



# NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

## Review of NOAA Catch Share Programs

FINAL REPORT NO. OIG-14-019-I  
MAY 1, 2014

U.S. Department of Commerce  
Office of Inspector General  
Office of Audit and Evaluation

**FOR PUBLIC RELEASE**





May 1, 2014

**MEMORANDUM FOR:** Dr. Kathryn Sullivan  
Under Secretary of Commerce for Oceans and  
Atmosphere and NOAA Administrator

**FROM:** Andrew Katsaros  
Assistant Inspector General for Audit

**SUBJECT:** *Review of NOAA Catch Share Programs*  
Final Report No. OIG-14-019-I

Attached please find the final report of our review of NOAA's management of catch share programs. This is the third report in a multiple-phase review of the National Marine Fisheries Service (NMFS) and Fishery Management Councils (FMC) in response to a Congressional request. The objective of this review was to evaluate the sufficiency of NOAA's implementation and monitoring of a selection of catch share programs developed by FMCs. For the six programs we reviewed, we identified several issues:

1. The Pacific Sablefish Permit Stacking individual fishing quotas program does not have adequate data and NOAA is not monitoring to determine whether individual permits are exceeding their allowed landings. As a result, NOAA is not enforcing the limitation on landings per individual permit, and individual permits have exceeded their allowed landings without corrective action.
2. The Golden Tilefish program did not have formal controls to ensure that shareholders with active sanctions were prevented from buying, selling, or transferring shares or allocation.
3. The Alaska Halibut and Sablefish, Gulf of Mexico Red Snapper, and the South Atlantic Wreckfish catch share programs rely solely on self-certifications for evidence that shareholders meet some qualification criteria, such as U.S. citizenship required to own quota shares or allocation.

We have summarized your response in the report and included the formal response as appendix D. The final report will be posted on the OIG's website pursuant to section 8L of the Inspector General Act of 1978, as amended. In accordance with Departmental Administrative Order 213-2, please submit to us within 60 calendar days of the date of this memorandum an action plan that responds to the recommendations in this report.

We appreciate the assistance and courtesies extended to us by your staff during the review. If you have any questions about this report, please contact me at (202) 482-7859 or David Sheppard, Regional Inspector General for Audit, at (206) 220-7970.

Attachment



# Report In Brief

MAY 1, 2014

## Background

“Catch share” is a general term for several fishery management strategies that allocate a specific portion of the total allowable fishery catch to individuals, cooperatives, communities, or other entities.

Catch share programs have been used in U.S. federal fisheries since 1990, and now include 15 programs managed by 6 different Fishery Management Councils (FMCs). Each program is designed by the relevant FMC with features tailored to the specific program goals and objectives or other unique characteristics of the fisheries in their region.

## Why We Did This Review

This report is part of a multiple-phase review OIG is conducting in response to Congressional concerns about the National Marine Fisheries Service (NMFS) and the FMCs. It is focused on the development of rules for the commercial fishing industry and the fisheries regulation process at NOAA, the NMFS, and the FMCs.

Two previous reports looked at (a) the role of NOAA and the FMCs in the fishery rulemaking and (b) FMC perspectives on fishery regulatory requirements, rulemaking, and improvements in fisheries management.

The objective of this report was to evaluate the sufficiency of NOAA’s implementation and monitoring of a selection of catch share programs developed by FMCs, and to consider the adequacy of automated and manual systems and processes for collecting information and administering catch share programs.

## NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

### Review of NOAA Catch Share Programs

OIG-14-019-I

### WHAT WE FOUND

We reviewed 6 of the 15 current catch share programs to evaluate the sufficiency of NOAA’s implementation and monitoring of the programs. We found that

- *NOAA does not have adequate data and does not track or enforce landings overage violations in the Pacific Sablefish Permit Stacking Individual Fishing Quota (IFQ).* NOAA currently does not monitor Pacific Sablefish landings on an individual permit basis during a fishing season. Instead, it only monitors landings for the entire fishery as a whole, using a paper-based system that is subject to compromise and the multiple possibilities of error associated with any manual process. In addition, we identified 189 instances where actual landings exceeded the allowed landings for individual permits from 2008 through 2013.
- *The Golden Tilefish program did not have formal controls to ensure that shareholders with sanctions were prevented from buying, selling, or transferring shares or allocation.* While this particular program does not have a large number of participants, it nonetheless has an ineffective process for monitoring shareholders with active sanctions.
- *NOAA relies on shareholder self-certifications for eligibility criteria.* The Alaska Halibut and Sablefish, Gulf of Mexico Red Snapper, and the South Atlantic Wreckfish catch share programs rely solely on self-certifications for evidence that shareholders meet some qualification criteria, such as U.S. citizenship required to own quota shares or allocation. NOAA does not perform any review of these self-certifications to verify their validity. Instead, it relies on its Office of Law Enforcement and the Coast Guard to verify eligibility during their enforcement activities.

