



**BILLING CODE 3510-22-P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 622**

**RIN 0648-BG83**

**Fisheries of the Caribbean, Gulf of Mexico, and South  
Atlantic; Reef Fish Fishery of the Gulf of Mexico;  
Amendment 36A**

**AGENCY:** National Marine Fisheries Service (NMFS), National  
Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notification of availability; request for comments.

**SUMMARY:** The Gulf of Mexico (Gulf) Fishery Management  
Council (Council) has submitted Amendment 36A to the  
Fishery Management Plan for the Reef Fish Resources of the  
Gulf of Mexico (Reef Fish FMP) for review, approval, and  
implementation by NMFS. Amendment 36A would require owners  
or operators of federally permitted commercial Gulf reef  
fish vessels landing any commercially caught, federally  
managed reef fish from the Gulf to provide notification  
prior to landing and to land at approved locations; require  
shares of red snapper individual fishing quota (IFQ) (RS-  
IFQ) program and groupers and tilefishes IFQ (GT-IFQ)  
program from non-activated accounts to be returned to NMFS  
for redistribution; and allow NMFS to hold back a portion

of IFQ allocation at the start of the fishing year in anticipation of a commercial quota reduction. The purpose of Amendment 36A is to improve compliance and increase management flexibility in the RS-IFQ and GT-IFQ programs, and increase the likelihood of achieving optimum yield (OY) for reef fish stocks managed under these programs.

**DATES:** Written comments on Amendment 36A must be received by [*insert date 60 days after date of publication in the Federal Register*].

**ADDRESSES:** You may submit comments on the amendment identified by "NOAA-NMFS-2017-0060" by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to [www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2017-0060](http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2017-0060), click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.

- *Mail:* Submit written comments to Peter Hood, NMFS Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701.

*Instructions:* Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will

generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Electronic copies of Amendment 36A may be obtained from *www.regulations.gov* or the Southeast Regional Office Web site at

[http://sero.nmfs.noaa.gov/sustainable\\_fisheries/gulf\\_fisheries/reef\\_fish/2017/A36A\\_comm\\_IFQ/am36Aindex.html](http://sero.nmfs.noaa.gov/sustainable_fisheries/gulf_fisheries/reef_fish/2017/A36A_comm_IFQ/am36Aindex.html). Amendment 36A includes an environmental assessment, fishery impact statement, regulatory impact review, and Regulatory Flexibility Act analysis.

**FOR FURTHER INFORMATION CONTACT:** Peter Hood, NMFS Southeast Regional Office, telephone: 727-824-5305, or email: [peter.hood@noaa.gov](mailto:peter.hood@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires each regional fishery management council to submit any FMP or amendment to NMFS for review and approval, partial approval, or disapproval. The Magnuson-Stevens Act

also requires that NMFS, upon receiving a plan or amendment, publish an announcement in the *Federal Register* notifying the public that the FMP or amendment is available for review and comment.

Amendment 36A to the Reef Fish FMP was prepared by the Council and, if approved, would be implemented by NMFS through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Act.

### **Background**

There are two commercial IFQ programs in the Gulf. Amendment 26 to the Reef Fish FMP established the RS-IFQ program, and Amendment 29 to the Reef Fish FMP established the GT-IFQ program. The RS-IFQ program manages commercial harvest of red snapper and was implemented on January 1, 2007 (71 FR 67447, November 22, 2006). The GT-IFQ program manages commercial harvest of multiple species of groupers and tilefishes, and was implemented on January 1, 2010 (74 FR 44732, August 31, 2009). Both IFQ programs share a single Web-based accounting and reporting system.

The Council began the development of Amendment 36 to the Reef Fish FMP in response to a 5-year review of the RS-IFQ Program completed in 2013. This review evaluated the progress of the RS-IFQ program towards achieving the stated goals of reducing overcapacity in the fishery and

eliminating problems associated with race-to-fish (derby) fishing. The Council also received input on the program from some of their advisory panels as well as from the public. As a result, the suggested modifications to the RS-IFQ program became complex, and the Council split the numerous potential actions into two FMP amendments, Amendments 36A and 36B. The scope of the actions was also expanded to include revisions to the GT-IFQ program because management, as well as the goals and objectives, of this program are similar to the RS-IFQ program. Amendment 36A addresses compliance and program flexibility issues, while Amendment 36B addresses program participation and the distribution of IFQ shares and allocation in the programs.

#### **Actions Contained in Amendment 36A**

Amendment 36A includes actions to expand the requirement for vessels with a commercial Gulf reef fish permit to notify NMFS in advance of landing any reef fish species not managed under the IFQ programs and to land at approved locations, and addresses IFQ shares held in shareholder accounts that have not been activated, since the current Web-based system was put in place on January 1, 2010. Amendment 36A would return shares held in non-activated accounts to NMFS for future redistribution. In addition, Amendment 36A provides NMFS the authority to

withhold annual allocation before distribution at the beginning of a year in which a commercial quota reduction is expected to occur.

