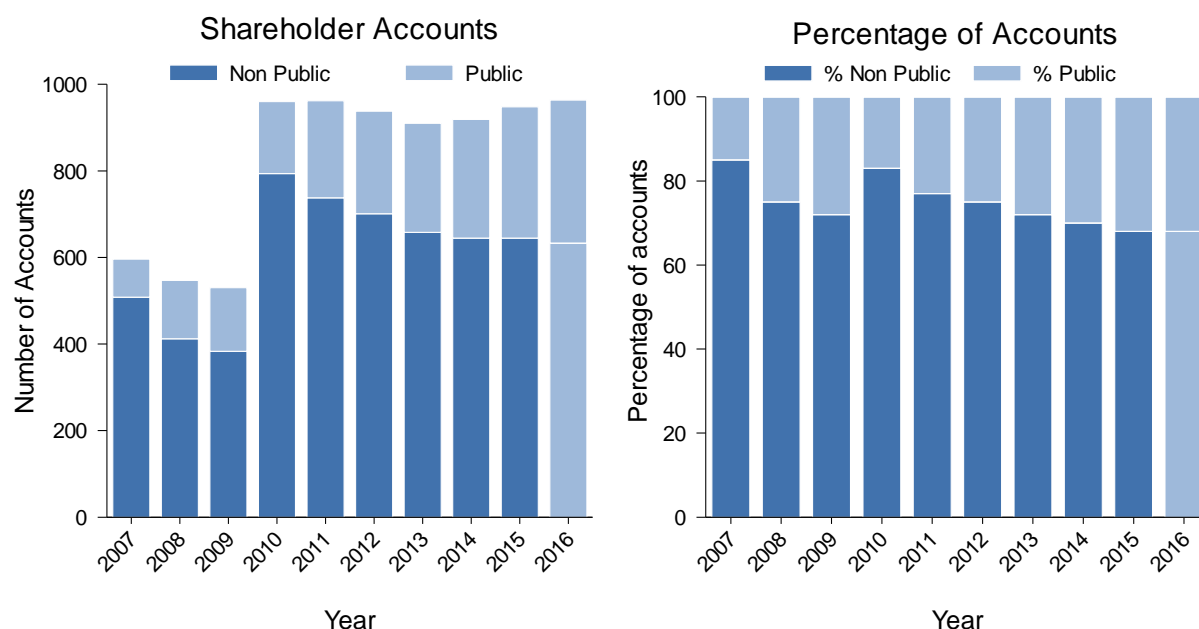
Each shareholder account is composed of a unique set of entities and no two accounts are composed of the same set of entities. A unique entity may be a single person or business, or a combination of people and/or businesses. For any business that is part of a shareholder account, NMFS collects the ownership information for that business and the percentage of the business owned by each individual. If a business is owned in part or in total by another business, NMFS collects the ownership information of all parent companies. Owners/shareholders of a business and the percentage held by such an individual may change over time. Any time a change (e.g., ownership, percentage owned, address) is made in ownership within a business, the business must inform NMFS. NMFS tracks owners/shareholders of businesses throughout time using start and end dates for each change submitted to NMFS. This information is critical to ensuring that no one individual exceeds the share cap for any one share category.

## **Public Participant (PP) Accounts**

For the first 5 years of each program, only those entities that possessed a valid or renewable Gulf commercial reef fish permit were eligible to receive shares and allocation. During those first 5 years, shareholder accounts that no longer had a valid Gulf commercial reef fish permit could maintain or decrease their shares or allocation, but could not obtain additional shares or allocation, nor harvest IFQ species. As of January 1, 2012, for the RS-IFQ program, and January 1, 2015, for the GT-IFQ program, any U.S. citizen or permanent resident is eligible to participate in the respective program as a shareholder.

For the purpose of this document, entities that do not have an associated Gulf commercial reef fish permit while holding IFQ shares or allocation are termed public participants (PP). Thus, all shareholder accounts without a reef fish permit are called PP accounts. These PP accounts may include accounts that were once associated with a Gulf commercial reef fish permit (e.g., initial recipients of shares). As explained above, a shareholder account may hold RS-IFQ shares, GT-IFQ shares, or both types of shares.

PP accounts can be divided into two categories: those that participated in the program prior to the first 5 years (i.e., accounts that previously held Gulf commercial reef fish permits) and those that were created after the first 5 years. Since PP accounts are determined by the permit association and permits can be obtained at any point during the year, the number of PP accounts may fluctuate throughout a year. For the purpose of this amendment, PP accounts are determined by the permit status throughout the year. If an account was associated with a permit at all during the year, it was not considered a PP account for that year. Figure 1.3.1 compares the number and percentage of all shareholder accounts that were associated with a permit (non-public) and those not associated with a permit (PP).



**Figure 1.3.1.** Public (PP, no permit) and non-public (permit) IFQ shareholder accounts. The figure on the left provides the number of accounts, while the figure on the right provides the percentage of all accounts.

## Related Accounts

An entity may be associated with more than one IFQ shareholder account. IFQ shareholder accounts with at least one entity in common are called related accounts. While no two IFQ accounts have the same set of entities, one entity may be associated with multiple IFQ accounts. For example, John Smith may hold an account, and John Smith and Jane Smith may hold another account. These accounts are considered related as John Smith is involved in both accounts. Similarly, if John Smith is an owner of John Smith, Inc., that account is also related to the John Smith account and the John Smith and Jane Smith account. Likewise, an account may be held by John Smith, Inc. and another account is held by Smith LLC. Both John Smith, Inc. and Smith LLC may have one or all owners in common, and therefore are related accounts. Just as the owners or shareholders of businesses may change, relations between accounts may also change over time. For example John Smith may have held shares in ABC, Inc. in 2010, but not in 2014. This would mean that the ABC, Inc. account was related to the John Smith account in 2010, but not in 2014.

## CHAPTER 2. ACTIONS AND ALTERNATIVES

### 2.1. Program Participation Requirements

#### 2.1.1 Action 1.1 – Permit Requirements

**Alternative 1:** No Action. Do not establish requirements to obtain or maintain shares.

**Alternative 2:** In order to obtain (transfer into a shareholder account) or maintain shares (hold existing shares in a shareholder account), all shareholders must possess a valid or renewable commercial reef fish permit.

**Alternative 3:** In order to obtain (transfer into a shareholder account), or maintain shares (hold existing shares in a shareholder account), all shareholders who entered the individual fishing quota (IFQ) programs after January 1, 2015, must possess a valid or renewable commercial reef fish permit.

**Alternative 4:** In order to obtain (transfer into a shareholder account), or maintain shares (hold existing shares in a shareholder account), shareholders who enter the IFQ program following implementation of this amendment must possess a valid or renewable commercial reef fish permit.

#### **Discussion:**

The red snapper individual fishing quota (RS-IFQ) program began in 2007, and the grouper-tilefish IFQ (GT-IFQ) program began in 2010. Any information from 2007-2009 is related solely to the RS-IFQ program, while information after that point in time includes both programs. For the first 5 years of each program, only those entities that possessed a valid or renewable Gulf of Mexico (Gulf) commercial reef fish permit were eligible to receive shares and allocation. During those first 5 years, shareholder accounts that no longer had a valid Gulf commercial reef fish permit could maintain or decrease their shares or allocation, but could not obtain additional shares or allocation, nor harvest IFQ species. As of January 1, 2012, for the RS-IFQ program, and January 1, 2015, for the GT-IFQ program, any U.S. citizen or permanent resident is eligible to participate in the respective program as a shareholder.

The Gulf of Mexico Fishery Management Council (Council) discussed whether to allow public participation or to modify the provision and continue to require new shareholder accounts be associated with a valid or renewable commercial reef fish permit. Ultimately, the Council allowed each IFQ program to open to the public after 5 years, but at the request of the Council, the National Marine Fisheries Service (NMFS) published a control date in the Federal Register notifying RS-IFQ program participants that the requirements for participation may be modified in the future (76 FR 74038, November 30, 2011). A comparable control date was published in the Federal Register notifying GT-IFQ program participants that participation requirements may be modified in the future (79 FR 72566, December 8, 2014). Table 2.1.1.2 provides the number of accounts with and without a commercial reef fish permit and the amount of shares held in these accounts for the RS-IFQ and GT-IFQ programs, respectively.

**Table 2.1.1.2.** Number of accounts with shares and shareholdings by accounts with and without a commercial reef fish permit at the end of 2016 for each IFQ share category.

Share Category	# of Accounts		% of Shares	
	Permit	No Permit	Permit	No Permit
<b>RS</b>	247	127	70%	30%
<b>DWG</b>	262	97	85%	15%
<b>GG</b>	390	181	85%	15%
<b>RG</b>	360	170	79%	21%
<b>SWG</b>	390	187	85%	15%
<b>TF</b>	155	56	87%	13%

Source: Table 3 in NMFS 2017a and Table 6 in NMFS 2017b.

The Council has expressed interest in 1) reconsidering the requirement for shareholders to have a valid or renewable commercial reef fish permit; and 2) considering a restriction on the amount of shares that may be held by a shareholder without a valid commercial reef fish permit. The following alternatives are designed to limit program participation to individuals who are active participants in the harvesting of IFQ species. The measure of participation in the IFQ program for **Alternatives 2-5** is having a renewable commercial Gulf reef fish permit.

**Alternative 1** (No Action) would maintain the requirements to obtain or maintain shares. A shareholder account is an IFQ account that may hold shares and/or allocation, and includes accounts that only hold allocation. Shareholders would not be required to possess a valid or renewable commercial reef fish permit to open an IFQ shareholder account; to obtain, maintain, or transfer shares; or to transfer (including buying, selling, gifting, etc.) allocation to other shareholder or vessel accounts. A shareholder account with shares would be able to continue to hold those shares with or without a valid commercial reef fish or dealer permit. This would allow shares to be held by any U.S. citizen or permanent resident alien, regardless of whether they land IFQ species. These individuals' involvement in the program would remain limited to transferring shares and annual allocation.

**Alternative 2** would require a shareholder to participate in the IFQ program by holding a valid or renewable commercial reef fish permit in order to obtain or maintain shares. Participants in the current IFQ program would be required to either obtain a permit or divest their shares (see Action 1.2) once notified by NMFS that they are no longer considered a participant because they lack the proper permit.

**Alternative 3** is similar to **Alternative 2** except that IFQ shareholders who entered the IFQ programs within the first 5 years of the GT-IFQ program would be able to obtain and maintain IFQ shares regardless of whether they have a permit or not. This is because during the first 5 years of the program, they would have needed to have a valid or renewable commercial reef fish permit in order to own shares. This would protect historical participants still holding shares in the IFQ programs because those that initially had a permit but then sold it would be allowed to continue in the program. Participants without permits and who were not shareholders in the IFQ

program's initial 5 years, but who obtained red snapper or grouper-tilefish shares after January 1, 2015, would need to divest their shares per Action 1.2.

**Alternative 4** is the least restrictive alternative of **Alternatives 2-4** relative to program participation. Anyone maintaining shares obtained prior to the implementation of the final rule for this amendment would be allowed to obtain or maintain shares. Thus, this would include both public participants (see the discussion of Public Participant Accounts in Section 1.3) who obtained shares since both programs were opened to public participation. Shareholders who enter the IFQ program following implementation of the final rule for this amendment would need to have a valid or renewable commercial reef fish permit to obtain shares.



## 2.1.2 Action 1.2 – Share Divestment

Note: Action 1.2 is only valid if an alternative other than Alternative 1 is chosen in Action 1.1.

**Alternative 1:** No Action. If the Council requires some or all shareholders to possess a commercial reef fish permit in Action 1.1, there is no specified time by which shareholders must comply with the requirement.

**Alternative 2:** A shareholder with shares that does not have an account associated with a commercial reef fish permit must divest of shares as needed to meet the requirements set in Action 1.1 or the shares will be reclaimed by NMFS:

**Option 2a:** Within 1 year following the effective date of the final rule implementing this amendment.

**Option 2b:** Within 3 years following the effective date of the final rule implementing this amendment.

**Alternative 3:** After implementation of this amendment, if a shareholder sells their permit or does not renew the permit within one year of the expiration date (termination), they must divest of shares as needed to meet the requirements set in Action 1.1 or the shares will be reclaimed by NMFS:

**Option 3a:** Within 1 year following the sale or termination of the permit.

**Option 3b:** Within 3 years following the sale or termination of the permit.

### **Discussion:**

If a shareholder account does not meet the criteria under Action 1.1, Alternatives 2-5, the owner must divest of their shares. Owners of shareholder accounts would be required to divest their shares (Action 1.1, Alternatives 2-4) or a portion of their shares (Action 1.1, Alternative 5) once notified by NMFS that they no longer qualify to hold shares under the IFQ program. If the account holder did not divest their shares as required by NMFS, NMFS would revoke those shares and redistribute the shares proportionally to current shareholders based on shareholdings at the time of redistribution (see Action 2).

**Alternative 1** (No Action) would not have a divestment process and thus there is no specified time by which shareholders must comply with the proposed requirements put in place in Action 1.1. **Alternative 2** would put in place a divestment process where if the owner of a shareholder account did not have the appropriate permit or exceeded a share amount defined by Action 1.1, Alternatives 2-4 or Alternative 5, respectively, they could divest their shares. If they do not divest their shares within the time allotted in Options 2a-2d, NMFS would revoke the shares and redistribute them proportionally to participants in the IFQ program based on shareholdings at the time of redistribution. Likewise, **Alternative 3** would address participants who meet the requirement defined in Action 1.1 when this amendment would be implemented, but later get rid of the permit by selling it or allowing it to terminate.



Both **Alternative 2** and **3** have options for the amount of time a shareholder without a permit would have to divest of shares. The shortest time period a participant could divest themselves would be under **Option a** where shares would need to be divested within one year of the final rule implementing this amendment. The longest time period is **Option b** where a participant would have 3 years to divest themselves of their shares or excess shares following the effective date of the final rule implementing this amendment. The longer the time period a person has to divest their shares, the longer a participant has to plan on either divest themselves of shares or pursue obtaining a permit to comply with the IFQ program. A longer time frame would probably have the least effect on the shares market.

## 2.2 Action 2 – Distribution of Reclaimed Shares

**Alternative 1:** No Action. Do not distribute reclaimed shares, including the shares reclaimed through Amendment 36A or Action 1.1 of Amendment 36B.

**Alternative 2:** Equally distribute reclaimed shares held by NMFS among all accounts with shares of each share category to shareholders within one month of the effective date for the final rule implementing this amendment.

**Alternative 3:** Proportionally distribute reclaimed shares held by NMFS among accounts with shareholdings of each share category within one month of the effective date for the final rule implementing this amendment.

**Alternative 4:** Equally distribute reclaimed shares held by NMFS among accounts with shares that represent no more than 500 lbs of allocation, for each share category to shareholders within one month of the effective date for the final rule implementing this amendment.

**Alternative 5:** Establish a NMFS-administered quota bank with the reclaimed shares. NMFS will retain the shares and distribute the allocation associated with the shares each year.

### **Discussion:**

Action 2 addresses the shares held in non-activated accounts that were reclaimed by NMFS following implementation of Amendment 36A (GMFMC 2017) and shares that may be reclaimed through Action 1 of this amendment. Non-activated accounts were those that were never logged into since the creation of the current system in 2010. Currently, RS-IFQ and GT-IFQ shares from non-activated accounts are held by NMFS and have not been redistributed. The Council deferred the decision addressing what to do with the shares, moving the action to Amendment 36B for further consideration.

The RS-IFQ program 5-year review (GMFMC and NMFS 2013) noted that landed yield is close to, but below the commercial sector's quotas for red snapper, and the report recommended making available the shares held in accounts that had never been accessed. Since finalization of the report in 2013, the amount of shares held in non-activated accounts, which may hold grouper-tilefish shares as well, continued to decline and represented a relatively small amount of annual allocation for each of the share categories. The amount of shares continued to decline until implementation of Amendment 36A. Table 2.2.1 provides the amount of shares from the non-activated accounts by share category currently held by NMFS and the resulting pounds of allocation represented by the shares for the 2018 quotas.

**Table 2.2.1.** For each share category, the amount of shares revoked from non-activated accounts, the quota for 2018, and the resulting pounds (gutted weight) of allocation represented by the shares.