### WHAT WE RECOMMEND

We recommend that the NOAA Assistant Administrator for Fisheries, in coordination with the Pacific Fishery Management Council and relevant state agencies improve the internal controls for the Pacific Sablefish Permit Stacking IFQ program. NOAA should also verify whether improvements should be made in the programs not included in our review. Specifically, for all catch share programs, we recommend that the NOAA Assistant Administrator for Fisheries

1. Develop a process to ensure that accurate landings information is obtained by individual permit in a timely manner.
2. Develop controls to monitor landings on an individual permit basis to ensure overage violations are adequately addressed.
3. Develop a process to ensure that shareholders with sanctions are prevented from buying, selling, or transferring shares or allocation.
4. Document procedures for determining when reviewing self-certifications is warranted, to ensure that shareholders meet eligibility requirements prior to joining fisheries.

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*COVER: Detail of fisheries pediment,  
U.S. Department of Commerce headquarters,  
by sculptor James Earle Fraser, 1934*

# Introduction

In 2011 Congressmen Barney Frank and John F. Tierney expressed concerns over the fisheries regulatory process at NOAA, the National Marine Fisheries Service (NMFS), and Fishery Management Councils (FMCs).<sup>1</sup> In response, our office initiated a multiple-phase review of NMFS and FMCs related to the development of rules for the commercial fishing industry, with the intent of generating multiple reports. In 2013 we issued two reports: the first covers the role of NOAA and the FMCs in the fishery rulemaking process and the transparency of the rulemaking,<sup>2</sup> and the second summarizes FMC perspectives on fishery regulatory requirements, rulemaking, and improvements in fisheries management.<sup>3</sup> This third report addresses NOAA's management of the catch share programs it monitors.

Catch share is a general term for several fishery management strategies that allocate a specific portion of the total allowable fishery catch to individuals, cooperatives, communities, or other entities.<sup>4</sup> Internationally, catch share programs have been used since the 1970s to manage hundreds of fisheries.<sup>5</sup> Catch share programs have been used in U.S. federal fisheries since 1990 and now include 15 programs managed by 6 different FMCs (see figure 1, next page). Each program is designed by the relevant FMC with features tailored to the specific program goals and objectives or other unique characteristics of the fishery.

The term “catch share” includes specific programs—such as limited access privilege programs (LAPP), individual fishing quotas (IFQ), community development quotas (CDQ), and individual transferable quotas (ITQ)—that grant an exclusive privilege to fish in a specific fishery within the FMC's jurisdiction. The intended effects of implementing a catch share program can include

- controlling catch to an overall limit, eliminating “derby” fishing (a race to catch as much fish as quickly as possible),
- promoting longer fishing seasons,
- correcting problems of overcapitalization (i.e., too many boats and/or too few fish resulting in lower profits and/or poor product quality),
- reducing bycatch,
- limiting seasonal gluts of fish markets, and
- improved safety.

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<sup>1</sup> August 17, 2011, letter from Congressmen Barney Frank and John F. Tierney to Department of Commerce (DOC) Inspector General.

<sup>2</sup> DOC Office of Inspector General, January 16, 2013. *NOAA Needs to Continue Streamlining the Rulemaking Process and Improve Transparency and Consistency in Fisheries Management*, OIG-13-011-I. Washington, DC: DOC OIG.

<sup>3</sup> DOC OIG, April 5, 2013. *Results of Commerce OIG's Online Survey of Fishery Management Council Members and Staff*, OIG-13-022-I. Washington, DC: DOC OIG.

<sup>4</sup> Refer to appendix C for a glossary of fishery terms.

<sup>5</sup> DOC NOAA, November 2010. *NOAA Catch Share Policy*. Washington, DC: DOC NOAA, 2.

**Figure 1. Catch Share Programs, by FMC**

Source: NOAA

The years listed for each program represents the first year of the catch share program's implementation.

The Sustainable Fisheries Act of 1996 (Pub. L. No. 104-297) created a moratorium on new individual fishing quota programs from January 4, 1995, through September 30, 2000. Congress later extended the moratorium through September 30, 2002 (Pub. L. No. 106-554), and then allowed it to expire (see U.S. Government Accountability Office, December 2002, *Individual Fishing Quotas: Better Information Could Improve Program Management*, report no. GAO-03-159).

Subject to the constraints in the Magnuson-Stevens Fishery Conservation and Management Act<sup>6</sup> (MSA) and other applicable laws, NOAA has advised the FMCs that catch share programs are an option to meet their fishery management objectives. NOAA policy does not require use of catch share programs and advises that the programs are not appropriate for all fisheries. As a result, NOAA gives the FMCs latitude in determining the type and construction of catch share programs for the fisheries in their region. Although NOAA encourages the consideration and adoption of catch shares wherever appropriate, FMCs generally determine whether specific fisheries will implement catch shares.

