

This is a briefing document that will detail three management tools that are currently being used and discussed at the federal fishery management councils: catch shares, limited access privilege programs (LAPPs), and sector separation. Of the three, catch shares and LAPPs (*aka* Limited Access Privilege, LAPs) have been implemented for specific fisheries in the Southeast region. Each section will begin with a definition of the program, and in most cases the definition is either from the Magnuson Stevens Fishery Conservation and Management Reauthorization Act of 2006 (Magnuson Act) or from other widely distributed publications (e.g. NOAA Catch Share Policy, NOAA IFQ Annual Reports, etc.). There is a certain amount of overlap with the definitions and concepts of these programs.

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## Outline

- **Catch shares**
  - Definition and US examples
  - NOAA catch share policy
  - NOAA guidelines
- **LAPs and IFQs**
  - Definition
  - Magnuson requirements
  - Pros and Cons
  - Example – Gulf Red Snapper
- **Sector Separation**



## Catch Shares



- **Catch shares** –fishery management systems that dedicate a secure privilege to harvest a specific area or percentage of a fishery’s total allowable catch to individuals, communities, or associations
- Each recipient of a catch share is directly accountable to stop fishing when their exclusive allocation is reached
- Have historically only been used in the US for commercial fisheries



Catch shares are “fishery management systems that dedicate a secure privilege to harvest a specific area or percentage of a fishery’s total allowable catch to individuals, cooperatives, communities or other entities. Each recipient of a catch share is directly accountable to stop fishing when its exclusive allocation is reached.” NOAA Catch Share Policy, 2010

Catch shares have historically only been used in the US for commercial fisheries.

## Catch Shares is Overarching Concept

- **Catch shares** are an umbrella term that describes programs that provide a portion of the Total Allowable Catch (TAC) to individuals or other eligible entities

### Can Include:

- Limited Access Privilege Programs (LAP)
- Individual Fishing Quota (IFQs)
  
- Different from state endorsement programs like spiny lobster, blue crab, stone crab, and marine life



The term catch shares includes specific programs defined in law such as “limited access privilege” (LAP) and “individual fishing quotas” (IFQ). Catch shares are therefore the overarching concept from which LAPs and IFQs are generated. LAPs and IFQs will be discussed later in this document. These programs differ from existing endorsement programs because endorsements do not necessarily grant a privilege of specific quota based on a history in the fishery. For example, Florida issues a commercial lobster endorsement for the harvest of spiny lobster. This endorsement allows an entity to participate in the fishery with no quota associated with the endorsement. Florida issues similar commercial endorsements for blue crab, stone crab, and marine life.

## Catch Shares – When to Use

- NOAA Catch Share Policy states that catch shares **may not** be the best management option for every fishery or sector
- Management tools such as seasons, trip limits, and endorsement programs are alternatives to catch shares
- Derby fishing, safety at sea, shortened seasons
- Catch shares used to remove incentive to overcapitalize
- A careful study of the current state of the fishery is needed to determine if a catch share program would be suitable management option to address the issues of concern
- FWC has only advocated for catch share programs when these programs are supported by stakeholders



*“Catch shares may not be the best management option for every fishery or sector.”* NOAA Catch Share Policy, 2010.

Historical management alternatives to catch share type programs have been tools such as seasons, trip limits, quotas, and endorsement programs. These have all had different effects on fisheries, and sometimes still led to too many people chasing too few fish. Often creating derby fishing conditions, safety issues, and reduced prices paid to fishermen controlled by markets being flooded with product during shortened seasons. Catch shares have been used as a response to these situations to grant fishermen a privilege to catch a portion of the total allowable catch (TAC).

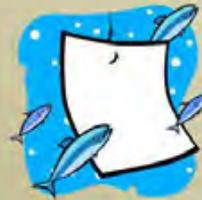
A careful study of the current state of the fishery is needed to determine if a catch share program would be suitable management option to determine if a LAP program would be suitable management option to address the issues of concern.

