



Attn: Margo Schulze-Haugen  
NMFS SF1  
1315 East-West Highway  
Silver Spring, MD 20910

March 31, 2012

**RE: Consideration of catch shares for the Atlantic shark fishery, RIN 0648-BA17,  
76FR57709 and 76FR72383**

Food & Water Watch (FWW) is a national consumer action organization that defends and advocates for robust public management of natural resources, including fish, and we appreciate this opportunity to comment on the development of an Environmental Impact Statement (EIS) and Fishery Management Plan (FMP) amendment that would consider catch shares for the Atlantic shark fisheries.<sup>1</sup>

We urge the National Marine Fisheries Service to reconsider moving forward with steps that will implement catch shares in the Atlantic shark fishery. FWW has documented the negative effects of catch shares on fisheries in the U.S. and in the Gulf of Mexico Region in particular, and a full discussion of each can be found in our reports, *Fish, Inc.*, and *A Closer Look at Catch Shares in the United States: The Gulf of Mexico*<sup>2</sup>. We have found that catch shares, as implemented in the United States and around the world, result in negative economic consequences for smaller-scale fishermen and fail to contribute directly to improving the health of a fishery.

In our review of Gulf of Mexico catch share programs, we found the following:

- ❖ Gulf of Mexico fisheries managed under catch shares have seen significant consolidation and job losses, and smaller-scale fishermen are being hit the hardest by these changes. The red snapper fishery faced as much as a 43.5% decrease in the number of permit holders due to its catch share program, resulting in an estimated loss of between 996 and 1660 jobs.
- ❖ The direction of fisheries policy in the region is set by the larger-scale fishermen – typically “winners” under catch shares. Both the red snapper and grouper catch share programs were approved by referenda that excluded those smaller-scale fishermen that had the most to lose from catch share programs.
- ❖ Gulf catch share fisheries face increased incentives for fishermen to discard fish. In 2009, in a survey of discards under the red snapper program, more than half of the total fish caught were brought in accidentally and then discarded, were discarded dead or met some other unknown fate rather than being sold at dockside.
- ❖ The inherent rigidity of catch share programs leaves them unable to adapt readily to changes in fish stock health for the benefit of fishermen and the fish. In the Gulf, private subsidies had to be given to reduce the price of red snapper quota when an increased abundance in the eastern Gulf resulted in an increase in grouper fishermen’s discards.

With regards to the Atlantic shark fishery in particular, we are concerned that a small group of

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<sup>1</sup> National Marine Fisheries Service. “Atlantic Highly Migratory Species; Atlantic Shark Management Measures; Notice of intent; control date for Atlantic shark landings; request for comments.” 76FR57709. September 16, 2011.

<sup>2</sup> The majority of our comments herein are supported by our findings in these two reports, which you may find here: <http://www.foodandwaterwatch.org/reports/fish-inc/> and <http://www.foodandwaterwatch.org/briefs/catch-shares-gulf-of-mexico/>

fishermen, who were instrumental in moving this proposal for catch shares forward, may be dominating the conversation about how to manage this fishery. Across the Gulf and Southern regions, small groups of fishermen receiving significant amounts of money from outside interests and environmental groups have been key in promoting catch shares in the Gulf.<sup>3</sup> Meanwhile, the referenda held in the Gulf have been designed to unfairly exclude large numbers of fishermen who are invested and dependent upon the fisheries. For example, the referendum for the red snapper IFQ was only open to 167 people, excluding over 600 permit holders.<sup>4</sup> Likewise, the grouper and tilefish referendum allowed only permit holders with the largest landings to vote, meaning only 333 out of 1,028 permit holders were allowed to vote.<sup>5</sup> By restricting voting to only the very largest of fishermen, getting the referendum passed was not a problem – only 273 votes were cast and 81 percent were in favor.<sup>6</sup> Food & Water Watch conducted a “re-referendum” that included the marginalized fishermen, and found that 88 percent of respondents would have voted against the IFQ system.<sup>7</sup>

More generally, catch share systems, as implemented throughout the United States and the world, have typically resulted in an unfair giveaway of public resources to private entities. The gains in economic efficiency hailed by supporters of catch shares have come at the expense of the livelihoods of thousands of smaller-scale, traditional fishermen and their communities, and the claims of increased fishery sustainability and safety are often overblown. The design of catch share programs has violated the Magnuson-Stevens Fishery Management Act, and has been found to violate human rights in international court.

