

Ad Hoc Red Snapper / Grouper-Tilefish IFQ AP Meeting Summary
Gulf Council Office
Tampa, FL
March 18, 2025

The newly formed Advisory Panel (AP) started with the election of the chair and vice chair, added an Other Business item to discuss and IFQ fishing business design, and approved the agenda as modified. Following nominations and votes, AP members elected David Walker as Chair and Kelia Paul as Vice-Chair. Staff reviewed the charge to the AP and discussed the scope of work.

Review of Reef Fish Amendment 59A: IFQ Permit Requirements

Staff gave a presentation on Reef Fish Amendment 59A which addresses permit requirements for obtaining and/or maintaining shareholder accounts, IFQ shares and annual allocation. Amendment 59A also includes divestment measures for non-compliant shareholder accounts. Staff presented preferred alternatives selected by the Gulf Council during its January 2025 meeting.

Action 1: Requirements to Open and Maintain Shareholder accounts.

Staff presented the alternatives and indicated the Council's preferred alternative below.

Preferred Alternative 3. In addition to the US citizenship or permanent residency requirement, all applicants are required to possess a valid or renewable commercial reef fish permit to **obtain and maintain** an IFQ shareholder account.

AP members noted that during the first five years of each IFQ program only fishermen were participating. Investors were not allowed to participate. AP members asked about the requirements to maintain a shareholder account. Dr. Jessica Stephen (SERO staff) indicated that account holders can maintain their accounts by keeping their permanent resident or US citizen status.

An AP member asked whether, with the same owner, one account held under personal ownership and one in an LLC would be considered as related accounts. Dr. Stephen indicated that account relatedness is determined by looking at names in both accounts. AP members noted that from a business perspective it is not a good idea to join each shareholder to a reef fish permit. AP members indicated that they are looking for alternatives that would keep the fish with the fishermen without negatively affected businesses. AP members stated that control dates, which were considered in the past, could allow current participants to be exempt from the permit requirement and require future IFQ participants to have permits. AP members noted that the IFQ programs functioned without requiring a permit for many years, leading some participants to feel comfortable with selling their permits. Revising the permit requirements now would put them in a difficult spot. AP members noted that a future control date could result in a rush to get shareholder accounts before the date. An AP member gave the example of a fisherman who is

retiring and is planning to sell their shares and vessel to a new owner over a period of 10 years. New permit requirements would jeopardize this type of transaction. Although AP members want to protect people already in the system, they want to preclude private equity and people not involved in the fishery to come in and buy shares. The AP approved the following motion:

MOTION: In Action 1, to add an alternative that establishes a control date for a requirement to obtain and maintain a shareholder account and make the control date the date of implementation of the amendment.

Motion carried with no opposition.

Action 2: Requirements to Obtain and Maintain IFQ Shares

Staff presented the alternatives included in this action and indicated that the Council did not select a preferred alternative. AP members suggested that if the control date alternative they proposed in Action 1 is not adopted by the Council then a similar motion in Action 2 could help protect existing shareholders. Next, AP members discussed the critical role dealers play in the IFQ programs by supplying annual allocation to some fishermen, including small participants. The Council's representative, Dr. Kesley Banks, urged AP members, especially dealers, to share ideas and propose motions that would account for the specificities of dealers operating in the IFQ programs. AP members noted that the decisions in Action 1 would cascade down and impact subsequent actions. AP members stated that dealers provide a service by leasing out annual allocation to several smaller fishermen. The AP suggested that dealers should be considered separately because they have a different business model. The AP further noted that failing to recognize the importance of dealers would eliminate a sizeable stream of fish for smaller entrants and would result in unintended consequences. The AP approved the following motion:

MOTION: In Action 2, to add an Alternative: To obtain and maintain IFQ shares, in addition to the US citizenship or permanent residency requirement, a shareholder account must be associated with a valid or renewable commercial reef fish permit and/or a Gulf or South Atlantic Dealer Permit.

Motion carried with no opposition.

AP members noted that the recognition of a special status for dealers should be reflected in all actions in the amendment and suggested that a specific dealer shareholder account could be considered. Dr. Stephen indicated that from a technological standpoint a special dealer shareholder account could be possible, but it would draw out the timeline of the amendment. She also noted that if the Council considers dealer shareholder accounts, associated costs and benefits would be explored. AP members noted that accounts should be tied to some kind of landings requirements to eliminate shell companies.