The FWC has advocated at the federal level for catch share type programs when these programs are supported by the stakeholder, e.g. Gulf red snapper and grouper IFQ's.

## 2010 NOAA Catch Share Policy



- *“To achieve long-term ecological and economical sustainability of the Nation’s fishery resources and fishing communities, NOAA encourages the consideration and adoption of catch shares wherever appropriate in fishery management and ecosystem plans and other amendments, and will support the design, implementation, and monitoring of catch share programs”*
- Provides rationale and guidelines
- Not a mandate to implement catch shares



The National Oceanic and Atmospheric Administration (NOAA) published a “Catch Share Policy” in 2010. This document explains the purpose, definition, goals, and policy protocol recommended by the agency. This document is not a mandate to implement catch shares, but it establishes the rationale and guidelines for use in the potential development of catch share programs in the United States.

## NOAA Catch Shares Guidelines

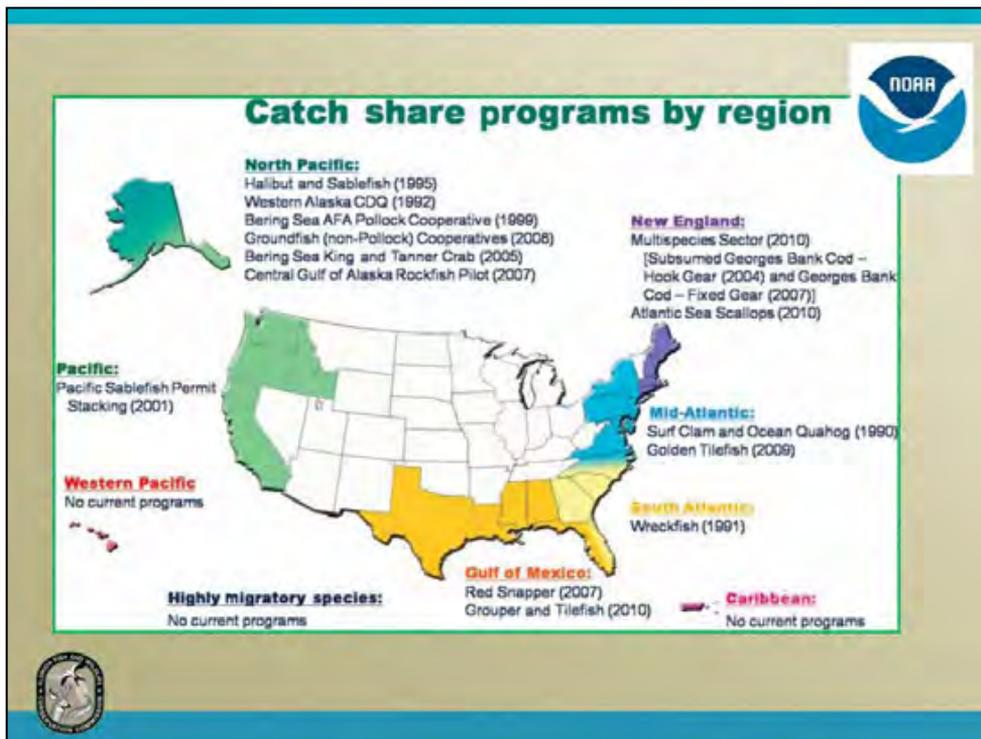


1. *Specific management goals*
2. *Allocations*
3. *Transferability*
4. *Distinctions among sectors*
5. *Duration*
6. *Fishing community sustainability*
7. *Royalties*
8. *Cost recovery*
9. *Review process*



These nine guidelines are recommended by NOAA in considering any catch share program. These are certainly not the final word in catch share protocol, but will be discussed here because these guidelines would be debated by the Councils in any catch share deliberations:

- 1) Specific management goals – should identify specific measurable goals for management, e.g. end derby fishing and reduce overcapitalization;
- 2) Allocations – harvest allocation to specific sectors; basis for allocation should consider conservation, economic, and social criteria to specify optimum yield;
- 3) Transferability – intra- and inter- sector transferability to promote future access;
- 4) Distinctions among sectors – no fishery or sector is required by the policy to adopt catch shares;
- 5) Duration – the duration of every catch share program should be explicitly defined;
- 6) Fishing community sustainability – engage and promote the sustained participation of fishing communities as provided in the Act; (not shutting out historical fishing communities)
- 7) Royalties – determine if it is in the public interest to collect royalties in limited access privilege programs;
- 8) Cost recovery – government cost for management, data collection and analysis, and enforcement as required by the Act; and,
- 9) Review process – Councils should periodically review all catch share programs to ensure that management goals are specified, measurable, tracked and used to gauge whether a program is meeting its goals and objectives.



Catch share programs, which include LAP and IFQ programs, have been used in federally managed U.S. fisheries by six different Councils in 14 different programs from Alaska to Florida. In the Gulf of Mexico, current catch share programs include an IFQ for red snapper that began in 2007 and a grouper and tilefish IFQ that began in 2010. The red snapper IFQ program is currently under review. Some members of the commercial reef fish industry have also requested a catch share program be developed for Gulf vermilion snapper.

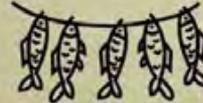
In the South Atlantic, there is a wreckfish IFQ program that began in 1991. The South Atlantic Fishery Management Council is currently considering development of a golden crab catch share program, at the request of members of the golden crab fishery.

NOAA's Highly Migratory Species Division is also considering a catch shares program for the Atlantic shark fishery.

Catch shares have been used worldwide since the 1970s. Some of the other countries that have used catch shares in fishery management include New Zealand, Iceland, Canada, Australia, Greenland, the Netherlands, Norway, Portugal, United Kingdom, and South Africa.

## LAPs (aka LAPPs)

- **Limited access privilege** – a federal permit issued as part of a limited access system under the Act to harvest a quantity of fish expressed by a unit or units representing a portion of the TAC of the fishery that may be received or held for the exclusive use by a person; and includes individual fishing quota
- **Limited access system** – a system that limits participation in a fishery to those satisfying certain eligibility criteria or requirements contained in a fishery management plan or associated regulations



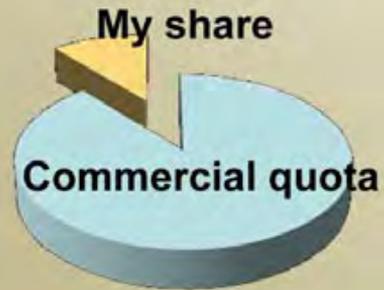
The term *limited access privilege* means a Federal permit, issued as part of a limited access system under Magnuson to harvest a specified quantity of fish expressed by a unit or units representing a portion of the total allowable catch (TAC) of the fishery that may be received or held for exclusive use by a person; and includes an individual fishing quota (IFQ).

The term *limited access system* means a system that limits participation in a fishery to those satisfying certain eligibility criteria or requirements contained in a fishery management plan or associated regulation.

Magnuson gives Councils or the Secretary of Commerce the option of developing limited access systems for fisheries. As mentioned earlier, in the US it has typically only been applied to commercial fisheries.

