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## **8. LIMITED ACCESS & PERMITTING**

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One major concern in the management of HMS commercial fisheries is overcapitalization. As many HMS species are overfished (see Table 2.1), allocation of the resource becomes a difficult and contentious issue. Limited access and permitting mechanisms are ways of addressing the “too many fishermen chasing too few fish” dilemma that faces many of the world’s fish stocks. To date, HMS has responded to overcapitalization issues through a variety of methods in addition to limited access to swordfish, shark, or tuna longline permits. Individual Vessel Quotas (IVQs) for bluefin tuna purse seiners were implemented in 1982 (described in Section 4.2.1 of this report) to exclude new entrants into the fishery. In 1995, NMFS published a final rule (64 FR 38505, July 27, 1995) that limited purse seiner access to BAYS fisheries. Three workshops were held in late 1995/early 1996 to discuss limited access in all Atlantic tunas fisheries. In addition, NMFS published a concept paper on limited access for Atlantic HMS (NMFS, 1995a) and established a control date (September 1, 1994), published in the *Federal Register*, after which new vessels entering the fishery are not guaranteed future access to Atlantic tuna fisheries (59 FR 45262, September 1, 1994).

Overcapitalization issues continue to affect charter/headboat vessels as well. The Gulf of Mexico Fishery Management Council is currently considering implementation of a temporary moratorium on the issuance of charter/headboat vessel permits. The preferred alternatives include a control date of September 16, 1999, beyond which a permit holder is no longer assured access to the fishery. In order to prevent spillover into HMS fisheries, an ANPR control date for HMS charter/headboats may be considered in the future.

### **8.1 Limited Access**

#### **8.1.1 Overview of Measures Established in the HMS FMP**

Overcapitalization and open access fisheries are associated with many problems, including derby fisheries, market gluts, poor product quality, safety concerns, and loss of market niches due to shortened fishing seasons and reliance on imported fish. Accordingly, the HMS FMP outlined several objectives that specifically relate to rationalization of HMS fisheries through a limited access program implemented in July 1999, including:

- To minimize, to the extent practicable, economic displacement and other adverse impacts on fishing communities during the transition from overfished fisheries to healthy ones.
- Consistent with other objectives of this FMP, to manage Atlantic HMS fisheries for continuing optimum yield so as to provide the greatest overall benefit to the Nation,

particularly with respect to food production, providing recreational opportunities, preserving traditional fisheries, and taking into account the protection of marine ecosystems.

- To reduce latent effort and overcapitalization in HMS commercial fisheries.
- To develop eligibility criteria for participation in the commercial shark and swordfish fisheries based on historical participation, including access for traditional swordfish handgear fishermen to participate fully as the stock recovers.
- To create a management system to make fleet capacity commensurate with resource status so as to achieve the dual goals of economic efficiency and biological conservation.

As stated in the HMS FMP, the goal of this **first step** of limited access in the Atlantic swordfish, shark, and tuna longline fisheries is **to begin to** rationalize current harvesting capacity with the available quota and reduce latent effort without significantly affecting the livelihoods of those who are substantially dependent on the fisheries (in other words, to prevent further overcapitalization).

The final eligibility criteria, which are based on current and historical participation, are summarized in Table 8.1.

**Table 8.1 Limited Access Eligibility Criteria\***

<b>Fishery</b>	<b>Historical Permit Time Frame</b>	<b>Directed Permit Landings Threshold</b>	<b>Incidental Permit Landings Threshold</b>	<b>Recent Permit Time Frame</b>
Swordfish	June 30, 1994 to Dec. 31, 1997	25 swordfish, or at least \$5,000 gross revenue from sales of swordfish, per year in any 2 years between 1987 and 1997	11 swordfish total from 1987 to 1997 and meeting the minimum earned income requirement*	June 1, 1998 to Nov. 30, 1998
Shark	June 30, 1994 to Dec. 31, 1997	102 sharks, or at least \$5,000 gross revenue from sales of sharks, per year in any 2 years between 1991 and 1997	7 sharks total from 1991 to 1997	Jan. 1, 1998 to Dec. 31, 1998
Tuna Longline	NA	NA	NA	Jan. 1, 1998 to Dec. 31, 1998
Swordfish Handgear	Must provide documentation of (1) having been issued a swordfish permit for use with harpoon gear or (2) having landed swordfish with handgear as evidenced by logbook records, verifiable sales slips or receipts from registered dealers, or state landings records. Permits also will be issued to fishermen who meet the minimum earned income requirement.**			

\*Two exemptions provided for persons that acquired ownership of a vessel and its landings history after December 31, 1997, and for persons that first obtained a shark or swordfish permit in 1997.