While FWW believes that allocating total allowable catch to fishermen can be one of many effective tools in addressing the modern challenges of fishery management, these programs must be rigorously designed to ensure that they retain public control of fishery resources and return a portion of the value of each fishery to the public. Allocations to fishermen must be fair and equitable, and the programs should include incentives to maintain a diverse fleet, minimize damage to the environment, and allow new participants in the fishery. We feel that no study yet thoroughly details the cumulative and negative effects of catch shares programs in the US, instead focusing on the economic success of the few, and that many programs in place now violate Magnuson-Stevens Fishery Management Act. Further, there is no clear exit strategy from catch share programs

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<sup>3</sup> For example, we detailed the outsized influence of the Gulf of Mexico Reef Fish Shareholder’s Alliance on establishing catch shares in the Gulf. They have received at least \$112,500 from the Environmental Defense Fund. Food & Water Watch. “A Closer Look at Catch Shares in the United States: The Gulf of Mexico.” 2011 at 8. In the South Atlantic, the South Atlantic Fishermen’s Association received \$39,000 from the Environmental Defense Fund in 2009. (Environmental Defense Fund. IRS Form 990. 2009.) One of the South Atlantic Fishermen’s Association board members, Pete Boehm, is a shark fisherman and is married to Angela Boehm, who organized and submitted the stakeholder’s proposal for Atlantic shark catch shares. Scott Vaeth, also a board member of the South Atlantic Fishermen’s Association, was also instrumental in supporting the stakeholders proposal. (National Marine Fisheries Service, Atlantic Highly Migratory Species Advisory Panel. Meeting minutes from Thursday April 7, 2011. At 539, 547 and 584.

<sup>4</sup> With a few exceptions, only Class 1 permit holders were eligible to vote in the referendum. National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Southeast Regional Office. “Final supplemental environmental impact statement for amendment 26 to the Gulf of Mexico reef fish fishery management plan to establish a red snapper individual fishing quota program (including a revised initial regulatory flexibility analysis and regulatory impact review).” July 27, 2006

<sup>5</sup> Gulf of Mexico Fishery Management Council. “Reef fish Amendment 29: Eligibility for Referendum Participation.” August 18, 2008 at 9.

<sup>6</sup> National Marine Fisheries Service, Southeast Fishery Bulletin. “Gulf of Mexico Commercial Grouper and Tilefish Individual Fishing Quota Program (IFQ) Referendum Result.” FB09-001. Jan 6, 2009.

<sup>7</sup> Food & Water Watch. “New survey: Fishermen oppose controversial management plan.” June 22, 2009.

currently implemented. We therefore oppose the adoption of any further catch shares programs.

***The initial distribution of catch shares can create windfall profits for a select few and moves the fishery towards rapid consolidation that further disadvantages smaller-scale fishermen.***

Catch share programs are justified by the idea of maximizing the economic efficiency of a fishery. Unfortunately, this “optimization” or “rationalization” comes at the cost of excluding large numbers of people from the system entirely. Shares in a new catch share fishery are typically distributed proportionally to fishermen’s historical catch. Those who receive the largest initial distribution of shares — or have the most capital to buy and lease shares — often gain control over an entire fishery, pushing smaller fishermen out of fishing and even into bankruptcy.<sup>8</sup> These privileged few may sell their quota and gain an instant profit,<sup>9</sup> or use the expected value of quota as collateral to get loans from a bank.<sup>10</sup> Anticipation of a new catch shares program can distort these statistics, as it prompts new fishermen to enter the fishery and current fishermen to increase their catch, a behavior termed “fishing for history.”<sup>11</sup>

Once quotas are distributed, the fishery moves rapidly toward consolidation. In 2010, revenue from groundfish became increasingly consolidated in the highest-earning 20% of vessels, increasing from 67% in 2007 to 80% in 2010. Most of this increase occurred in 2010.<sup>12</sup> In another example, the ocean quahog fishery in the mid-Atlantic became so consolidated that one firm controlled 35 percent of the available quota two years after the program began.<sup>13</sup> In Alaska’s Bristol Bay king crab fishery, only 89 out of 251 boats remained the year after catch shares were implemented.<sup>14</sup>

Many quota holders don’t even fish themselves. Instead they become “armchair fishermen” or “fishery landlords” by leasing their quota for exorbitantly high prices. The Canadian halibut fishery switched to a privatized catch share system in 1991, and by 2006 a total of 79 percent of the quota was leased out instead of being fished by quota owners themselves.<sup>15</sup> Quota leasing has become the single largest operating cost for these fishermen, pushing them to the margins of profitability,<sup>16</sup> which could drive more fishermen into bankruptcy.<sup>17</sup>

Fishermen in Iceland who had been excluded from their country’s catch share system took their grievances before the United Nations Human Rights Committee, alleging that privatization violated the International Covenant on Civil and Political Rights by forcing fishermen without quotas to pay money to a privileged group of citizens (the quota holders) in order to pursue their occupation.