*Landing Notification*

Currently, to improve compliance with the IFQ programs, vessel owners or operators with commercial Gulf reef fish permits are required to notify NMFS between 3 and 24 hours in advance of landing any commercially harvested reef fish species managed under the IFQ programs (IFQ species). In addition, vessels must land IFQ species at an approved landing location. Although the advance landing notifications help with the enforcement of the IFQ programs, one of the conclusions from a 5-year review of the RS-IFQ Program was additional enforcement efforts may be necessary to deter IFQ landing violations.

Amendment 36A would expand the requirement for an advance landing notification to all commercial trips that land Gulf reef fish species or Florida Keys/East Florida hogfish harvested in the Gulf even if no IFQ species are on board. Note that the single hogfish stock in the Gulf was recently split into a West Florida stock and a Florida Keys/East Florida stock, separated at 25°09' N. lat. in Gulf Federal waters off the west coast of Florida (82 FR 34574 and 82 FR 34584, July 25, 2017). The management

measures for the Florida Keys/East Florida stock are developed by the South Atlantic Fishery Management Council, but commercial vessels fishing for this stock in Gulf Federal waters are required to have a Federal commercial permit for Gulf reef fish and are required to follow the reporting requirements associated with this permit.

The vessel owner or operator would notify NMFS at least 3 hours, but no more than 24 hours, in advance of landing on each trip. Amendment 36A would also require owners and operators on such trips to land at approved landing locations. Requiring notification in advance of landing any federally managed reef fish from the Gulf and requiring landings at approved locations is expected to help deter fishermen from illegally landing IFQ species or reporting IFQ species as another species (*e.g.*, red snapper reported as vermilion snapper), because law enforcement and port agents would be informed in advance of all reef fish trips returning to port and can meet vessels to inspect landings. If any IFQ species are to be landed, all regulations under the applicable IFQ program must be followed, including the more extensive advance notice of landing. Only one IFQ landing notification covering both IFQ and non-IFQ Gulf reef fish species or Florida Keys/East

Florida hogfish harvested in the Gulf would be required on such a trip.

*Non-activated IFQ Shareholder Accounts*

Amendment 36A also addresses RS-IFQ and GT-IFQ shareholder accounts that received shares through the initial apportionment when each IFQ program began, but the accounts have never been accessed by the shareholder since January 1, 2010, the initiation of the current IFQ system. NMFS and the Council have attempted to notify account holders with these non-activated IFQ accounts through phone calls, certified letters, and discussion at public meetings. Although shares in the non-activated accounts represent a small fraction of the total shares, annual allocation assigned to these non-activated IFQ accounts is not landed, and therefore, may prevent achieving OY if not made available for use. Amendment 36A would return RS-IFQ and GT-IFQ shares in these non-activated accounts to NMFS for redistribution. The Council intends to redistribute these shares to IFQ program participants through a mechanism determined in Amendment 36B.

*Allocation*

Amendment 36A also addresses how to distribute allocation to IFQ shareholders in a fishing year where there is an anticipated reduction of the commercial quota.

Under the IFQ programs, annual allocation is distributed to IFQ shareholders on January 1, and most IFQ program participants begin to use or transfer their allocation early in the fishing year. After shareholders begin transferring or landing allocation, NMFS cannot retroactively withdraw allocation from shareholder accounts if a quota decrease became effective after the beginning of the fishing year. Amendment 36A would allow NMFS to anticipate a decrease in the quota of any IFQ species or multi-species share categories after the start of a fishing year and withhold distribution of quota equal to the amount of the expected decrease in commercial quota. NMFS would distribute the remaining portion of the annual allocation to shareholders on January 1. If the rulemaking associated with the commercial quota reduction is not effective by June 1 in the same fishing year, then NMFS would distribute the withheld quota back to the current shareholders.

#### **Proposed Rule for Amendment 36A**

A proposed rule that would implement Amendment 36A has been drafted. In accordance with the Magnuson-Stevens Act, NMFS is evaluating the proposed rule to determine whether it is consistent with the Reef Fish FMP, the Magnuson-Stevens Act, and other applicable laws. If that determination is affirmative, NMFS will publish the

proposed rule in the *Federal Register* for public review and comment.

### **Consideration of Public Comments**

The Council has submitted Amendment 36A for Secretarial review, approval, and implementation. Comments on Amendment 36A must be received by [*insert date 60 days after publication in the Federal Register*]. Comments received during the respective comment periods, whether specifically directed to Amendment 36A or the proposed rule, will be considered by NMFS in its decision to approve, partially approve, or disapprove Amendment 36A. Comments received after the comment periods will not be considered by NMFS in this decision. All comments received by NMFS on Amendment 36A or the proposed rule during their respective comment periods will be addressed in the final rule.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: February 15, 2018.

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Emily H. Menashes,  
Acting Director,  
Office of Sustainable Fisheries,  
National Marine Fisheries Service.

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