## Distribution of LAP

- **Share** = percentage of the commercial quota assigned to each fishermen or entity
- **Allocation** = pounds of fish each fishermen or entity has the opportunity to harvest each year



## Magnuson Requirements for LAPs

1. Fishing safety
2. Fishery conservation and management
3. Social and economic benefits
4. Citizen or permanent resident alien
5. Registered U.S. vessels
6. Specify goals of the program
7. Monitoring and review
8. Enforcement
9. Appeals process
10. Review process
11. Revocation provisions



Magnuson stipulates that limited access privilege programs address several issues: 1) fishing safety; 2) fishery conservation and management; 3) social and economic benefits; 4) prohibit any person other than a United States citizen, a corporation, partnership, or other entity established under the laws of the United States or any State, or a permanent resident alien, that meets the eligibility and participation requirements established in the program from acquiring a privilege to harvest fish, including any person that acquires a limited access privilege solely for the purpose of perfecting or realizing on a security interest in such privilege; 5) require that all fish harvested under a limited access privilege program be processed on vessels of the United States or on United States soil (including any territory of the United States); 6) specify the goals of the program; 7) include provisions for the regular monitoring and review by the Council and the Secretary of Commerce of the operations of the program, including determining progress in meeting the goals of the program and this Act, and any necessary modification of the program to meet those goals, with a formal and detailed review five years after the implementation of the program and thereafter to coincide with scheduled Council review of the relevant fishery management plan (but no less frequently than once every 7 years); 8) include an effective system for enforcement, monitoring, and management of the program, including the use of observers or electronic monitoring systems; 9) include an appeals process for administrative review of the Secretary's decisions regarding initial allocation of limited access privileges; 10) provide for the establishment by the Secretary, in consultation with appropriate Federal agencies, for an information collection and review process to provide any additional information needed to determine whether any illegal acts of anti-competition, anti-trust, price collusion, or price fixing have occurred among regional fishery associations or persons receiving limited access privileges under the program; and, 11) provide for the revocation by the Secretary of limited access privileges held by any person found to have violated the antitrust laws of the United States.

## LAPs

- Three kinds of LAPs:
  - Individual Fishing Quota
  - Community Quota
  - Regional Fishery Association Quota
- Considered permits
- May be revoked, limited, or modified
- Considered a grant of permission to engage in permitted limited access activities
- Can address any number of social, economical, and biological issues in fisheries management



There are three kinds of LAPs: individual fishing quota (IFQ); community quota; and, quota held by regional fishery associations. The Magnuson Act describes the use of LAPs by stating that they: 1) shall be considered a permit; 2) may be revoked, limited, or modified at any time; 3) shall not confer any right of compensation; 4) shall not create any right, title, interest in or to any fish before fish is harvested; and, 5) shall be considered a grant of permission to the holder to engage in activities permitted by limited access privileges.

*“IFQs can be used to address any number of social, economical and biological issues in fisheries management.....Although the IFQ is no panacea, it deserves a place in the array of techniques that may be needed in any particular fishery management plan” – National Academy of Sciences, 1999.*

## LAPs in the United States

- Existing IFQ programs:
  - Mid-Atlantic surf clam and ocean quahog
  - South Atlantic wreckfish
  - Alaskan halibut, north Pacific sablefish
  - Bering Sea crab
  - Gulf of Mexico red snapper
  - Gulf of Mexico grouper and tilefish
- Other Market-based LAPs
  - The Western Alaska community Development Quota Program
  - The Pacific Whiting and Bering Sea Pollack Cooperatives
  - The Gulf of Alaska rockfish pilot program



IFQ programs implemented in the United States include:

The Mid-Atlantic surf clam and ocean quahog IFQ (1990);

The South Atlantic wreckfish IFQ (1991);

The Alaskan halibut and North Pacific sablefish IFQ (1995); and

The Bering Sea/Aleutian Island crab rationalization program (2005).

The Gulf of Mexico red snapper IFQ (2006)

The Gulf of Mexico grouper/tilefish IFQ (2009)

Also, some U.S. fisheries are managed under similar, market-based LAPs. For example: The Western Alaska community Development Quota Program allocates a portion of the total allowable catch of all federally managed Bering Sea and Aleutian Island fisheries to eligible communities in Western Alaska to use for community and economic development; the Pacific Whiting and Bering Sea Pollack Cooperatives allocate a portion of the Pacific whiting and Bering Sea Pollack total allowable catches, respectively, to defined gear groups or sectors; and, the Gulf of Alaska rockfish pilot program permits harvesters to form voluntary cooperatives and receive an exclusive harvest privilege to groundfish species in the Central Gulf of Alaska.

