

Limited Access Privileges (LAPs) and the Reauthorized M-S Act

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Limited Access Privilege

- Individual Fishing Quota
 - Held by an individual or entity
- Community Quota
 - Held by a community meeting eligibility and participation criteria laid out in the Reauthorized Magnuson Stevens Act
- Regional Fishing Association Quota (*not involved in initial allocation*)
 - Held by a voluntary association with established bylaws and operating procedures that meet eligibility and participation criteria laid out in the Reauthorized Magnuson Stevens Act

No Creation of Right, Title, or Interest

- LAPs shall
 - Be considered a permit
 - May be revoked, limited, or modified at any time
 - Shall not confer any right of compensation
 - Shall not create any right, title, interest in or to any fish before fish is harvested
 - Shall be considered a grant of permission to the holder to engage in activities permitted by LAPs

Requirements for LAPs

- LAP must:
 - Assist in rebuilding
 - Contribute to reducing capacity
 - Promote fishing safety, conservation and management, and social and economic benefits
 - Prohibits non U.S. citizens from acquiring LAPs
 - Requires that all LAP fish be processed on U.S. vessels or U.S. soil
 - Specify program goals

Requirements for LAPs (cont'd)

- LAP must:
 - Include provisions for monitoring and review 5 yrs after implementation and at least once every 7 years thereafter
 - Include effective enforcement, monitoring, and management including use of observers or electronic monitoring
 - Include an appeals process for initial allocation
 - Provide for information collection and review to detect illegal acts of anti-competition, anti-trust, price collusion, or price fixing
 - Provide for revocation of LAPs if in violation of anti-trust laws

Communities and Regional Fishing Associations

- Community eligibility and participation requirements
- Regional fishing association eligibility and participation requirements
 - These include direction to the Council on various regional fishing association characteristics to consider for participation.

Allocation

- Councils shall
 - Establish procedures to ensure fair and equitable initial allocations and consider
 - Current and historical harvests
 - Employment in harvesting and processing
 - Investments in and dependence on the fishery
 - Fishing communities current and historical participation
 - Consider basic cultural and social framework of the fishery, esp. through
 - Policies to promote sustained participation of small owner-operated vessels and communities dependent on fishery
 - Procedures to address concerns over consolidation

Allocation (cont'd)

- Councils shall

- Include measures to assist, when necessary and appropriate, entry level and small vessel owner-operators, captains, crew, and fishing communities through harvest set asides or allocations or economic assistance in purchasing LAPs
- Ensure against excessive shares by setting a maximum percentage share and other limitations or measures
- Authorize LAPS to be held/acquired/used by/issued to persons who **substantially participate** in the fishery, including in a specific sector

Program Initiation

- Ways that a LAP can be initiated:
 - A Council may initiate an FMP or amendment to establish LAPs
 - Through a petition to the Secretary signed by 50% or more of permit holders or holding more than 50% of the allocation requesting the Council initiate development

Transferability

- A Council shall
 - Establish a policy and criteria for transferability that is consistent with fishery policies
 - Establish a process for monitoring transfers

Auctions

- Auctions or other programs that collect royalties can be used for any initial or subsequent distribution of allocations if
 - Revenues generated go to a fund subject to annual appropriations

Cost Recovery

- A Council shall
 - Develop a way to assess costs associated with management, data collection and analysis, and enforcement and
 - Collect fees on these costs

LAP Assisted Purchase Program

- A Council may submit a program which sets aside 25% of any fees collected from a fishery to be used to help finance the purchase of LAPs:
 - By fishermen who fish from small vessels and
 - For first time purchases of LAPs by entry level fishermen

Investment in U.S. Seafood Processing Facilities

- Financial and other mechanisms will be developed to encourage U.S. investment in seafood processing facilities in the U.S. for fisheries that lack capacity needed to process fish harvested by U.S. vessels.

What does this mean for the SAFMC?

- The Council **must** specify program goals
- The Council **will** have to determine
 - What a “fair and equitable” initial allocation is
 - Maximum share % to prevent excessive shares
 - What “substantially participate” means
 - When it is necessary and appropriate to include measures to assist entry level and small vessel owner-operators, captains, crew, and fishing communities through various mechanisms

What does this mean for the SAFMC?

- The Council will have to make sure the LAP is designed so that it
 - Assists in rebuilding
 - Contributes to reducing capacity
 - Promotes fishing safety, conservation and management, and social and economic benefits