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Compilation of Recommended Changes to Gulf of Mexico Individual Fishing Quota Programs

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TABLE OF CONTENTS

Table of Contents.....	i
Chapter 1. Introduction	1
Chapter 2. Red Snapper IFQ Program 5-Year Review.....	2
Recommended Program Changes	2
Ad Hoc Red Snapper IFQ 5-year Review Advisory Panel Recommendations	2
SESSC Recommendations	3
NMFS Administrative Changes Based on IFQ Workshops	4
Chapter 3. Grouper-Tilefish IFQ Program 5-Year Review	9
Recommendations	9
Chapter 4. Red Snapper and Grouper-Tilefish IFQ Programs Review	11
Recommendations	11
Scientific and Statistical Committees Recommendations.....	11
Ad Hoc Red Snapper and Grouper-Tilefish IFQ Advisory Panel	11
Council Recommendations	12
Chapter 5. The Use of Limited Access Privilege Programs in Mixed-Use Fisheries.....	13
Summary	13
Addressing the Impacts of LAPPs in Mixed-Use Fisheries.....	17

CHAPTER 1. INTRODUCTION

The Gulf of Mexico Fishery Management Council (Council) has established two individual fishing quota (IFQ) programs for the commercial sector's harvest of species within the Reef Fish Fishery Management Plan. The Red Snapper IFQ Program began on January 1, 2007, and the Grouper-Tilefish IFQ Program began on January 1, 2010. According to the Magnuson-Stevens Fishery Conservation and Management Act, a formal and detailed review is required 5 years after the implementation of an IFQ program and thereafter no less than once every 7 years. Each of the IFQ programs has undergone an initial 5-year review. Since that time, the programs have undergone a joint review, completed in 2021. This document provides the recommendation section from each of these three reviews:

- **Red Snapper IFQ Program 5-Year Review**
- **Grouper-Tilefish IFQ Program 5-Year Review**
- **Red Snapper and Grouper-Tilefish IFQ Programs Review**

The Modernizing Recreational Fisheries Management Act of 2018 mandated a study on “The Use of Limited Access Privilege Programs (LAPP) in Mixed-Use Fisheries.” The study was completed by an ad hoc committee of the National Academies of Sciences, Engineering, and Medicine in 2021. This document provides the recommendations from the study:

- **The Use of Limited Access Privilege Programs in Mixed-Use Fisheries**

CHAPTER 2. RED SNAPPER IFQ PROGRAM 5-YEAR REVIEW

This chapter provides section *5.0 Recommended Program Changes* from the initial review of the Red Snapper IFQ Program. The full review is available on the Council's website https://gulfcouncil.org/wp-content/uploads/c_Beckground_Red-Snapper-5-year-Review-FINAL.pdf

Recommended Program Changes

Ad Hoc Red Snapper IFQ 5-year Review Advisory Panel Recommendations

The Gulf Council appointed an Ad Hoc RS-IFQ 5-year Review Advisory Panel (AHRS-AP) to assist in the 5-year review of the RS-IFQ program. The AHRS-AP includes commercial fishermen, private recreational anglers, for-hire operators, academics, and a non-governmental organization (NGO) representative. The AHRS-AP formulated its recommendations during its July 2011 meeting.

The AHRS-AP's principal recommendation to the Gulf Council was to address the opening up of RS-IFQ shares for sale to the general public. This issue was also expressed through a concern that fish allocated to the commercial sector should remain within the commercial sector to provide the American public with marketplace access to this source of protein. The RS-IFQ provision allowing the transfer of shares to any citizen or permanent resident alien took effect January 1, 2012 as initially scheduled. To mitigate potential impacts of the free flow of shares and allocations on the commercial sector, the AHRS-AP recommended that the Gulf Council:

- establish a 15% cap on of any shareholder's annual allocation that can be leased outside of their respective commercial or recreational sector in any given calendar year,
- prevent any one vessel from landing more than 4% of the commercial RS-IFQ quota, and
- limit the amount of red snapper quota a new entrant without a reef fish permit may possess after January 1, 2012, to 0.25% of the commercial red snapper quota.

The AHRS-AP also requested that the Gulf Council address inactive or unused shares. The AHRS-AP suggested that the Gulf Council should redistribute annual allocation from shares held by those without a commercial reef fish permit if allocation from shares are not transferred to a licensed reef fish permit holder by September 1 of each year. The AHRS-AP also recommended redistributing unused RS-IFQ shares to other active shareholders if 75% of an account's RS-IFQ allocation is not landed or transferred to an active reef fish permitted entity two out of three consecutive years. Lastly, the AHRS-AP recommended proportionally redistributing any shares and current allocation in RS-IFQ accounts that have never been activated or have remained inactive for four consecutive years among current RS-IFQ shareholders. The AHRS-AP suggested that the Gulf Council (and NOAA Fisheries) notify inactive shareholders within a reasonable timeframe, giving them time to sell their shares and allocation, before redistributing the shares if no action is taken.

Additional recommendations provided by the AHRS-AP requested that the Gulf Council reconvene the AHRS-AP to develop options to distribute commercial quota associated with a total allowable catch level above 9.12 million lb with consideration for new entrants, bycatch, and for current commercial and recreational participants. Finally, the AHRS-AP recommended that the NOAA Office of Law Enforcement send an e-mail confirmation of trip declarations and NOAA Fisheries send an email confirmation of reported 3-hour landing notifications to vessel owners.

SESSC Recommendations

During their October 2012 and January 2013 meetings, the SESSC received several presentations on the five-year review of the RS-IFQ. Presentations included a summary of the 2011 red snapper annual report produced by SERO, RS-IFQ landing and effort trends, market concentration analyses, and allocation analyses completed by the SEFSC, and results of a stochastic distance analysis evaluating changes in fishing capacity and technical efficiency.

