Atlantic Surfclam and Ocean Quahog
Excessive Shares Amendment

Public Comment Overview/Synthesis
August 1 – September 14, 2019

The following provides a summary of common themes provided in both the written and public hearing comments regarding the Excessive Shares Amendment – Public Hearing Document. Please see the summary of public hearing comments and the complete written comments for additional detail.

Comment Period: August 1 to September 14, 2019

Number of Written Comments Received: 28 comments were received. Some individuals and/or businesses provided multiple comment letters.

Number of Public Hearings:

- Cape May, NJ – Thursday, Aug. 1
- Dover, Delaware (Webinar) – Wednesday, Aug. 7
- Salisbury, MD – Monday, Sept. 9
- Warwick, RI – Tuesday, Sept. 10

Attendance at Hearings: 40 in attendance cumulatively at the 4 hearings (excluding hearing officers and Council Staff); comprised of 29 individuals/people (i.e., some people attended more than 1 hearing). Twenty-seven cumulative oral comments were made at the 4 hearings. Some people provided comments at two or more public hearings.

Goals and Objectives

- Most comments noted that the current goals and objectives should not be change.

- They have worked well for 29 years and have accomplished what they were designed to.

- Bumble Bee Seafoods indicated that they support the Council's efforts to update the goals and objectives of the SCOQ FMP.
    - They stand by the list of revised/rewritten goals and objectives that were submitted in writing to the Council on July 12, 2017.

    - Refreshing these goals and objectives to include things like sustainability and science/research would be good.

Excessive Shares Alternatives

- The status quo alternative is not fairly represented in the document. The current system has been in place for 29 years and it works. GARFO is requiring a quantifiable excessive shares cap. This is not required by MSA. There is already an excessive shares definition in place.

- There is insufficient information to support implementing a specific excessive shares cap, or even if one is needed at all.

- The impact analysis of all excessive shares cap alternatives is deficient.

- The purpose and need for action (excessive shares cap) as described in the document is not consistent with MSA and what was implemented under Amendment 8.

- Some people indicated that they would still prefer the no action/status quo alternative (alternative 1) and/or 95% cap under sub-alternative 2.3 (single cap on ownership with unlimited leasing) and/or 49% cap under sub-alternative 3.3 (combined cap), because of less potential for harmful economic impacts.

- However, the industry is willing to compromise in order to achieve results everyone can live with. The clam industry has operated in good faith and is willing to compromise to accomplish what the MAFMC/NMFS maintain is necessary under National Standard (NS) 4.
    - Compromise expressed by the majority of industry members that provided comments.

- Industry supports sub-alternative 4.3 with minor modifications.
    - Currently, sub-alternative 4.3 includes:
        - Two-Part Cap Approach – A cap on quota share ownership and a cap on combined quota share ownership plus leasing of annual allocation (cage tags).
        - The ownership quota share cap would be 30% and the combined cap (quota share ownership plus leasing of annual allocation or cage tags) would be 60%.
    - Industry supports sub-alternative 4.3 with the following modifications to the values in sub-alternative 4.3:
        - For Surfclams: 35% ownership / 65% combined.
        - For Ocean Quahog: 40% ownership / 70% combined.

- Alternative 5 and 6 will have devastating adverse economic impacts to the industry. They should be deleted from the public hearing document.

- Adverse impacts associated with alternatives 5 and 6 are not adequately described in the document.

- Three commenters indicated that they would like to see the quota match with current landings levels.

- Some major themes regarding opposition to alternatives 5 and 6 were:
    - Alternatives 5 and 6 will give monopsony power to the non-participant ITQ holders.

    - The non-participant ITQ holders do not contribute to the marketing process, infrastructure development, science and technology development, etc. that is needed to keep this industry successful.

    - The SSC report dated 17 May 2019 regarding monopsony power issues (presented to the Council in June 2019) was not peer reviewed and is inaccurate, and should not be included in the public hearing document.

    - Under alternatives 5 and 6, the industry would need to lease more shares from non-participants. Non-participants have not invested capital into the industry and are not taking any risks, nor have they invested in this industry.

    - A major flaw of alternatives 5 and 6, is that there are a couple of allocation holders that currently will not lease out their allocations due to negative feelings towards everyone in the business. This would create a downward spiral effect and make the catch go down.

    - Alternatives 5 and 6 are not designed to address excessive shares but rather as a mechanism for reallocation.

    - Alternatives 5 and 6 micromanage the fishery. Industry do not want to go that route; have been there and it was not good for the industry or management process.

    - Alternatives 5 and 6 are designed around the quota holders that do not have lessors to rent to. This is social engineering so a few leaseholders, that are large leaseholders, can use their quota.

    - Alternatives 5 and 6 are market restructuring plans (social engineering/share reallocation) and not excessive share controls.

    - Reducing everyone's quota (share) forces harvesters and processors to lease quota before all of their owned quota is used. Industry data suggests that the non-sellers/non-participants are highly concentrated – turns them into oligopoly sellers of quota.

    - Alternatives 5 and 6 are in violation of NS5.

    - Newly developed analysis presented during the public hearings indicates that there is no information to conclude that a harmful market power is being exercised in the SCOQ fisheries.

    - Alternatives 5 and 6 would reduce the ITQ available for collateral and increase the cost of producing clam products.

    - Alternatives 5 and 6 would have negative impacts on jobs by raising processors cost and passing those costs to consumers.
    - Alternatives 5 and 6 would result in increased imports of cheap foreign clam products and diminish US product marketability.

- Regarding the model/affiliation levels for selecting/monitoring any excessive shares alternative the Council selects, a few comments indicated support for the following:
    - Net Actual Percentage model.
    - 100% cumulative model.
    - Individual/business affiliation level.
    - Family level affiliation level.

Other Alternatives

- These alternatives were also supported by industry members that offered comments:

    - Excessive Shares Review (Box ES-2) – Alternative 1, No Action.

    - Framework Adjustment Process (Box ES-3) – Alternative 1, No Action.
        - A framework adjustment process does not allow for a full transparency to address changes.

    - Multi-year Management Measures (Box ES-4) – Alternative 2, Specifications to be set for maximum number of years consistent with the Northeast Regional Coordinating Council (NRCC)-approved stock assessment schedule.

Other Comments

- A request for correction of information under Section 515 of Public Law 106-554 was submitted.

- The excessive shares definition should not include social engineering concepts.

- Concerns were raised thru a few comments on participation of independent stakeholders in the industry and management process.