\*\*The minimum earned income requirement states that owners must provide documentation that more than 50 percent of their earned income from commercial fishing came through the harvest and first sale of fish or from charter/headboat fishing, or at least \$20,000 gross revenue from commercial fishing, during 1 of the last 3 calendar years.

In addition to issuance of limited access permits, NMFS implemented the requirement that three limited access permits (at least incidental swordfish, at least incidental shark, and Incidental/Longline category tuna) were required to participate in the Atlantic swordfish fishery (except the swordfish handgear fishery) and the Atlantic tunas longline fishery.

In May, 1999, NMFS mailed permits to 796 vessel owners that met the final eligibility criteria, based on permit and landings records (203 directed swordfish, 218 incidental swordfish, 213 directed shark, 583 incidental shark, and 421 tuna Incidental/Longline limited access permits). As of December 30, 1999, NMFS had received approximately 580 applications, 386 of which resulted in initial approval for a directed or incidental limited access permit. Between the permits issued in May and successful applications (as of December 30, 1999), a total of 976 vessel owners have been issued limited access. Approximately 243 directed swordfish, 208 incidental swordfish, and 114 swordfish handgear limited access permits have been issued. Approximately 279 directed shark and 599 incidental shark limited access permits have been issued.

Approximately 451 tuna longline limited access permits have been issued. The distribution of limited access permits by state is below:

**Table 8.2**      **Distribution of Limited Access Permits:** Based on the number of qualifying permit holders as of December 30, 1999.

State	# Directed Swordfish	# Incidental Swordfish	# Swordfish Handgear	# Directed Shark	# Incidental Shark	# Tuna Longline	TOTAL (# Permit Holders/# Permits)
ME	4	8	7	5	21	12	33/57
NH	-	1	1	1	5	1	7/9
MA	12	10	30	2	24	22	55/99
RI	9	7	27	1	19	16	44/79
CT	1	2	1	-	3	3	4/10
NY	22	12	12	11	30	34	51/121
NJ	34	30	14	36	47	64	95/225
DE	2	1	-	2	2	3	4/10
MD	8	3	-	2	10	11	12/34
VA	3	9	-	5	12	12	17/41
NC	10	41	5	23	56	51	83/186
SC	5	1	-	7	16	6	23/35
GA	-	1	-	2	5	1	7/9
FL	85	47	17	166	237	132	413/683
AL	2	3	-	1	6	5	7/17
MS	-	2	-	2	9	2	11/15
LA	35	16	-	7	64	51	71/173
TX	8	13	-	6	29	21	35/77
CA	1	1	-	-	2	2	2/6
VI	2	-	-	-	2	2	2/6
TOTAL	243	208	114	279	599	451	976/1892

Of the approximately 155 applications that were denied, 56 permit holders have appealed that decision. Appeals have been submitted on the basis of the submission of additional materials,

that the original application materials were incorrectly reviewed, and that hardship prevented meeting the eligibility criteria. As of January 18, 2000, 9 of the 21 appeals that have been issued final decisions have been approved and the requested permit issued.

### **8.1.2 Review of Relative Success**

In order to review the success of the limited access program, it is important to evaluate the results in the context of the original objectives. Constituent comments raised during the limited access application process have included the issue of fleet stability, the potential for increased captain and crew participation (versus vessel owners only), and the concern that there are still too many permit holders in the swordfish, shark, and tuna longline fisheries. As emphasized in the HMS FMP, the current limited access system is only a first step. Based on the relative success of the system in place, additional steps may be taken to address overcapitalization. NMFS continues to solicit constituent comments on limited access and plans to discuss the matter with members of the HMS AP at the February 2000 meeting.

*Possible future management measures:*

- No further reduction (status quo) in the number of limited access permits.
- Attrition/Use or lose - reduce the number of permits based on non-renewal or lack of landings.
- Two-for-One entry - require entrants to the fishery to transfer two permits in order to obtain one limited access permit.
- Non-transferable Individual Fishing Quotas (IFQs).
- Individual Transferable Quota (ITQ) systems including landings based, auction, and/or lottery allocation.
- Permit buybacks.

*Points to consider when developing future management measures (from the National Research Council report on IFQs):*

- Is there broad stakeholder support and participation?
- Is the fishery amenable to cost-effective monitoring and enforcement?
- Are there adequate data, particularly concerning the socioeconomic effects of an IFQ? If not, what is needed?
- Is Federal-state cooperative management for sharks required before an ITQ program could be truly effective?

