



Tab B, No. 10(a)
August 2021

Reef Fish Amendments 36B and 36C:

Commercial IFQ Program Modifications



36B Overview

The purpose is 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 – Require [some or all] shareholder accounts to have a commercial reef fish permit.

Action 2 – Share Divestment for Permit-Required accounts that do not have a permit.

Action 3 – Permit-Exempt Accounts



36B Action 1 – Establishing Permit-Exempt Accounts

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

In order to obtain (transfer into a shareholder account) or maintain shares (hold existing shares in a shareholder account):

- **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.
- **Preferred 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.



AP recommendations:

- Reef Fish AP (October 6, 2020)

To add an Alternative 6: In order to obtain (transfer into a shareholder account), or maintain shares (hold existing shares in a shareholder account), shareholder accounts established after October 6, 2020, (Reef Fish AP meeting date) and that are still active must be associated with a valid or renewable commercial reef fish permit.

- Ad Hoc RS & GT-IFQ AP (June 2, 2021) – same recommendation to use date of meeting, and recommend as preferred.



Action 1 – Effect on Account Structure

Alternative 1: Shareholder Accounts

- Shares and Permit
- Shares and No Permit
- No Shares and Permit
- No Shares and No Permit

Alternative 2: Shareholder Accounts

- Shares and Permit
- ~~-Shares and No Permit~~
- No Shares and Permit
- No Shares and No Permit

Alternatives 3-5:

Permit-Exempt Shareholder Accounts

- Shares and Permit
- Shares and No Permit
- No Shares and Permit
- No Shares and No Permit

Permit-Required Shareholder Accounts

- Shares and Permit
- ~~-Shares and No Permit~~
- No Shares and Permit
- No Shares and No Permit

RF36B – Structure of Actions

Action 1: Permit Requirement for Shareholder Accounts		
Alternative 2 All Accounts Permit-Required		Alternatives 3-5 Permit-Exempt Accounts Permit-Required Accounts
Action 2: Share Divestment for Permit-Required Accounts		
Applies to all accounts		Only applies to Permit-Required Accounts
Action 3: Permit-Exempt Shareholder Accounts		
N/A		Only applies to Permit-Exempt Accounts <ul style="list-style-type: none">• Establish a share limit• Determine if reopened accounts are permit-exempt.

Action 2 – Share Divestment for Permit-Required Accounts

- **Alternative 1:** No Action. Shareholders of permit-required accounts must be in compliance with the requirement 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 permit-required 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.



Action 2 – Permit-Required Accounts

- 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.



Accounts with/without Shares/Permit

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	314	0
3	64	250
4	4	310
Pref. 5	0	314+

Action 2 – Share Divestment for Permit-Required Accounts

- **Alternative 3:** After implementation of this amendment, if a permit-required account becomes unassociated with a permit, (i.e., the permit is transferred or is not renewed and is terminated), the shares will be reclaimed by NMFS:
 - Option 3a:** 1 year **Option 3b:** 3 years, or
 - Option 3c:** 5 years following the transfer or termination of the permit.
- **Alternative 4:** If shares are acquired from a legal proceeding (e.g., inheritance or divorce), the shares will be reclaimed by NMFS:
 - Option 4a:** 1 year **Option 4b:** 3 years, or
 - Option 4c:** 5 years following the date the shares were transferred into the account.



Action 3 – Permit-Exempt Accounts

Action 3.1 – Share Limit for Permit-Exempt Accounts

- Share *Limit* is set at the *account* level.
- Share *Caps* are set at the *individual* level, and are not modified through this action.
- Permit-Exempt Accounts may have a permit.
- During the first 5 years of each program, you needed a permit to increase shareholdings.



Action 3.1 – Share Limit for Permit-Exempt Accounts

- **All alternatives:** The existing share cap for each share category that applies to any U.S. citizen or permanent resident remains in place.
- **Alternative 1:** There is no share limit for permit-exempt shareholder accounts that do not have a permit.
- **Alternatives 2 and 3:** Establish an account-based share limit for permit-exempt shareholder accounts, based on the amount of shares held in the account either at the time the final rule implementing this amendment is effective, at the time the IFQ online system first records that the account is not associated with a permit, or at the time shares are transferred to the account based on an inheritance or other legal proceeding.



Action 3.1 – Share Limit for Permit-Exempt Accounts

Difference between the alternatives:

- **Alternative 2:** Permit-exempt shareholder accounts may retain shares held but may not increase shareholdings in the account for any share category.
- **Alternative 3:** Permit-exempt shareholder accounts may retain shares held but may not increase shareholdings in the account for any share category. If shares are transferred out of the account, the amount of shares held after the transfer becomes the new share limit for that account.



Action 3.2 – Closed Accounts

- Account statuses: open (active, initial, suspended) and closed.
- Closed accounts may be reopened, but the names on account cannot be changed.

Description of Accounts	Total	Closed
Open accounts (active, initial, suspended) (Table 1.1.2)	1,024	N/A
All accounts (open + closed) on Dec 31, 2019	1,891	≈867
Number of accounts created before Jan 2015 (Action 1, Alt 3)	1,463	≈439
Number of accounts created before Oct 2, 2019 (Action 1, Alt 4)	1,872	≈848

Action 3.2 – Closed Accounts

Alternative 1: No Action. Shareholder accounts that have been closed can be reopened. The date the account was originally established determines whether the account is considered a permit-exempt account.

Alternative 2: Shareholder accounts that have been closed may be reopened, but a reopened account becomes a permit-required account and must be associated with a commercial reef fish permit to hold shares. The time periods provided under Action 2 to bring an account into compliance following implementation of this amendment would apply to reopened accounts, if selected.

Amendment 36C Overview

- Action 1 – Distribution of Reclaimed Shares
- Action 2 – Quota Bank
 - *This action assumes reclaimed shares will seed a quota bank (i.e., Action 1, Alternative 4 selected as preferred)
 - 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



Amendment 36C Purpose

- **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.



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 – Amount of Reclaimed Shares

Shares reclaimed through 36A

Share category	Reclaimed Shares	2019 Quota (lbs gw)	2019 Allocation (lbs)	# Accounts with shares \leq 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 2.1 – 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.



Questions?

