Reef Fish Amendment 36B and 36C:

Commercial IFQ Program Modifications

History of Amendments 36

- Jan 1, 2007: RS-IFQ ⟶ Jan 1, 2012 open to PP
- Jan 1, 2010: GT-IFQ ⟶ Jan 1, 2015 open to PP
- Aug 2011: Initiated RF36 – 1 action (Require permit)
- Apr 2014: Reinitiated RF36; list of potential changes
- Jan 2016: Divided into 36A and 36B
- Apr 2017: Final action on 36A
- Aug 2019: Divided into 36B and 36C
- Aug 2020: PHD of 36B (Council did not review)

36A Overview

- NMFS reclaimed shares held in non-activated accounts, and
- NMFS may withhold IFQ allocation at start of the year equal to an anticipated quota reduction.

  (Effective July 12, 2018)

- All Reef Fish Vessels must hail-in 3-24 hours before landing and land at approved landing location. (Effective Jan 1, 2019)

36B Overview

Purpose: To limit IFQ share ownership in shareholder accounts without a valid or renewable commercial reef fish permit, thereby promoting share ownership by fishermen who have the ability to land reef fish within the IFQ programs.

Action 1 – Permit Requirement

- Require some or all shareholder accounts to have a commercial reef fish permit.

Action 2 – Share Divestment

- Establish a process for share divestment for those unable to meet new permit requirement, both upon implementation of amendment and in the future.

36B Action 1 – Permit Requirement

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

In order to obtain or maintain shares :

- **Alternative 2:** all shareholder accounts must be associated with a valid or renewable commercial reef fish permit.
- **Alternative 3:** shareholder accounts established after December 31, 2014, and that are still active must be associated with a valid or renewable commercial reef fish permit.
- **Alternative 4**: shareholder accounts established after October 2, 2019, (Reef Fish AP meeting date) and that are still active must be associated with a valid or renewable commercial reef fish permit.
- **Alternative 5**: shareholder accounts established following implementation of this amendment must be associated with a valid or renewable commercial reef fish permit.

Note: A shareholder account is considered to be associated with a permit if the permit has the exact same entities listed on both the shareholder account and permit.

36B Action 1 – Accounts & Permits

Tables 1.1.2 and 2.1.2: Number of accounts (active, initial, and suspended) on February 25, 2020.

	Permit	No Permit
Shares	369	314
No Shares	233	108

Alt.	Require association with a permit (#)	Exempt from permit requirement (#)
2 (all)	314	0
3 (2014)	64	250
4 (2019)	4	310
5 (later)	0	314+

36B Action 1 – Accounts & Permits

Table 2.1.1. Commercial reef fish permits in relation to landings and IFQ accounts.

	2015	2018
Reef Fish Permits	**868**	**845**
Vessels with reef fish landings	533	528
"Latent" permits	335	317
IFQ accounts associated with Reef Fish Permits		
With active IFQ account	763	736
With IFQ landings	485	458

36B – Require Accounts with Shares to Obtain a Permit

- Shareholders without a permit would be expected to respond in different ways, including:
  - Obtain a permit
  - Sell their shares
  - Consolidate related accounts or form new business partnerships
- Not expected that many shares would be reclaimed by NMFS.
- Public hearings could provide more insight.
- Accounts without shares could continue to transfer allocation without a permit.

36B Alts 3-5: Exempted Accounts

- Under **Alternatives 3-5**, some IFQ accounts would be exempt from the permit requirement and be allowed to continue to hold shares without a permit.
- Need to address several questions: What is the Committee's intent for these accounts?

Tables 1.1.2 and 2.1.2, providing number of accounts (active, initial, and suspended) on February 25, 2020.

	Permit	No Permit
Shares	369	314
No Shares	233	108

602 + 422 = 1,024

Alt.	Require association with a permit (#)	Exempt from permit requirement (#)
2 (all)	314	0
3 (2014)	64	250
4 (2019)	4	310
5 (later)	0	314+

36B Alts 3-5: Exempted Accounts

- Account statuses: active, initial, suspended, and closed.
- Closed accounts may be reopened (names on account may not be changed). Based on the account's creation date, these accounts could be exempt from the permit requirement.
- Should closed accounts that are re-opened be exempt from the permit requirement?