Action 3: Requirements to Obtain Annual Allocation

Staff discussed the alternatives considered in this action and noted that the Council did not select a preferred alternative. AP members indicated that for the sake of consistency, motions approved in previous actions should apply to Action 3. AP members stated that the consideration for alternatives to protect current IFQ participants by establishing control dates should close

loopholes and avoid a rush on permit purchases and opening new shareholder accounts. The AP approved the following motions:

MOTION: In Action 3, to add an Alternative that establishes a control date for a requirement to obtain annual allocation and to make the control date March 18, 2024.

Motion carried with no opposition.

MOTION: In Actions 1 and 2, to establish a control date of March 18, 2024.

Motion carried with no opposition.

Action 4: Divestment from Non-compliant Accounts

Staff discussed the alternatives and options included in this action and presented the Council's preferred alternatives and options below.

Preferred Alternative 2. NMFS will reclaim shares from shareholder accounts that are not compliant with requirements set in Actions 1, 2, or 3:

Preferred Option 2a: 1 year following the effective date of the final rule implementing these requirements.

Preferred Alternative 3: After implementation of this amendment, if a shareholder account is no longer in compliance with the requirements set in Actions 1, 2, 3, or 4, the owner(s) of the shareholder account must divest of their shares, or the shares will be reclaimed by NMFS:

Preferred Option 3a: 1 year following the non-compliant status.

AP members discussed hardship and indicated that a one-year grace period before divestment would not be enough in some instances, for example in case of death or boat damage. The AP indicated that fishermen who plan to retire would be precluded to sell their IFQ holdings to small entrants in installments because new entrants cannot afford to pay cash for the shares at once.

Review of Reef Fish Amendment 60: IFQ Distribution Issues

Staff gave a presentation on the Reef fish Amendment 60, an amendment which addresses the distribution of shares and annual allocations in the Gulf IFQ programs. Shares and annual allocation to be distributed include, shares held by NMFS (from Reef Fish Amendment 36A), shares and annual allocation to be recovered from inactive IFQ shareholders accounts, shares and allocation that will be reclaimed from shareholder accounts who do not comply with commercial reef fish permit requirements proposed in Reef Fish Amendments 59 A and 59 B, and, annual allocation set aside from future IFQ quota increases. Staff discussed alternative distribution methods considered in Amendment 60.

AP members asked about the reasons explaining shareholder account inactivity. Staff replied that some shareholders are inactive because the amount of shares they own is very small. AP

members asked whether the names of shareholders with inactive accounts could be published. Dr. Stephen replied that these shareholders would be notified but she will need to check with legal counsel if names could be published. She noted that names of all shareholders are published but there is no public information about who is active. AP members noted that as people get notified, the number of inactive accounts would decrease. AP members noted that the shares held by NMFS would amount to a very small amount if distributed among all shareholders.

AP members indicated that too many distribution approaches were presented and asked whether a decision tool would help in comparing the approaches. Staff replied that a decision tool could not be designed because the amounts of shares and allocation to be distributed are unknown. Staff noted that a flowchart could be designed and that distribution methods would be narrowed as the Council selects preferred alternatives. AP members discussed the distribution of future quota increases and asked what would happen if a large quota increase were followed by a decrease in quota. Staff replied that for future quota increases, only annual allocation will be distributed, and distributions would not occur when there are quota decreases.

The AP discussed the need to get some allocation for fishermen who are getting started or need to reinvest in the IFQ programs and commented that options and alternatives that distribute to those without shares are rewarding people who don't have a vested interest in the industry. Some AP members suggested that if someone made the choice not to invest in their business, i.e., not buying a minimum number of shares, they should not receive any shares for free. AP members noted that it would not be fair to reward people who can buy shares but prefer to wait for shares to be given to them. Other AP members did not think it was fair to categorize everyone who does not own shares as not invested or wanting something for nothing and countered that the instability of the management climate is making it increasingly challenging to invest financial resources that could be lost. AP members noted that the while point of the distribution was to help new participants. Dr. Kesley Banks, Council representative, noted that quota banks could provide an approach to distributing shares and annual allocation, including distributions of shares held by retiring fishermen. For example, quota banks could buy shares from retiring participants and distribute them. AP members noted that there are several quota banks operating around the country. AP members noted that the Council received presentations on quota banks, including one on the Shareholders Alliance quota bank. The AP suggested that an evaluation and comparison of alternative quota banks could be useful to the AP and Council. The AP approved the following motion:

Motion: To request the Council implement a quota bank to hold and distribute all reclaimed shares and allocation including all of those already held by the agency.