## LAPs: Pros and Cons



### Pros

- Ends derby-style fishing
- Can increase safety
- Allows for business planning and market stability

### Cons

- Qualifying criteria may exclude fishermen
- May adversely affect those with limited historical landings
- Some perceive LAPs as a violation of the public trust doctrine



These programs benefit stakeholders by eliminating derby fishing, not forcing harvesters to fish in bad weather conditions because of season restrictions, and allowing harvesters to fish when it is profitable both to them and to the market. It could provide a higher quality product to consumers. Can give fishermen the freedom to fish when conditions are favorable without the risk of losing the share of the catch. With the race for fish the fishermen's revenues depend more on success in the race and not necessarily success in the marketplace. Also, some believe that LAPs create incentives to reduce bycatch and encourages conservation of the resource by share holders.

LAPs may become controversial because qualifying criteria may exclude a percentage of fishermen from the fishery, thus eliminating or reducing the size of the fleets. Qualification to participate is usually based on landings histories or other measure of commercial participation. There could be possible impacts to fishermen of initial allocation if historical landings were hindered by adverse circumstances. Those most adversely affected are usually part-time or those with limited historical landings.

Some people perceive LAPs as a violation of the public trust doctrine. The public trust doctrine is the principle that certain resources are preserved for public use, and that the government is required to maintain them for the public. Others say that this method of regulation is ensuring that the public resource is adequately managed. LAPs are permits to harvest and do not confer any right to compensation and there are no rights until the fish is harvested. The Magnuson Act specifies that LAPs are privileges that may be removed at any time and replaced with another type of regulation without compensation to the permit holders. Granting long-term portion of the fishery is likely needed for business planning by the fishermen. Most carefully crafted LAP programs can create privileges which have the appropriate characteristics so as to provide many of the same positive incentives as those provided by traditional property rights. Fishermen must pay for access to and use of the public resource though cost recovery programs.

## IFQs -- Magnuson IFQ criteria

- Reminder – IFQ is a specific type of LAP
- Program must be voted on and approved by 2/3 of those voting in a referendum among eligible permit holders
- Transferability provisions



Magnuson stipulates two, among many, criteria for approval of IFQs:

*“Except as provided in clause (iii) for the Gulf of Mexico commercial red snapper fishery, the New England and Gulf Councils may not submit, and the Secretary may not approve or implement, a fishery management plan or amendment that creates an individual fishing quota program, including a Secretarial plan, unless such a system, as ultimately developed, has been approved by more than 2/3 of those voting in a referendum among eligible permit holders, or other persons described in clause (v), with respect to the New England Council, and by a majority of those voting in the referendum among eligible permit holders with respect to the Gulf Council. For multispecies permits in the Gulf of Mexico, only those participants who have substantially fished the species proposed to be included in the individual fishing quota program shall be eligible to vote in such a referendum. If an individual fishing quota program fails to be approved by the requisite number of those voting, it may be revised and submitted for approval in a subsequent referendum”*

And,

*“TRANSFERABILITY.—In establishing a limited access privilege program, a Council shall—  
(A) establish a policy and criteria for the transferability of limited access privileges (through sale or lease), that is consistent with the policies adopted by the Council for the Fishery; and,  
(B) establish, in coordination with the Secretary, a process for monitoring of transfers (including sales and leases) of limited access privileges.”*

## Gulf Red Snapper IFQ Program

- Began development in 2004 to address:
  - Derby style fishing conditions (Lengthen season/eliminate closures)
  - Promote safety
  - Improve market conditions
  - Reduce bycatch and discard mortality
- Pre- IFQ management:
  - Permits
  - Trip limits
  - Closed seasons
  - Quotas
- Program objectives/benefits:
  - Reduce overcapitalization in commercial fishery
  - Mitigate derby fishing
  - Increase market stability
  - Eliminate fishing seasons
  - Flexibility in fishing operations
  - Enforcement/safety at sea