The SESSC indicated the data and descriptive analyses provided in the review document suggest that, theoretically, expected outcomes following the implementation of an IFQ are being achieved in the fishery and the RS-IFQ program is meeting its objectives. The SESSC recommended that more specific and quantified program objectives be identified prior to future program evaluations. In addition, the SESSC acknowledged the multispecies nature of the reef fish fishery and highlighted the challenges posed by a review limited to a single species, i.e., red snapper. To more accurately assess the impacts within the multispecies context of the reef fish fishery, the SESSC recommended that future reviews be based on the decision making units (e.g., vessels, vessel owners, shareholders, etc.) rather than on a specific species such as red snapper. The simultaneous review of the RS-IFQ and GT-IFQ programs would constitute an improvement in this direction, or to the extent possible a review at the fishery (Gulf reef fish) level, which would include non-IFQ managed species. Potential modifications to the RS-IFQ proposed by the SESSC would address the shares held by inactive accounts and would possibly consider a redistribution of those shares to active participants or new entrants. The SESSC also recommended that emphasis be placed on bycatch reduction, especially in the eastern Gulf, measures to improve the accuracy and quality of price data collected be implemented, that alternative distribution methods of RS-IFQ shares with an increased commercial quota be evaluated, and that an assessment of capacity be conducted. The capacity assessment would measure changes in capacity, overcapacity, and excess capacity. The SESSC also recommended that funding be increased to provide for additional data collection, particularly with respect to the onshore sector. This additional data would expand the analyses to include assessing impacts on other stakeholders (e.g. non-participants, dealers, processors, other fishing businesses, and communities) and allow for a more comprehensive analysis of social impacts in general. Finally, while recognizing that this review is the very first attempt at an IFQ program review in the Gulf, the SESSC recommended that the Gulf Council consider the establishment of a more formal process for review including clear terms of reference specifying what is included in the review, how public input on the review is solicited, and AHRS-AP and SESSC meeting timelines and expected outcomes.

NMFS Administrative Changes Based on IFQ Workshops

NOAA Fisheries conducted four workshops regarding price reporting and Gulf IFQ programs administrative changes during September and October 2012. The purpose of the workshops was to clarify existing regulations and seek feedback regarding price reporting and administrative changes in an effort to provide added flexibility to participants and enhance enforceability of the program. Workshops were held in New Orleans, Louisiana; Galveston, Texas; Madeira Beach, Florida; and Panama City, Florida and had between 8 and 20 attendees, including Gulf IFQ participants, industry representatives, and a port sampler.

Price Reporting

At these workshops, RS-IFQ staff discussed the importance of accurate price reporting, the high number of missing or under-reported share, allocation, and ex-vessel prices, and the potential reasons behind these prices, and possible solutions. Feedback from the industry indicated that privacy of reported prices was very important and participants did not want to be forced to enter price information. In addition, many attendees indicated that bartering frequently occurs with allocation transfers. Workshop attendees did not believe that adding pop-up boxes to confirm price data in the electronic reporting system or completing a mail-out to confirm past prices would be worthwhile. However, participants were comfortable with making modifications to the electronic reporting system that would include drop down boxes explaining the rationale for a reported price. Proposed rationales would include sale to another shareholder, transfers to a related account, bartered for allocation or shares, gift, package deal, or no comment.

Constituents at the workshops were very interested in sector allocation (commercial vs. recreational) and how price data will be used to determine the allotted total allowable catch for each sector. Workshop attendees were concerned that misreported allocation and share prices would be used for the calculation of sector allocations. Additionally, workshop attendees requested that NOAA Fisheries post a FAQ sheet together on this subject.

Additional feedback concerning prices included a recommendation to charge a leasing fee for people who sell allocation to other shareholders, to allow cost recovery fees to paid more frequently, rather than be restricted to quarterly payments, and a revision to the landing transactions to allow goods and services to be included in ex-vessel prices.

Administrative Changes

The administrative changes to the Gulf IFQ programs that were presented at the workshops were based on constituent and law enforcement feedback received by SERO and recommendations from the Law Enforcement Advisory Panel's (LEAP) July 2012 meeting. Suggested changes included changes to landing notifications, offloading requirements, and landing transactions.

Landing Notifications

Suggested landing notifications modifications were:

- Expand information included on the landing notification to include the captain's name, phone number, start of trip, and trip type (single vs. multi-day)
- Specify a landing interval (e.g. 30 minutes) which would not require a new notification
- Allowance to land early under the authorization of an OLE agent at the landing site
- Specify a process to amend landing notifications (e.g. when an additional 3 hours is required)
- Allowances for multiple landing notices to be entered on a single landing notification
- Consideration of expanding landing notification timeframe from 12 to 24 hours
- Require any vessel with a Gulf IFQ account to complete a landing notification

The addition of the captain's contact information on the landing notification information would allow OLE agents to contact the person onboard the vessel, whom may be different from the shareholder, whereas the additional trip information would aid in reconciling differences between the RS-IFQ data, SEFSC coastal logbook program, and dealer trip ticket reports. Additionally, the identification of single day trips would aid in auditing differences between estimated landings and actual landings, as due to the minimum 3-hour notification requirement many single day trips estimated landings prior to the completion of fishing. OLE agents believed that requiring any vessel with a Gulf IFQ account to complete a landing notification would aid in the prevention of illegal offloading of IFQ species.

Most workshop attendees opposed this additional information for the following reasons:

- Captain's name could be added to IFQ vessel account
- Captains may change frequently
- Already report trip start and end dates elsewhere
- Cost if reporting through the VMS unit, particularly with increased size or frequency of messages

Currently, there is no specific regulation indicating when a vessel may land during their notification window, although landing earlier than the time indicated is prohibited. Clarifying the time period during which a vessel can land would allow consistent enforcement of regulations among all participants. Attendees were concerned that a 30-minute grace period was too short, were in support of verbal confirmation to land early, and would prefer an established method to modify or amend submitted landing notifications.