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<sup>8</sup> Copes, Parzival and Charles, Anthony. “Socioeconomics of individual transferable quotas and community-based fishery management.” *Agricultural and Resource Economics Review*. 33/2. October 2004 at 174-175.

<sup>9</sup> National Research Council. Committee to Review Individual Fishing Quotas. “Sharing the fish: Toward a national policy on individual fishing quotas.” National Academy Press. Washington, DC. 1999 at 142.

<sup>10</sup> Arnason, Ragnar. “Iceland’s ITQ system creates new wealth.” *The Electronic Journal of Sustainable Development*. Vol 1 Issue 2. 2008 at 36.

<sup>11</sup> Macinko, Seth and Bromley, Daniel W. “Who owns America’s fisheries?” Center for Resource Economics. 2002 at 18. For an example, see Brandt, Sylvia. “A tale of two clams.” *Regulation*. Spring 2005 at 20.

<sup>12</sup> NMFS. “2010 Final Report” at 24.

<sup>13</sup> National Research Council. *Supra* note 3 at 295.

<sup>14</sup> Alaska Journal of Commerce. “High Pressure Tactics Were in Place at Dutch Harbor.” Web posted June 5, 2009. Available at [http://www.alaskajournal.com/stories/060509/fis\\_img37\\_001.shtml](http://www.alaskajournal.com/stories/060509/fis_img37_001.shtml)

<sup>15</sup> Pinkerton, Evelyn et.al. “The elephant in the room: The hidden costs of leasing individual transferable fishing quota.” *Marine Policy*. 2009 at 4.

<sup>16</sup> *Ibid.*, at 2.

<sup>17</sup> Copes, Parzival and Charles, Anthony. *Supra* note 2 at 175.

After reviewing the issue, the Committee ruled that privatized catch-share systems violated international law.<sup>18</sup>

***Consolidation of the fleet translates into widespread job losses and reduced wages for fishermen and crew.***

As a result of consolidation, many fisheries have lost well over half of their fishing fleets. Despite widespread academic agreement that catch share programs create job loss in communities, NOAA Administrator Jane Lubchenco announced that catch shares are “merely a tool” and “not the cause” of lost fishing jobs.<sup>19</sup> But as can be seen in the table below, fisheries commonly lose three quarters of their fleet after catch shares are implemented, with 3 to 6 jobs lost per boat.

The precise impacts of catch shares on crew are relatively unknown, but the research that has been done belies the claim that crews have safer, better jobs with higher wages.<sup>20</sup> Vessel owners are shifting the costs of leasing additional quota onto crew by taking a large percentage of the total catch value before calculating wages. The crew of the Canadian halibut fishery received 10-20 percent of the catch value before catch shares, and now receive only 1-5 percent.<sup>21</sup> Even the fishermen who own their quota have begun to pay their crew these same low wages, because it is more profitable for quota owners to lease their quota than to fish it themselves while paying their crew the wages they used to receive.<sup>22</sup> So, in the Canadian halibut fishery, although the overall value of the fishery has increased by 25 percent over 17 years, the crews’ share of that value has dropped by 73 percent.<sup>23</sup> In the Bristol Bay red king crab and Bering Sea snow crab fisheries, some crew members report that pay has dropped from 5-6 percent of catch value to less than 1 percent,<sup>24</sup> while an estimated 1,214 crew members lost their jobs entirely after IFQ implementation in those fisheries.<sup>25</sup>

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<sup>18</sup> United Nations, Human Rights Committee, International Covenant on Civil and Political Rights, (91<sup>st</sup> session) *Communication No. 1306/2004. CCPR/C/91/D/1306/2004*. December 2007, #11 at 20. Available at [http://www.bayefsky.com/pdf/iceland\\_t5\\_iccpr\\_1306\\_2004.pdf](http://www.bayefsky.com/pdf/iceland_t5_iccpr_1306_2004.pdf)

<sup>19</sup> Gaines, Richard. “NOAA chief: System not causing job loss.” *The Gloucester Times*. Dec 16, 2010. <http://www.gloucestertimes.com/local/x1707767675/NOAA-chief-System-not-causing-job-loss>

<sup>20</sup> For an example of such claims, see: Environmental Defense Fund. “What do catch shares mean for fishing jobs and fishing fleets?” Accessed on Feb 4, 2011; page last updated October 28, 2009; available at <http://www.edf.org/page.cfm?tagid=48874>

<sup>21</sup> Pinkerton. *Supra* note 9 at 5.