The recipient of a catch share is directly accountable to stop fishing when its exclusive share or annual allocation is reached. The ability of shareholders to transfer quota share or annual

<sup>6</sup> 16 U.S.C. §§ 1801–1884.

allocation depends on the management goals and statutory authority of each specific catch share program. Limiting transferability reduces the economic efficiency of the fishery. However, it can help to achieve other objectives, such as controlling the number of fishermen, the size of vessels, type of owners, or the type of fishing gear. Most programs have accumulation limits set by the relevant FMC to prevent excessive ownership of share or annual allocation, dependent upon the goals and objectives of the program. The transfers and sales of quota share and annual allocation are subject to NOAA approval to ensure compliance with accumulation limits or other program requirements.

In opposition to proponents of catch share programs are stakeholders who believe that these programs also have negative consequences. Some argue that catch share programs primarily benefit large, commercial fishing operations at the expense of small commercial fishing operations and sport fishermen—and that the costs to obtain the privilege to fish have increased to a level that new fishermen are excluded from the market. It has also been contended that the programs have a negative impact on local economies, through the reduction in fleet sizes and reduced pay to fishermen. There are additional claims that certain groups, including environmental groups, investment firms, or other nonfishermen, can accumulate fishing privileges. For this review, we designed our tests to assess the effectiveness of NOAA program operations, not to assess comprehensive market impacts of the specific programs reviewed.

In response to a Congressional request, the Government Accountability Office (GAO) is currently conducting a review of NOAA's fish stock assessment process. The request asks GAO to review

- the frequency with which NMFS conducts stock assessments;
- the amount of federal resources spent annually on such assessments;
- how NMFS determines which assessments to undertake and the frequency for doing so, including the relative costs and benefits considered when committing resources to improving stock assessments and prioritizing them;
- the extent of discrepancies, if any, in the number and frequency of stock assessments conducted across regions of the country;
- what resources are necessary to adequately sustain regular collection of information for fishery stock assessments; and
- the various options for involving stakeholders in gathering valid fishery data directly supportive of regional council fisheries management decision-making and what gaps, if any, could be filled by guided stakeholder input.

In this review, we evaluated the sufficiency of NOAA's implementation and monitoring of a selection of catch share programs developed by FMCs. With our review's scope limited to NOAA operations, we considered the adequacy of automated and manual systems and processes to collect information needed to make decisions when administering catch share programs. Appendix A details the objectives, scope, and methodology of this phase of the review.



## Objective, Findings, and Recommendations

The objective of our review was to evaluate the sufficiency of NOAA’s implementation and monitoring of a selection of catch share programs developed by FMCs. For this objective, we considered the adequacy of automated and manual systems and processes to collect information needed to make decisions when administering catch share programs. We judgmentally selected 6 of the 15 current catch share programs for review based on qualitative and quantitative factors. They represent a program from each FMC that has implemented a catch share program and are administered by four NMFS regional offices. Table I provides a summary of the programs reviewed.

**Table I. Catch Share Programs Reviewed by OIG**

Program	Program Goals/Objectives	Accumulation Limit <sup>a</sup>
Mid-Atlantic Golden Tilefish IFQ	<ul style="list-style-type: none"> <li>• Reduce overcapacity in the commercial fishery</li> <li>• Eliminate, to the extent possible, problems associated with a derby-style fishery</li> </ul>	49% of total allowable landings (TAL)
New England Atlantic Sea Scallops IFQ	<ul style="list-style-type: none"> <li>• Control capacity and mortality in the general category scallop fishery</li> </ul>	<ul style="list-style-type: none"> <li>• 5% of total allowable catch (TAC)</li> <li>• 2.5% of TAC per vessel</li> </ul>
Gulf of Mexico Red Snapper IFQ	<ul style="list-style-type: none"> <li>• Reduce overcapacity in the commercial fishery</li> <li>• Eliminate, to the extent possible, problems associated with derby fishing, in order to assist the FMC in achieving optimum yield</li> </ul>	6.0203% of total IFQ shares
South Atlantic Wreckfish ITQ	<ul style="list-style-type: none"> <li>• Decrease the harvest pace and overcapitalization of the fleet</li> <li>• Decrease conflicts among fishermen</li> <li>• Create incentives for compliance and conservation</li> </ul>	49% of total ITQ shares
North Pacific Halibut and Sablefish IFQ and CDQ	Resolve various conservation and management problems stemming from “open access” and development of commercial fisheries in communities on the Bering Sea coast, by allowing exclusive access to specified amounts of halibut and sablefish in the Bering Sea and Aleutian Islands area	0.5–1.5% of halibut or sablefish shares in various combination of geographical areas (Gulf of Alaska, Bering Sea, and Aleutians)
Pacific Sablefish Permit Stacking IFQ	<ul style="list-style-type: none"> <li>• Allow longer fishing seasons</li> <li>• Increase safety and ability to fish more selectively</li> <li>• Increase income by improving product quality.</li> </ul>	3 sablefish-endorsed permits <sup>b</sup> (unless owned prior to November 1, 2000)