Current regulations do not clearly state when a notification can be amended without a vessel having to wait an additional three hours to land. A main reason for the landing notification is to allow OLE agents sufficient time to arrive at the landing site to inspect the catch. The suggested clarification for the regulations would include new notifications requiring vessels to wait a minimum of 3 hours when the landing location changes or the vessel specifies an earlier landing time. If the location of landing remains the same, but the vessel specifies a different dealer, later landing time, or revised estimated weights, then an amended notification would need to be submitted but the vessel would not have to wait an additional 3 hours to land.

Additional comments about landing notifications included issues with the call service line and infrequent VMS updates. Participants were encouraged to contact IFQ Customer Support the

next time they experienced a problem with the call service line, so that we may resolve the problem and prevent it from happening in the future. RS-IFQ staff is aware of the delay in VMS updates and are working together with OLE and VMS staff to find a solution (e.g. use of text boxes instead of drop-down boxes that need frequent updates).

Offloading

Suggested offloading and landing transaction modifications were:

- Extend offloading timeframe until 9pm, if offload begins prior to 6pm with an OLE agent's permission
- Required presence of captain during offloading
- Restricting *all* offloading to RS-IFQ regulations if any IFQ species is onboard
- Use VMS to declare an IFQ trip and any declared IFQ trip must abide by IFQ regulations regardless of catch
- Specify that offloads must occur within X hours (e.g. 96 h) of landing

Extending the offloading timeframe would add more flexibility to dealers and fishermen who are often tide-dependent when offloading a vessel, but still allow an OLE agent to inspect a vessel at any time. OLE agents were concerned about the extended timeframe allowing for illegal offloading of IFQ species, and workshop attendees were concerned about a lack of IFQ Customer Support during that timeframe. Attendees requested that IFQ Customer Support have an after-hour phone line, particularly for those in the central time zone.

Fishermen may leave the site during offload and OLE agents determined that requiring the captain's presence during offload would aid OLE agents if there was a problem with the offload or landing transaction. Many attendees stated that the captain was usually present during offload, but should not be required because the captain may have to leave as soon as the vessel lands.

Generally, workshop attendees were supportive of prohibiting vessels from offloading non-IFQ species after IFQ offloading hours when IFQ species are onboard, and in fact some attendees also recommended that commercial reef fish offloading hours be changed to match IFQ regulations. By adding the VMS IFQ trip declaration capability OLE agents would be better able to plan their day and identify vessels that should and should not have IFQ species onboard. Participants did not oppose adding an option for selecting an IFQ trip when declaring the start of a trip through VMS, but believed that fishermen may always declare a generic commercial reef fish trip instead of an IFQ trip.

Attendees provided mixed responses with regard to restricting when fish could be offloaded after a landing. Some attendees opposed this because of business practices (e.g., transactions entered at the end of the day), because they wanted to maintain product freshness until fish were sold, or because high volume of vessels needed to be offload (e.g. particularly during holidays). Some attendees suggested an alternative creation of an offloading notification and requiring that a landing transaction be made within X hours after the offloading notification.

Landing Transactions

Suggested modifications to landing transactions were:

- Landing transactions must be completed immediately upon offload
- Prohibit ice/water weight from being deducted from landing transactions
- Clarify language about landing transaction occurring *after* landing (no at-sea transactions)
- Removal of inactive landing sites

Dealers are responsible for completing a landing transaction report at the time of the transaction, however there is no restriction on when fish must be offloaded after a landing notice is made.

Some landing transactions have been completed as much as 1-3 weeks after the landing occurred. Proposed regulations would consider limiting the timeframe for completing a landing transaction. Defining a time period would:

- Contribute to more accurate up-to-date landings,
- Reduce the opportunity for a fishermen to go over his allocation (e.g., if the landing is not deducted immediately, the fishermen may believe they have more allocation available),
- Aid in identifying which catches were never landed (e.g., mismatch data between notifications and transactions) for enforcement purposes.

Dealers, primarily in Texas, have been deducting 2-3% of the weight of IFQ species landed before completing a landing transaction. According to dealers, the practice of deducting water/ice weight from total fish weights has been a common practice since prior to the IFQ program, although there are inconsistencies and no standardized amount that is deducted.

Attendees indicated that between 1-4% is standard for the weight removed for ice and water weight in a landing transaction. Dealers already deducting ice/water weight were supportive of standardizing deductions for ice/water weight, whereas those not deducting ice/water weight believed this practice should be prohibited. It was recommended that a simple study be conducted to determine the appropriate ice/water weight deduction for fish landed.

The language in the regulations is not overly specific as to requiring the vessel and fish to be at the dock before the transaction is entered. The language does say "at the time of the transaction," which does not preclude the transaction from occurring while the vessel is at sea. The information required in the report does include the weight of the fish "landed," and because a vessel has yet to land it certainly argues against allowing a landing transaction at sea. Additionally, landing locations must be approved and those do not include at sea locations, so a vessel cannot report a weight of fish landed at an approved location when the fish are still at sea. Regulations may need to be clarified to prohibit landing transactions at sea.

Current regulations provide specific criteria for the approval of landing locations but not for the removal of site. Review of landing notifications indicated approximately 70 of 332 landing locations have not been used since January 2010. This would aid law enforcement by limiting the number of sites that would potentially have to be enforced. Attendees were generally supportive of removing unused landing locations whereas others suggested that unused location

be retained in case of emergencies. One attendee mentioned that he keeps additional landing locations on record for when there are extreme low tides and he cannot reach his other locations. Attendees suggested that we contact the person who submitted the location before removing it.

Attendees recommended making the correction form an online process, where the dealer and shareholder can enter their personal identification number (PIN) to confirm a landing correction, rather than printing out the form and mailing it in. Grading fish is common practice throughout the Gulf and many attendees would like to be able to account for this in one landing transaction. IT staff is currently examining how to integrate these suggestions into the current database and website structure.