# Active, initial, and suspended accounts (Feb 25, 2020)	**1,024**	
All account statuses, including closed (Dec 31, 2019):	Total	Closed
# accounts	1,891	≈867
# accounts <u>created</u> before Jan 2015 (**Alt 3**)	1,463	≈439
# accounts <u>created</u> before Oct 2, 2019 (**Alt 4**)	1,872	≈848

36B Alts 3-5: Exempted Accounts

How can the exempted accounts be used?

- Can an exempt account increase its shares?
- Or, is an exempted account capped at the amount of shares it holds at the time this amendment is implemented?
- If an exempted account decreases the amount of shares it holds, does that become the new share cap for the account?

(Note: During the first 5 years of each program, you needed a permit to increase shareholdings.)

36B Alts 3-5: Exempted accounts

- Currently, accounts that have been closed can be reopened, retaining the original date of creation.
- Changing the name(s) for an account requires creation of a new account.
- Changing the ownership behind an account in the name of a business does not require the creation of a new account.
- Is it the Committee's intent to allow closed accounts to be reopened and be exempt from the permit requirement for holding shares?

Advisory Panel recommendations:

- **Reef Fish AP** (October 6, 2020) Motion:

To add an **Alternative 6**: … shareholder accounts established after October 6, 2020, (Reef Fish AP meeting date) … must be associated with a … commercial reef fish permit.

- **Ad Hoc RS & GT-IFQ AP** (June 2, 2021) Motion:

To add an **Alternative**: shareholder accounts established after June 2, 2021, (AH RS/ GT-IFQ AP meeting date) … must be associated with a … commercial reef fish permit (as *Preferred*).

Alternatives and AP Motions Summary

Alternative: Accounts (with shares) that would be required to have a permit. (Accounts opened before the date would not be required to have a permit)	**# Accounts with Shares, No Permit (Jan 2020)**
Alt 2: All shareholder accounts must have a permit.	314
Alt 3: Accounts established after December 31, 2014 (public participation began).	64
Alt 4: Accounts established after October 2, 2019 (RF AP meeting date).	4
Alt 5: All accounts opened after implementation of this amendment.	0
AP Motion: October 6, 2020 (RF AP meeting)	TBD
AP Motion: June 2, 2021 (IFQ AP meeting)	TBD

36B Action 2 – Share Divestment

- **Alternative 1**: No Action. Shareholders must be in compliance by the effective date of the final rule implementing this amendment, or the shares will be reclaimed by NMFS.
- **Alternative 2**: NMFS will reclaim all shares in a shareholder account that is not associated with a commercial reef fish permit:

  Options 2a: 1 year **Option 2b**: 3 years, or **Option 2c**: 5 years following the effective date of the final rule implementing this amendment.
- **Alternative 3**: <u>After implementation of this amendment</u>, if a shareholder account no longer has an associated valid or renewable reef fish permit (i.e., the permit is transferred or is not renewed within one year of the expiration date and is terminated), the shareholder(s) must divest of the account's shares as needed to meet the requirements set in Action 1 or the shares will be reclaimed by NMFS:

  Options 3a: 1 year **Option 3b**: 3 years, or **Option 3c**: 5 years following the transfer or termination of the permit.

36B Action 2 – Share Divestment

- What is the Council's intent for grace periods for an account to obtain a permit following implementation of this amendment?

- Would future new shareholders be required to have a permit before buying any shares?
- What about those who inherit shares and have to open a new account in their name?

- **IFQ AP recommendation:** (Add an alternative to Action 1 with date of June 2, 2021.) Inherited shares from a death in the family are exempt from this requirement for a period of 3 years.

36C Overview

- Action 1 – Distribution of Reclaimed Shares
- Action 2 – Quota Bank
  - 2.1 Thresholds of allocation to add to quota bank
  - 2.2 Eligible recipients of allocation from the quota bank
  - 2.3 Amount of allocation available for eligible recipients
  - 2.4 Distribution of allocation from the quota bank
- Action 3 – Accuracy of Estimated Weights in Advance Landing Notifications

36C: Purpose and Need

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.