Source: OIG summary of NOAA data

<sup>a</sup> Refer to appendix B for additional discussion of accumulation limits.

<sup>b</sup> Each sablefish-endorsed permit is assigned to one of three tiers, which determine the number of sablefish that may be harvested with each permit in a particular year’s primary sablefish fishery. A vessel owner may register up to three sablefish-endorsed permits for use with their vessel to harvest the cumulative limits associated with each of those permits.

## I. NOAA does not have adequate data and does not track or enforce landings overage violations in the Pacific Sablefish Permit Stacking IFQ

During our documentation of NOAA's controls over landing overages, we found instances where shareholders landed more than their annual allocations allowed. Five of the six programs we reviewed had adequate procedures in place to ensure that, when overages occurred, shareholders had acquired additional allocation, had allocation withheld in the subsequent fishing season, or were referred to NOAA's Office of Law Enforcement (OLE). For example, the Gulf of Mexico Red Snapper IFQ program requires that commercial vessels make a landing notification 3–12 hours in advance of unloading their catch. Vessel operators provide the vessel name, landing location, dealer's name, time of landing, and estimated pounds landed. The NMFS Southeast Region's IFQ online system then identifies whether the vessel's remaining annual allocation is sufficient to cover the pounds landed by the vessel. NMFS OLE and IFQ support staff receive an email message generated by the IFQ online system indicating whether the vessel has sufficient allocation to cover the amount landed. IFQ shareholders can legally exceed, by up to 10 percent, the shareholder's remaining allocation on the last fishing trip of the year, but any overage is subtracted from the shareholder's allocation at the start of the next fishing year.

By contrast, we found that the Pacific Sablefish Permit Stacking IFQ program does not have adequate data, and NOAA is not monitoring to determine whether individual permits are exceeding their allowed landings. As a result, NOAA is not enforcing the limitation on landings per individual permit and individual permits have exceeded their allowed landings without corrective action.

The Pacific Sablefish program tracks landings through paper-based fish tickets collected by state agencies in Washington, Oregon, and California, and subsequently submitted to the Pacific States Marine Fisheries Commission (PSMFC). The commission, in turn, enters the fish tickets into the Pacific Fisheries Information Network (PacFIN), to which NOAA then has access. The three states also enter the fish tickets into systems for their own tracking, and quality assurance reviews are performed at the state agencies and PSMFC. As a result of this process, NOAA estimates that it can take roughly 2–4 months after a landing occurs to have access to the data for a specific landing or for total landings under an individual permit.

NOAA currently does not monitor Pacific Sablefish landings on an individual permit basis during a fishing season. Instead, it only monitors landings for the entire fishery as a whole. However, the data being monitored in-season is based on a combination of fish tickets and estimates, due to the inability to obtain real-time landings data.

There are several problems with this system. First, it is paper-based and thus subject to compromise and the multiple possibilities of error associated with any manual process, such as lost or destroyed tickets or typographical errors. Second, the use of in-season estimates does not provide NOAA with sufficient evidence to enforce landing overage violations. Third, NOAA does not review landings data after a fishing season for this particular program to determine whether individual permits have exceeded their allowed landings. As a result, NOAA does not have sufficient controls to monitor landings overages for the Pacific Sablefish. A summary of landings overages for the Pacific Sablefish is provided in table 2 (see next page).

**Table 2: Pacific Sablefish Landings Overages, 2008–2013**

Amount of Overage (lbs)	Number of Permits	Total Overage (lbs)	Average Overage (lbs)
0–100	110	3,279	30
100–500	52	11,734	226
500–1,000	15	10,215	681
> 1,000	12	32,607	2,717
<b>Total</b>	<b>189</b>	<b>57,835</b>	

Source: OIG from NOAA data

The total annual overages ranged from 0.13 to 0.56 percent of the total tier fishery, or 0.28% of the total tier fishery, from 2008 through 2013.

In addition to its incomplete controls over monitoring Pacific Sablefish landings, NOAA has also not effectively enforced restrictions on landings overages. As noted in table 2, we identified 189 instances where actual landings exceeded the allowed landings for individual permits from 2008 through 2013. Although the majority of the overages were not significant as compared to the fishery’s daily trip limit, 12 of the overages totaled 32,607 pounds. NOAA did not take any action to correct the overages, such as requiring the purchase or leasing of an additional permit, reducing allowable landings in the subsequent fishing year, or referring the violation to OLE.