Next Steps

Based on the input summarized above and LEAP recommendations, NOAA Fisheries intends to develop a rule containing proposed IFQ administrative changes. NOAA Fisheries intends to publish this rule later this year and will seek additional input from constituents and IFQ participants before moving forward with any changes to administrative regulations.

CHAPTER 3. GROUPER-TILEFISH IFQ PROGRAM 5-YEAR REVIEW

This section provides the section on Recommendations from *Chapter 13 Conclusions and Recommendations* of the initial review of the Grouper-Tilefish IFQ Program. The full review is available on the Council's website: <https://gulfcouncil.org/wp-content/uploads/Grouper-Tilefish-IFQ-Review-Final-version.pdf>

Recommendations

Scientific and Statistical Committees Recommendations

The standing and socioeconomic Scientific and Statistical Committees (SSCs) reviewed the studies and surveys conducted for the review GT-IFQ review during previous meetings and evaluated the entire review after a presentation of the complete review GT-review in March 2018. The SSCs recommended that while revising goals and objectives of the GT-IFQ program and planning a subsequent review of the program, the Council consider that the bulk of the overcapacity reduction has probably already taken place.

The SSCs recommended that the Council evaluate survey responses with caution because some survey responses may be affected by the inability of respondents to dissociate the red snapper IFQ from the GT IFQ program. Following discussions, including an evaluation of the conclusions of the review, the SSCs approved the review. Based on data, descriptive analyses, and studies described in the review, the SSCs moved to accept the report as a clear and concise summary of the grouper/tilefish IFQ program. The SSCs further indicated that expected outcomes following the implementation of the IFQ are being achieved in the fishery and that the grouper/tilefish IFQ program is meeting its objectives. The SSCs noted the substantial overlap between the grouper-tilefish and red snapper IFQ programs and recommended that in the future, the red snapper and grouper/tilefish IFQ programs be considered to be evaluated jointly rather than separately.

Ad Hoc Red Snapper & Grouper-Tilefish IFQ Advisory Panel

During its April 2018 meeting, the Ad Hoc Red Snapper/Grouper-Tilefish IFQ Advisory Panel (AP) discussed the GT-IFQ program review, including the participants, dealers, and captains and crew surveys conducted for the review. The AP suggested that discards concerns may not be applicable to the GT-IFQ program because they are specific to red snapper. The AP formally endorsed the conclusion of the Grouper-Tilefish IFQ program review, that the program is meeting its objectives.

The AP discussed difficulties in reconciling the different datasets resulting from the multiple reporting systems in which commercial reef fish fishermen must participate in and recommended the development of a system using a unique trip ID number (hail out number) to track the entire transaction from start to finish. The AP discussed challenges in data collection, particularly inaccurate or missing data on annual allocation and share prices. The AP recommended the

exploration of strategies to improve the collection of accurate IFQ share and allocation price data. The AP considered the benefits a loan program could provide, including assistance to new entrants to acquire shares, and recommended the development and implementation of an IFQ loan or fisheries finance program in the Gulf of Mexico.

Council Recommendations

Prior to formulating its recommendations, the Council received a detailed presentation on the GT-IFQ review and presentations on the comments and recommendations provided by the standing and socioeconomic Scientific and Statistical Committees and by the Ad Hoc Red Snapper/Grouper-Tilefish IFQ Advisory Panel. The Council unanimously accepted the Grouper-Tilefish IFQ 5-year program review.

The Council considered the justification provided by IFQ participants for IFQ share and allocation transfers. To improve data on transfers, the Council recommended that modifications to the online drop down menu for transfer reasons be considered. For example, eliminating the “No Comment” option from the drop down menu could be considered. In accordance with SSC recommendations, the Council recommended that, in the future, a joint review of the red snapper and grouper-tilefish IFQ programs be considered. The Council inquired about the effectiveness of gag and red grouper multi-use shares, but refrained from recommending their elimination. Council members inquired about loan programs but did not make recommendations relative to this issue, because they were informed of the development of a national IFQ loan program. The Council discussed shareholders’ ease of access to information on share and allocation availability for transfer. In response, NMFS would evaluate the feasibility of a message board to facilitate share and allocation transfers.

CHAPTER 4. RED SNAPPER AND GROUper-TILEFISH IFQ PROGRAMS REVIEW

This section provides Section 13.2 (Recommendations), of *Chapter 13 Conclusions and Recommendations* from the first joint review of both programs, the Red Snapper and Grouper-Tilefish IFQ Programs Review. The full document is available on the Council's website: https://gulfcouncil.org/wp-content/uploads/Joint-RS-GT-IFQ-Review-w.appendix-10-27-21-Final_508.pdf

Recommendations

Scientific and Statistical Committees Recommendations

The Standing and Socioeconomic SSCs reviewed the RS and GT-IFQ programs review during their May 2021 meeting. SSC members participated in in-depth discussions of the topics presented in the review. The SSCs were particularly interested in the distribution of shareholder accounts and share ownership by size and share category, changes in ex-vessel prices, market power and inequality measures, and safety-at-sea improvements. While discussing IFQ share prices, SSC members suggested that, to improve the evaluation of arms-length share transactions, alternate data sources, such as websites advertising IFQ shares for sale, could be used to supplement the data provided by IFQ participants through the online program portal. SSC members also suggested that statistically-based approaches could be considered to delimit boundaries between the different shareholder and dealer classes (small, medium, and large).

Following discussions, the SSCs expressed their appreciation for the data, analyses, and review conclusions presented, and indicated that they did not have objections relative to the material presented. To that end, the SSCs unanimously approved a motion indicating that they reviewed the material with respect to the joint red snapper and grouper-tilefish IFQ and find it acceptable for review by the Ad Hoc Red Snapper and Grouper-Tilefish IFQ AP and the Council.