Share category	Reclaimed Shares	2018 Quota	2018 Allocation
<b>DWG</b>	0.028405%	1,024,000	291
<b>RG</b>	0.106974%	7,780,000	8,323
<b>GG</b>	0.182621%	939,000	1,715
<b>SWG</b>	0.451821%	525,000	2,372
<b>TF</b>	0.055081%	582,000	321
<b>RS</b>	0.078800%	6,312,613	4,974

Source: IFQ database accessed 7/31/2018.

Under **Alternative 1**, allocation from the reclaimed shares held by NMFS would remain unused, preventing the ability to achieve optimum yield. **Alternatives 2-4** would distribute the reclaimed shares to existing shareholders of each share category. **Alternative 2** would distribute the shares equally to all existing shareholders, while **Alternative 3** would distribute the shares proportionally to all existing shareholders based on shareholdings. **Alternative 4** would distribute the shares equally to existing shareholders with shares in a share category that provide 500 lbs of annual allocation or less. Under all three alternatives, the shares would be distributed within one month of the effective date for the final rule implementing this amendment is published. Until the action was moved to Amendment 36B, the Council's preferred alternative in Amendment 36A would have distributed the shares associated with each share category equally among all IFQ accounts that held shares in that share category (**Alternative 2**).

If one of **Alternatives 2-4** is selected, it is important to note that shares are limited to six decimal places and cannot be divided beyond that. Thus, if the distribution results in shares of less than 0.000001, it will not be possible to distribute them at this level. NMFS would also have to determine whether any account or entity (such as businesses with multiple owners) is at the share cap or would exceed the share cap by receiving distributed shares. Any entity (account, business, or person) that meets the respective share cap for a species or species group would not be eligible to receive redistributed shares. For any entity for whom the amount of redistributed shares would cause the entity to exceed the share cap, the entity would receive shares up to the share cap, with the remaining portion of shares distributed among others in an iterative process of calculating the redistribution such that no entity exceeds the share cap. The shares would only be distributed to entities that hold shares less than the respective share cap. Because an entity can belong to more than one account, this may result in multiple accounts that cannot receive the redistributed shares due to at least one of the shareholders exceeding the share cap.

Table 2.2.2 provides the number of IFQ accounts at the end of 2018 with shares for each share category, broken down by shareholding size, and the number of accounts with shares representing 500 lbs or less of annual allocation. Some entities have ownership interests in multiple IFQ accounts. If shares are distributed equally among all shareholder accounts for each share category (**Alternative 2**), those entities that have ownership interests in multiple accounts would receive a greater amount of the redistributed shares than would entities who hold all of their shares in a single account. For example, an entity with a single account in which a larger

amount of shares are held than the total amount of shares spread among another shareholder's multiple accounts would receive less shares than the shareholder with multiple accounts.

**Table 2.2.2.** Number of accounts with shares by share category and shareholding size (small, medium, and large), and number of accounts by share category with an amount of shares less than or equal to 500 lbs gutted weight, at the end of 2018.

Share Category	Small (<0.05%)	Medium (0.05%-1.4999%)	Large (≥1.5%)	Total # of Accounts	# of Accounts with shares ≤ 500 lbs
DWG	208	118	18	344	207
SWG	295	216	10	521	336
RG	303	190	12	505	178
GG	288	223	12	523	291
TF	134	52	19	205	139
RS	199	125	17	341	111

Source: SERO Catch Share Database.

**Alternative 3** would redistribute the reclaimed shares based on the amount of shares (proportion of the quota) held by each IFQ account. This method of distribution is similar to a quota increase, in that additional quota is distributed as annual allocation in proportion to the amount of shares held by shareholders. However, under **Alternative 3** shareholders would receive not just additional annual allocation (as also happens under a quota increase), but the durable shares, thereby increasing one's percent of shares. By distributing shares based on the proportion of existing shareholdings, this alternative would not provide a greater amount of shares to shareholders who have spread their holdings across multiple accounts, as would occur under an equal distribution among all accounts. Shareholders would receive additional shares in proportion to their existing shareholdings, regardless of the number of accounts created (i.e., shareholders with larger shareholdings would receive more shares than those with less shareholdings).

**Alternative 4** would distribute the reclaimed shares equally among those accounts that hold shares in each share category if the amount of shares represents not more than 500 lbs of annual allocation. The Council's intent through this alternative would be to provide shares to those with smaller shareholdings. However, similar to **Alternative 2**, those entities that have ownership interests in multiple accounts could receive a greater amount of the redistributed shares than would entities who hold all of their shares in a single account, if those accounts hold shares that represent less than 500 lbs of annual allocation. Further, an account that holds shares representing less than 500 lbs of allocation for one share category may hold a much larger amount of shares in a different share category.

The Council expressed its intent to set aside the quota from the non-activated shares for use in a quota bank for addressing commercial discards. **Alternative 5** would establish a quota bank and include the shares reclaimed from non-activated accounts for the purpose of distributing the allocation associated with the shares to eligible recipients. The shares would be held by NMFS, but the annual allocation associated with the shares would be distributed as specified in Action 3.

Also in Action 3, the Council would designate any additional allocation for distribution through the quota bank, identify the recipients who would be eligible for receiving allocation, and the methods for distribution, and is only applicable if **Alternative 5** is selected here.

Shareholders vary in the amount of shares each holds and how long they have held shares. Although some shareholders were initial recipients of shares, others have become shareholders after implementation of the program and obtained shares through purchase, inheritance, etc. Some shareholders use most or all of the annual allocation associated with their shares, while others transfer some or most of their allocation to other program participants (i.e., leasing). It is likely that establishing a quota set-aside or quota bank could affect groups of shareholders and allocation-only holders in unintended ways.

## 2.3 Action 3 – Quota bank

**Action 3** and sub-actions are only applicable if Alternative 5 of Action 2 is selected as preferred.

Should the Council pursue a quota redistribution or quota set-aside, several issues would need to be addressed. The Council would need to determine how much quota from which share categories would be set-aside (Actions 3.1), who would be the recipients of the allocation (Action 3.2), and how much and how allocation would be distributed to eligible recipients (Actions 3.3 and 3.4). Only allocation (not shares) would be distributed through the quota bank. Recipients could be small shareholders, new entrants replacing exiting fishermen, or some other group specified by the Council. For example, the Council added as a program objective to assist small participants and new entrants (i.e., replacement or next generation of fishermen), and to reduce discards.

### 2.3.1 Action 3.1 – Thresholds of allocation to add to quota bank

**Alternative 1:** No Action. Do not add allocation to the quota bank from any share category. The quota bank holds shares reclaimed through Amendment 36A or Action 1 of Amendment 36B.

**Alternative 2:** Each year on January 1, add to the quota bank the amount of allocation greater than the commercial quota at the time of the respective RS-IFQ or GT-IFQ program's final approval by the Council for the selected share category(s):

**Option 2a:** red snapper.

**Option 2b:** all grouper-tilefish share categories.

**Alternative 3:** Each year, add to the quota bank the amount of allocation greater than the largest commercial quota between 2007 and 2018 of the respective share category for the selected share category(s):

**Option 3a:** red snapper.

**Option 3b:** all grouper-tilefish share categories.

#### **Discussion:**

This sub-action is only applicable if a quota bank was established in Action 2. For the purpose of discussing this action, under **Alternative 1** the shares reclaimed from the non-activated accounts (Amendment 36A; GMFMC 2017) and any shares reclaimed through Action 1.2 (Amendment 36B) would be held by NMFS. Only the allocation associated with these shares would be distributed through the quota bank. Table 2.2.1 provides the amount of shares that were reclaimed from the non-activated accounts through Amendment 36A (GMFMC 2017). The amount of shares that would be reclaimed through Action 1.2 of this amendment is unknown at this time.

Only allocation (not shares) would be added and distributed through the quota bank. This action establishes the threshold of commercial quota that would be the maximum amount of allocation distributed among existing shareholders, with the remainder being added to the quota bank. In other words, when the quota is greater than the amount specified in the selected alternative, the amount of quota above the threshold will be added as allocation to the quota bank for distribution to eligible recipients in that year, and the allocation up to the threshold will be distributed to shareholders according to existing shareholdings on January 1. However, no redistribution or set-aside would apply if the quota drops below the threshold. For red snapper, the annual catch limit (ACL) is the quota, and for the grouper-tilefish share categories, the annual catch target (ACT) is the quota.

Commercial quotas for IFQ species have changed since implementation of each program (Table 2.3.1.1). While existing shareholders' amount of shares as a percentage may stay the same, setting aside allocation would result in existing shareholders receiving less allocation, because the shares are not applied to the entire commercial quota but to a reduced threshold of the quota.

**Table 2.3.1.1.** Commercial quotas (2007-2011) and ACLs (2012-2018) in pounds gutted weight since implementation of each IFQ program.

Year	RS	GG	RG	SWG	DWG	TF
2007	2,986,486					
2008	2,297,297					
2009	2,297,297					
2010	3,190,991	1,410,000	5,750,000	410,000	1,020,000	440,000
2011	3,300,901	430,000	5,230,000	410,000	1,020,000	440,000
2012	3,712,613	567,000	5,370,000	509,000	1,127,000	582,000
2013	5,054,054	708,000	5,530,000	518,000	1,118,000	582,000
2014	5,054,054	835,000	5,630,000	523,000	1,110,000	582,000
2015	6,570,270	939,000	5,720,000	525,000	1,101,000	582,000
2016	6,097,297	939,000	7,780,000	525,000	1,024,000	582,000
2017	6,312,613	939,000	7,780,000	525,000	1,024,000	582,000
2018	6,312,613	939,000	7,780,000	525,000	1,024,000	582,000

Under **Alternative 1**, annual allocation would continue to be distributed to shareholders by January 1 each year or at the time of an in-season quota increase. The allocation associated with the shares held by NMFS would remain unused. **Alternatives 2 and 3** provide different thresholds of quota above which allocation would be added to the quota bank for distribution to eligible recipients. **Alternative 2** would set aside allocation when the quota is greater than the commercial quota at the time of the Council's final approval of each IFQ program amendment: 2006 for red snapper and 2009 for the grouper-tilefish share categories. **Alternative 3** would set aside allocation when the quota is greater than the largest commercial quota for the respective share category between 2007 and 2018. Table 2.3.1.2 provides the quotas that would represent the thresholds under **Alternatives 2 and 3**.

**Table 2.3.1.2.** The quotas (pounds gutted weight) that would represent the threshold for adding allocation to the quota bank under **Alternatives 2 and 3.**

<b>Alternative</b>	<b>RS</b>	<b>GG</b>	<b>RG</b>	<b>SWG</b>	<b>DWG</b>	<b>TF</b>
<b>2</b>	4,650,000	1,320,000*	5,750,000*	410,000*	1,020,000	440,000
<b>3</b>	6,570,270	1,410,000	7,780,000	525,000	1,127,000	582,000

\*The total shallow-water grouper quota in 2009 (7.48 million pounds gutted weight [mp gw]) was an aggregate of the other shallow-water grouper species, red grouper, and gag. Within this aggregate, red grouper had a quota of 5.75 mp gw and gag had a quota of 1.32 mp gw. The remainder of the total shallow-water grouper quota (0.41 mp gw) is provided as the shallow-water grouper quota.

Options are provided for each alternative threshold to select the share category(s) from which allocation would be added to the quota bank. **Options a** would indicate that red snapper allocation would be added to the quota bank when the commercial quota is greater than the selected threshold, and **Options b** would add quota from all grouper-tilefish share categories when the commercial quota is greater than the selected threshold. Both **Options a** and **b** may be selected as preferred for either **Alternative 2** or **3**. The commercial quota up to the amount of the threshold would continue to be distributed as allocation based on shareholdings. The amount of quota above the threshold would be transferred as allocation to the quota bank.

## 2.3.2 Action 3.2 – Eligible recipients of allocation from the quota bank

At its October 2017 meeting, the Council added as a goal of the IFQ programs that quota set-asides, such as a quota bank, be used to address and assist small participants, new entrants, and to reduce discards. At its April 2018 meeting, the Council indicated its intent to use a NMFS-administered quota bank containing the shares from non-activated accounts to address commercial discards. Thus, the Council would need to define small participants, new entrants, and those who would qualify for the purpose of reducing discards, and specify the eligible recipients of the allocation held in the quota bank. The definitions and determinations as to the beneficiaries of the quota bank, including the decisions pertaining to how much quota should be diverted to the quota bank and how much quota each eligible recipient should receive, should be supported by the objectives of the IFQ programs.

After defining the universe of eligible recipients, additional questions would need to be addressed which may require one or more actions. These questions include:

- How much quota would be provided to each type of recipient (i.e., small participants and new entrants versus eligible recipients to reduce discards)?
- How would the quota be distributed (e.g., lottery, auction, etc.)?
- For how many years would recipients be eligible?

Currently, there is no definition of “small participant” or “new entrant” in the commercial IFQ programs, and it is likely that the characteristics of each would overlap. The Council would also need to define who would be eligible to receive quota for the purpose of reducing discards. This section would enable the Council to evaluate the characteristics of and to define small participants and new entrants in the RS-IFQ and GT-IFQ programs, as well as those for whom



quota would be made available to address discards for the purpose of distributing allocation from the quota bank.

At its February 2011 meeting, the Council passed several motions pertaining to the establishment of a finance program for each of the commercial IFQ programs. The finance programs were intended for entry level fishermen and fishermen who fish from small vessels to obtain quota shares. For the purpose of the RS-IFQ and GT-IFQ finance programs, the Council used the following definitions:

- an ***entry level fisherman*** is defined as a federal commercial reef fish permit holder who has not purchased, previously held, or holds:

- GT-IFQ shares in excess of the percentage of shares that produces 8,000 lbs gutted weight of quota allocation; and,

- RS-IFQ shares in excess of the percentage of shares that produces 4,000 lbs gutted weight of quota allocation.

- ***fishermen who fish from small vessels*** are defined as federal commercial reef fish permit holders who fish from a vessel whose length as defined in the reef fish permit is less than or equal to 45 feet and who have not purchased, previously held, or holds:

- GT-IFQ shares in excess of the percentage of shares that produces 8,000 lbs gutted weight of GT quota allocation.

- RS-IFQ shares in excess of the percentage of shares that produces 4,000 lbs gutted weight of RS quota allocation.

The Council further indicated that participation in the finance programs should be limited to fishermen who hold quota shares representing no more than 12,000 lbs gutted weight combined in both the RS-IFQ and GT-IFQ programs. At the time, 30.8% of RS-IFQ program participants each owned shares equivalent to 100 lbs or less, 78% of the commercial red snapper fleet was prosecuted on vessels of 45 feet in length or less, and the 4,000-lb ownership limit could have allowed as much as 79.9% of RS-IFQ program participants to be eligible to apply for IFQ financing. For the GT-IFQ program, 44.4% of participants owned shares equivalent to 100 lbs or less, 80% of the commercial grouper-tilefish fleet was prosecuted on vessels of 45 feet in length or less, and the 8,000-lb ownership limit could have allowed as much as 84.2% of GT-IFQ program participants to be eligible to apply for IFQ financing. In establishing these definitions, the Council's intent was for the smallest participants in the IFQ programs to be the primary beneficiaries of the financing opportunities. The Council may find these definitions applicable to defining small participants for the purpose of redistributing shares or allocation from inactivated accounts. Since then, a federal fishery finance program has been approved. This program is open to all applicants within a catch share program and is not limited to new entrants or small participants.

Based on more recent Council discussion, the primary characteristics of a small participant in the IFQ programs is someone who is actively engaged in fishing, possesses a commercially permitted reef fish vessel, and makes landings of IFQ species. New entrants have been discussed as replacement fishermen for those exiting the fishery, and would likely share characteristics with small participants. Thus, the definitions of an entry level fisherman and a fisherman who fishes from a small vessel may not be sufficient for identifying small participants or new entrants

for the purpose of distributing allocation from the quota bank. Further, it would be necessary to identify those participants who satisfy the characteristics based on the way the IFQ system stores, organizes, and monitors information about IFQ program participants. The following list of potential characteristics of a “small participant” or “new entrant” are provided for further discussion. The characteristics are not mutually exclusive but rather, reflect multiple ways of evaluating and measuring participation in the commercial IFQ programs; multiple characteristics could be used to refine the list of qualifying persons.