## 2. The Golden Tilefish program did not have formal controls to ensure that shareholders with sanctions were prevented from buying, selling, or transferring shares or allocation

During our review, we found that the Golden Tilefish program did not have formal controls to ensure that shareholders with active sanctions were prevented from buying, selling, or transferring shares or allocation. (We did not discover any instances where shareholders with active sanctions participated in the market for catch shares.) While this particular program does not have a large number of participants (12), it nonetheless has an ineffective process for monitoring shareholders with active sanctions. NOAA should examine whether shareholders with sanctions were able to buy, sell, or trade their shares or allocation in the Golden Tilefish program; determine whether other, additional programs also lack adequate controls; and take corrective action as necessary.

## 3. NOAA relies on shareholder self-certifications for eligibility criteria

We found that the Alaska Halibut and Sablefish, Gulf of Mexico Red Snapper, and the South Atlantic Wreckfish catch share programs rely solely on self-certifications for evidence that shareholders meet some qualification criteria, such as U.S. citizenship required to own quota shares or annual allocation. During the initial application and allocation process, NOAA requires documentation for some criteria in the Alaska Halibut and Sablefish program but does

not require documentation to support U.S. citizenship. NOAA does not perform any review of the self-certifications for the Gulf of Mexico Red Snapper or South Atlantic Wreckfish programs to verify their validity. Instead, it relies on OLE and the Coast Guard to verify eligibility during their enforcement activities. We did not determine whether false self-certifications are a significant issue for those catch share programs, nor did we identify any instances of shareholders providing false information in the self-certifications. However, NOAA should consider whether review of self-certifications is warranted in order to better ensure that, prior to joining the fishery, shareholders meet eligibility requirements.

### *Recommendations*

We recommend that the NOAA Assistant Administrator for Fisheries—in coordination with the Pacific FMC and relevant state agencies in Washington, Oregon, and California where necessary—improve the internal controls for the Pacific Sablefish Permit Stacking IFQ program. NOAA should also verify whether improvements should be made in the programs not included in our review. Specifically, for all catch share programs, we recommend that the NOAA Assistant Administrator for Fisheries

1. Develop a process to ensure that accurate landings information is obtained by individual permit in a timely manner.
2. Develop controls to monitor landings on an individual permit basis to ensure overage violations are adequately addressed.
3. Develop a process to ensure that shareholders with sanctions are prevented from buying, selling, or transferring shares or allocation.
4. Document procedures for determining when reviewing self-certifications is warranted, to ensure that shareholders meet eligibility requirements prior to joining fisheries.

# Summary of Agency Response and OIG Comments

OIG received NOAA's comments on the draft report, which we include as appendix D of this final report. NOAA concurs with the findings and recommendations in the report. NOAA will develop corrective action plans and ensure timely implementation to address the recommendations. We look forward to receiving NOAA's corrective action plan.

# Appendix A: Objective, Scope, and Methodology

The objective of our review was to evaluate the sufficiency of NOAA's implementation and monitoring of a selection of catch share programs developed by FMCs. Specifically, we sought to determine whether NOAA has adequate controls to prevent share ownership above the allowable limits and to ensure adequate competition. We considered the adequacy of automated and manual systems and processes to collect information needed to make decisions when administering catch share programs.

To accomplish our objective, we

- Reviewed relevant laws and regulations for catch share programs in general, including the MSA and the NOAA Catch Share Policy, and regulations specific to the six programs included in the review.
- Documented the internal controls at NMFS's regional offices for ensuring that excessive ownership limits for catch shares were not exceeded.
- Determined whether NOAA can identify those individuals or entities originally provided with quota shares for the programs reviewed and those that currently own shares.
- Gained an understanding of the capabilities of NOAA's catch share accounting systems. We also reviewed whether NOAA has adequate controls to ensure that the information in the system is accurate, complete, and captures the data required to monitor consolidation activity and other aspects of catch share programs.
- Documented NOAA's process for distributing quota shares and its oversight of quota holders subsequent to share distribution, including transfers and sales of quota shares and allocation.
- Determined whether any shareholders exceeded accumulation limits in the preceding five years.

We conducted fieldwork from February through November 2013 at the OIG offices in Seattle, WA, and Denver, CO, as well as the NMFS regional offices in Gloucester, MA, Juneau, AK, Seattle, WA, and St. Petersburg, FL.

We performed our work under the authority of the Inspector General Act of 1978, as amended, and Department Organization Order 10-13, April 26, 2013. We conducted this review in accordance with the Quality Standards for Inspection and Evaluation, January 2011, issued by the Council of Inspectors General on Integrity and Efficiency.