*Trade-offs of implementing additional management measures:*

- Increased economic efficiency may result in decreased employment.
- Decreased ability for young people without substantial capital to enter the fishery.
- Longer seasons promoting decreased derby conditions.
- Increased stability in the fishery, markets, and availability of fresh product for the public.
- Privatization of public resource and the creation of an expectation that allocation is a “right”.
- Potential windfall if initial allocation is “gifted” (possibly reduced through fees or taxes).
- Bycatch reduction.

*Types of possible future permits:*

- Gear-based; specific permits for longline, gillnets, and handgear.
- Permits with specific trip limits; i.e, “directed longline” would allow unlimited tuna, sword, shark (except large coastal sharks); incidental longline would allow a limited number of tunas, swordfish, and sharks (as opposed to species-based permits with the requirement to carry several permits).
- Recreational permits.

### **8.1.3 Upgrading & Safety Issues**

NMFS has received comments that the vessel upgrading restrictions on length overall (LOA), gross and net tonnage, and horse power are not appropriate for primarily longline fisheries, are not the preferred vessel characteristics to limit overcapitalization, and have substantial safety at sea concerns. Hold capacity was identified by constituents as a preferred vessel characteristic that would not impact safety at sea and would meet the objective of addressing overcapitalization in HMS commercial fisheries. NMFS did not implement hold capacity as a measure to limit vessel upgrading due to the lack of standard measurements of vessel hold capacity as well as the lack of consistent collection of this information for HMS commercial vessels as part of existing vessel registration systems.

*Options to address upgrading:*

- Maintain the status quo; no more than a 10 percent increase in LOA, gross registered tonnage, and net tonnage, and no more than a 20 percent increase in horse power from baseline allowed.
- Adjust hold capacity in addition to, or instead of, LOA and gross registered tonnage.
- Allow a greater percentage increase from baseline.

- Create vessel categories of <30', 30-49', 50'-69', >70' (from Larkin, 1998) and allow upgrading either within a category, but not across categories, or upgrading across categories only once.

*Trade-offs of upgrading adjustments:*

- Upgrading restrictions wouldn't be consistent with the New England Fishery Management Council and Mid-Atlantic Fishery Management Council regulations; vessels that participate in multiple fisheries under several jurisdictions may be in "regulatory box".
- Potential increases in fleet overcapitalization.
- Increased safety at sea and increased ability to fish further offshore (due to time/area closures, minimum sizes).

#### **8.1.4 Individual Fishing Quotas**

\* The following information is summarized from the National Research Council (NRC) report *Sharing the Fish: Toward a National Policy on Individual Fishing Quotas*.

An individual fishing quota (IFQ) is a system of allocating harvesting quota to individual fishers. As defined in the Magnuson Stevens Act, an IFQ is "a Federal permit under a limited access system to harvest a quantity of fish, expressed by a unit or units representing a percentage of the total allowable catch of a fishery that may be received or held for exclusive use by a person" (MSFCMA, Sec. 3[21]). The Sustainable Fisheries Act of 1996 established a moratorium on new IFQ programs through October 1, 2000 and required the National Academy of Sciences through the NRC to prepare a comprehensive review addressing concerns on the social, economic, and biological consequences of IFQ's and limited entry systems.

The NRC committee responded in the recently published report *Sharing the Fish: Toward a National Policy on Individual Fishing Quotas*. The recommendations and conclusions were based on an analysis of IFQ programs already in place in the United States and abroad, witness testimony, and additional written material submitted to the NRC committee.

IFQ programs have proven to be a highly effective way of reducing overcapitalization in a fishery. They create economic incentives for vessel owners to decrease labor and capital inputs and may have positive secondary effects including bycatch reduction and greater levels of efficiency and safety. The largest concerns generated from an IFQ system relate to equity issues including the fairness of initial allocations, transferability, accumulation of shares, and the potential increased cost of new entry into the fishery.

The committee recommends that Congress lift the moratorium on the development and implementation of IFQ programs set in the 1996 Sustainable Fisheries Act. On the whole, the committee felt that decisions regarding IFQ's are best made at the regional and council level and on a fishery-by-fishery basis. There is no "one-size-fits-all" IFQ program. *Sharing the Fish* provides recommendations for various levels of fishery management and highlights what have been some of the more contentious issues with previous IFQ systems. A summary of those findings and recommendations is provided below with particular emphasis on their application to HMS fisheries.

*When to consider use of an IFQ:*

- There is a precedence of some other intermediate limiting mechanism, such as a license moratorium or limited access system.
- Prior Total Allowable Catches (TAC's) have led to shortened seasons, increased competition, safety concerns, and restructuring of historical socioeconomic dynamics.