### **Potential characteristics of a “Small Participant” or “New Entrant”**

Small participants or new entrants are shareholders who:

- Hold a small amount of shares (need to define quantity; consider across share categories)
- Have landed more pounds of IFQ allocation than the amount of allocation received at the beginning of the year from the shares held, in any or each of the past 2, 3, or 5 years.
- Are eligible to participate in the finance program as entry level fishermen.
- Are eligible to participate in the finance program as fishermen who fish from small vessels.
- Do not own shares in excess of a determined amount of shares for any share category.
- Across all share categories in both the RS and GT-IFQ programs, have greater than zero shares in at least one share category, but does not possess more than the percentage of shares that produces a determined amount of pounds gutted weight of quota allocation across all share categories.
  - In 2016, the total pounds of allocation for all six share categories equaled 14,887,297 lbs gutted weight. A small participant could be defined as owning less than an amount of shares across all share categories represented by a selected amount of pounds, such as 1,000 lbs, 2,500 lbs, or 5,000 lbs.
- Qualify as small participants for all share categories of the IFQ programs.

Small participants or new entrants are account holders without shares who:

- Obtain (“lease”) allocation and have made landings of any IFQ species during the last 2, 3, or 5 years.
  - A range for the amount of landings made could be evaluated as alternatives.

Potential characteristics that could apply to small participants or new entrants, whether or not shares are held:

- Possess a commercial reef fish permit on a vessel that is associated with the same shareholder account.
- Own and operate a single permitted vessel.
- Have a single IFQ shareholder account and are not associated with or related to another IFQ account shareholder or entity.
  - It would be important to specify whether small participants will be defined at the individual or business entity level; the Council may also wish to consider how the level of participation would be verified.
- Have made landings of at least one IFQ managed species within the last 2, 3, or 5 years on the vessel associated with the shareholder’s account.
- Have landed more pounds of IFQ allocation, or a determined proportion, than the amount of allocation transferred through the account in a given year.

It would be important to examine program participation across both IFQ programs and share categories, as an entity may qualify as a small participant in one IFQ program (or share category), but not the other. For example, an entity may qualify as a small participant in the RS-IFQ program, but hold a large amount of shares in the GT-IFQ program. To address this, share ownership could be evaluated in brackets for each share category's share cap, and a small participant could be defined as an entity that holds some percentage of shares of a share category's share cap (5%, 10%, etc.).

### **Potential characteristics of those who would receive quota to account for commercial discards**

The Council would also need to define those who would be eligible to receive allocation to account for commercial discards. Council discussion has identified this as a problem with red snapper discards in the eastern Gulf. Thus, vessels that make landings in the eastern Gulf would be expected to be eligible. However, given the number of vessels that make landings in the eastern Gulf, the Council would need to specify the conditions for which vessels could receive allocation, including the amount of allocation. The Council would also need to define the geographic area for targeting a reduction in discards. Other considerations may include whether vessels must both make landings and be homeported in the eastern Gulf, and whether to provide more allocation to longline vessels, which have higher dead discard rates than vertical line vessels. It should be noted that providing for discards in the eastern Gulf may increase discards in the western Gulf.

### **2.3.3 Action 3.3 – Amount of allocation available for eligible recipients**

Assuming that eligible recipients of the quota bank are defined in Action 3.2, the Council would need to determine how much allocation would be provided to each group of recipients (i.e., small participants and new entrants, and for addressing discards), and each individual recipient. It is assumed that small participants and new entrants would be eligible for allocation from all share categories, while allocation provided to reduce discards is assumed to be limited to red snapper only. These alternatives will be developed based on how eligible recipients are defined.

### **2.3.3 Action 3.4 – Distribution of allocation from the quota bank**

Next, the Council would need to determine the method for distributing the allocation to eligible recipients. Approaches to distributing allocation from the quota bank to eligible recipients may include:

- Distributing allocation for each share category equally among all eligible recipients.
- Weighting the distribution of allocation by some measure of fishing activity, such that those who can demonstrate more fishing activity would receive more quota.
- Applying an adaptive management redistribution method based on cyclical redistribution, which depends on fishing participation to distribute the annual allocation in the quota bank.
- Distributing the allocation by lottery.

## 2.4 Action 4 – Accuracy of estimated weights in advance landing notifications

**Alternative 1:** No Action. Do not change the current reporting requirement regarding estimated weight of IFQ species to be landed on the advance landing notification.

**Alternative 2:** When the estimated weight for a share category is lower than the actual landed weight of that share category, the difference between the estimated weight and the actual landed weight cannot be greater than 25% of the estimated weight. This requirement applies when the actual landed weight of that share category is equal to or greater than

**Option 2a:** 100 lbs.

**Option 2b:** 500 lbs.

**Option 2c:** 750 lbs.

**Alternative 3:** When the estimated weight for a share category is lower than the actual landed weight of that share category, the difference between the estimated weight and the actual landed weight cannot be greater than 50% of the estimated weight. This requirement applies when the actual landed weight of that share category is equal to or greater than

**Option 3a:** 100 lbs.

**Option 3b:** 500 lbs.

**Option 3c:** 750 lbs.

**Alternative 4:** When the estimated weight for a share category is lower than the actual landed weight of that share category, the difference between the estimated weight and the actual landed weight cannot be greater than 75% of the estimated weight. This requirement applies when the actual landed weight of that share category is equal to or greater than

**Option 4a:** 100 lbs.

**Option 4b:** 500 lbs.

**Option 4c:** 750 lbs.

**Alternative 5:** When the estimated weight for a share category is lower than the actual landed weight of that share category, the difference between the estimated weight and the actual landed weight cannot be greater than 100% of the estimated weight. This requirement applies when the actual landed weight of that share category is equal to or greater than

**Option 5a:** 100 lbs.

**Option 5b:** 500 lbs.

**Option 5c:** 750 lbs.

### **Discussion:**

Among other requirements, commercial vessels intending to land IFQ species must include an estimate of the weight of IFQ-managed reef fish that will be landed on the advance landing notification (**Alternative 1**); however, there is no guidance on how accurate that estimate has to be. The advance landing notification is provided to law enforcement, which makes random dockside inspections of landings. At its April 2018 meeting, the Council received a report from the Law Enforcement Technical Committee regarding landings of commercial red snapper

exceeding the estimated weight provided in the advance landing notifications. The Law Enforcement Technical Committee expressed concern that actual landed weights may not be accurately reported and deducted from the commercial quota when law enforcement are not present.<sup>3</sup> The Council is considering a requirement that the estimated weight of IFQ-managed species be within some range of the actual landed weight. The Council further refined its intent to require accuracy for estimates that are less than the actual landed weight, and not for estimates that are greater than actual landed weights.

**Alternatives 2-5** specify the percentage within which estimated weights must be accurate below the actual landed weight (25%, 50%, 75%, or 100%) for trips exceeding a given minimum actual weight (100 lbs, 500 lbs, and 750 lbs options). The options for a minimum actual landed weight are provided, because it could be difficult to estimate to within a certain percentage for a very low weight (e.g., within 10% could be a matter of a single fish). **Alternative 2** would require the estimated weight on advance landing notifications to be no more than 25% below the actual landed weight, **Alternative 3** would require the estimated weight to be no more than 50% below the actual landed weight, **Alternative 4** would require the estimated weight to be no more than 75% below the actual landed weight, and **Alternative 5** would require the estimated weight to be no more than 100% below the actual landed weight per share category. For example, if a vessel's actual landed weight of red grouper is 5,000 lbs, under **Alternative 3**, the estimated weight on the advance landing notification would need to be equal to or greater than 2,500 lbs. Under **Alternative 5**, the estimated weight would need to be equal to The options would require that the estimated weight be within the specified range of accuracy when the total landed weight of that share category is greater than 100 lbs (**Options a**), 500 lbs (**Options b**), and 750 lbs for (**Options c**). For example, under **Alternative 3 Option b**, a vessel with 300 lbs of tilefish and 1,000 lbs of red grouper would be required to estimate the weight of the red grouper within 50%

**Alternative 2** establishes a maximum threshold for the allowable divergence between estimated weights and actual landed weights when the estimated weight is less than the actual landed weight. As a percent of the estimated weight, the maximum allowable difference between the estimated weight for a share category and the actual landed weight for that share category cannot exceed 25% under **Alternative 2**. For example, if a vessel operator reports on an advance landing notification an estimated weight of 1,000 lbs of red grouper, the actual landed weight of red grouper could not exceed 1,250 lbs (25% of the 1,000 lbs estimated to be landed). **Alternative 2 Options 2a-2c** set minimum actual landed weights below which this requirement does not apply. **Options 2a, 2b, and 2c** set minimum actual landings at 100 lbs, 500 lbs, and 750 lbs, respectively.

**Alternatives 3-5** would establish different thresholds for the allowable divergence between estimated weights and actual landed weights. As a percent of the estimated weight, the maximum allowable difference between the estimated weight for a share category and the actual landed weight for that share category could not exceed 50%, 75%, and 100% under **Alternatives 3, 4, and 5**, respectively. **Alternatives 3-5 also** set minimum actual landed weights below which this requirement does not apply (**Options a-c**).

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<sup>3</sup> Law Enforcement Technical Committee meeting at the March 2018 Gulf States Marine Fisheries Commission meeting. Meeting summary can be found at: <http://gulfcouncil.org/wp-content/uploads/K-6-LETC-LEC-meeting-summary-Mar-2018.pdf>

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## APPENDIX A. GOALS OF THE IFQ PROGRAMS

### Red Snapper IFQ Program (Amendment 26; GMFMC 2006)

The purpose of the IFQ program proposed in this amendment is *to reduce overcapacity in the commercial fishery and to eliminate, to the extent possible, the problems associated with derby fishing*, in order to assist the Council in achieving OY. In a 1999 review of the effectiveness of IFQ programs worldwide, the National Research Council concluded such programs are valuable in addressing these two long-standing fishery problems (NRC 1999). Case studies describing the effects of existing IFQ programs are provided in Appendix G of that publication. The harvest privileges provided by IFQ programs are intended to give fishermen a long-term interest in the health and productivity of the fishery and, thus, an incentive to conserve it for the future. By eliminating the incentive to over invest in the fishery, these privileges eliminate the incentive to race for fish. IFQ programs are generally effective in controlling exploitation, reducing the incentive to fish during unsafe conditions, improving fishery profitability, and extending the availability of fresh fish products to consumers. In some cases, these programs also have been shown to increase product quality by improving fishing and handling methods by allowing fishermen greater flexibility in operations. The proposed IFQ program is intended to help the Council address overfishing by reducing the rate of discard mortality that normally increases with increased fishing effort in overcapitalized fisheries (NRC 1999; Leal et al. 2005). IFQs provide the opportunity to better utilize fishing and handling methods and reduce bycatch of non-targeted species. Improving catch efficiency may also result in a decrease in regulatory discards of red snapper and other reef fish species by allowing fishermen the choice on when and where to fish. Additionally, the slower paced fishery anticipated under the IFQ program will support fewer fishermen operating over a longer season.

### Grouper-Tilefish IFQ Program (Amendment 29; GMFMC 2008)

The purpose of this amendment is to rationalize effort and reduce overcapacity in the commercial grouper and tilefish fisheries in order to achieve and maintain optimum yield (OY) in these multi-species fisheries. Rationalization is defined as “a management plan that results in an allocation of labor and capital between fishing and other industries that maximizes the net value of production” (Fin 2003). Terry and Kirkley (2006) defined overcapacity as the difference between harvesting capacity and a management target catch, given the stock conditions associated with that target catch. Excess capacity is defined as the difference between harvest capacity and actual harvests.

Rationalizing effort should mitigate some of the problems resulting from derby fishing conditions or at least prevent the condition from becoming more severe. Reducing overcapitalization should improve profitability of commercial grouper fishermen. Collectively, working conditions including safety at sea should improve and bycatch in the tilefish and grouper fisheries should be reduced, and a flexible and effective integrated management approach for tilefish and the grouper complex and tilefish should follow. This amendment evaluates several management programs that could be capable either independently or in combination of accomplishing the objectives specified above.



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## APPENDIX B. CONCLUSIONS FROM THE RED SNAPPER AND GROUPER-TILEFISH 5-YEAR REVIEWS

The Red Snapper Individual Fishing Quota (IFQ) program 5-year review was completed by NMFS and Council staff (GMFMC and NMFS 2013). The conclusions from the review are provided below.

The original purpose and need defined in Amendment 26 (GMFMC 2006), reads as follows:

*The purpose of the IFQ program proposed in this amendment is to reduce overcapacity in the commercial fishery and to eliminate, to the extent possible, the problems associated with derby fishing, in order to assist the Council in achieving OY.*

National Standard 1 of the Magnuson-Stevens Act mandates conservation and management measures prevent overfishing and achieve OY from a fishery. OY is defined as the amount of fish that will provide the greatest overall benefit to the nation, particularly with respect to food production and recreational opportunities. OY must take into account the protection of marine ecosystems and is prescribed based on the maximum sustainable yield (MSY) from the fishery, as reduced by any relevant economic, social, or ecological factors. In practice, the commercial sector's share of the quota is equivalent to the sector's share of OY for the red snapper fishery. Commercial harvests that are equal or very close to the quota without exceeding it would be consistent with the prevention of overfishing and achievement of OY mandated by the Magnuson-Stevens Act.

The RS-IFQ program 5-year review (GMFMC and NMFS 2013) evaluated the progress of the program towards achieving its goals and objectives. The performance of the RS-IFQ program in achieving OY was assessed by measuring its ability to constrain harvest at or below the quota while allowing RS-IFQ participants to harvest as much red snapper as possible.

Recommendations from the review have been presented to the Council and incorporated into the potential changes included in this scoping document. As part of the process of considering program modifications, the Council may wish to evaluate modifications to continue progress towards the program's goals and objectives, to improve program performance, participant satisfaction, and to continue assisting the Council in achieving OY.

The conclusions of the RS-IFQ program 5-year review<sup>4</sup> are:

### *Participant Consolidation and Overcapacity*

Conclusion 1: The RS-IFQ program has had moderate success reducing overcapacity, however economic analyses indicate that additional reductions in fleet capacity are still necessary.

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<sup>4</sup> The full supporting summaries for each conclusion are provided in Appendix B. The entire Red Snapper IFQ Program 5-year review may be accessed at <http://www.gulfcouncil.org/docs/amendments/Red%20Snapper%205-year%20Review%20FINAL.pdf>

### *Achievement (or Harvesting) of Optimum Yield*

Conclusion 2: The RS-IFQ program has been successful in reducing quota overages, which is consistent with the achievement of OY. Landings have averaged greater than 95% of the commercial quota; however, many inactive accounts remain and account for as much as 1.5% of the commercial quota.

### *Mitigating the Race to Fish and Safety at Sea*

Conclusion 3: The RS-IFQ program was successful at mitigating the race to fish providing fishermen with the opportunity to harvest and land red snapper year-round. Inflation-adjusted share, allocation, and ex-vessel prices increased, indicating that fishermen were successfully maximizing profits and had increased confidence in the RS-IFQ program. Safety at sea has increased and annual mortalities related to fishing have declined since the RS-IFQ implementation. [According to Boen and Keithly (2012),] medium and large shareholders perceive that the RS-IFQ program has improved safety at sea.

### *Biological Outcomes*

Conclusion 4: The implementation of the RS-IFQ program coupled with revisions to the red snapper rebuilding plan and reductions in quota and the commercial size limit, have all contributed to lower commercial fishing mortality rates and reduced discards. The RS-IFQ system has also prevented commercial quota overruns, which were frequent prior to RS-IFQ implementation. Discards continue to be high in the eastern Gulf where a large percentage of legal-sized red snapper are discarded by fishermen due to a lack of allocation.

### *Social Impacts*

Conclusion 5: Large shareholders and western Gulf shareholders are generally more supportive of the RS-IFQ program than small to medium shareholders and those from the eastern Gulf. Entry and participation in the red snapper fishery is now more difficult and costly due to the increased costs of shares and allocation. Consolidation has resulted in less competition for harvest and higher revenues per trip. Crew sizes are smaller, but the ability to hire and keep stable crews has improved. The increase in the number of shareholders not landing any fish has led to perceptions that many are profiting from the program at the expense of hard-working fishermen.

### *Enforcement and Program Administration*

Conclusion 6: RS-IFQ participants are generally satisfied with the IFQ online system and customer service when contacting NMFS and the 24-hour call service for advance landing notifications. Vessel monitoring systems, notification requirements, and random dockside inspections aid enforcement in monitoring program compliance; however, a variety of enforcement violations have been identified. Compliance has improved since RS-IFQ program implementation but additional enforcement efforts may be necessary to deter violations. IFQ program expenses currently exceed the 3% cost recovery collected for program administration, research, and enforcement.

