MID-ATLANTIC
FISHERY MANAGEMENT COUNCIL

SCOQ Excessive Shares Amendment

Scoping Comments

Excessive Shares

August 2017

Objectives

- Scoping Comments Review
  - *Excessive Shares*
- Next Steps

Scoping Process

- Comment Period
  - June 23 through July 21
- 4 Public Hearings
  - RI, NJ, MD, and a webinar

Scoping Process

- Attendance at Hearings
  - 14 people
  - Comprised of 11 individuals
  - 6 people – oral comments

Scoping Process

- Written Comments
  - 25 written comments
  - Provided by 14 individuals
  - 14 unique written comments, some comment letters were standardized

Summary of Comments
General Comments

- The Atlantic surfclam and ocean quahog best managed fisheries
- These fisheries are unique from other fisheries the Council manages
- The Council is not addressing key issues in the fishery

Summary of Comments

- The topics to be addressed in this amendment are already addressed under Amendment 8
- The excessive shares amendment is a waste of taxpayers' money

Summary of Comments
Specific to Excessive Shares

- Amendment 8 already has management measures in place to address excessive shares
  - Sherman Antitrust Act
  - Challenged in Court
  - The Court concluded that the antitrust laws were a perfectly reasonable way to control what could be construed as excessive shares

Summary of Comments

- National Standard 4 does not state that a “specific cap” or other “measurable definition” which limits the number of shares that could be owned an entity, individual, or corporation is required

Summary of Comments

- Market Power Impossible to Achieve
  - Limited market of clam products due to domestic and foreign competition
  - Clam products are mainly used as ingredient items
  - Consumers, labor markets, and other industry participants have too many options for the exercise of market power to occur

Summary of Comments

- International Competition
  - Clearwater
- Other examples of large industrial fisheries
  - Omega Protein

Summary of Comments

- The Excessive Shares Amendment as contemplated
  - Disregards the FMP's successful management history
  - Overrides established antitrust protection with unnecessary and duplicative measures

Summary of Comments

- ITQ used as collateral to secure loans
- Used for expansion and modernization of the industry

Summary of Comments

- Landings of both species below ACL
  - Plenty of room for participants to get in
- If numerical cap adopted
  - It could result in divestiture
  - Create inefficiencies
  - Take away industry flexibility in dealing with everchanging markets

Summary of Comments

- In order to set a cap level that is not arbitrary
  - Additional information on competition needs to be available
  - The Council must determine the relevant markets
  - And have access to other information about competitive constraints

Summary of Comments

- If the Council decides to implement a percentage cap
  - It should be 100%
  - Even at that level, there cannot be market power
- Industry will sue if a low cap level is implemented (e.g., below 70%)

Summary of Comments

- This issue has taken a lot of valuable Council and Council staff time
- Recommendation for no action on excessive shares

Near-Term Timeline

- July 2017 – Scoping hearings & public comment period
- August 2017 – Council reviews scoping summary on excessive shares
- Fall 2017 – FMAT starts developing alternatives for excessive shares
- Spring 2018 – Committee/Council review and consider range of alternatives for inclusion

Near-Term Timeline

- Regarding *Goals & Objectives*
- September 20, 2017 – FMAT preps g/o comments & develops draft g/o for Council to review
- October 2017 – Council reviews g/o material

Questions?