36C: Purpose and Need

AH IFQ AP Recommendation: To modify the purpose and the need of Amendment 36C.

- The purpose of this action is to reduce the continued over capacity in the red snapper grouper tilefish IFQ programs that was identified in the 5-year review which will alleviate discards and increase access to shares to actively fishing commercial fishermen.

- The need is to prevent overfishing to achieve on a continuing basis the optimum yield of federally managed fish stocks and to rebuild the red snapper grouper-tilefish stocks.

36C Action 1 – Distribution of Reclaimed Shares

Alternative 1: No Action. Do not distribute reclaimed shares, including the shares reclaimed through Amendment 36A or Action 2 of Amendment 36B.

Alternative 2: Distribute in inverse proportion the 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 3: 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 4: Distribute to a non-profit, third-party administered quota bank the reclaimed shares with oversight from NMFS, the Council, and other involved parties. The quota bank would retain the shares and distribute the allocation associated with the shares each year.

36C Action 1 – Distribution of Reclaimed Shares

AH IFQ AP recommendation:

To recommend to the Council to reconsider adding an alternative 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.

36C – Amount of Reclaimed Shares

Shares reclaimed through 36A

Share category	Reclaimed Shares	2019 Quota (lbs gw)	2019 Allocation (lbs)	# Accounts with shares ≤ 500 lbs
DWG	0.028405%	1,024,000	291	207
RG	0.106974%	3,000,000	3,209	178
GG	0.182621%	939,000	1,715	291
SWG	0.451821%	525,000	2,372	336
TF	0.055081%	582,000	321	139
RS	0.078800%	6,937,838	5,467	111

36C Action 2 – Quota Bank

Action 2 assumes Alternative 4 (Action 1) is selected.

> **Alternative 4**: Distribute to a non-profit, third-party administered quota bank the reclaimed shares with oversight from NMFS, the Council, and other involved parties. The quota bank would retain the shares and distribute the allocation associated with the shares each year.

Council would specify features of quota bank through several actions (e.g., Sub-actions 2.1-2.4).

- How much allocation goes into it? Who has access and how much allocation would be available to each recipient? How would allocation be distributed?
- Additional actions may be needed.

AH IFQ AP Recommendation: To eliminate NOAA-run quota bank from the amendment.

36C Action 2.1 – 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 and/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):

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):

Options 2a, 3a: red snapper.
Options 2b, 3b: all grouper-tilefish share categories.

36C Action 2.2 – Eligible Recipients of allocation from Quota Bank

Based on Council discussion, the primary characteristics of a small participant is someone who is:

- actively engaged in fishing,
- possesses a commercially permitted reef fish vessel, and
- makes landings of IFQ species.

Small participants/new entrants would have a vessel account, but may have or not have shares

January 2020 meeting: small participants or new entrants may be shareholders who qualify as small participants for all share categories of the IFQ programs, where "small" would be defined based on the share bin size in the annual reports for the IFQ programs.

36C Actions 2.3 and 2.4 – Additional Questions

Action 2.3 – Amount of allocation available to eligible participants

- How much allocation would be provided to each group of recipients?
  - Small participants/new entrants (are these the same?)
  - For reducing discards
- Would need to consider amount of allocation allotted to quota bank.

Action 2.4 – Distribution of allocation from the quota bank

- Equally among the eligible recipients?
- Weight distributions by some measure of fishing activity? (i.e., those who can demonstrate more fishing activity could receive more allocation)
- Applying an adaptive redistribution method based on cyclical redistribution that relates to fishing activity?
- Lottery?

36C Action 3 – 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.

When the estimated weight for a share category is less than the actual landed weight of that share category, the difference between the estimated weight and the actual landed weight cannot be greater than :

Alternative 2: 25% of the estimated weight.
Alternative 3: 50% of the estimated weight.
Alternative 4: 75% of the estimated weight.
Alternative 5: 100% of the estimated weight.

This requirement applies when the actual landed weight of that share category is equal to or greater than

Options a: 100 lbs.
Options b: 500 lbs.
Options c: 750 lbs.

36C Action 3 – Accuracy of estimated weights in advance landing notifications

AH IFQ AP recommendation: Alternative 1 as preferred.

Questions?