



DEFINITIONS: Limited Access Privileges (LAPs)

Limited Access Privilege (LAP) is a term used in the Magnuson Stevens Fishery Management and Conservation Reauthorization Act of 2006 (MSRA of 2006) as:

- (A) a Federal permit, issued as part of a limited access system under section 303A to harvest a quantity of fish expressed by a unit or units representing a portion of the total allowable catch of the fishery that may be received or held for exclusive use by a person; and
- (B) includes an individual fishing quota; but
- (C) does not include community development quotas as described in section 305(i).

There are three types of limited access privileges (LAPs):

- 1) **Individual fishing quota (IFQ)** is a program that allows an individual or entity the privilege to harvest a percentage of the Total Allowable Catch (TAC).
An example of a fishery using IFQs is the Gulf of Mexico commercial Red Snapper fishery. Some types of IFQs have been used extensively in IFQs have been used extensively in Canada, New Zealand, and Australia as well as in the Alaska Bering Sea King Crab fishery.
 - When IFQs are transferable, as they commonly are, these are called individual transferable quotas (ITQs):
Individual transferable quota (ITQ) is a type of IFQ that allows individual quota to be transferred from one person or entity to another. Under some ITQs currently in place, the owner of the individual quota can sell his quota to another person permanently or lease his quota to another person for a temporary period of time. There can be restrictions on who can purchase or lease individual quota. For example, in order to purchase quota, it may be required that an individual or entity own a permit for the relevant fishery.
- 2) **Community quota** is a harvest privilege allocated to communities located within the Council management area that consist of residents that are dependent on fisheries for their livelihood. In order for communities to participate in LAPs they must meet certain eligibility and participation criteria specified in the MSRA of 2006. Specifically, to be eligible, the fishing community, among other requirements, shall “consist of residents who conduct commercial or recreational fishing, processing, or fishery dependent support businesses within the Council’s management area...”
- 3) **Quota held by a Regional Fishery Association (RFA)** is a harvest privilege held by a voluntary association, among willing parties, with established bylaws and operating procedures and consists of participants in the fishery who hold LAP quota share. This can include commercial or recreational fishing, processing, fishery-dependent support businesses, or fishing communities. In order to use harvest privileges, a regional fishery association must meet eligibility and participation criteria laid out in the reauthorized MSRA of 2006. One major way in which regional fishery associations differ from community quota and IFQs is that regional fishery associations cannot receive an initial allocation of limited access privileges. However, they may acquire such privileges after initial allocation of quota.

LAPs usually are structured using different features that are suitable and relevant to that fishery. Some design features of LAPs may have names that are unfamiliar to fishermen. Some of the features that are being considered by the South Atlantic Fishery Management Council LAP Workgroup are listed below.

Program Duration is the lifetime of a limited access privilege. Under MSRA of 2006, the privilege is issued for a period of no more than ten years and is subject to renewal prior to that period by program review.

Program Review is a mandated review of the LAP program by the Council to determine if the goals and objectives of the program are being met.

Species included in an LAP program are the species being addressed by the LAP program. In this case, the species included would potentially be any of the species managed under the SAFMC snapper grouper fishery management plan.

Quota share – the percentage of the commercial quota of a particular species distributed to participating fishermen during initial allocation.

Annual harvest privilege – an individual's quota share multiplied by the annual commercial quota of a particular species in pounds each year. This is distributed prior to the beginning of each fishing each year.

Aggregate quotas – is quota comprised of a number of different species. This type of quota could be used to catch any of the species listed in the aggregate quota when a fisherman has used up their entire individual species quota. Aggregate quota can typically only be used once any of an individual species quota has been exhausted for one of the species listed under the aggregate quota.

Initial Allocation is a process used when a LAP is first implemented by which, usually, a percentage of the total allowable catch (or commercial quota) is distributed to qualifying fishermen. Usually, the amount distributed in the initial allocation is based on historical participation in the fishery. Typically, this is gauged by an individual's historical landings. However, some fisheries have used allocation formulas that incorporate vessel size, equal allocations, or some combination of attributes.

Appeals Process usually occurs following initial allocation. This process allows fishermen the opportunity to contest the initial allocation of quota share they were distributed by showing landings receipts or other relevant documentation. The management agency or a third party is usually the entity responsible for making decisions regarding possible reallocations based on documentation shown. Seldom are appeals allowed on anything other than verification of landings. That is, medical and personal hardships typically are not considered.

Transferability is the ability to sell and/or lease quota share and/or annual harvest privileges from one person to another.

Caps on ownership are upper limits that individual fishermen are held to with regards to LAP quota share ownership. The cap is described as a percentage of the total commercial quota.

Overage provision– a term used to describe some percentage that an individual can exceed his annual harvest privilege by each year. These pounds are then subtracted from the individual's annual harvest privileges the following year. This is sometimes called "borrowing." Penalties can be assessed if a fisherman has an excessive overage.

Underage provision – a term used to describe some percentage of an individual's annual harvest privilege that an individual can carry over to harvest the following year. This is sometimes called "banking."

"Use it or Lose it" provision is a rule devised to encourage or force a portion of the commercial quota to be harvested each year. That is, it helps prevent people from holding annual harvest privileges and not harvesting them.

Cost Recovery is a requirement of an LAP as specified in the MSRA of 2006. The requirement states that Councils must develop a cost recovery program of fees paid by limited access privilege holders that will cover the costs of management, data collection and analysis, and enforcement activities.

Monitoring & Enforcement are requirements of an LAP program as outlined by MSRA of 2006. Monitoring may include the use of onboard observers, electronic monitoring (vessel monitoring system, video monitoring, etc.), electronic logbooks, paper logbooks, trip tickets, and/or dockside monitoring of landings by enforcement personnel.