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The Grouper-Tilefish Individual Fishing Quota (IFQ) program 5-year review was completed by NMFS and Council staff (GMFMC and NMFS 2018). The conclusions from the review are provided below.

The original purpose and need defined in Amendment 29 (GMFMC 2008), reads as follows:

*The purpose of this amendment is to rationalize effort and reduce overcapacity in the commercial grouper and tilefish fisheries in order to achieve and maintain optimum yield (OY) in these multi-species fisheries.*

This section summarizes the main conclusions of this initial review of the grouper-tilefish individual fishing quota (GT-IFQ) program and discusses the progress made towards achieving the stated goals and objectives of the program. In addition, the section includes recommendations made by the Gulf of Mexico Fishery Management Council (Council), its scientific and statistical committees (Standing and Socioeconomic SSCs) and advisory panel (Ad Hoc Red Snapper and Grouper-Tilefish IFQ Advisory Panel).

### *Data Collection and Reporting*

- The collection of share and allocation prices has greatly improved since the addition of transfer reasons. However, gaps still exist in the data. Additional measures such as mandatory price reporting and further limiting the range of prices that can be entered may be needed.
- Different data collection programs, which are run for different purposes, have led to duplicative reporting and data discrepancies. Efforts are under way to reduce the data inconsistencies between the IFQ, coastal logbooks, and trip ticket data collection programs.

### *Participation and Operational Changes*

- Stochastic frontier analyses indicate that following the implementation of the GT-IFQ program, fishing capacity and overcapacity have declined. Capacity utilization has increased and the technical efficiency of the fleet has increased for remaining vessels.
- The GT-IFQ program, in conjunction with other regulations, especially the enactment of a bottom longline (BLL) endorsement, has resulted in consolidation and efficiency gains within the BLL and vertical line (VL) sectors, which have seen a reduction in active vessels by 48% and 33%, respectively. However, further consolidation is possible as fishing capacity remains large relative to the available quotas.

### *Share and Allocation Caps*

- Based on Gini coefficient estimates, the distributions of shares as well as landings by share category at the lowest known entity level have changed little if at all since the IFQ programs were implemented.
- Market power analyses concluded that market power does not exist in any of the markets for landings, shares, or annual allocation and that economies of scale are not being exhausted, i.e., average costs of production are not being minimized.
- Existing share and annual allocation caps are not constraining landings. Retaining the current share and annual allocation caps would still prevent participants from exercising market power and would not preclude businesses from achieving economies of scale under current market conditions. Additional flexibility from expanding the size of some of the smaller caps would not create additional risk of market power being exercised, and would provide even more flexibility for the type of consolidation that would improve cost efficiency.

### *Share, Allocation, and Ex-Vessel Prices*

- Analyses of share and allocation prices have been hindered by missing or erroneous (e.g., under-reported values such as \$0.01 per pound) data. The collection of accurate share and allocation prices continue to be a challenge.
- Although grouper ex-vessel prices increased during the review period, the introduction of the GT-IFQ program does not appear to have an appreciable effect on ex-vessel prices for Gulf groupers.
- The flexibility afforded by the GT-IFQ program has improved the profitability of fishing operations. Fishermen are able to reduce operating costs, thereby improving net revenues.

### *Catch and Sustainability*

- The GT-IFQ program has provided year-round fishing opportunities to participating commercial fishermen for all grouper and tilefish species included in the program.

- Gag (GGM) and red grouper (RGM) multi-use shares were not as effective as anticipated. As a result, the program could be streamlined by eliminating GGM and RGM shares and distributing red grouper and gag shares exclusively as red grouper and gag, respectively.
- Multi-use provisions for other shallow-water grouper (SWG) and DWG and overage provisions for all GT-IFQ categories should be maintained as they effectively contributed to reducing discards of GT-IFQ species.
- The GT-IFQ program has successfully met its objectives relative to discard reduction for red grouper. After the implementation of the GT-IFQ, red grouper discards and discard ratios significantly decreased across the Gulf of Mexico (Gulf) and for all gear types. However, due to a significant quota reduction, gag discards and discard ratios increased in 2011 but declined afterwards as the gag quota increased.

#### *Safety-at-Sea*

- The GT-IFQ program has successfully met its objectives relative to improving the safety-at sea of participating commercial fishermen.
- The GT-IFQ has allowed fishermen to select more favorable weather conditions to plan fishing trips and has resulted in significant decreases in the number of fatalities (Marvasti and Dakhliya 2017).
- Safety-at sea improvements were corroborated by which were corroborated by survey responses provided by captains and crewmembers

#### *New Entrants*

- Promoting new entrants may seem inconsistent with the program goal of reducing overcapacity. However, new entrants are often participants in the fishery, e.g., crew and hired captains who do not own shares but could buy allocation.
- Fostering access by new entrants would be consistent with the program objectives. Loan programs, share redistributions and quota banks could be considered.

#### *Monitoring and Enforcement*

- Seized annual allocation cannot be deducted from the shareholder's account before settlement of the case. Seizures may not be the strongest deterrent from violation of IFQ regulations because of the lengthy delay between the seizure and the adjudication of the citation.
- Updates to the Southeast Region summary settlement schedule to allow for greater penalties in relation to red snapper violations improved the enforcement of the red snapper (RS)-IFQ program. A similar approach could be considered for the GT-IPQ program.

### *Administration and Cost Recovery*

- During the review period, collected cost recovery fees have fully funded the GT-IFQ program (including enforcement activities and salaries and benefits of staff working on the program).
- Changes to the administration of the program, including the provision of outreach material, are enacted on an as needed basis. Several administrative changes have been implemented during the review period, e.g., improvements to the reporting of share and allocation transfer prices.

### *Program Duration*

- GT-IFQ shares are issued for 10 years, but they will be renewed if not rescinded, limited, or modified. Longer duration is more conducive to longer term planning and conservation.
- To promote the full utilization of the available quotas, the Council has revoked IFQ shares from non-activated accounts, i.e., accounts possessing shares but none of the shares or annual allocation associated with the shares has been landed or transferred to another account since 2010.

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## APPENDIX C. INDIVIDUAL FISHING QUOTA PROGRAM GLOSSARY

**Active Account** –An account in which the allocation holder has landed, bought, and/or sold (i.e., transferred) allocation within that year. Account activity status changes yearly based on the actions taken by the account holder.

**Advance Landing Notification** - A required 3-24 hour advanced landing notification stating the vessel identification, approved landing location, dealer's business name, time of arrival, and estimated pounds to be landed in each IFQ share category. Landing notifications can be submitted using either a vessel's VMS unit, through an IFQ entity's on-line account, or through the IFQ call service. The landing notification is intended to provide law enforcement officers the opportunity to be present at the point of landing so they can monitor and enforce IFQ requirements dockside. For the purpose of these regulations, the term landing means to arrive at the dock, berth, beach, seawall, or ramp.

**Allocation** – Allocation is the actual poundage of IFQ-managed species by which an account holder is ensured the opportunity to possess, land, sell, or transfer during a given calendar year. IFQ allocation is distributed to each IFQ shareholder at the beginning of each calendar year, and expires at the end of each calendar year. Annual IFQ allocation is determined by the amount of the shareholder's IFQ share and the amount of the annual commercial quota. Dealer accounts may not possess allocation.

**Allocation Transfer** – A transfer of allocation (pounds) from one shareholder account to another shareholder or vessel account. Allocation transfers are an immediate one-step process. As soon as the allocation holder completes the transfer, the allocation is in the recipient's account. This is different from the two-step share transfer process, and was created so that allocation could immediately be placed in a vessel account.

**Entity** – An individual, business, or association participating in the IFQ program. Each IFQ account is owned by a unique set of entities.

**Gulf of Mexico Commercial Reef Fish Permit Holder** – An entity that possesses a valid Gulf commercial reef fish permit and therefore, is eligible to be exempt from bag limits, to fish under a quota, or to sell Gulf reef fish in or from the Gulf exclusive economic zone. There is an annual fee associated with the permit.

**IFQ Dealer Endorsement** – The IFQ dealer endorsement is a document that a dealer must possess in order to receive Gulf IFQ species. The dealer endorsement can be downloaded free of charge from the IFQ dealer's online account.

**Inactive Account** – An account, in which the allocation holder has neither landed, bought, sold, nor transferred allocation within that year, including those who never logged into their account. Accounts activity status changes yearly based on the actions taken by the account holder.



**Initial Account** - An account which was never logged into by the account's owner(s) in the current online system, which began in 2010.

**Landing Transaction** – A report that is completed by an IFQ dealer using the online IFQ system. This report includes the date, time, and location of the transaction; weight and actual ex-vessel price of IFQ fish landed and sold; and information necessary to identify the fisherman, vessel, and dealer involved in the transaction. The fisherman landing IFQ species must validate the dealer transaction report by entering his unique vessel's personal identification number when the transaction report is submitted. After the dealer submits the report and the information has been verified, the website will send a transaction approval code to the dealer and the allocation holder.

**Participant** - An individual, business, or other entity that is part of an IFQ entity. For example, John Smith, the participant, may belong to multiple entities such as John Smith, John and Jane Smith, and ABC Company. Share and allocation caps are tracked at the IFQ participant level and not the IFQ entity level.

**Public Participant Account** – A shareholder account that was opened after January 1, 2012, for red snapper, or January 1, 2015, for grouper-tilefish, that does not have a permit associated with the account. Public participants may hold, buy, sell, and transfer shares and allocation, but cannot harvest IFQ species.

**Share** – A share is the percentage of a commercial quota assigned to a shareholder account that results in allocation (pounds) equivalent to the share percentage of the quota. Shares are permanent until subsequently transferred or revoked. Dealer accounts may not possess shares.

**Share Cap** – The maximum share allowed to be held by a person, business, or other entity. The share cap prevents one or more IFQ shareholders or entities from purchasing an excessive amount of IFQ shares and holding a monopoly in the IFQ program.

**Share Transfer** – Moving shares from one shareholder account to another shareholder account. A shareholder must initiate the share transfer and the receiver must accept the transfer by using the online IFQ system. Share transfers are a two-step process with the transferor initiating the transfer, but the completion does not occur until the transferee accepts the transfer. There may be a delay between initiation of the transfer and final acceptance of the transfer.

**Shareholder** – An entity that holds a percentage of commercial IFQ quota for any share category.

**Shareholder Account** – A type of IFQ account that may hold shares and/or allocation. This includes accounts that only hold allocation.

## APPENDIX D. ADVISORY PANEL MEETING SUMMARIES

This section includes the summary reports from advisory panel meetings that addressed modifications to the commercial individual fishing quota (IFQ) programs. The summaries from the following meetings are included:

- Ad Hoc Red Snapper IFQ Advisory Panel (November 5-6, 2013)
- Reef Fish Advisory Panel (October 4-5, 2016; only recommendations regarding commercial IFQ program modifications are included)
- Ad Hoc Red Snapper/Grouper-Tilefish IFQ Advisory Panel (April 10, 2018)
- Ad Hoc Red Snapper/Grouper-Tilefish IFQ Advisory Panel (November 7, 2018)

### **Red Snapper IFQ Advisory Panel Meeting Summary Gulf Council Office Tampa, FL November 5-6, 2013**

#### In attendance

Tom Adams  
Billy Archer  
Buddy Bradham  
Jason DeLaCruz  
Bob Gill  
John Graham  
Scott Hickman  
Chris Horton  
David Krebs  
Seth Macinko  
Jerry Rouyea  
Bob Spaeth  
Bill Tucker  
David Walker  
Mike Whitfield  
Troy Williamson  
Jim Zubrick

#### Council and Staff

Doug Boyd  
Assane Diagne  
Ava Lasseter  
Karen Hoak  
Carrie Simmons  
Steven Atran

#### Other attendees

Jim Clements  
Sue Gerhart  
Cathy Gill  
Buddy Guindon  
Stephen Holiman  
Peter Hood  
Mike Jepson  
Tony Lamberte  
Mara Levy  
Kristen McConnell  
Christina Package  
Jessica Stephen  
Melissa Thompson  
Donny Waters  
Wayne Werner

The meeting convened at 9 a.m. The AP appointed Bob Gill as Chair and Scott Hickman as Vice-chair. Assane Diagne reviewed the actions and preferred alternatives from Amendment 26, which established the Red Snapper IFQ program. Jessica Stephen summarized the IFQ program's 5-year review conclusions.

The AP then commented on the 5-year review. Overall, members felt that the program is working well and achieving its goals. The AP discussed whether the program goals should be

modified or refined, and whether it is desirable to further reduce overcapacity. It was noted that fewer vessels than the existing fleet can harvest the entire commercial quota, but maximizing economic efficiency is not the goal of the fishery. Other potential goals could address new entrants to replace retiring fishermen, and minimizing discards.

The AP also discussed the 3% recovery fee, with some members wanting IFQ program participants to pay more, and other members pointing out that 3% is the maximum allowable under the Magnuson-Stevens Act, and that the recovery fee was never intended to pay for the program.

Jessica Stephen reviewed the administrative changes NMFS is making to the IFQ programs and gave an overview of the IFQ program structure, to provide context and background information for members of the AP who are not familiar with the program. The AP then reviewed each of the actions from Reef Fish Amendment 26, which established the red snapper IFQ program.

The AP discussed the IFQ program duration and review requirements. Because red snapper is part of a multi-species fishery, members felt the red snapper IFQ program review should be aligned with other IFQ managed species, and passed the following motion:

**Motion: That consideration be given to the future consolidation of the red snapper and the grouper/tilefish IFQ program reviews.**

Addressing ownership caps, AP members who are IFQ program participants explained that the existing 6% cap reflected the landings of a fleet owner, not an individual fisherman. There was discussion about IFQ shareholders who sell allocation but no longer fish, and concern that putting controls on the market-based system would affect the functioning of the program.

Concerning the eligibility requirements for the transfer of IFQ shares, the AP discussed IFQ shareowners who do not possess a reef fish permit. Some members felt it was important to distinguish the IFQ program as a tool to support the commercial industry rather than being an investment tool. The AP passed the following motion.

**Motion: To restrict the future transfer of shares to only those individuals possessing a valid commercial reef fish permit.**

Mara Levy reviewed the legal issues and referendum requirements in the Magnuson-Stevens Act which pertain to IFQ programs. It would be necessary to define who would be included in any future referendum.

Following review of the amendment's actions, the AP discussed the conclusions from the red snapper IFQ program 5-year review. The AP noted that discards have decreased in some parts of the Gulf and increased in others. The AP expressed that a full retention fishery is ultimately the direction they need to go in the future, even though the transition has been painful in other regions and it may not be popular in the Gulf. The AP passed the following motion.

**Motion: To recommend that the Council consider a regulatory full retention red snapper fishery, with no size limits.**

The AP then discussed whether enforcement should be increased at landing sites, and whether the number of approved landing sites should be decreased. No additional recommendations to the 5-year review were made.

The AP reviewed the objectives of the IFQ program. Members discussed the objective to reduce overcapacity, and what vessel capacity the industry should aim for. There has been redirected effort toward other reef fish species, and most vessels target multiple species, not red snapper alone. The AP discussed capping the price at which allocation could be leased, but expressed concerns that shareowners would modify their behavior and use of allocation in ways unintended by the lease price cap. The AP discussed red snapper discards on vessels without sufficient allocation, and passed the following motion.

**Motion: That the Council consider alternatives to allow a fisherman that does not have sufficient allocation to cover bycatch, to acquire the needed allocation prior to taking their next trip.**

Next, the AP discussed shares held in accounts that have never been activated, alongside the issue of how to procure quota to provide for discards and new entrants to the fishery. The AP considered developing a type of quota set-aside, and expressed the need for the industry to further discuss these issues. The following motions resulted from the discussion.

**Motion: Allow redistribution of shares in accounts that have never been activated since 2010, if the accounts are not active by December 31, 2014.**

**Motion: That the Council establish a quota bank using the shares from the inactive accounts from the previous motion.**

**Motion: That the shares from the previous motion be utilized for new entrants, to address discards, and to reduce bycatch.**

**Motion: The Council should develop a new ad hoc Advisory Panel, primarily of commercial red snapper stakeholders, to develop a plan to address new entrants' participation and bycatch, using future red snapper quota increases.**

The AP then reviewed the presentation on administrative changes to the IFQ program. The issues raised here mainly concerned the timing and feasibility of landings and required notifications. Currently, a vessel is required to land within a declared 30 minute window, which some members of the AP felt is too short. Recognizing that modifying the landing time window affects how long enforcement officials must wait at the landing site, the AP passed the following motion.