The Gulf red snapper IFQ will be used as an example of an existing catch share program. The Gulf of Mexico Fishery Management Council began development of a commercial red snapper IFQ program in 2004. Prior to the development of the program, the commercial red snapper fishery was overcapitalized, resulting in derby-style fishing conditions as fishers raced to catch a share of the overall quota. The IFQ was developed to address the derby, promote safety, improve market conditions and reduce bycatch and discard mortality.

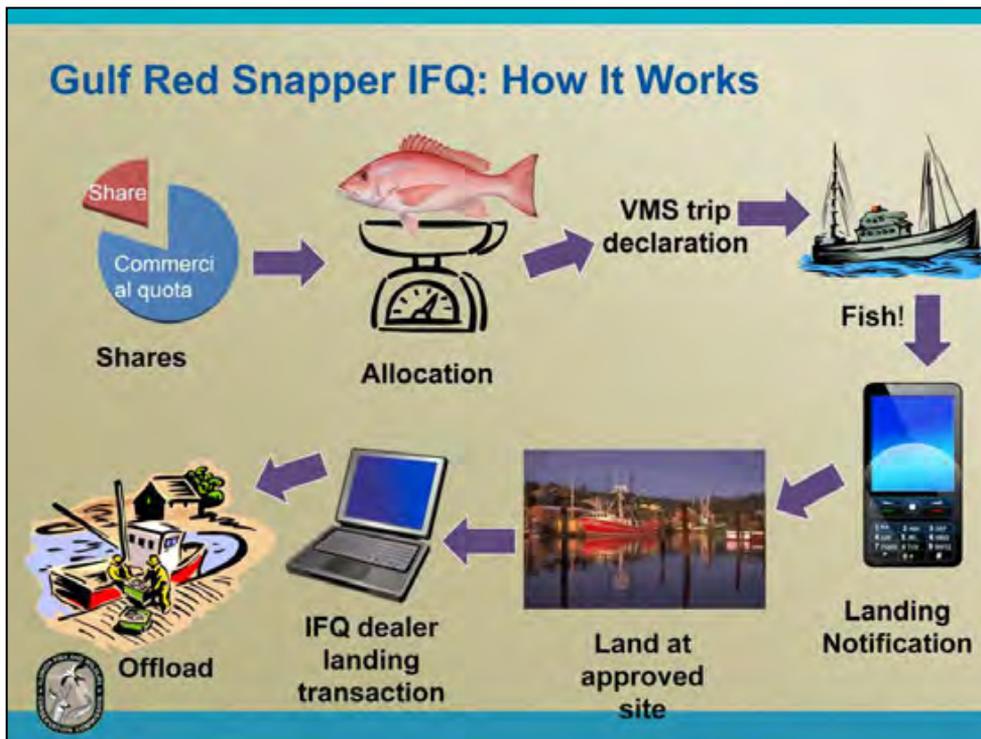
Prior to establishing an IFQ program, fishing permits, trip limits, closed seasons, and quota were the primary management tools used to constrain commercial effort and catch. However, commercial fishermen were dissatisfied with the short seasons and conditions in the fishery.

There were multiple alternative management strategies considered when the IFQ program was chosen. The primary objectives of establishing the IFQ program were to reduce overcapacity and mitigate derby fishing conditions. The anticipated benefits of the program included: increase market stability; elimination of fishing seasons; increased flexibility for fishing operations; cost-effective and enforceable management of the fishery; improved safety at sea; and optimization of net social, economical, and biological benefits from the fishery. Also, the program was intended to provide direct and indirect biological benefits to red snapper and other species by reducing bycatch and bycatch mortality and eliminate commercial quota overages.