Ad Hoc Red Snapper and Grouper-Tilefish IFQ Advisory Panel

The Ad Hoc Red Snapper and Grouper-Tilefish IFQ AP reviewed the RS and GT-IFQ programs review during its June 2021 meeting. AP members reviewed and discussed topics covered in the RS and GT IFQ review. AP members often relied on their expertise and experience with the IFQ programs to offer comments and illustrate points highlighted in the review.

AP members discussed the percentages of valid share and allocation prices for each program and commented that data gaps that still exist in the collection of shares and allocation prices could be mitigated by gathering information from known websites selling shares and allocation. AP members discussed the considerable vessel overlap between the RS-IFQ and GT-IFQ programs and the increasing number of IFQ dealers. During discussions, AP members concurred with the conclusions of the review. The panel noted its appreciation for the flexibility afforded by multi-use shares and unanimously approved a motion recommending to the Council to maintain all flexibility measures associated with red and gag multi-use and shallow water grouper and deep-

water grouper. AP members expressed their interest in the new federal loan program and recommended more advertising and outreach of that program. While discussing permit requirements currently considered by the Council, the panel recommended that the Council include flexible provisions regarding the ability of shareholders to bequeath their shares to heirs.

Council Recommendations

The Council reviewed and thoroughly discussed the information provided in the joint review. Consistent with the SSCs' deliberations and AP discussions, the Council did not raise objections relative to the conclusions of the review. The Council primarily asked questions to better understand particular sections of the review. Council members inquired about differences between the information on tables presented and on Freedom of Information Act (FOIA) shareholders pages. In response, it was noted that FOIA pages list information at the entity level while tables presented are by program and by share category. FOIA pages are a live and dynamic feed but the tables presented provide snapshots.

Council members discussed changes that resulted in the collection of cost recovery fees sufficient to fully fund the administration of the IFQ programs. It was noted that the red snapper IFQ initial program review concluded that cost recovery fees were insufficient to cover program costs. However, once the grouper-tilefish program was implemented, the significant increase in the base from which cost recovery fees are collected and the fact that both programs are run by the same staff using the same online platform resulted in a marked increase in the funds collected and therefore allowed all program administration costs, including the costs of modernizing the online IFQ platform, to be covered.

The Council discussed market power in the IFQ programs in relation to the reported challenges to acquire IFQ shares and allocation. It was noted that studies to date have not found evidence of market power. However, caution is needed in interpreting these findings because of the potential impacts of vertical integration and other types of affiliation between entities on estimates of market concentration and thus conclusions regarding the presence and extent of market power. To that end, NMFS has begun collecting ownership data for dealers, comparable to that collected for permit holders and shareholders, to better evaluate vertical integration and affiliation in the IFQ programs.

Council members discussed costs of operation in the IFQ programs. Staff indicated that costs of operation and rates of returns have been evaluated by the SEFSC and that some of the findings are included in the review. The Council unanimously approved a motion to make the Red Snapper and Grouper-Tilefish IFQ Program Review final and available for publishing on the Council's website.¹

¹ www.gulfcouncil.org

CHAPTER 5. THE USE OF LIMITED ACCESS PRIVILEGE PROGRAMS IN MIXED-USE FISHERIES

This chapter provides the recommendations from the National Academies of Sciences Committee's report on The Use of Limited Access Privilege Programs (LAPPs) in Mixed-Use Fisheries. The report's recommendations may be found in the Summary and Chapter 8. The text from both of these chapters is provided beginning with the respective section, "Recommendations for Existing and Future LAPPs," found in both chapters. The Summary chapter provides context for the report's 5 main recommendations. These 5 recommendations are repeated alongside additional recommendations in Chapter 8: Addressing the Impacts of LAPPs in Mixed-Use Fisheries. The full report may be found here:

<https://www.nationalacademies.org/our-work/the-use-of-limited-access-privilege-programs-in-mixed-use-fisheries>

Summary

Recommendations for Existing and Future LAPPs

Conflict over allocations is common in mixed-use fisheries, regardless of the presence of LAPPs. Nevertheless, the creation of a LAPP in the commercial component has the potential to alter the terms of this conflict: LAPPs create an additional class of stakeholders (i.e., shareholders) who are incentivized to organize. This structural change in stakeholder representation potentially alters the political economy of decision making in ways that may be consequential to allocation outcomes as well as the contentiousness of the policy process.

Impacts to Recreational Stakeholders

Conclusion: A major finding of this study is that there is little if any direct impact of LAPPs in the commercial sectors on the recreational sector of the mixed-use fisheries. However, LAPPs may be viewed as problematic to efforts to expand recreational access to the total allowable catch for a fishery because of shifts in the power structure of decision making with the creation of a class of IFQ shareholders. Moreover, apparent increases in the accountability of the commercial sector due to incentives for higher compliance associated with LAPPs may highlight accountability problems in the recreational sector and increase pressure for management improvements.

There is evidence that creation of a LAPP can trigger spillovers of fishing effort into other commercial fisheries, and the general explanation is that the LAPP frees up fishing capital for other uses. Whether such spillovers occur across commercial and recreational sectors is not known, but the experience in commercial LAPPs suggests that additional tools are needed to improve accountability across all sectors. Along with the recommendation highlighted below, the committee made a related recommendation for devolved comanagement institutions in the recreational sector, such as Angler Management Organizations, as an example of what might be

done to improve angler accountability and facilitate the process of reallocation of harvest among sectors.

Recommendation: The Councils, or their state partners in the case of state-based management, should conduct reviews of their management of both private recreational and for-hire fisheries for species shared under LAPPs in mixed-use fisheries (or proposed LAPPs in mixed-use fisheries) and propose and implement reforms (including, but not limited to, IFQs or cooperatives for for-hire vessels and harvest tags or day passes for private anglers) that foster accountability while enhancing fishing experiences and opportunities to heterogeneous groups of anglers. To foster comparison between sectors, review guidelines like those that exist for the commercial sector should be established for each sector (e.g., including goals, objectives, and measurable outcomes).