**Motion: 1 hour window to land (e.g., if landing at 5 pm, could land any time between 5-6 pm).**

Another issue pertained to the required time limit for dealers to report landing transactions. Some members reported that the time requirement is too restrictive around holiday weekends. Jessica Stephen noted that even if the time period for the transaction was to be extended, fish may not be moved until the dealer submits the landing transaction. The AP then passed the following motion.

**Motion: Offloading and landing transaction must occur within 72 hours of landing, excluding holidays and Sundays.**

Finally, the issue of offloading after hours was discussed, and the AP passed the following motion.

**Motion: If offloading has begun prior to 6 pm, offloading may continue after 6pm if law enforcement authorizes offload after hours**

Other issues discussed included support for prohibiting deduction of ice and water weight when completing a landing transaction, and reviewing the number of approved landing locations. The AP then discussed other items outside of their charge.

The AP discussed the potential collection of a resource rent on the commercial red snapper quota but the motion recommending to the Council to consider imposing a resource rent failed. AP members indicated that rents were collected for oil and minerals and that the public should be compensated. It was also indicated that rent collections were not the norm in fisheries and that collections should not be limited to the commercial sector but include all users of the red snapper resource.

A member raised the issue of dual-permitted vessels having a crew size limit when fishing commercially, stating that the rule prohibits these vessels from taking family members fishing. Another member noted that eliminating the crew size restriction would give those with dual-permitted vessels with IFQ shares an unfair advantage. The AP passed the following motion.

**Motion: To eliminate the crew size limit for dual permitted vessels fishing under the commercial IFQ system.**

The AP then discussed putting additional reef fish species into IFQ programs, noting that effort had been redirected from those species now managed under IFQs, toward these other species. Members felt an IFQ program was important as an effort control for these species. The AP passed the following motion.

**Motion: That the Council consider reopening Amendment 33, adding in all applicable reef fish to the IFQ program.**

Finally, the AP discussed the concept of “dude fishing”, where passengers pay to experience commercial fishing. There was discussion as to whether this would be considered commercial or charter fishing, as well as safety issues. The AP passed the following motion.

**Motion: Request that the Council ask staff to develop a discussion paper on an option for commercial dude trips in the Gulf. A commercial dude trip is where a member of the recreational public goes out on a commercial fishing experience.**

The meeting adjourned shortly before noon.

**Reef Fish Advisory Panel Summary  
Gulf of Mexico Fishery Management Council  
Gulf Council Conference Room  
Tampa, Florida  
October 4-5, 2016**

**Reef Fish AP members present:**

Martin Fisher, Chair	Buddy Guindon	Mike Thierry
Patrick Bennett	Scott Hickman	Tom Turke*
Jason DeLaCruz	David Krebs	Ed Walker
F.J. Eicke	Jane Black-Lee	James (Mike) Whitfield
James Eliason	Mike Nugent	Jim Zurbrick

**Gulf Council Staff:**

Steven Atran  
John Froeschke  
Karen Hoak  
Morgan Kilgour  
Ava Lasseter  
Jessica Matos  
Ryan Rindone  
Camilla Shireman  
Carrie Simmons

**Council Member:**

Ed Swindell

**Public:**

Joe O’Hop  
Jay Lucas  
Ed Mancini  
Sharon McBreen  
G.P. Schmahl  
Bob Spaeth

\* AP member was absent the morning of the second day. Eight AP members could not attend out of 23 AP members.

**Reef Fish Amendment 36A Commercial IFQ Modifications**

Staff reviewed the actions and alternatives in the amendment. For Action 1, the AP discussed whether reef fish permitted vessels not carrying IFQ species should be required to hail-in. Some members noted that the hail-in should not be made any more complex than what is currently

required of vessels carrying IFQ species. AP members supported the requirement for all reef fish permitted vessels to hail-in. Based on the current preferred alternative in the Modifications to Charter Vessel and Headboat Reporting Requirements amendment, some members stated that the Council seems to be moving towards a mandatory hail-in requirement for for-hire vessels. Thus, this same rule should apply to commercial vessels, too.

**By a vote of 13 to 0 and 2 abstentions, the AP recommends in Action 1, that Alternative 3 be its preferred alternative.**

**Alternative 3:** The owner or operator of a commercial reef fish permitted vessel landing any commercially caught, federally managed species from the Gulf is responsible for ensuring that NMFS is contacted at least 3 hours, but no more than 24 hours, in advance of landing. If IFQ species are to be landed, all IFQ advance notice of landings regulations must be followed. If no IFQ species are to be landed, information required with the advance notice of landings will include date, time, location of landing, and vessel identification number (Coast Guard certificate of documentation or state registration number).

The AP discussed Action 2, which addresses the return of inactivated shares to NMFS (Action 2.1) and the proposed methods of redistributing the inactivated shares (Action 2.2). AP members supported the action to return the shares in inactivated accounts to NMFS, but noted that the red snapper program has been in place longer than the grouper-tilefish IFQ program. Thus, there was support for providing additional time for shareholders of inactivated accounts in the grouper-tilefish program to divest of their shares.

**By a vote of 12 to 0 and 3 abstentions, the AP recommends in Action 2.1, Alternative 2 Option 2a and Alternative 3, Option 3b as its preferred alternatives.**

**Alternative 2:** For shares in red snapper IFQ program accounts that have never been activated in the current system, return the shares to NMFS:

**Option 2a:** on the effective date of the final rule implementing this amendment.

**Alternative 3:** For shares in grouper-tilefish IFQ program accounts that have never been activated in the current system, return the shares to NMFS:

**Option 3b:** one year following the effective date of the final rule implementing this amendment.

For Action 2.2, the AP discussed the alternatives for redistributing the shares from the inactivated accounts. AP members noted that the amount of quota for each share category was relatively small, and support was expressed for the use of quota banks. Following a failed substitute motion to recommend redistributing the shares to the allocation-only account holders, the AP passed the following motion:

**By a vote of 9 to 4 and 2 abstentions, the AP recommends in Action 2.2, that Alternative 3 be its preferred alternative.**



**Alternative 3:** Redistribute the shares from each share category according to the proportion of shares held by shareholders of that share category at the time the shares are redistributed by NMFS.

Action 3 considers providing authority to NMFS to withhold IFQ annual allocation at the beginning of the year, should a quota reduction be expected to occur during that mid-year. One member noted he could support the reduction in quota mid-year if it was for biological reasons, but not for political reasons. Other AP members noted there are problems with managing quota changes mid-year, as the market is affected, especially if changes occur late in the year.

**By a vote of 13 to 0 and 2 abstentions, the AP recommends in Action 3, that Alternative 1 be its preferred alternative.**

**Alternative 1:** No Action. Distribute 100% of red snapper and grouper-tilefish annual allocation to IFQ shareholders on January 1 of each year.

Staff reviewed Action 4, which the Council requested to be added to the document at its August 2016 meeting. The action would require IFQ dealers to notify NMFS when a commercial vessel will begin offloading IFQ species. AP members discussed whether this is a regional or Gulf-wide law enforcement issue. Other members responded that it has been a problem among small, mobile operations, rather than at large fish houses. Some AP members were concerned that this would put an additional burden on dealers, including any potential violations from inaccurate or incomplete notifications. Some AP members felt the burden should be on the vessel operators rather than the dealers, but a motion to make this change to the action failed. Another member expressed concern that the details of the notification requirement remain largely unknown and the logistics would be defined by NMFS (e.g., ability to resubmit notification due to delay in offload and window of time for offloading). Additionally, this would be the first time dealers would have to worry about this aspect of enforcement.

**By a vote of 9 to 0 and 6 abstentions the AP recommends in Action 4, that the preferred alternative be Alternative 2.**

**Alternative 2:** Require IFQ dealers to notify NMFS when a vessel will offload IFQ species. The notification must be made at least 1 hour, and no more than 24 hours, before offloading begins.

**Ad Hoc Red Snapper/Grouper-Tilefish IFQ Advisory Panel  
Meeting Summary  
Tampa, FL  
April 10, 2018**

**Advisory Panel Members**

Jane Black-Lee  
William Copeland  
Jason DeLaCruz  
Jonathan “David” Floyd  
Keith “Buddy” Guindon  
Scott Hickman  
David Krebs  
Harris Pappas  
Dennis Parker  
Franklin Parker  
Nick Ruland  
Lisa Schmidt  
Jerri Smitko  
James “Brian” Swindle  
Theodore “Steve” Tomeny  
David Walker  
Wayne Werner  
Jim Zurbrick

**Council, Council Staff and NMFS Staff**

John Sanchez  
Leann Bosarge  
Ava Lasseter  
Karen Hoak  
Assane Diagne  
Jessica Stephen  
Mike Travis  
Matt Freeman

**Others**

Ryan Bradley  
Eric Brazer  
Allisha DiLeone  
Bob Gill  
Brad Gorst  
Mike Jepson  
Wallace Lee  
Christina Package-Ward  
Elizabeth Silleck

The Ad Hoc Red Snapper/Grouper-Tilefish IFQ Advisory Panel (AP) was convened April 10, 2018 in Tampa, Florida to provide recommendations to the Gulf of Mexico Fishery Management Council (Council) on the commercial IFQ programs. David Krebs was elected Chair and David Walker was elected Vice-Chair.

**Grouper-Tilefish IFQ Program 5-year Review**

Staff gave a presentation on the Grouper-Tilefish IFQ Program 5-year Review and summarized the supporting surveys with program participants, dealers, and captains and crew. The AP discussed discards and noted that some concerns are specific to the Red Snapper IFQ program and may not be applicable to the Grouper-Tilefish IFQ program. AP members expressed concern with the red grouper quota increases, noting that there is a problem with the stock as the fleet is not catching the quota. In that case, the AP noted that further reducing fishing capacity for red grouper may not be desirable. The AP then passed the following motion.

**To endorse the conclusion of the Grouper-Tilefish IFQ program, that the program is meeting its objectives. The AP formally endorses the conclusion of this review in accordance with the MSA.**

The AP discussed the multiple reporting systems in which commercial reef fish fishermen must participate and the difficulties in reconciling the different datasets. The AP then passed the following motion.

**That staff develop the use of a system using a unique trip ID number (hail out number) to follow the entire transaction from start to finish.**

AP members discussed missing or inaccurate annual allocation and share prices and made the following motion.

**To support exploration of strategies to improve the collection of accurate share and allocation price data.**

#### Reef Fish Amendment 36A

Staff reviewed the actions taken in Reef Fish Amendment 36A, on which the Council took final action in April 2017. The amendment is currently under review by the Secretary of Commerce. The AP then passed the following motion, with one in opposition.

**The IFQ AP supports the original Reef Fish AP [Oct 4-5, 2016] recommendation to not allow withholding allocation at the beginning of the year in advance of an anticipated quota reduction.**

#### Reef Fish Amendment 36B

Staff reviewed the options paper for Amendment 36B. AP members noted that the IFQ programs have changed the way fishermen fish and discussed several ideas including setting up an exchange. The exchange would assist small operators to find allocation openly, help in adjusting the distribution of allocation to better reflect the geographical distribution of the fish, and support communities where fewer fish are available locally when shares are sold to fishermen in other parts of the Gulf, e.g., when older fishermen retire or pass away. Other AP members did not want the government controlling where shares go and noted that redistribution methods would be a big change to the system and unintended consequences could result.

AP members discussed the potential action to require shareholders to have a reef fish permit. AP members noted that, during the design phase of the program, the commercial industry expressed its opposition to opening the program to people without permits. However, now that permits have not been required for several years, unintended consequences could arise from reinstating the permit requirement. For example, the cost of permits has increased dramatically in anticipation that the requirement may be reinstated, and it will cost new entrants even more to get into the fishery. It was also noted that people would be able to find ways around the permit

requirement, if reinstated, such as through the creation of corporations. With four in opposition, the AP then passed the following motion.

**For program participation, do not require a reef fish permit to be a shareholder thereby retaining the current regulations.**

AP members discussed the small amount of shares held in the non-activated accounts that will be returned to NMFS when Amendment 36A is implemented. AP members expressed interest in improving access to quota for new entrants and discussed that guidelines could be established to define new entrants. AP members noted the importance of industry input in future decisions on quota availability. With four opposed and one abstention, the AP passed the following motion.

**To create a quota set aside from non-activated accounts to run a NOAA quota bank for addressing commercial discards. NOAA shall create an industry steering committee to advise in the administration of the program.**

AP members further discussed the goals and objectives of the IFQ programs, including the relationship between reducing overcapacity and the need for new entrants in the fishery, and stated that further progress could be made toward reducing capacity and improving safety-at-sea. With two in opposition, the AP passed the following motion.

**For Goals and Objectives: To retain the goals of reducing overcapacity and improving safety at sea.**

**An AP member noted that a lease-to-own provision would be unenforceable and would lead to increased lease prices. With no opposition, the AP passed the following motion.**

**To move Section 2.3.1 (Lease-to-own provision) to considered but rejected.**

Although share and allocation transfers are processed through the NMFS online system, the agreement is a private transaction made between two parties. An AP member who is a new entrant described his difficulty in finding allocation to lease, as he does not personally know many shareholders who may have allocation available. He expressed interest in having a public marketplace where people with shares or allocation available for purchase could be connected with those looking to buy it. NMFS staff suggested that a message board to help connect buyers and sellers of shares and allocation could be considered. With no opposition, the AP passed the following motion.

**For NMFS to establish an information exchange for shares/allocation of IFQ reef fish. Guidelines for the scope and rules of operation to be established, once approved.**

Concerning quota set-asides, an AP member raised the issue of distributing future quota increases differently than to existing shareholders. With three AP members abstaining, the AP passed the following motion.

**The AP would like to consider future potential set asides of a percentage of any quota increases, after the Council and the Advisory Panel designs a mechanism with an associated purpose and need.**

AP members discussed the white paper on rents and royalties that was requested by the Council at its January 2018 meeting. The following motion passed with no opposition.

**To recommend to the Council to include, in developing the white paper on rents and royalties requested by the Council at its January 2018 meeting:**

- **a list of the goals and objectives of Amendment 26 and how imposing royalties would either advance or undermine those goals and objectives, and**
- **information on the likely effects of royalties on consumer prices for commercially caught red snapper, and on lease prices for allocation along with resulting impacts on new entrants and bycatch.**

**Council Motion January 2018:** To instruct staff to start a white paper exploring rents/royalties in the Gulf commercial red snapper fishery for allocation above 4.65 million pounds. The white paper should include but not be limited to: a definition of rents/royalties, examples of resource rent collection in other public resource uses, a calculation of Gulf red snapper rents/royalties value, alternative methods of rents/royalties collection and alternative methods for redistribution of shares.

With one opposed, the AP passed the following motion.

**To recommend to the Council to analyze recreational rents and royalties as part of the white paper.**

AP members discussed how a loan program could be used to help new entrants buy into the IFQ programs. NMFS staff indicated that a national loan program is under development. With one in opposition, the AP passed the following motion.

**To support the development and implementation of an IFQ loan/fisheries finance program in the Gulf of Mexico similar to the model used in the Pacific Northwest.**

#### Other business

With no opposition, AP members passed two motions relative to the Council's January 2018 motion directing Council staff to begin work on a scoping document to examine red snapper allocation.

**In reference to the January 2018 Council motion, to direct staff to include in the allocation scoping document, all Gulf Council-managed species with a commercial and recreational component.**

**Council Motion January 2018:** To direct staff to develop a scoping document to evaluate the allocations of red snapper, taking into account previous deliberations in Amendment 28 and any new information and considers a broad range of social, economic, data correction, and management factors.

**To recommend to the Council to include, in developing the allocation scoping document:**

- **information regarding overages by the recreational sector (and the private angler component in particular) and the de facto reallocations to the recreational sector that have resulted;**
- **the dollar value of losses to the commercial sector, including all levels in the supply and distribution chain, that has occurred as a result of this de facto reallocation;**
- **recreational sector discards and discard mortality;**
- **management uncertainty in both the for-hire and private angler components; and**
- **information regarding the consumer demand for and supply chain of commercially caught red snapper, including an assessment of the number and location of end use consumers of commercially caught Gulf red snapper.**

The meeting adjourned at 5:25 pm.