## Appendix B: Other Related Information

The MSA states that allocation of fishing privileges shall be carried out in a way that no particular individual, corporation, or other entity acquires an excessive share of such privileges.<sup>7</sup> FMCs thus set accumulation limits for each program based on their determination of what is considered to be excessive for each particular fishery. As shown in table I (see “Objective, Findings, and Recommendations,” page 4), we observed a significant range in the programs for what was considered to be excessive ownership. In particular, the accumulation limit for the Golden Tilefish and Wreckfish programs were considerably higher than the other programs reviewed. Both limits were considered by the respective FMCs to be acceptable after reviewing several other potential accumulation limits. The FMCs considered factors such as potential market power and competition, historical fishing practices, and efficiency of fishing operations. The FMCs did not believe the limits would allow for significant control of the market price in those fisheries due to the large number of substitutes in the market.

Although we did not identify instances of shareholders in programs we reviewed exceeding the accumulation limits within the last 5 years, we did find that not all programs have adequate controls to ensure that shareholders’ landings did not exceed their allocation (see finding I). NOAA was able to identify those individuals and entities originally allocated quota shares as well as those that currently own quota shares and annual allocation through their catch share systems. However, as our review was not a statistical sample of all catch share programs, the results should not be used as conclusive evidence of the controls in place for the programs not included in our review.

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<sup>7</sup> 16 U.S.C. §§ 1851(a)(4), 1853a(c)(5)(D).

## Appendix C: Glossary of Fishery Terms

**active sanctions**—Suspensions, revocations, or modifications of a permit that are still in effect.

**allocation**—Distribution of fishing opportunity among user groups or individuals. Shares are sometimes based on historic amounts.<sup>8</sup>

**bycatch**— Fish that are harvested in a fishery but not sold or kept for personal use, including economic and regulatory discards.<sup>9</sup> Bycatch does not include fish released alive under a recreational catch and release fishery management program.

**catch share program**—A program that allocates a specific portion of the annual catch limit of a fish stock or a specific fishing area to entities such as fishermen, cooperatives, and communities.

**community development quota (CDQ)**—A program in western Alaska under which a percentage of the total allowable catch (TAC) of Bering Sea commercial fisheries is allocated to specific communities.<sup>10</sup>

**derby fishery**—A fishery of brief duration during which fishermen race to take as much catch as they can before the fishery closes.

**individual fishing quota (IFQ)**—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 TAC of a fishery that may be received or held for exclusive use by a person. The term does not include CDQs as described in 16 U.S.C. § 1855(i).

**individual transferable quota (ITQ)**—An IFQ program where privileges can be transferred (sold or leased) to others subsequent to initial allocations.

**landings**—The amount of fish (usually in pounds, although sometimes expressed as the number of fish) caught by fishermen and sold or kept for personal consumption. Landings are reported at the points at which fish are brought to shore.<sup>11</sup>

**limited access privilege (LAP)**—A federal permit, issued as part of a limited access system under 16 U.S.C. § 1853a to harvest a quantity of fish expressed by a unit or units representing a

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<sup>8</sup> Definitions of “allocation,” “bycatch,” “catch share program,” “derby fishery,” “individual fishing quota,” “individual transferable quota,” “overcapacity,” and “quota share” adapted from: NOAA Fisheries. *Glossary of Catch Share Terms* [Online]. [www.nmfs.noaa.gov/sfa/management/catch\\_shares/about/glossary.html](http://www.nmfs.noaa.gov/sfa/management/catch_shares/about/glossary.html) (accessed December 13, 2013).

<sup>9</sup> 16 U.S.C. § 1802(3).

<sup>10</sup> NOAA NFMS, June 2006. *NOAA Fisheries Glossary*, NOAA Technical Memorandum no. NMFS-F/SPO-69. Washington, DC: NOAA NFMS, 7.

<sup>11</sup> Definitions of “landings,” “open access,” “permit stacking,” “quota,” and “total allowable catch” adapted from: NOAA National Marine Sanctuaries. *Voices of the Bay*, “Resources—Fisheries Glossary,” [Online]. <http://sanctuaries.noaa.gov/education/voicesofthebay/glossary.html> (accessed December 13, 2013).



portion of the total allowable catch of the fishery that may be received or held for exclusive use by a person. LAP includes an IFQ but does not include CDQs as described in 16 U.S.C. § 1855(i).<sup>12</sup>

**open access**—A fishery in which no restrictions on entry or gear occur. A license may be required in an open access fishery but, if there are no quotas for the number of fishermen, the fishery is still considered open access.