Impacts to Commercial Participants

Conclusion: Once a LAPP is implemented, it becomes very difficult to make major changes. The program design features, such as initial allocation, have enduring effects. Therefore, in a series of committee recommendations, the Councils are advised to put more effort, via data collection, research, and deliberation, into the development and design of new LAPPs and reform of existing ones, building on known issues such programs have in achieving both efficiency and equity. Particular attention is given to the initial allocation, opportunities for hired captains and crew to more fully participate, the cost of new entry and effects on later generations, and the transparency and accessibility of markets for shares and allocations. One of those recommendations is on determining who is eligible in the initial allocation if such privileges are conferred without cost, which is critical to the subsequent performance of the LAPP fishery.

Recommendation: The Councils and the NMFS, in planning new LAPPs in mixed-use fisheries, should develop a broad range of options for the initial allocation of quota, including but going beyond the practice of limiting eligibility to existing vessel owners or permit holders with historic records (especially if overcapitalization is not a goal and shares are to be given for free). Where available, data on the contributions of hired captains and crew to the historic performance of vessels should be collected and used to assess the potential of awarding shares to them as well as vessel owners. If such data are not available, the Councils should consider delaying the creation of a LAPP for a limited time to conduct a rapid assessment of crew contributions that would inform initial allocations.

Impacts to Fishing Communities

Conclusion: There is evidence from Alaska and other regions that LAPPs can have discernable and sometimes negative effects on communities through changes such as increased social conflict, diminished employment, or loss of product for processing plants. However, there is a paucity of data on the community dimensions of the fisheries studied, whether recreational, for hire, or commercial. This gap presents a major challenge to evaluating the effects of LAPPs on the broader community engaged in the mixed-use fisheries. The committee developed a set of

recommendations that underscore the importance of ethnography, social indicators, and human dimensions research in NOAA Fisheries.

Recommendation: The NMFS and the Councils should develop explicit measures to associate LAPP fishing activity, as well as fishing activities of the for-hire and recreational sectors, with fishing communities represented in the NOAA Social Indicators data, both in the baseline (pre-LAPP) period and in subsequent periods. These measures should capture multiple community connections (e.g., residency, vessel homeport, landings, and support services for recreational and commercial fisheries).

Recommendations for Data Collection and Future Research

Conclusion: Because the committee encountered major gaps in the kinds of information needed to address its tasks, a large set of recommendations focused on data needs, some of which overlap with the sector specific recommendations above. For fisheries where LAPPs may be contemplated, given the likelihood of having to make significant trade-offs, there is a pressing need for additional economic and social data, including pre-implementation baselines and concurrent examination of the LAPP in relation to other sectors of the fisheries. Committee recommendations emphasized introducing demographic data collection, expanding captain and crew data collection; improving the utility of social indicator data; making quota share and allocation data more transparent, comprehensive, and widely available; and developing data collection programs for mixed-use fisheries that enable assessment of the human dimensions of recreational and for-hire fisheries as well as commercial fisheries. The committee also advised that future review of LAPPs examine their relationships to other sectors of the fisheries.

Recommendation: For fisheries where LAPPs may be contemplated, the Councils and the NMFS should establish longitudinal data collection protocols for additional economic and social information, including pre-implementation baselines. These protocols should collect ongoing, and where possible, retrospective data prior to LAPP implementation and continue thereafter, with minimal disruptions to the survey protocols. At a minimum these data collection efforts should focus on social and economic data at the vessel level (e.g., revenues, input use, costs, ownership, community affiliation) including detailed demographic and economic data on crew, captains, vessel owners, and shareholders. Additionally, all data sets should cross reference each other to facilitate linking by including the appropriate identifiers.

Recommendations for Interdisciplinary Impact Assessment

Central to the committee's work has been the challenge of integrating qualitative and quantitative economic and social data that are based on distinct, discipline-driven methodologies and theories. Important examples are combining interview-based data with datasets like NOAA's Social Indicators for Coastal Communities project, and finding ways to meaningfully relate stakeholder perceptions of the fisheries system to what economic and biological data and models reveal about the system.

Conclusion: Fisheries policy issues with major economic, social, and ecological dimensions require interdisciplinary conceptualizations and methods for research. Finding ways to integrate divergent disciplinary perspectives and qualitative and quantitative data more effectively could lead to new insights, fruitful hypotheses, and more informed and improved decision making.

Recommendation: The NMFS and the Councils should encourage interdisciplinarity and better integrate qualitative and quantitative data to generate hypotheses and discern and test policy impacts. These activities and discussions can happen within the multidisciplinary Scientific and Statistical Committees of the regional councils as well as within the regional science centers of the NMFS.

This recommendation includes ways to assess the use of qualitative data on perceptions and values in social and economic impact analysis. Ideally, these assessments can be conducted in tandem with quantitative approaches like randomized sampling or taking a census of the population. To this end, the Councils and NOAA can expand the social and cultural methodologies used, including cultural models and cultural consensus analysis and network analysis among other adjuncts to in-depth interviews, participant observation, social surveys, and social indicators work that are well-known but not routinely applied to social and economic impact assessments within NOAA Fisheries.

Overall Conclusions

The use of LAPPs in the mixed-use cases reviewed has little discernible impact on recreational and for-hire stakeholders. However, fishers who are participants in the LAPP are held to higher monitoring, data collection, and enforcement standards relative to non-LAPP fishery counterparts and business-as-usual scenarios. To the extent that this eliminates overfishing and stocks are no longer overfished, it is possible that there will be more resiliency in the overall ecological system that benefits all fishery sectors. Moreover, the improved monitoring of the commercial sector with LAPPs may lead to pressure on other sectors to be more responsible, with the goal of staying within fishing mortality rate targets and reducing bycatch and discards. Thus, LAPPs may improve accountability, and hence conservation, in a mixed-use fishery in ways that deserve further scrutiny.