## Gulf Red Snapper IFQ Program Development Process



Development of the red snapper IFQ program began in 2004 after a majority of eligible voters (based in a weighted majority vote of red snapper permit holders) supported, through referendum, the development of an IFQ program. During 2004-2005, the Gulf of Mexico Fishery Management Council established a Red Snapper Advisory Panel (made up of fishers and interested parties) and in collaboration with that panel developed Reef Fish Amendment 26, which outlined the key components of the red snapper IFQ program. Public input was taken via hearings, council meetings, and correspondence all during the developmental stages of the program. In 2006, a second referendum was conducted to determine if a majority of eligible voters supported the adoption of the amendment, which they did. The amendment also put a cap on the amount of quota share that can be held by an entity. The amendment was approved by the Council in March 2006, and was implemented by NOAA on January 1, 2007. The program was designed to be reviewed after five years from implementation, and the Council is in the process of that review now. If the Council recommends any substantive changes to the original program, then another referendum would have to be held.



The diagram above illustrates how the Gulf red snapper IFQ program works. IFQ participants are assigned shares, which represent a percentage of the red snapper commercial quota. When the fishing year begins, IFQ shareholders are allocated the number of pounds of red snapper that they can harvest that year, which is based on the number of shares held. Once IFQ shareholders are ready to fish, they must make a vessel monitoring system (VMS) trip declaration before departing. Once on an IFQ fishing trip, the vessel must give NOAA Fisheries 3-12 hours advanced notification before landing the fish. IFQ vessels are required to land the fish at pre-approved landing sites so that their catch can be expected by law enforcement. After the vessel lands, fish are weighed and the dealer buying the fish submits a landing transaction report that details transaction information such as the pounds of fish caught and sold, and the purchase price per pound. Finally, fish are offloaded.

IFQ shareholders can purchase allocation and shares from other IFQ shareholders anytime before landing. If an IFQ fishermen is on a trip and believes he may exceed his allocation, this allows him to purchase allocation while at sea from another fishermen.

## Gulf Red Snapper IFQ: 5 Year Review

- Currently in a 5-year review phase
- Presentation by LSU economist at GMFMC meeting on survey results of all red snapper IFQ participants
  - 48% response rate, mostly large shareholders
  - Larger shareholders more satisfied than small shareholders
  - Most agree that IFQ reduced derby, increased price, improved safety
- Council trying to determine if IFQ is meeting its original goals and if any tweaks are needed
- Substantive changes would have to be approved via a referendum



The Gulf red snapper IFQ program is currently in a 5 year review phase. As part of this process a survey was sent to all IFQ participants. The results of this survey were presented to the Gulf Council last week by LSU economist Walter Keithly. This survey only had a 48% response rate and most of the responses were from larger shareholders. Larger shareholders seemed more satisfied with the program than small shareholders. However, overall most agree that the IFQ reduced the derby fishing, increased price, and improved safety.