<sup>22</sup> *Ibid.*

<sup>23</sup> *Ibid.*

<sup>24</sup> Jensen, Andrew. Owners profit, but crew feel the pinch of crab catch shares. *Alaska Journal of Commerce*. June 4, 2010. [http://www.alaskajournal.com/stories/060410/fis\\_img8\\_001.shtml](http://www.alaskajournal.com/stories/060410/fis_img8_001.shtml)

<sup>25</sup> Calculations performed by Food & Water Watch staff. “Rationalization resulted in an estimated loss of 757 total jobs in the BRR fishery.... And an estimated loss of 457 total jobs in the BSS fishery.” From Knapp, Gunnar. “Economic Impacts of BSAI Crab Rationalization on Kodiak Fishing Employment and Earnings and Kodiak Businesses. A Preliminary Analysis” Institute of Social and Economic Research, University of Alaska Anchorage. May 2006 at 22.

<b>Fleet Reduction Means Job Losses</b>			
“Fleet reduction” — meaning fishermen being cut out of fishing — is often highlighted as a success of IFQ programs. <sup>26</sup> But every time a boat stops fishing, an estimated 3 to 6 jobs are lost, <sup>27</sup> resulting in struggling coastal and fishing communities.			
<b>IFQ Program</b>	<b>Boats in fishery prior to IFQ</b>	<b>Boats in Fishery after IFQ</b>	<b>Boats lost</b>
Alaska Halibut	3450 boats in 1994	1156 boats in 2008	66% in 14 years
Alaska Sablefish	1404 boats in 1994	362 boats in 2008	74% in 14 years <sup>28</sup>
Bering Sea and Aleutian Islands Pollock	100 catcher and 30 catcher-processor in 1998	90 catcher and 21 catcher-processor in 2005	10% catcher and 30% catcher-processor in 7 years <sup>29</sup>
Bering Sea and Aleutian Islands red king crab	251 boats in 2004	74 boats in 2007-2008	71% in 3-4 years
Bering Sea and Aleutian Islands snow crab	189 boats in 2004	78 boats in 2007-2008	59% in 3-4 years
Pacific Sablefish	328 boats in 2000	87 boats in 2008	73% in 8 years <sup>30</sup>
Gulf of Mexico Red Snapper	546 permits in 2007	466 permits in 2008	15% in one year
Wreckfish	91 boats in 1990	Less than 5 boats in 2009	95% <sup>31</sup>
Surf clam	128 boats in 1990	50 boats in 2005	61% in 15 years <sup>32</sup>
Ocean Quahog	92 permits in 1991	47 permits in 2005	49% in 14 years <sup>33</sup>

<sup>26</sup> All from NOAA Fisheries Office of Sustainable Fisheries. Current Catch Share Program Spotlights. Available at [http://www.nmfs.noaa.gov/sfa/domes\\_fish/catchshare/index.htm](http://www.nmfs.noaa.gov/sfa/domes_fish/catchshare/index.htm) except for Surf clam, from NOAA's Status of Fishery Resources off the Northeastern US: Atlantic Surfclam.

<http://www.nefsc.noaa.gov/sos/spsyn/iv/surfclam/> and Ocean Quahog, from NOAA's Status of Fishery Resources off the Northeastern US: Ocean Quahog, <http://www.nefsc.noaa.gov/sos/spsyn/iv/quahog/>

<sup>27</sup> This number varies between fisheries. For the New England groundfish fishery, each boat is estimated to have 3 to 5 jobs available, while for the Alaska King crab and snow crab fishery, an average of 5 to 6 jobs are available. Saving Seafood, supra note 6. Also, see Knapp, Gunnar. “Economic Impacts of BSAI Crab Rationalization on Kodiak Fishing Employment and Earnings and Kodiak Businesses. A Preliminary Analysis” Institute of Social and Economic Research, University of Alaska Anchorage. May 2006 at 21.

<sup>28</sup> Calculation performed by Food & Water Watch staff. NOAA reports a 70% reduction, which does not match the numbers provided.

<sup>29</sup> Calculation performed by Food & Water Watch staff.