The committee's appraisal of the influence of LAPPs in mixed-use fisheries is constrained by the scarcity of data and studies that would enable a clearer picture of how the commercial, for-hire, and recreational fisheries for particular species or species complexes interact. The existence of LAPPs in the mixed-use fisheries of the Gulf and the Atlantic coasts is fairly new. Their creation often is accompanied by other measures, such as quota reduction and stronger monitoring that may account for variable outcomes. Moreover, beyond LAPPs, research on mixed-use fisheries as such appears to be limited to analyses done for purposes of allocating allowable catches among the sectors, with little attention to other possible relationships. Recognizing how potentially transformative LAPPs can be and the challenges of managing mixed-use fisheries, our conclusions and recommendations are aimed at improving a management system that in many respects appears to be working well.

Addressing the Impacts of LAPPs in Mixed-Use Fisheries

Recommendations for Existing and Future LAPPs

Part A: Impacts to Recreational Stakeholders

Recommendation A-1: The Councils should review the policies regarding entry into the for-hire sector for potential loopholes that would allow expanded capacity in the for-hire sector and revise the policies accordingly. This should be done for fisheries directly linked through a LAPP in a mixed-use fishery as well as those in other fisheries that may provide a viable source of alternative employment for displaced commercial fishers and their vessels.

Recommendation A-2: The Councils should closely monitor the evidence for the establishment and growth of “catch share experience” and similar quasi-recreational trips occurring under the structure of commercial LAPPs. In cases where these trips are already well established (e.g., the Gulf of Mexico reef fish fishery), the Councils should develop regularized reporting programs for monitoring the extent and characteristics of these trips.

Recommendation A-3: The NMFS, in partnership with the relevant Councils, should conduct research into innovative institutional structures, such as AMOs, to partially devolve management of marine recreational fisheries to anglers and the associated fishing communities, improve accountability of anglers for their harvest, and facilitate mutually agreeable reallocation between the recreational and commercial sectors. Given the significant knowledge gaps and lack of real-world analogs, this research should be broad in focus, consisting both of internal NMFS research leading to the production of technical memoranda as well as external research funded through channels such as the Marine Fisheries Initiative Program or Saltonstall-Kennedy awards with the goal of bringing government and academic scientists together with the angling community for the joint production of actionable knowledge. The Councils, together with NOAA outreach programs, could then begin to communicate to anglers the potential benefits of the new system and any required data collection systems.

Recommendation A-4: The Councils, or their state partners in the case of “state-based management,” should conduct reviews of their management of both private recreational and for-hire fisheries for species shared under LAPPs in mixed-use fisheries (or proposed LAPPs in mixed-use fisheries) and propose and implement reforms (including, but not limited to, individual fishing quotas [IFQs] or cooperatives for for-hire vessels and harvest tags or day passes for private anglers) that foster accountability while enhancing fishing experiences and opportunities to heterogeneous groups of anglers. To foster comparison between sectors, review guidelines, like those that exist for the commercial sector, should be established for each sector (e.g., including goals, objectives, and measurable outcomes).

Part B: Impacts to Commercial Participants

Recommendation B-1: The Councils and the NMFS, in planning new LAPPs in mixed-use fisheries, should develop a broad range of options for the initial allocation of quota, including but going beyond the practice of limiting eligibility to existing vessel owners or permit holders with

historic records (especially if overcapitalization is not a goal and shares are to be given for free). Where available, data on the contributions of hired captains and crew to the historic performance of vessels should be collected and used to assess the potential of awarding shares to them as well as vessel owners. If such data are not available, the Councils should consider delaying the creation of a LAPP for a limited time to conduct a rapid assessment of crew contributions and preferences that would inform initial allocations.

Recommendation B-2: The Councils should set aside a portion of the total quota shares for new entrants or assess a fee (on the transfer or lease of shares or allocation, 2-5%, for example) that could be reallocated.

Recommendation B-3: The Councils should consider intergenerational equity at the outset of program consideration and design. Any new LAPP should explicitly address in its design any mechanisms to address objectives related to facilitating entry of second-generation fishers and the potentially undesirable effects of wealth primarily accruing only to the first generation.

Recommendation 8B-4: Because of perceptions that “investors” or “armchair captains” should not control quota shares, the Councils that consider new LAPPs in mixed-use fisheries, as well as others, should address this question up front, in initial scoping and draft amendment processes, and research whether and how such shareholding would affect the market for quota and its availability to active fishers. To assist the Councils in addressing this question, the NMFS should sponsor a study of the direct and indirect consequences of moving from LAPPs that require holding active fishing permits or other measures of active participation in fishing, to the “public” scope of eligibility to own quota shares. Such a study, likely focused on the experience of the two Gulf of Mexico LAPPs but informed by other programs, should offer a stronger basis for decision making about eligibility.

Recommendation B-5: The NMFS and the Councils should encourage full transparency of LAPP ownership, transfers, and leasing, making these data publicly accessible and part of the policy process. This effort, which is well under way in most current LAPPs, should include developing the capacity to provide real-time information on trades in order to foster well-functioning markets for quota shares and leasing. This can help achieve social objectives of equity by ensuring fishers are not disadvantaged in the transfer markets. In addition, inefficiencies and inequities caused by incomplete or inaccurate transfer data and uncentralized markets should be examined.

Part C: Impacts for Fishing Communities

Recommendation C-1: The NMFS and the Councils should develop explicit measures to associate LAPP fishing activity, as well as fishing activities of the for-hire and recreational sectors, with fishing communities represented in the NOAA Social Indicators data, both in the baseline period (pre-LAPP) and in subsequent periods. These measures should capture multiple community connections (e.g., residency, vessel homeport, landings, and support services for recreational and commercial fisheries).