**Ad Hoc Red Snapper/Grouper-Tilefish IFQ Advisory Panel  
Meeting Summary  
Tampa, FL  
November 7, 2018**

**Advisory Panel Members**

Jane Black-Lee  
William Copeland  
Jason DeLaCruz  
J. David Floyd  
Buddy Guindon  
Scott Hickman  
David Krebs  
H.D. Pappas  
Dennis Parker  
Nick Ruland  
Lisa Schmidt  
Jerri Smitko  
Brian Swindle  
Steve Tomeny  
David Walker

Wayne Werner  
Jim Zubrick

**Council, Council Staff, and NMFS Staff**

Leann Bosarge  
Assane Diagne  
Ava Lasseter  
Jessica Matos  
Roy Crabtree  
Alisha DiLeone  
Peter Hood

**Others**

Eric Brazer – presenter  
Paul Parker – presenter

Karen Bell  
Casey Streeter

The Ad Hoc Red Snapper/Grouper-Tilefish IFQ Advisory Panel (AP) was convened at 8:30 a.m. on November 7, 2018, in Tampa, Florida to provide recommendations to the Gulf of Mexico Fishery Management Council (Council) on the commercial IFQ programs and the proposed actions in Amendment 36B. The AP approved the April 2018 meeting summary and adopted the agenda, then heard presentations on privately run quota banks from Eric Brazer (Gulf of Mexico Shareholders' Alliance) and Paul Parker (Trust Conservation Innovation). Following the presentations, the AP began discussing modifications to the IFQ programs and quota banks.

In response to questions from AP members, Dr. Crabtree noted that for a quota bank to be feasible, there would need to be enough fish in it to make it worth running. He added that it would likely take at least a year after the Council takes final action on an amendment to get a quota bank up and running.

AP members discussed concerns relative to establishing a quota bank, highlighting the following:

- the importance of first identifying a purpose and need;
- the Fishery Finance Program is available for fishermen to obtain a loan to buy shares;
- the importance of not disassembling the IFQ system, which is working; and
- that the industry has the ability to develop necessary solutions in their own communities.

AP members expressed support for quota banks based on the following:

- some quota could be used for regulatory discards, because red snapper are now in the east while groupers are declining;
- need a way for replacement fishermen to enter the fishery; and
- there is limited availability of shares in southern Florida.

An AP member noted that with the red snapper quota increasing in 2019, part of the increase could be used for a quota bank. He added that there are problems in the grouper fishery and asked if an allocation trading program could be considered, such that some number of pounds of grouper allocation could be traded for red snapper allocation.

AP members also discussed the amount of red snapper quota that would be needed by a vessel, and whether red snapper should be a targeted commercial fishery or if instead, allocation should be used primarily for incidental catches. Regarding auctions, there was concern expressed as small participants would be unable to compete with large well-funded organizations.

Following a lunch break, AP members resumed the discussion alongside the proposed actions in Amendment 36B. AP members discussed the proposal to require shareholders to have a commercial reef fish permit (Action 1.1). An AP member felt that implementing this after years of IFQ management would lead to even more consolidation in the fishery. There was concern that any new restrictions would affect existing permit prices and availability. A member noted that as a result of considering this action, the price of a commercial reef fish permit has increased



to \$20,000. AP members also noted ways that participants could get around the new requirement, and wondered if the Council intended that dealers should be required to possess a permit and vessel. By a vote of 14 to 3, the AP then passed the following motion:

**To recommend to the Council in Action 1, Alternative 1 be the preferred.**

**Alternative 1:** Do not establish requirements to obtain or maintain shares.

Because the AP does not support a requirement that shareholders possess a commercial reef fish permit, the AP did not support Action 1.2, which addresses the divestment of shares in the event some shareholders are unable to obtain a permit, if required in Action 1.1. The AP passed the following motion:

**To recommend to the Council in Action 1.2 to make Alternative 1 the preferred.**

**Alternative 1:** No Action. If the Council requires some or all shareholders to possess a commercial reef fish permit in Action 1.1, there is no specified time by which shareholders must comply with the requirement.

The AP discussed Action 2, which would distribute the shares from non-activated accounts reclaimed through Amendment 36A, in terms of the creation of a quota bank. An AP member said it would be helpful to get an estimate of the amount of discarded red snapper in the eastern Gulf. This would help the Council determine the quota needs to address the problem. AP members discussed alternative methods to distribute IFQ shares from non-activated accounts. Recognizing that the amount of reclaimed shares may not be enough for a distribution to all eligible accounts, the AP passed the following motion by a vote of 15 to 1:

**To recommend to the Council to add an alternative [to Action 2] to equally distribute reclaimed shares held by NMFS among all accounts with landings of the most current year of each share category to shareholders within one month of the effective date for the final rule implementing this amendment.**

The AP noted its appreciation for the opportunity to discuss ways to alleviate problems such as the increase of red snapper in the eastern Gulf. However, AP members added that the commercial industry does not support most of the changes proposed in Amendment 36B.

The AP discussed Action 4, which considers requiring hail-in estimates to be more accurate. Some AP members felt such a requirement was unnecessary, stating the hail-in estimate was not intended to be used to penalize fishermen. An AP member questioned whether it was necessary to have an estimated weight at all, but another member thought it was good to give law enforcement an idea about the approximate magnitude of the catch. Some members noted it is most important that a vessel has sufficient allocation in its account for landings. The AP then passed the following motion by a vote of 15 to 1:

**To recommend to the Council in Action 4, to make Alternative 1 the preferred.**

**Alternative 1:** Do not change the current reporting requirement regarding estimated weight of IFQ species to be landed on the advance landing notification.

The AP then resumed discussing Amendment 36B and the pros and cons of a quota bank. The AP developed the following statement and table, and passed each by a vote of 16 to 1:

**To make a statement to the Council to consider the following discussion regarding unintended consequences from Action 1.1:**

- There is concern that all permits will be bought up by those who need to keep their shares, so permits would not be available, or the price would be driven higher to those who need them to fish.
- If we change the system that is in place, it will affect the availability of leased fish and probably drive the lease price to available fish even higher.
- Talking about this amendment has led to more and more new shareholders and more and more participants in the fishery and has possibly artificially raised the price of permits. People anticipating that the Council will further limit access to the fishery would cause a rush of people to get into the fishery before the changes are implemented.
- Speaking to the requirement for shareholders to have a permit in Action 1.1, dealers who own shares and don't own permitted vessels and lease allocation to vessels that fish for them would be adversely impacted.
- If you have a shareholder and put in place a permit requirement he could go to a vessel owner with a permit and make a contractual agreement where he would be leasing the permit.

<b>Pro – For a NOAA quota bank</b>	<b>Con – against a NOAA quota bank</b>
	Council designed with little input on how they will fill it
It would be run by the government, so it will be slow and hard to make adjustments	What you hand off may not be what they build
Direct quota to deal with discards in more timely fashion	The industry already has a quota bank that is 3 years old
	We already have de facto quota banks in the fish houses to balance out a year's worth of quota
	We don't know who the quota can be auctioned to once it's in the bank
	We don't know how many fish it would take to alleviate the commercial discard problem in the eastern Gulf

The AP also discussed the issue with red grouper availability and passed the following motion:

**The AP supports the Council's reduction of the red grouper ACL.**

The meeting adjourned at 5 p.m.

Failed and withdrawn motions:

Motion: To recommend the Gulf Council to direct NOAA staff to study and develop an Actions and Alternatives for modifying the distribution of commercial allocation within the IFQ fisheries to provide greater flexibility to address current and future issues and concerns. Specifically, this analysis should examine replacing the current % of allocation/share by a fixed lbs/share.  
Motion failed 2-13.

Motion: To recommend the Council adopt Action 3.1 Alternative 1 as the preferred.  
**Alternative 1:** No Action. Do not add allocation to the quota bank from any share category. The quota bank holds shares reclaimed through Amendment 36A or Action 1 of Amendment 36B.  
Motion tabled.

Substitute Motion: To consider under 2.2 Action 2 that unclaimed shares be set aside for a science/observer based program which is intended to validate/retain dead discards on sanctioned fishing/research trips.  
Motion failed.

2<sup>nd</sup> Substitute motion: Open a quota bank and use all 12 years' worth of fish.  
Motion failed.

Motion: To recommend to the Council that in Action 2 to make Alternative 4 the preferred.  
**Alternative 4:** Establish a NMFS-administered quota bank with the reclaimed shares. NMFS will retain the shares and distribute the allocation associated with the shares each year.  
Motion failed.

Substitute motion: That unclaimed shares be set aside to be used in an industry/NMFS coalition quota bank to address discard mortality.  
Substitute motion withdrawn.

Motion: **Alternative 1:** No Action. Do not distribute reclaimed shares, including the shares reclaimed through Amendment 36A or Action 1 of Amendment 36B at this time.  
Motion failed 3 – 10.

Motion: To recommend to the Council in Action 2, Alternative 3 be the preferred.  
**Alternative 3:** Proportionally distribute reclaimed shares held by NMFS among accounts with shareholdings of each share category within one month of the effective date for the final rule implementing this amendment.  
Motion withdrawn.

Motion: To recommend to the Council in Action 2, Alternative 2 be the preferred.  
**Alternative 2:** Equally distribute reclaimed shares held by NMFS among all accounts with shares of each share category to shareholders within one month of the effective date for the final rule implementing this amendment.  
Substitute motion made that carried.

## APPENDIX E. SUMMARY OF SCOPING WORKSHOPS

Scoping workshops were held from March 10-24, 2015 at the following locations:

Tuesday - March 10, 2015  
Courtyard Marriott  
142 Library Drive  
Houma, LA 70360

Tuesday - March 17, 2015  
Hawthorn Suites by Wyndham  
501 East Goodnight Avenue  
Aransas Pass, TX 78336

Thursday - March 12, 2015  
Hilton Garden Inn  
6703 Denny Avenue  
Pascagoula, MS 39567

Wed - March 18, 2015  
Hilton Garden Inn  
1101 US Highway 231  
Panama City, FL 32405

Monday - March 16, 2015  
Hilton Galveston Island Hotel  
5400 Seawall Boulevard  
Galveston Island, TX 77551

Tuesday - March 24, 2015  
Hilton St. Petersburg  
950 Lake Carillon Drive  
St. Petersburg, FL 33716

Tuesday - March 17, 2015  
Renaissance Mobile  
64 South Water Street  
Mobile, AL 36602

### **Houma, Louisiana March 10, 2015**

#### Program Eligibility Requirements

- **Should accounts with shares but without a commercial reef fish permit be allowed to harvest the allocation associated with those shares?**

We still feel like we're overcapitalized so, expanding eligibility seems like a slippery slope. The requirement to have a reef fish permit to harvest fish needs to stay.

#### Inactive Accounts and Redistribution of IFQ Shares to Address Regulatory Discards

- **Should shares be redistributed from inactive accounts to those with no or small shares or to new entrants to reduce regulatory discards?**

The Council should consider coming up with some type of financing program. New entrants can't afford to buy shares and the banks won't back loans for boating startups. Bankers don't understand it. Some kind of government run loan process could help new entrants more than

gifting them small shares. It seems like redistributing them to the guys that are already in the fishery is more reasonable. Finance the new entrants rather than gift them.

#### Full retention requirements to address regulatory discards

##### ➤ **Should the full retention of all commercially caught red snapper be required?**

Full retention is a great goal. Some of the people targeting vermillion or grouper are pulling up lots of red snapper and killing them. Full retention would force those fishermen to make the effort to get allocation. There might need to be quota banks to help with this, and you may need to give them extra to get the necessary allocation if you require full retention. If we can sell a fish that is big enough to bite the hook, there will be a market for the fish smaller than 13 inches. Full retention will be a lot harder on some of the guys than on others but we should throw fish in the box rather than throw them back dead if we catch them.

#### Caps on the Use or Possession of IFQ Shares and Allocation

##### ➤ **Should caps on the amount of IFQ allocation held by and entity be established?**

The cap's example are difficult to handle and we are not so sure that it's harmed anyone. There hasn't been a mega corporation that's tried to buy everyone out.

#### Requirements for the Use of Shares and Allocation

##### ➤ **Should use-it or lose-it provisions be established?**

The broker situation takes care of itself. In the derby days or even pre derby, as people got older, they hired captains to run their boats. The current use of the IFQ program is no different. Some of the active shareholders do the same as we've always done. They have someone run their boat or just sell their allocation.

Here in Louisiana we're in a pure red snapper environment. Forcing me to stay on my boat rather than sell my allocation or hire a captain would exacerbate the bycatch issue. Captains would continue fishing rather than lease to people in the south east who don't have snapper quota, but are catching snapper because the population is expanding.

##### ➤ **Should a "lease-to-own" provision be considered?**

Lease to own sounds neat but may cause fishermen who are selling allocation to an individual go back to fishing rather than give someone else 'credit' for his harvest. It would promote owners to keep harvesting their own allocation rather than let others earn credit for something that isn't theirs. A credit towards ownership arrangement should be done on an individual level rather than at the agency level.

### Enforcement of all Reef Fish Landings

- **Should all commercial reef fish vessels be required to hail-in, even if they are not landing IFQ species?**

Hail in and out for all reef fishermen is a good idea. It's a great enforcement tool and it gives law enforcement a better heads up. They don't have to check every landing but it is good information to know.

#### **Council member and staff:**

Myron Fischer  
Emily Muehlstein  
Bernie Roy

**Pascagoula, MS  
March 12, 2015**

### Program Eligibility Requirements

- **Should the future transfer of shares to only shareholder accounts that hold a valid commercial reef fish permit?**

It's fine how it is.

- **Should accounts with shares but without a commercial reef fish permit be allowed to harvest the allocation associated with those shares?**

Allowing shareholders/allocation holders to harvest without a reef fish permit goes against the goal of the program and would promote overcapitalization.

### Inactive Accounts and Redistribution of IFQ Shares to Address Regulatory Discards

- **Should the closure of accounts and redistribution of shares in accounts that have never been activated in the current system be allowed if the accounts are not active by a specified date?**

1% is a great margin for any program. Leave it like it is. Those people know they have shares and they should be allowed to sell it when they want to.

To achieve optimum yield the Council may want consider allowing the allocation in inactive accounts to rollover and be distributed amongst active accounts.

- **Should shares be redistributed from inactive accounts to those with no or small shares or to new entrants to reduce regulatory discards?**

People in the program today have suffered the pains of the program. Therefore, they should reap the benefits of the program rather than being penalized by losing additional shares. People who have been actively fishing should be given first opportunity for ownership.

It would be difficult to decide who qualifies as new entrants or small shareholders. Additionally, new entrants can get in to the program, plenty of new entrants have bought in. It was understood when the program was initiated that this would happen. Shares would have a high value and the fishery would consolidate, making it difficult for new entrants.

#### Full retention requirements to address regulatory discards

➤ **Should the full retention of all commercially caught red snapper be required?**

It's probably not legal and it definitely would not work to require full retention. You cannot make someone keep what they catch and it seems difficult to enforce.

Typically, commercial fishermen aren't going to hang around and catch the wrong size or species of fish. They are already policing themselves.

The market value of the different sizes of fish will be an issue. Fishermen won't want to use their allocation on the less valued fish.

There isn't data to justify worrying about regulatory discard on the commercial side. The snapper population has exploded, so it's obviously not a biological issue.

#### Caps on the Use or Possession of IFQ Shares and Allocation

➤ **Should caps on the amount of IFQ allocation held by and entity be established?**

There is already a cap on shares and that was initiated when the program was put in place. The current share caps are fine.

➤ **Should caps on the amount of IFQ allocation landed by a single vessel be established?**

You shouldn't limit what a vessel can harvest that is like directly capping what a person can make. A vessel can only catch so much a year anyhow, so there is no need to put a limit on it.

➤ **Should a cap on the amount of shares or allocation a non-reef fish permitted shareholder may possess be established?**

The program was established to be traded and there is no need to undo the system. The only reason the program sold initially was because of the flexibility it allowed. It doesn't make sense to socialize the program and keep everyone at some artificial level.