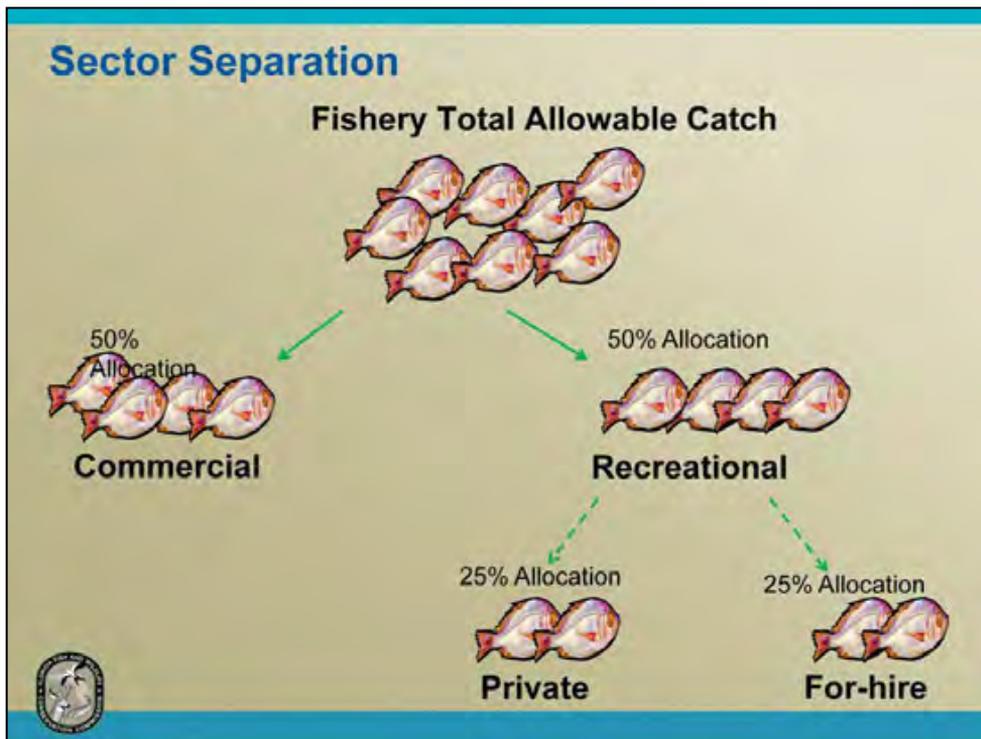
As part of the 5 year review process the Council will be trying to determine if the IFQ is meeting its original goals and determine if any tweaks in the program are needed. If substantive changes are made to the program then they would have to be approved via a referendum.

## Sector Separation

- **Sector separation** – a concept where each sector or group receives its own dedicated portion of the Total Allowable Catch (TAC) assigned to the fishery
- Sector separation  $\neq$  catch shares, LAPs, or IFQs
- Exists now as many federal fisheries are allocated between the commercial and recreational sectors
- Term used primarily to describe the breakdown of the recreational sector into private and for-hire



Sector separation as it pertains to fisheries management is a concept where each sector or stakeholder group receives its own dedicated portion of the total allowable catch (TAC) that is assigned to the fishery. Sector separation is not a catch share, a LAP or an IFQ. It is not necessarily tied to those programs. In practical terms, sector separation is already in use, managed fisheries have a commercial and a recreational allocation of the TAC. An simple example would be the Gulf red snapper fishery where the TAC is divided 51% commercial and 49% recreational. This term has been used recently to describe the further breakdown of the recreational sector into private and for hire portions. Portions of the for-hire industry have asked the federal management councils to consider taking the recreational allocation and splitting that between the private and for-hire sectors, with each sector receiving a portion of the recreational TAC. This would mean that each sector would be responsible for their allocation, and if one sector exceeded their quota, the other sector would not be penalized.



In this example the total allowable catch is assigned to the fishery. In this example above, 50% of the fishery total allowable catch is allocated to the commercial sector and a total of 50% is allocated to the recreational sector. This type of allocation or sector separation is already occurring. To take this concept a step further, portions of the for-hire industry have asked the federal management councils to consider taking the recreational allocation and further splitting that between the private and for-hire sectors, with each sector receiving a portion of the recreational TAC.

## Summary

- There are many forms of catch shares including IFQs and LAPs
- These types of programs can be a useful management tool but must be considered on a case by case basis
- These programs are not necessarily suited to all fisheries, and should not be designed without industry request
- Difficult to determine potential success without closer examination of each program
- Sector separation is not an IFQ or LAP



In summary:

- There are many forms of catch shares including IFQs and LAPS
- These types of programs can be a useful management tool
- These programs are not necessarily suited to all fisheries, and should not be designed without industry request
- Difficult to determine potential success without closer examination
- Sector separation is not an IFQ or LAP

This presentation is not intended to serve as an evaluation of catch shares, but is intended to explain catch share programs and provide examples.