<sup>30</sup> Calculation performed by Food & Water Watch staff.

<sup>31</sup> Calculation performed by Food & Water Watch staff.

<sup>32</sup> Calculation performed by Food & Water Watch staff. NOAA reports a 74% reduction, which does not match the numbers provided.

<sup>33</sup> Calculation performed by Food & Water Watch staff. NOAA reports a 40% reduction, which does not match the numbers provided.

***Catch shares can hurt communities and prevent new fishermen from entering the fishery. Catch share programs must be designed to follow all of the guidelines in the Magnuson-Stevens Act to prevent individual and community economic hardship.***

The Magnuson-Stevens Fishery Conservation and Management Act specifies that, among other critical safeguards, all fishery management plans must “take into account the importance of fishery resources to fishing communities...in order to (A) provide for the sustained participation of such communities, and (B) to the extent practicable, minimize adverse economic impacts on such communities.”<sup>34</sup> And that catch shares programs must provide for “fair and equitable initial allocations” of quota, prevent “excessive” consolidation, and set aside portions of the catch for entry-level fishermen, small vessel owners, and crew.<sup>35</sup>

But catch share programs have widely failed to meet these criteria. The economic hardship and job loss among fishermen due to catch share programs have widespread impacts — related industries like processors, baiters, and boat repairers also suffer, along with the ports and communities reliant on fishing. As unemployment spreads, people have less to spend at grocery stores, restaurants, and other key community businesses, which can eventually lead to people leaving in search of jobs and opportunity.<sup>36</sup> A study of the Nova Scotia mobile gear groundfish catch share program found that transferability of shares resulted in striking regional imbalances in consolidation, as some areas acquired quota at the expense of other towns and ports.<sup>37</sup> The increasing fortunes of those able to take advantage of catch shares in these communities have exacerbated disparities of wealth and status and put a strain on the values of hard work and equity that held the communities together.<sup>38</sup> In Maine, after one year under the Northeast Multispecies FMP, “[l]andings by boats listing Portland as their principal port increased by 24 percent, and revenue increased by 37 percent. Landings by boats from other ports in Maine dropped by 52 percent, while revenue dropped by 25 percent.”<sup>39</sup>

Quota leasing and purchasing also prevents new fishermen from entering the fishery. One study estimated that it can cost between \$250,000 to \$500,000 for a new entrant to lease enough quota for a single fishing trip in Alaska’s halibut fishery.<sup>40</sup> Fishermen who already have quota can use their existing quota as leverage for loans, but fishermen just starting out may have to use personal assets, such as their homes, for the required down-payment (costing between a 25 and 50 percent of the loan, or \$62,500 to \$250,000) before they can even catch any fish.<sup>41</sup> Purchasing the quota outright is out of the reach of most, since widespread leasing drives up the price of quota.<sup>42</sup>

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<sup>34</sup> Magnuson-Stevens Fishery Conservation and Management Act, as amended through Jan 12, 2007. § 301(a)(8). May 2007, second printing. Available online at [http://www.nero.noaa.gov/sfd/MSA\\_amended\\_20070112\\_FINAL.pdf](http://www.nero.noaa.gov/sfd/MSA_amended_20070112_FINAL.pdf)

<sup>35</sup> Ibid.

<sup>36</sup> Copes, Parzival and Charles, Anthony. Supra note 2 at 176.

<sup>37</sup> McCay et al. “Individual transferable quotas (ITQs) in Canadian and US fisheries.” *Ocean & Coastal Management*. Vol 28, No 1-3. Pp 85-115. 1995 at 104.

<sup>38</sup> Ibid., at 105.

<sup>39</sup> Hayden, Anne and Conkling, Phillip. “Who gets to fish?” *The Working Waterfront*. April 27, 2011.

<sup>40</sup> Dory Associates. “Access Restrictions in Alaska’s Commercial Fisheries: Trends and Considerations.” Prepared for the Alaska Marine Conservation Council and Gulf of Alaska Coastal Communities Coalition. January 2009 at page 21. Available online at <http://www.akmarine.org/pressroom/access-restrictions-in-alaska2019s-commercial-fisheries-trends-and-considerations>

<sup>41</sup> Ibid.

<sup>42</sup> Ecotrust Canada. “Briefing: A cautionary tale about ITQs in BC fisheries.” Issue 8. 209 at 3. Available online at <http://www.ecotrust.ca/fisheries/cautionarytale>

Thank you for this opportunity to comment.

Sincerely,

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