**optimum yield**—The amount of fish that will provide the greatest overall benefit to the nation, particularly with respect to food production and recreational opportunities, and taking into account the protection of marine ecosystems. It is prescribed as such on the basis of the maximum sustainable yield from the fishery, reduced by any relevant economic, social, or ecological factor. In the case of an overfished fishery, it provides for rebuilding to a level consistent with producing the maximum sustainable yield for the fishery.<sup>13</sup>

**overcapacity**—The difference between harvest capacity and a management target catch level (e.g., TAC, quota). It is not synonymous with excess capacity, which is the difference between harvest capacity and actual harvest.

**permit stacking**—The registration of more than one limited entry permit for a single vessel, where a vessel is allowed additional catch for each additional permit registered for use with the vessel.

**quota**—A portion of a total allowable catch that is allocated to a particular boat, fishery, region, or nation for a fishing season.

**quota share**—The percentage of each year's annual catch limit to which the holder of quota shares has access to harvest. This percentage is not affected by changes in the catch limit over time.

**total allowable catch (TAC)**—The catch limit for a particular fishery, generally for a year or fishing season. TACs are usually expressed in weight or for larger species, in numbers of fish.

**total allowable landings (TAL)** —The total regulated landing from a stock in a given time period, usually a year. The TAL is usually less than the TAC as the latter includes fish that are not landed but which die as a result of capture and release or as a consequence of encounter with the fishing gear.<sup>14</sup>

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<sup>12</sup> 16 U.S.C. § 1802(26).

<sup>13</sup> 16 U.S.C. § 1802(33).

<sup>14</sup> NOAA Northeast Fisheries Science Center, September 2002. *Advisory Report on Stock Status*, "35th Northeast Regional Stock Assessment Workshop," report no. CRD-02-13. Woods Hole, MA: NOAA NFSC, 8.

# Appendix D: Agency Response



UNITED STATES DEPARTMENT OF COMMERCE  
The Deputy Under Secretary for Operations  
Washington, D.C. 20230

APR 03 2014

MEMORANDUM FOR: Andrew Katsaros  
Assistant Inspector General for Audit

FROM: VADM Michael S. Devany  
NOAA Deputy Under Secretary  
for Operations

SUBJECT: *Review of NOAA Catch Share Programs*  
Draft OIG Audit Report

Thank you for the opportunity to comment on the Office of the Inspector General's draft audit report on NOAA catch share programs. Our specific comments on the report's findings and recommendations are attached.

If you have any questions, please contact Mack Cato, Director, Audit, Internal Control and Information Management Office at (301) 713-1148.

Attachment



**Department of Commerce  
National Oceanic and Atmospheric Administration  
Comments to the Draft OIG Report Entitled  
“Review of NOAA Catch Share Programs”  
(March 7, 2014)**

**Recommended Changes for Factual/Technical Information**

*Page 1, 3<sup>rd</sup> paragraph, lines 3-4:*

Delete “in a geographically designated fishing area” and insert “in a specific fishery within the FMC’s jurisdiction.” The current wording could create confusion with the term “Territorial Use Rights Fisheries” (TURFs), which the United States does not have.

*Page 1, footnote 4:*

This footnote references Appendix B for a glossary of fishery terms. The glossary is in Appendix C. In addition, the current glossary is based on a National Ocean Service’s National Marine Sanctuaries document, which contains inaccurate definitions. A catch share glossary of terms is available on the National Marine Fisheries Service’s (NMFS) website and would be a more appropriate reference for definitions.

([http://www.nmfs.noaa.gov/sfa/management/catch\\_shares/about/glossary.html](http://www.nmfs.noaa.gov/sfa/management/catch_shares/about/glossary.html))

*Page 2, 1<sup>st</sup> full paragraph, lines 2, 7, and 8; page 6, last paragraph, line 4; and Appendix B, 2<sup>nd</sup> paragraph, line 5:*

The term “allocation” is used throughout this paragraph and other places in the report in a way that could create confusion given the definition provided in the glossary of terms. It would be clearer to change “allocation” to “annual allocation” or “quota pounds” (see catch share glossary link provided above).

*Page 2, 1<sup>st</sup> full paragraph, line 7:*

Insert “, statutory authority,” after “goals.” Catch share programs have been enacted under several statutory authorities, including the Magnuson-Stevens Act (MSA) and American Fisheries Act, and the statutory requirements may influence excessive share provisions.

*Page 3, 1<sup>st</sup> paragraph, lines 1 and 5:*

Delete “right” and “rights” and insert “privilege” and “privileges.” See MSA Section 303A(b)(3)-(5).

*Page 6, Table 2:*

For context, it would be helpful to illustrate the magnitude of the overages in the fishery. Add a footnote stating “For reference, from a total tier fishery perspective, the total annual overages have ranged from 0.13% to 0.56% of the total tier allocation between 2008 and 2013.”