Motion carried with no opposition.

Discussion: Active Participation in IFQ Programs

Council staff reviewed the proposed action for active participation requirements for the commercial IFQ programs. Measures considered to determine active participation include landings requirements and restrictions on share and annual allocation transfers.

AP members asked whether the measures include an owner-on-board requirement, to which Council staff replied that they do not. The AP member added that the timing of checking for compliance with active participation requirements would need to be thoughtful, as changes to catch limits and market conditions can influence a shareholder's decisions about when to catch allocation in certain share categories. Council staff replied that a date of October 1 would be used to determine compliance, based on that shareholder account's landings over the previous two years. Some AP members were concerned about the use of the October 1 date based on how they use their allocation. SERO staff said there might be some flexibility in the October 1 date, but that a date before January 1 was necessary to allow the program to be automated. Council staff noted that if a landings requirement is set as a minimum percentage of shares to be landed, a shareholder account owner would have to land that percentage on average over a two-year period. An AP member stated that consideration should be given to seafood dealers who are also shareholders. SERO staff discussed how the percentage system would work. Based on this input, several AP members thought that a threshold of 50% would be too high, and 5% might be too low. AP members thought some share categories, like deep water grouper and red grouper, are caught gradually throughout the year, and that it could be difficult for a shareholder to catch enough fish to meet high threshold requirements for active participation.

Council staff reviewed other options for active participation, including recording a completed landings transaction within a two-year reference period, or capping the percentage of allocation that can be transferred annually from a shareholder account. An AP member was concerned about the flexibility for individuals who control multiple shareholder accounts being able to meet the requirement criteria discussed. Council staff stated that the options presented came from previous Council discussions, and other recommendations from the AP were encouraged. An AP member suggested that landings requirements could possibly intensify effort, and perhaps lead to reductions in price and affect profitability. An AP member asked about the proportion of fish landed as leased versus owned allocation. SERO staff replied that the last IFQ Annual Report for 2023 showed 47% of red snapper landings were from leased shares, and approximately 52% from the tilefish share category, as examples. SERO staff cautioned that these data do not account for the relatedness of accounts, such as allocation being leased from one related account to another related account. Capt. Ed Walker (Council member) mentioned the idea of capping the amount of allocation in a shareholder's account that could be leased in a given year. SERO staff noted that a shareholder could spread their potential liability by moving shares to other related accounts, as opposed to keeping all their shares in one account. Some AP members thought that requiring shareholders to land a certain percentage of their allocation every year would limit the availability of allocation for lease to those fishermen that rely on leasing quota to fish. Dr. Kesley Banks (Council representative) reiterated that the Council's intent is to work to resolve issues within the IFQ programs which have been brought before the Council.

An AP member asked how the Council might protect against a large shareholder from partnering with another small business or account, to circumvent the active participation requirements via the idea of related accounts being analyzed together to determine compliance. The AP agreed that it would need to explore this further.

Motion: The AP recommends adding an option in Amendment 59B that allows the landings of multiple vessel accounts under a related shareholder account to be

included and calculated towards a landings-based participation requirement for all shares in those related accounts.

Motion carried with one opposed.

Other Business

An AP member provided a real-world business design example including several limited liability corporations, vessels, dealers, and shareholder accounts and discussed the network of relationships between these entities. AP members indicated that permit requirements to get and maintain an IFQ account or IFQ shares would jeopardize several relationships. An AP member provide a graphical representation illustrating real transactions between a shareholder and independent vessels, fish houses, restaurants, and retail operations. The AP member noted that a 10% landings requirement would remove more than 30,000 pounds of fish from vessels who depend on it to operate.

AP Members

Walker, David, Chair

Paul, Kelia, Vice Chair

Beverin, Kenneth

Black-Lee, Jane

Chicola, Ron

Sobieraj, Randy

Cosgrove, John

Lewis, Brian

Guindon, Keith "Buddy"

Wirtz, Amy

Kouzounis, Costa

Zurbrick, Jim