#### Requirements for the Use of Shares and Allocation



➤ **Should unused IFQ allocation be allowed to roll-over for use in the following year?**

There are a lot of reasons the fish aren't caught in a year; weather, engine failure, personal reasons, etc. Unharvested allocation should be rolled over so people can catch their fish the next year.

➤ **Should a "lease-to-own" provision be considered?**

Lease-to-own is an interesting approach and people would have demonstrated through trip tickets that they've fished should be given priority if a situation arises where new shares become available.

Mid-Year Quota Changes

➤ **Should a portion of shareholders' allocation be withheld at the beginning of the year if a mid-year quota reduction is expected?**

Would it be more practical to handle the quota reduction in the following year rather than mid-year? Don't be conservative and hold back, rather, reduce the share of the individual fishermen who have already caught their allocation in the following year.

During the mid-year quota increase derby-like conditions were created and the market value of red snapper dropped. If there was a large increase late in the year the Council should consider adding the extra in the following year.

Enforcement of all Reef Fish Landings

➤ **Should all commercial reef fish vessels be required to hail-in, even if they are not landing IFQ species?**

No. If they have VMS we know where there are so it's not necessary. If violations happen it's a small problem.

**Council member and staff:**

Leann Bosarge  
Emily Muehlstein  
Bernie Roy

**Galveston, Texas  
March 16, 2015**

Program Eligibility Requirements

➤ **Should the future transfer of shares to only shareholder accounts that hold a valid commercial reef fish permit?**

The IFQ program is achieving its intended goals as is. Red snapper is a public resource, and the public should be able to participate in the IFQ program if they wish.

- **Should accounts with shares but without a commercial reef fish permit be allowed to harvest the allocation associated with those shares?**

The fishery is still overcapitalized, but it is currently under refinement to a smaller number of participants. If they were to allow people without a reef fish permit to harvest then the progress we've made to reduce overcapitalization would be reversed. Allowing anyone with IFQ to fish would definitely increase overcapitalization.

- **Should shareholders not actively engaged in fishing be allowed to transfer their shares and allocation to other shareholders?**

Transferability of shares should be market driven. Members of the public should be allowed to buy and sell shares and allocation.

#### Inactive Accounts and Redistribution of IFQ Shares to Address Regulatory Discards

- **Should the closure of accounts and redistribution of shares in accounts that have never been activated in the current system be allowed if the accounts are not active by a specified date?**

IFQ account holders should be contacted about their inactive accounts. The agency needs to do their due diligence and let people know that they have inactive shares.

Inactivity may be caused by displacement or disaster so share owners should be given time and warning before accounts are closed.

- **Should shares be redistributed from inactive accounts to those with no or small shares or to new entrants to reduce regulatory discards?**

The fish in inactive accounts need to be harvested. A quota bank could be used to address the issue of dead discards. The allocation could be distributed to all reef fish permit holders, not just IFQ share owners.

If shares are redistributed they should be given to active shareholders. Allowing new entrants goes against the goal of reducing overcapitalization in the fishery. The program was set up to be market driven, you can be a new entrant by buying from current shareholders. Use the market based system, it's already in place and there is no need to start a new program.

New entrants to the program should be considered. Some qualification of what defines a new entrant would be necessary.

### Full retention requirements to address regulatory discards

#### ➤ **Should the full retention of all commercially caught red snapper be required?**

Actions that can prevent fish from being thrown back dead should be considered, on the recreational side also. Throwing back perfectly good fish dead makes no sense.

Eliminating the minimum size limit and implementing full retention will allow the market-based system to work to its full potential. It will teach fishermen to fish smarter and more efficiently. Making fishermen keep everything they catch will make them behave more conscientiously.

### Caps on the Use or Possession of IFQ Shares and Allocation

#### ➤ **Should caps on the amount of IFQ allocation held by and entity be established?**

Leave it just like it is. It works as a market based system for economic efficiency and changing the amount an individual can own would not necessarily change economic efficiency of the program. Reducing the share cap may increase overcapacity. No one voiced any desire for caps to be put into place.

#### ➤ **Should caps on the amount of IFQ allocation landed by a single vessel be established?**

Putting restrictions on an entity who has the capability of harvesting a large amount of fish will hurt the effort of reducing overcapacity.

### Requirements for the Use of Shares and Allocation

#### ➤ **Should use-it or lose-it provisions be established?**

Leave it alone, the current framework is working fine. The beauty of the system is that it is flexible. One fisher's boat breaks down, another fisherman can use quota. Exclusion is a problem for those on the outside, but not for those on the inside of the IFQ program. By restricting brokering, you would be closing the door of opportunity for others. There is no market advantage or biological advantage to do so.

#### ➤ **Should restrictions be placed on the sale of IFQ allocation and shares?**

Some people are long-term fishermen who are leasing their fish out to others for various personal reasons, and are not brokers per se. It would be difficult to separate the different users and restrict them.

Fishermen find quota if they need it; leasing and brokering when practicable to assist one another. If someone wants to buy quota, they can and, local fishermen help other fishers get quota to use for bycatch. Fishermen that have available quota can capitalize on those fishermen out on the water and have them bring in fish for them as dealers to fill orders. Dealers hire

fishermen to fish and can provide them quota if they don't have enough in their IFQ account. Fishermen can change behavior to avoid bycatch when no allocation is available.

➤ **Should a “lease-to-own” provision be considered?**

Eliminate the problems for new entrants by offering a loan program. The federally backed loan program for new entrants that was suggested by the AP should move forward. Consider making a place in the Federal Registry where fishermen can register their right to harvest; they can use that as collateral to get loans. Banks need something to collateralize. New guys can come into the system by buying shares and creating history. If an entity buys allocation, then they could be entered into a sort of lottery program, or some sort of lease to own program to help new entrants transition in to the program. At some point, new entrants will need to be considered so those fishermen need to be considered now. Current fishermen are getting older.

Mid-Year Quota Changes

➤ **Should a portion of shareholders' allocation be withheld at the beginning of the year if a mid-year quota reduction is expected?**

Withholding quota would either create a shortage or a potential end of year glut. Mid-year changes up or down are not good for businesses. Business plans are made at the beginning of the year. Midyear increases causes a market glut. With a higher percentage of fish, you have to find a higher percentage of customers. Fluctuations are not desirable for operating a business and create market inequities and instability. Make end of year quota increases available the next year on Jan 1<sup>st</sup> to avoid derby fishing conditions. For the best benefit of the country, the fishermen need to know when they can fish.

Get the Council and the stock assessment process in line to set quota at the beginning of the year rather than allow mid-year quota changes. Move data assessments to an earlier time and obtain real time reporting so managers can make decisions early on in the year, rather than making mid-year adjustments.

Council process is inefficient, small shareholders needs the fish as soon as they are available. Mid-season or not, a small shareholder will take fish whenever they can get them. A business plan is not as important to small operations.

Enforcement of all Reef Fish Landings

➤ **Should all commercial reef fish vessels be required to hail-in, even if they are not landing IFQ species?**

Yes, hailing in for all would give proper notification to law enforcement and get rid of violators. Everybody with federal reef fish permits should have VMS on board and follow a hail-in/hail-out requirement. It would increase expenses for law enforcement.

### Additional Issues

The 5-year review program should include people with a vested interest.

A water weight percentage should be brought back (ice weight). Ice and slime weight gain that causes variances between weight when the fish is being offloaded and weight at the fish house (about 3%) needs to be considered.

#### **Council member and staff:**

Robin Riechers  
Emily Muehlstein  
Karen Hoak

**Aransas Pass, TX  
March 17, 2015**

### Program Eligibility Requirements

- **Should the future transfer of shares to only shareholder accounts that hold a valid commercial reef fish permit?**

Commercial quota is there to be fished and should be caught to achieve optimum yield. The only fear is that someone could buy up quota with no intention of fishing it; protections should be put in place to prevent that.

### Inactive Accounts and Redistribution of IFQ Shares to Address Regulatory Discards

- **Should shares be redistributed from inactive accounts to those with no or small shares or to new entrants to reduce regulatory discards?**

Shares from inactive accounts should be available for public purchase or distributed to small entities rather than large current shareholders. Inactive shares could be purchased at market price from a quota bank

Inactive shares should be put into a quota bank. They could be used to manage the program more efficiently, like for discard mortality and better conservation of the resource. Also, they could be made available for use in pilot programs (i.e., commercial/recreational hybrid programs and research).

- **Should future increases to commercial red snapper quota be redistributed to new entrants or small shareholders?**

Increases in quota should benefit current shareholders. The industry already rebuilt the fishery taking on VMS and other burdens, and eventually benefited from those changes making them

fully accountable, self-policing, etc. Non-accountable sectors should not benefit with the efforts from those who were and are accountable.

People who were granted fish benefited from being granted fish, and commercial fishermen are not the only folks who should benefit from a rebuilding fishery.

#### Full retention requirements to address regulatory discards

➤ **Should the commercial red snapper minimum size limit be removed, requiring commercial fishermen to retain all caught red snapper?**

Remove minimum size limit for the commercial fishery based on the fact that smaller fish are targeted. When they fish by size selection, they use smaller weaker hooks which target smaller fish, and then dead discards become an issue. By removing the size limit, they can use smaller hooks leaving the larger breeding stock in the water.

➤ **Should the full retention of all commercially caught red snapper be required?**

Full retention seems good as long as it's good for the fish population. Breeding fish may be left in the water which would be good. Throwing back small fish dead is not beneficial.

Full retention may be a bad idea. On the west coast entire fisheries have been completely shut down because of choke species. If there is a species or sub-allocation of a species in a full retention fishery, and all the allocation gets used up, if you interact with that species, all fishing stops. Full retention program would require you to fully retain the species whose fishery is completely closed because of the full retention policy. One bad move in one day can cause a huge problem for everybody making it unlawful to fish at all, as in rockfish in California

A full retention program would have to be thoroughly vetted, phased in with a sun-set. The Council might consider making full retention only effective while the commercial season is open for the specific species is open.

#### Caps on the Use or Possession of IFQ Shares and Allocation

➤ **Should caps on the amount of IFQ allocation held by and entity be established?**

The 6% ownership cap put in place represented the largest harvester at the onset of the program. Social engineering by regulators will not provide better management than the free market already has.

#### Requirements for the Use of Shares and Allocation

➤ **Should use-it or lose-it provisions be established?**

Shares and allocations should remain in the hands of fishermen, but we should not to have 5 or 6 entities owning the whole fishery in a monopoly situation.

➤ **Should unused IFQ allocation be allowed to roll-over for use in the following year?**

Rollover, if done well, would serve the primary program goals well. Roll-over should be permitted when a commercial shareholder has issues that make it impossible for fishing to occur. Council will have to constrain what would constitute an emergency, or restrict number of times a person could roll-over allocation. The roll-over should allow fishermen to catch their fish but not artificially manipulate the market by withholding quota into the following year. A derby at the end of the year could be avoided by reducing the roll-over quota by a certain percentage, rather than allowing the entire allocation amount to roll-over.

➤ **Should a “lease-to-own” provision be considered?**

The guy buying allocation should get credit. He should not have to be dependent on the seller indefinitely. Sooner or later, he should get credit for being the fisherman catching the fish. There should be a time limit for selling your allocation – meaning you can sell you allocation so many years before you have to sell the shares or harvest them yourself.

Use it or lose it, it goes back to regulators being involved in social engineering. Fishermen should negotiate deals with the share owners, not have the government mandating when a person should achieve benefits. These are private transactions, not governmental regulations.

#### Mid-Year Quota Changes

➤ **Should a portion of shareholders’ allocation be withheld at the beginning of the year if a mid-year quota reduction is expected?**

Instead of withholding every year to adjust for catastrophic events, take out quota at the beginning of the next year; that will meet the program goals far better than an in-season closure and the loss will be distributed better across all participants. If there is a stock assessment year is coming up and people are concerned about a reduction mid-year there may be a race to fish in the beginning of the year.

#### Enforcement of all Reef Fish Landings

➤ **Should all commercial reef fish vessels be required to hail-in, even if they are not landing IFQ species?**

If hail in/hail out would solve the problem, it should be required. Operators following the rules would not have a problem with the new requirement. Operators fishing for other species legally would not likely have a problem with it either. The only people that would object to the new requirement are likely to be those doing illegal things.



Only permit holders should weigh in on this issue, others' opinions shouldn't matter.

#### Additional Issues

Inter-sector trading should not be allowed.

Red snapper is rebuilding by using the IFQ program. It is effective and meeting its goals of reducing overcapacity, minimizing derby conditions, and rebuilding the resource. The program does not need wholesale changes to add in efficiencies and complications. Overharvesting has not been occurring. Improvements should promote accountability, assist in achieving OY, and collaboration between user groups. New entrants can buy into the program as is, and management is best left in the hands of the shareholders.

#### **Council member and staff:**

Greg Stunz

Emily Muehlstein

Karen Hoak

**Mobile, AL  
March 17, 2015**

#### Program Eligibility Requirements

- **Should the future transfer of shares be restricted to only shareholder accounts that hold a valid commercial reef fish permit?**

No: Fishermen have invested in shares, and need the flexibility, such as in the event of accidents and other incidents.

Yes: Only if you have a commercial reef fish permit should you be able to buy shares, catch, and land fish.

- **Should accounts with shares but without a commercial reef fish permit be allowed to harvest the allocation associated with those shares?**

No:

- Commercial reef fish permit is needed for landing because they would have VMS and follow landing procedures. Need enforcement to sanction poaching vessels.
- This would allow more commercial fishing participants, and commercial reef fish permits are under a moratorium.
- This would open the commercial fishery to recreational participation.

- **Should shareholders not actively engaged in fishing be allowed to transfer their shares and allocation to other shareholders?**

Yes: Support for a use-it or lose-it provision. [Use referred to not withholding allocation from being landed.] Must use the shares you have, or a percentage of the shares you have. Catching optimum yield is the goal, so allocation needs to be used.

#### Inactive Accounts and Redistribution of IFQ Shares to Address Regulatory Discards

- **Should the closure of accounts and redistribution of shares in accounts that have never been activated in the current system be allowed if the accounts are not active by a specified date?**

Yes:

- But, there is a difference between accounts that have never been active and accounts not being used for a year or two. Those accounts that have never been active should have shares redistributed.
- Notice should be given now that shares in accounts that have never been active will be redistributed at the 10-year anniversary of the program.
- Only for accounts that have never been active or inactive for a decade should redistribution be considered.

- **Should shares be redistributed from inactive accounts to those with no or small shares or to new entrants to reduce regulatory discards?**

No:

- Redistributed shares should not just be given away. Shareholders earned their fish by landings history or they have invested in buying shares. Supports redistribution for discards.
- If additional fees are considered for the commercial sector, consider using value from the shares to be redistributed from inactive accounts.
- For redistribution have NMFS establish permit banks to sell allocations to increase cost recovery funds for law enforcement.
- Providing for new entrants is not a concern at this time.
- Distribute shares in equal amounts or according to their share percentage, but only among snapper IFQ shareholders. Providing allocation for red snapper discards in one area means less allocation and more discards in other areas. It may be possible to exchange allocation between species.
- Shares should stay within the red snapper fishery.

#### Full retention requirements to address regulatory discards

- **Should the commercial red snapper minimum size limit be removed, requiring commercial fishermen to retain all caught red snapper?**

No:

- There may not be a market for smaller fish.
- Non-IFQ commercial fishermen catch red snapper, too. So, there would not be sufficient allocation.

Yes: There is a market for small fish and good prices for them, so support for eliminating minimum size limit, but not full retention.

➤ **Should the full retention of all commercially caught red snapper be required?**

No:

- Should be fishermen's choice for what kind of fish they want to keep.
- People may not be willing to sell their allocation(s).

Yes: Support for the idea but difficult to do.

Caps on the Use or Possession of IFQ Shares and Allocation

➤ **Should caps on the amount of IFQ allocation held by and entity or landed by a single vessel be established?**

No: Opposed to caps on annual allocation for vessels or a single entity.

➤ **Should a cap on the amount of shares or allocation a non-reef fish permitted shareholder may possess be established?**

No: This would affect investment in the fishery among related accounts.

Requirements for the Use of Shares and Allocation

➤ **Should restrictions be placed on the sale of IFQ allocation and shares?**

No:

- Selling allocation should be allowed.
- Selling allocation means the fish still get caught. What does it matter who catches them?