*Page 6, last paragraph:*

This section incorrectly states that the Alaska Halibut and Sablefish catch share programs rely solely on self-certifications for evidence that shareholders meet qualification criteria. While it is generally the case that the Alaska Region accepts self-certification of U.S. Citizenship, it is not the case that all self-certifications of eligibility are accepted. During the initial application and allocation process, the Alaska Region required actual documentation of vessel ownership, vessel

leases, and claims of pounds landed to support eligibility that differed from official records. Additionally, new entrants to the program may be asked to support claims of fishing experience with documentation.

*Appendix B, 1<sup>st</sup> paragraph, line 2 and footnote 7:*

MSA Section 303A(c)(5)(D) should also be referenced.

*Appendix C:*

As referenced above, the current glossary is based on a National Ocean Service's National Marine Sanctuaries document, which contains inaccurate definitions. A catch share glossary of terms is available on NMFS website and would be a more appropriate reference for definitions. ([http://www.nmfs.noaa.gov/sfa/management/catch\\_shares/about/glossary.html](http://www.nmfs.noaa.gov/sfa/management/catch_shares/about/glossary.html))

### **Editorial Comments**

*Page 1, 3<sup>rd</sup> paragraph, line 6:*

Insert "quickly as" before "possible."

*Page 2, Figure 1:*

An updated version of the map, which consolidates all of the New England Sectors into one bullet is available on the catch share website.

([http://www.nmfs.noaa.gov/sfa/management/catch\\_shares/about/programs\\_by\\_region.html](http://www.nmfs.noaa.gov/sfa/management/catch_shares/about/programs_by_region.html))

*Page 2, 2<sup>nd</sup> paragraph, line 1:*

Replace one word in the following sentence: "The recipient of a catch share is directly accountable to stop fishing when ~~its~~ his or her exclusive share ..."

*Page 2, 3<sup>rd</sup> paragraph, lines 2-3:*

Revise the following sentence: "Some argue that catch share programs primarily benefit large, ~~commercial fisheries~~ commercial fishing operations at the expense of small commercial fishing operations and sport fishermen ..."

*Page 3, 2<sup>nd</sup> paragraph:*

Recommend removing this paragraph as it pertains to review of the stock assessment process and is not relevant to the catch share program review.

*Page 4, 1<sup>st</sup> paragraph, line 5:*

It would be helpful to explain what qualitative and quantitative factors were considered when selecting the programs either in the text or as a footnote.

*Page 4, Table 1:*

The column on accumulation limits would benefit from a better introduction if it is going to stay in Table 1. Appendix B provides further background information on accumulation limits, but is not referenced in the report itself. It may improve the document to incorporate the information contained in Appendix B in advance of Table 1.

*Page 4, Table 1:*

For the South Atlantic Wreckfish program, add ITQ to the following statement: “49% of total ITQ shares.”

*Page 5, 1<sup>st</sup> paragraph, line 6:*

Insert “program” after “IFQ.”

*Page 5, 1<sup>st</sup> paragraph:*

The text included in this paragraph is factually correct. We suggest adding the following after the last sentence: “IFQ shareholders can legally exceed, by up to 10%, the shareholder’s remaining allocation on the last fishing trip of the year, but any overage is subtracted from the shareholder’s allocation at the start of the next fishing year.”

*Page 6, 2<sup>nd</sup> paragraph, line 5:*

After “participants” insert a parenthetical or footnote explaining there are 12 quota share holders in the fishery. The paragraph references a limited number of participants and it may be helpful to specify how many there are.

**NOAA Response to OIG Recommendations**

The following recommendations were proposed by the OIG:

**Recommendation 1:** “We recommend that the NOAA Assistant Administrator for Fisheries develop a process to ensure that accurate landings information is obtained by individual permit in a timely manner.”

**Recommendation 2:** “We recommend that the NOAA Assistant Administrator for Fisheries develop controls to monitor landings on an individual permit basis to ensure overage violations are adequately addressed.”

**Recommendation 3:** “We recommend that the NOAA Assistant Administrator for Fisheries develop a process to ensure that shareholders with sanctions are prevented from buying, selling, or transferring shares or allocation.”

**Recommendation 4:** “We recommend that the NOAA Assistant Administrator for Fisheries document procedures for determining when reviewing self-certifications is warranted, to ensure that shareholders meet eligibility requirements prior to joining fisheries.”

**NOAA Response:** All four OIG recommendations in this draft report pertain to and can be implemented by NMFS, in coordination with the States and Regional Fishery Management Councils where appropriate. NOAA accepts all four recommendations and does not have any comments or suggestions for them. We will develop a detailed action plan to implement each recommendation after the final report is issued.