Recommendation C-2: The NMFS and the Councils should create a process for determining what constitutes small-scale fishing in the context of different regions and fisheries and whether they see enough presence in federal fisheries to warrant its inclusion as such in data collection, decision making, and reviews. Scale can be a consideration for recreational as well as commercial fisheries; for example, do the policies and practices in the mixed-use fishery favor those with larger or more costly vessels and gear, whether recreational or commercial? Are small-scale fishers who lose out in LAPP allocations likely to move into for-hire or recreational fishing?

Recommendation C-3: In situations where fishing communities are significantly involved with and major components of a fishery where LAPPs are being considered, the provisions in the MSA (16 U.S.C. § 1853a(c)(3)(A)) that allow for assignment of quota shares to fishing communities, as well as regional fishery associations, should be included as among alternatives being considered by the Councils. These provisions appear to apply only to commercial fisheries. The recommendation for AMOs in the recreational section above better captures the reality of the recreational sectors in mixed-use fisheries, where participants are often highly dispersed.

Recommendation C-4: The NMFS should make implementing the human dimensions section of the NOAA Fisheries research strategy for 2021-2025 (NOAA Fisheries, 2021) a high priority.

Part D: Recommendations for Data Collection and Future Research

Recommendation D-1: The concept of “serial conservation” in mixed-use fisheries should be explored in more detail through partnerships of federal, academic, and state agency scientists, supported through funding initiatives at the federal or regional level. Under what conditions and through what mechanisms might LAPPs create leverage for improvements in rates of bycatch and discards and keeping within fishing mortality rate targets for complexes of stocks? To the extent that LAPPs result in elimination of overfishing and stocks are no longer overfished, will there be more resiliency in the overall ecological system that benefits all sectors?

Recommendation D-2: For fisheries where LAPPs may be contemplated, the Councils and the NMFS should establish longitudinal data collection protocols for additional economic and social information, including pre-implementation baselines. These protocols should collect ongoing and, where possible, retrospective data prior to LAPP implementation and continue thereafter, with minimal disruptions to the survey protocols. At a minimum these data collection efforts should focus on social and economic data at the vessel level (e.g., revenues, input use, costs, ownership, community affiliation), including detailed demographic and economic data on crew, captains, vessel owners, and shareholders. Possible models are the Bering Sea and Aleutian Islands crab rationalization program and the data collection efforts of the Northwest Region for groundfish rationalization. These data collection efforts would ideally branch out beyond surveying only capital owners, but also regularly survey other immediate fishery stakeholders such as captains and crew (acknowledging difficulties here). These efforts would be complementary to plans to broaden the base of initial allocations. Additionally, all datasets should cross reference each other to facilitate linking by including the appropriate identifiers.

Recommendation D-3: The Councils should collectively institute a baseline level of longitudinal economic and social data reporting for *all* major fisheries in order to facilitate the comparative and causal analysis of policy changes or natural shocks in one fishery.

Recommendation D-4: The NMFS and the Councils should reexamine the guidelines for LAPP review (including minimum data requirements for analysis) and expand their scope in light of the efforts of this committee to use them as sources of information about the social, economic, and biological effects of LAPPs in general and in mixed-use fisheries. Future reviews of LAPPs in mixed-use fisheries should examine their relationships to other sectors of the fisheries, and their goals and objectives, and be informed by the efforts of this committee to hypothesize and in some instances substantiate interactions and side effects.

Recommendation D-5: The NMFS and the Councils should conduct more thorough analysis of the NOAA Social Indicators for Coastal Communities (SICC) data to explore whether they can provide information about causal effects of LAPPs on communities. The committee recommends three specific steps: (1) refine the geographical definitions of treated and control units to more carefully match communities affected by LAPPs with ones that are similar but unaffected, (2) conduct more analyses to explore other indicators and other ways of exploiting natural policy experiments in the SICC, and (3) test the efficacy of quasi-experimental analysis of the SICC data by examining effects of hurricanes or other shocks with well-known geographic specificity for consistency with well-understood effects of social and economic disruption. If not, they should expand the data collected to allow for such analysis.

Recommendation D-6: The NMFS and the Councils should develop ways to expand captain and crew data collection such that it can comprehensively track people participating in federal fisheries. Such a system could facilitate ways to address concerns about fairness in quota share distributions as well as contribute to a richer understanding of social, economic, and community impacts of LAPPs and other sectors of mixed-use fisheries. It could also potentially discourage hiring crew off the books and enhance fairness for fishers who do not engage in that practice, especially if tied to the ability to vest into quota.

Recommendation D-7: The NMFS and the Councils should make quota share and allocation data more transparent, comprehensive, and widely available, and encourage data presentation and analysis on these dimensions so they can inform the policy formation processes. Such activities would also serve to show that accurate and complete data reporting is critical as it can also help potential buyers and sellers make transaction decisions.

Recommendation D-8: The NMFS and the Councils should develop prioritized, targeted human dimensions recreational data as well as commercial and for-hire data collection programs for species or species complexes of particular interest either due to ongoing or anticipated allocation tensions between sectors in existing LAPPs in mixed-use fisheries or in anticipation of new LAPPs in mixed-use fisheries.

Recommendation D-9: Congress and the administration should fully fund data collection and analysis programs consistent with the priorities identified above.

Part E: Recommendation for Interdisciplinary Impact Assessment

Recommendation E-1: The NMFS and the Councils should encourage interdisciplinarity and better integrate qualitative and quantitative data to generate hypotheses and discern and test policy impacts. These activities and discussions can happen within the multidisciplinary Scientific and Statistical Committees of the regional Councils as well as within the regional science centers of the NMFS.