Mid-Year Quota Changes

➤ **Should a portion of shareholders' allocation be withheld at the beginning of the year if a mid-year quota reduction is expected?**

No:

- Quota increases and decreases should only happen at the beginning of the year. Do not allow a mid-year quota increase or decrease, for either the commercial or recreational sectors. Distribution of quota at the beginning of the year only brings stability to the market.
- Another person agreed, but felt quota changes should occur at the beginning of the year for the commercial sector, only.

Enforcement of all Reef Fish Landings

➤ **Should all commercial reef fish vessels be required to hail-in, even if they are not landing IFQ species?**

Yes:

- Provided the IFQ participants are not charged for it.
- This would protect IFQ program participants.
- But, this could burden law enforcement resources, so their funding needs to be increased.

Additional Issues

### General comments

- Happy with current program, so why change it?
- The discard problem is because of too many red snapper in certain areas of the Eastern Gulf.
- None of the proposed changes will help with the program or the recovery of the fishery.
- To do many of these changes NMFS would need to identify related accounts who are actively involved in fishing and who are investors.

### **Council member and staff:**

David Walker

Ava Lasseter

Charlotte Schiaffo

### **10 people attended including:**

Randy Boggs

Susan Boggs

Miranda Eubanks

Roy Howard

Larry Huntley

Tommy Land

Tom Steber

Brian Swindle

Carolyn Wood

**Panama City, FL  
March 18, 2015**

Program Eligibility Requirements

- **Should the future transfer of shares be restricted to only shareholder accounts that hold a valid commercial reef fish permit?**

No:

- Everyone should have a chance to enter the program.
- Once you let the public buy shares, no restrictions should be put on their ability to receive full compensation for the use of their shares.
- Should require a commercial reef fish permit, except could impact fish houses' ability to keep allocation on hand for vessels that offload.
- Requiring shareholders to have a commercial reef fish permit will keep the fish in the fishery, but that would result in fishermen selling their boats and keeping their permits, resulting in a de facto fleet reduction.
- The program is working well, so why change it?

Yes:

- The program is working great, but there are issues that need to be addressed on permit eligibility.
- Support the requirement to have a reef fish permit; reducing overcapacity is a goal of the program, so fleet reduction would be beneficial.

- **Should accounts with shares, but without a commercial reef fish permit be allowed to harvest the allocation associated with those shares?**

No: Attendees do not support this suggestion.

- **Should shareholders not actively engaged in fishing be allowed to transfer their shares and allocation to other shareholders?**

Yes:

- There was support because fish houses need fish for bycatch and small shareholders, and it would benefit retiring fishermen.
- Leasing helps reduce discards, helps other fishermen, and those who do not hold shares.

Inactive Accounts and Redistribution of IFQ Shares to Address Regulatory Discards

- **Should the closure of accounts and redistribution of shares in accounts that have never been activated in the current system be allowed if the accounts are not active by a specified date?**

Yes: Attendees support this suggestion.

- **Should shares be redistributed from inactive accounts to those with no or small shares or to new entrants to reduce regulatory discards?**

No:

- Does not support giving new entrants shares in the red snapper IFQ program. If going to give away shares, put a moratorium on selling shares to anyone.
- Historical participants should be considered for the distribution of shares from inactive accounts.

Yes:

- It would help new entrants and small shareholders. There is a need for small shareholders to obtain more shares.
- Support redistribution of shares for small shareholders to account for regulatory discards.
- To do so, set up a pool of fish with the quota from inactive accounts, from which small shareholders and new entrants can buy shares. (Based on the Pacific Northwest federal fishery program.)
- Qualifiers for small shareholders and new entrants would be used for a federal IFQ bank.
- Some form of cap needs to be considered on the amount financed to new entrants and small shareholders.

Suggested criteria of a new entrant or small shareholder:

- Must have a reef fish permit and would not be allowed to lease fish.
- Don't prohibit a new entrant or small shareholder to lease their quota.
- New entrants and small shareholders are those who own shares equal to or less than 2,500 lbs.
- Own or lease a fishing vessel, and actively engage in reef fishing for a minimum of 24 months.

Full retention requirements to address regulatory discards

➤ **Should the commercial red snapper minimum size limit be removed, requiring commercial fishermen to retain all caught red snapper?**

No:

- Sounds like a good idea, but hard to execute and impractical.
- Discard mortality is a by-product of not having enough allocation.

Yes:

- Eliminate it; there is no biological reason to have a 13" size limit.
- Create a quota bank for fishermen to use for smaller fish that would now be retained, which would offset and reduce the dead discard uncertainty buffer [that is built into the red snapper quota].

➤ **Should the full retention of all commercially caught red snapper be required?**

No:

- There would be no way to stay within the available allocation. Discard mortality is a by-product of not having enough allocation.
- Have tried this in trawling, when fishermen have no control of what is coming over the rail.

- Would not be possible if had a choke species closure, where capture of another species is prohibited.

Yes: Full retention could work if increase the quota substantially (to 18mp).

#### Caps on the Use or Possession of IFQ Shares and Allocation

- **Should caps on the amount of IFQ allocation held by and entity or landed by a single vessel be established?**

No:

- This would negatively affect the market.
- Allocation caps would be detrimental to the industry because wholesalers need a reliable, steady supply of product.
- Caps can be circumvented.

- **Should a cap on the amount of shares or allocation a non-reef fish permitted shareholder may possess be established?**

No: Not necessary at this time. Such a provision could be needed in future, and if so would be addressed then.

#### Requirements for the Use of Shares and Allocation

- **Should use-it or lose-it provisions be established?**

No: Unless distributed allocation is not being harvested, this is not needed.

- **Should restrictions be placed on the sale of IFQ allocation and shares?**

No.

- **Should unused IFQ allocation be allowed to roll-over for use in the following year?**

No:

- This could complicate the process and harm the market.
- For conservation reasons, it's okay to leave a little extra fish in the water at the end of the year.
- This could affect the quota for the following year.

Yes: Could establish a provision for people who buy allocation ("lease fish") to have a buffer of 10% of their on-board poundage. Those accounts would start with a negative balance at the beginning of the next year.

- **Should a "lease-to-own" provision be considered?**

No:

- Concern that shareholders would be forced to give up their shares.
- Could reduce availability of quota to new entrants and small shareholders because shareholders don't want to give up shares.



- Some of this may already be going on among private entities. NMFS should not be a part of these private business transactions.

Yes: If we could track new entrants or small shareholders leasing allocation, give those who regularly buy allocation priority access to any new or unused fish that become available.

### Mid-Year Quota Changes

- **Should a portion of shareholders' allocation be withheld at the beginning of the year if a mid-year quota reduction is expected?**

No:

- This could hurt small fishermen.
- If a quota decrease occurs, deduct it from the following year's quota.

### Enforcement of all Reef Fish Landings

- **Should all commercial reef fish vessels be required to hail-in, even if they are not landing IFQ species?**

No: Recreational sector does not have such a requirement.

Yes:

- But, don't require reef fish vessels not carrying IFQ species to land at approved locations. Do require them to declare the landing sites.
- Require a simple landing notification without species information, and then do random checks instead. This keeps honest people honest and less honest people a little less dishonest.

### Additional Issues

#### General comments

The IFQ program has stabilized the fishery.

The current IFQ program is working for now.

No need for Amendment 36, program is working fine.

There would be negative consequences in further micromanaging the fishery.

#### Price caps on selling allocation

- Establish a cap to the price of allocation ("lease price") of not more than 50% (or some other value) of the ex-vessel price. The rationale is it would possibly slow down the people (brokers) who are buying allocation strictly to resell the allocation to others.
  - Could have a problem because you don't always know the ex-vessel price.
- Opposes putting caps on the sale of allocation ("lease prices") because the system is based on the free market and the prices could only be supported by whatever the leasee is willing to pay.
- It hurts everyone if a cap is put on allocation price because it hurts the supply.

- Price controls established by the government have never worked.
- Price controls can be easily circumvented.

#### Grace period for acquiring allocation

- If bringing in red snapper without allocation, allow vessels to obtain the allocation to cover the poundage within a 30-day time limit with a maximum amount of 200 lbs. If can't obtain allocation, the value of the fish is forfeit and turned over to NMFS. Limit the frequency this provision could be used. Or, prohibit a vessel from returning to fish until allocation has been acquired to cover fish caught on a previous trip.

#### **Council member and staff:**

Pamela Dana  
Ava Lasseter  
Charlotte Schiaffo

#### **21 people attended including:**

Greg Abrams  
Walter Akins  
Jerry Anderson  
Dean Cox  
Mike Eller  
Frank Gomez  
Chuck Guilford  
John Harris  
H.R. Hough  
Gary Jarvis  
Bart Niquet  
Chris Niquet  
Michelle Sempstrott  
Russell Underwood  
Mike Whitfield

**St. Petersburg, FL  
March 24, 2015**

Program Eligibility Requirements

➤ **Should the future transfer of shares be restricted to only shareholder accounts that hold a valid commercial reef fish permit?**

No:

- This item originated from a previous concern for a problem that has not materialized. Fishermen were concerned that shareholders would “sit on” and not fish distributed allocation.
- Realization the fishermen are aging, and after 5 years the fishery opened up, without issue. Changing things around now will add an element of uncertainty into the program.
- Status quo adds stability to the program.
- Program is a market-based fishery and is currently reducing overcapitalization. The program is working as it should.
- The fishermen are seeing problems (bycatch in the eastern gulf) and fixing the problems themselves. They are being proactive (i.e., industry-sponsored quota banks have been established for bycatch).
- As long as the shares are available on the open market, it is acceptable. It does not matter who owns the shares.

➤ **Should accounts with shares but without a commercial reef fish permit be allowed to harvest the allocation associated with those shares?**

No:

- Allowing someone without a reef fish permit to land allocation makes no sense. It would be hard to enforce. They would need to have VMS, and all other fishing requirements. It would disassemble the whole program. Too confusing. To land commercial fish, they would be required to have everything the commercial fishermen need to have.
- Promotes overcapitalization.
- Does not align with the goals of the program.
- Does not align with the purpose and need of Amendment 36.
- Provisions are already in place that define a commercial fishing boat.
- Reef fish permits are under moratorium for a good reason.

➤ **Should shareholders not actively engaged in fishing be allowed to transfer their shares and allocation to other shareholders?**

Yes:

- It promotes flexibility in the program and helps people who do not have allocation to be able to buy it for bycatch purposes.
- Fishermen depend on people with allocation who are not fishing to support other fishermen’s fishing and bycatch.
- Fishermen need to be able to buy allocation (“lease”) from someone who has some.

- If someone is required to fish their allocation, they will do so. Then, others will no longer be able to buy that allocation (“lease”) from them, which will increase dead discards.
- Businesses have built stable business plans, and if you start to restrict one component of it, then you hurt the business plan.

#### Inactive Accounts and Redistribution of IFQ Shares to Address Regulatory Discards

- **Should the closure of accounts and redistribution of shares in accounts that have never been activated in the current system be allowed if the accounts are not active by a specified date?**

##### Yes:

- Close accounts after a reasonable period of time. In the interim, distribute the allocation among the current shareholders proportionately. Shareholders of the inactive accounts would be notified, but in the meantime, the allocation would not be wasted. Distributing the allocation would make people take action in activating their accounts.
- Notify inactive account shareholders that shares or allocation will be redistributed to established industry quota banks.

- **Should shares be redistributed from inactive accounts to those with no or small shares or to new entrants to reduce regulatory discards?**

##### No:

- If we are going to define a new entrant, use definition from the loan program.
- New entrants should not be given preferential treatment. Redistribute shares from inactive accounts proportionately among the grouper IFQ shareholders (assists with bycatch).

#### Full retention requirements to address regulatory discards

- **Should the commercial red snapper minimum size limit be removed and commercial fishermen be required to retain all caught red snapper?**

##### No:

- Keep status quo.
- Doing both of these together would reduce discards. Of all the suggestions in the document, these are the only two that reduce discards. If this could reduce discards substantially, it could increase allowable yield by reducing the discard assumption in the assessment process. Current mortality assumption is 20%. This proposed mortality assumption is 100%.
- Full retention could create problems with SPR.
- If you want to decrease discards, you must promote the transferring of allocation (leasing).
- The fishermen are using allocation sparingly. They are using it for bycatch (eastern gulf), and not for targeting red snapper. They are managing the bycatch.

##### Yes:

- For those who want electronic monitoring, full retention should speed up the implementation process.
- To get rid of discards, every fish caught needs to be landed and sold. Fish caught above allocation should be kept and sold with the money from the sale of the fish going into a

government account. The fisherman has 30 days to find allocation with no fine/penalty. If he can't cover the allocation, the government gets the funds which go towards the costs of the program or improvements in the program.

- 

#### Caps on the Use or Possession of IFQ Shares and Allocation

##### ➤ **Should new caps on the use or possession of IFQ shares and allocation be established?**

No:

- No caps should be established. All allocation should be available for sale to fishermen and get fished. Don't muck up the system.
- Caps do not promote conservation.

#### Requirements for the Use of Shares and Allocation

##### ➤ **Should use-it or lose-it provisions be established?**

No:

- Supports being able to use the allocation distributed from one's shares, or to sell it (allocation) to other fishermen that have a reef fish permit.
- Every year, some allocation is left on the table, and they don't want to lose it through additional restrictions.

##### ➤ **Should restrictions be placed on the sale of IFQ allocation and shares?**

No:

- Investment in the program has been heavy by fishermen. Why should they have restrictions imposed on them?
- It does not help conservation.
- It would restrict new entrants and those who are retiring and getting out of the fishery.
- A person might have more than one account, and restrictions would prevent him from transferring allocation between accounts.
- It does not align with the goals of the IFQ program.
- Recent discussions of restricting allocation have resulted in people fishing their allocation instead of selling it ("leasing") because they are afraid of losing their shares if they don't fish them.

##### ➤ **Should unused IFQ allocation be allowed to roll-over for use in the following year?**

No:

- Allocation must be used by the end of the year or you lose it. Keep status quo.
- Unused allocation builds the stock for the following year, which increases the quota. It's a good conservation method for the future.

Yes: Banking and borrowing may be an appropriate use for rollover of unused allocation, for the individual or the fleet as a whole.

##### ➤ **Should a "lease-to-own" provision be considered?**

No:

- If a person was forced to sell their shares after selling their allocation (“leasing”), they would stop selling allocation in order to keep their shares.
- The government should not be involved in telling individuals they have to participate in a lease-to-own provision. The decision should be between the business partners as a private negotiation.
- An IFQ is an economic and conservation tool. This proposal does not promote conservation and it devalues allocation and shares.
- New entrants have to buy allocation (“lease”). New entrants do not need the government to intervene for them. No welfare program is needed. Government loan program would be acceptable for fishermen or new entrant to invest in the fishery.

#### Mid-Year Quota Changes

- **Should a portion of shareholders’ allocation be withheld at the beginning of the year if a mid-year quota reduction is expected?**

No:

- This would promote instability in the fishery and in business operations.
- NMFS needs to be accountable for making quota changes before the start of the fishing year.

#### Enforcement of all Reef Fish Landings

- **Should all commercial reef fish vessels be required to hail-in, even if they are not landing IFQ species?**

Yes.

#### Additional Issues

##### General comments

- Add more species to the IFQ program to generate more cost recovery fees.
- Raise the crew size requirement for dually permitted vessels.
- Implement a federally backed program for IFQ share purchases.
- Establish some type of centralized management account (through a fish house or some umbrella entity) to hold allocation, and a fisherman can access it to get allocation through the fish house or entity.
- The Gulf Council should maintain management of the IFQ system and should vehemently oppose any scheme to take this authority away from them.
- Why fix something if it isn’t broken? Reef Fish Amendment 36 should be scrapped.

##### Accounts and allocation

- Allocation needs to be in the account before the 3 hour notice. There are problems in the system where fish are being confiscated and fines levied because allocation is being transferred after they have given their 3-hour notice of hailing-in. There needs to be help with these issues.

- Develop a provision to allow fishermen to purchase allocation after landing to cover fish already caught. For example, establish a grace period to find allocation needed for their catch. (3 days proposed.) This would provide needed flexibility.

**Council member and staff:**

John Sanchez  
Doug Gregory  
Karen Hoak  
Ava Lasseter

**12 people attended including:**

Glen Brooks  
Bill Tucker  
Steve Maisel  
Jim Clements  
Eric Brazer  
Brad Gorst  
Brian Lewis  
Frank Chivas  
Joseph Abdo  
Cody Chivas