*Prior conditions favorable to IFQ implementation:*

- The TAC can be specified with reasonable certainty.
- Improving economic efficiency, reducing the number of firms, vessels, and/or people are high priority goals.
- There exists broad stakeholder support and participation.
- The fishery is amenable to cost-effective monitoring and enforcement
- There are adequate data, particularly concerning the socioeconomic effects of an IFQ.
- Provisions have been made to address any spillover into other fisheries.

*Key components to address in IFQ development:*

- Initial allocation and qualifications for holding.
- IFQ program development process.
- Nature and duration of an IFQ.
- Transferability and accumulation.
- Monitoring and enforcement.
- Cost recovery for administration.

*Observed outcomes of previous and current IFQ programs:*

- Reduced vessels participating in the fishery.

- Longer fishing season and an occasional increase in ex-vessel prices.
- Generally less incentive to fish in unsafe conditions.
- Decrease in total harvest-sector employment.
- Potential aggregation of IFQ's prior to program implementation.

*Lessons learned from other IFQ programs:*

- IFQ's have different effects in different fisheries.
- The objectives of an IFQ system must be clearly defined before program development and implementation.
- Success depends on other management provisions already in place, such as TAC.
- Trade-offs need to be clearly identified (i.e., more economic efficiency for less participation).
- Constituents must be broadly involved in all phases.
- There is potential for secondary effects including reduced ghost fishing, reduced derby fishing, greater incentive for participants to conserve the resource, and different methods of data collection that lead to revised monitoring methods and TAC levels.

*Caveats specific to HMS management:*

- An IFQ (or any other management measure) needs to encompass the entire stock (consistent with NS 3) or else the "unmanaged" portion may become over exploited. This is most likely when stocks range across state-federal boundaries, boundaries between nations, or into high seas as in HMS fisheries.
- The NRC committee recommended community based governance, and/or co-management approaches. While these may have been feasible in small scale fisheries, their implementation in HMS fisheries may be difficult due to the varied life histories and migratory nature of the resource as well as the wide geographic range of participants.

*Initial Allocation and Transferability*

The issues of initial allocation and transferability are important enough to merit individual discussion. Every previous IFQ system has allocated portions of the quota based on historical catch levels. The committee stressed that this is but one way of determining an equitable method to distribute shares. They cited three factors responsible for the controversy: "windfall" profit to initial recipients, criteria for allocation, and the number of shares received. Different methods including lotteries (random allocation), auctions (market driven allocation), and catch based (procedural allocation) were discussed. While the committee favored no one approach, they encouraged exploring the use of different options rather than relying on typical landings based distributions. Specific recommendations on allocation and transferability include the following:

- Consider a wide range of initial allocation strategies addressing who, how many should be allocated, and how much should be charged.
- Consider a broad range of criteria for determining participation and initial shares (more than catch history).
- Include crew and skippers (versus only vessel owners) in initial quota distributions where appropriate.
- Include communities in initial IFQ allocation where appropriate.
- Consider auctions and lotteries to allocate initial share as opposed to just “gifting” them.
- Transferability should be decided at a regional level based on specific IFQ goals
- Leasing and permanent transfer should generally be allowed, but may be restricted on a case by case basis to prevent absentee ownership.

Inherent in the Magnuson-Stevens Act’s requirements for an NRC assessment was the establishment of two independent advisory groups to assist in report preparation. One of the responsibilities of the advisory panel was to prepare a “report on the report” and provide opinions on the NRC document. The final report was published in May 1999, and included comments from 8 of the 28 advisory panel members. The report highlights some of the varying approaches to IFQ management, but generally supports the NRC and their recommendations and conclusions. Due to the limited input and overall agreement with *Sharing the Fish*, no further discussion on the report is included at this point.

An IFQ discussion has specific relevance to HMS management in the next several years, provided the Congressional moratorium is lifted. The majority of previous IFQ’s have been implemented in limited access situations. HMS continues to closely monitor and supervise the limited access system for Atlantic swordfish, sharks, tunas established in the 1999 Fishery Management Plan. Based on the committee’s recommendations, an IFQ system may be one alternative considered as a future management measure.

## **8.2 Permitting Issues**

### **8.2.1 Dealer Permits**

To this point, permits have been discussed on a case-by-case basis. Dealer permits are required for commercial receipt of Atlantic tuna, swordfish, and sharks, and are detailed in Section 2.6.1 of the HMS FMP. The appropriate dealer permits are necessary for those importing bluefin tuna and/or swordfish from any ocean, the specifics of which are discussed in Sections 6.3.1 and 6.3.2 of this report. All dealer permit holders are required to submit reports detailing the nature of their business. For swordfish and shark permit holders (including those who *only* import swordfish), dealers must submit bi-weekly dealer reports on all HMS they purchase. Tuna dealers must submit, within 24 hours of the receipt of a bluefin tuna, a landing report for each bluefin purchased from a U.S. fishermen. Dealers must also submit bi-weekly reports that include

additional information on tunas they purchase. Negative reports are required when no purchases are made to facilitate quota monitoring (i.e., NMFS can determine who hasn't purchased fish versus who has neglected to report). NMFS continues to automate and improve its permitting and dealer reporting systems and plans to make additional permit applications and renewals available online in the near future.

### **8.2.2 Atlantic Tuna Permits**

Based on feedback from permit holders, NMFS has made improvements to all aspects of the Atlantic tunas permitting and recreational bluefin tuna landings reporting system. NMFS has contracted with AppNet, Inc. to issue Atlantic tunas permits starting in 2000. These permits, made available December 1, 1999, allow vessels to fish for Atlantic bluefin, yellowfin, skipjack, albacore, and bigeye tunas. All permits issued in 1999 expired on December 31, 1999. Current permit holders were mailed renewal instructions in early November 1999.

Vessel owners may renew or obtain an initial (new) permit by using the Internet ([www.nmfspermits.com](http://www.nmfspermits.com)) or phoning (888) 872-8862 (toll-free) and using the automated system or speaking to a Customer Service agent. Note that this new website should be accessed instead of the old [www.usatuna.com](http://www.usatuna.com) website, but that the toll-free phone number remains the same. The fee for new permits and renewals is \$25, payable by credit card or money order. To determine the permit fee, NMFS prepared a product cost computation per NOAA Finance guidance. In the computation, the costs incurred in supplying permits (private contract costs, plus NOAA/NMFS employee time, computer support, and necessary travel expenses) were totaled and then divided by the number of units (permits) issued. Vessel owners can receive their Atlantic tunas permit by printing it off the Internet following approval of their application, or by fax, Priority mail, or First Class mail. Recreational tuna permit are required to report their recreational landings of bluefin tuna and, as of December 1999, may now do so via the website or phone system.

In the HMS FMP, NMFS changed the fishing year for Atlantic tunas to June through May of the following year in order to facilitate timely implementation of international fishery recommendations. Therefore, Atlantic tunas permits issued in 2000 will be valid from the date of issuance through May 31, 2001. The Atlantic tunas permit will then be renewable on an annual (fishing year) basis.

The HMS FMP implements a new requirement that owners of charter boats or headboats that are used to fish for, take, retain, or possess Atlantic tunas, sharks, swordfish, or billfish must obtain a Highly Migratory Species Charter/Headboat permit. This new permit will replace the current Atlantic tunas Charter/Headboat permit. This requirement will be effective once the Office of Management and Budget approves the new class of permit. An Atlantic tunas Charter/Headboat permit will be valid for use as an HMS Charter/Headboat permit until its expiration date of May 31, 2001.

### **8.2.3 Charter/Headboat Vessels**

Since publication of the Consolidated Rule on May 28, 1999, several steps have been taken towards implementing HMS permits and logbooks for charter/headboat vessels. Existing state and federal charter/headboat permits and their associated reporting requirements were reviewed to identify potential respondents. An inventory of vessels with Atlantic tunas charter/headboat permits that are currently obligated to report under non-HMS fisheries regulations in other programs was also conducted. NMFS is currently preparing documents required by the Paperwork Reduction Act to be submitted to the Office of Management and Budget for approval. An Issues/Options paper articulating the full range of alternatives to address new charter/headboat reporting requirements, as well as expanding tuna reporting requirements, is also being prepared. An operational plan detailing who will be selected, to what regions they will report, and what forms will be used will then be prepared.

Development of the voluntary observer program for the charter/headboat sector will be initiated once HMS charter/headboat permits have been implemented. As noted in the FMP amendment, the degree of implementation is subject to the number of fishermen who volunteer to participate as well as the availability of funds.

*Section 8 References:*

Committee to Review Individual Fishing Quotas, National Research Council. 1999. "Sharing the Fish: Toward a National Policy on Individual Fishing Quotas". National Academy Press.

NMFS. 1995. Towards Rationalization of Fisheries for Atlantic Highly Migratory Species. July, 1995. Silver Spring, MD.

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