

# WALLACE & ASSOCIATES

October 8, 2015

Ms. Jennifer Jessup

Department of Paperwork Clearance Officer,  
Department of Commerce, Room 6616  
14<sup>th</sup> and Constitution Avenue NW  
Washington, DC 20230

Dear Ms. Jessup:

Re: Comments: Surfclam/Ocean Quahog Individual Transferable Quota Administration, notice that was published in the Federal Register Vol 80, No 153 on August 10, 2015.

Wallace and Associates represent many of the surfclam and ocean quahog industries vessel and Individual Transferrable Quota (ITQ) owners. Three primary members of our firm have well over 100 total years of experience with these fisheries and I myself have been involved with this industry since before Federal management associated with the passage of the Magnuson Stevens Fisheries Conservation and Management Act (MSA) in 1976. These two fisheries are generally considered some of the best managed fisheries in this country if not the entire world. Surfclams were overfished prior to management, but were rebuilt quickly under management and are not overfished and overfishing is not occurring. The ocean quahog resource has never been overfished and overfishing is not occurring. The industry, National Marine Fisheries Service (NMFS), and the Mid-Atlantic Fishery Management Council (MAFMC) have successfully operated efficiently and cooperatively since implementation of the ITQ allocations in 1990.

The issue of requiring detailed, confidential business financial records that are involved in the transfer of ITQs within a fishing year is both highly intrusive and unnecessary in tracking ITQ shares within a fishing year. At the start of each fishing year, the appropriate number of cage tags are issued in sequential numeric order to all ITQ holders and can be tracked through the sequenced cage tag numbers as ITQ allocations are transferred within a fishing year. Proprietary and confidential commercial or financial information is prohibited under the MSA.

The intent of this information collection program is to help the MAFMC to prepare a new definition of what is an “excessive share” in this fisheries. However, the MAFMC asked NMFS to remove much of the financial information proposed for the ITQ transfer. On October 7, 2014 they overwhelmingly passed the following motion:

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"Move for the Mid-Atlantic Fishery Management Council to provide comments to the National Marine Fisheries Service on the proposed rule, Data Collection Program, requesting that under the proposed rule section, "Application To Transfer Surfclam/Ocean Quahog ITQ", the NMFS eliminate the proposed requirements for providing total price paid for the transfer, including any fees; broker fees paid, if applicable; whether the transfer is part of a long-term (more than 1 year) contract; if so, the duration of the contract and whether the price is fixed or flexible; and any other conditions of the transfer."

The MAFMC who will use these data, don not even want as much information as the Agency is proposing to collect! What purpose is there for collecting these unwanted data? Why is the Agency wasting their time and taxpayer dollars?

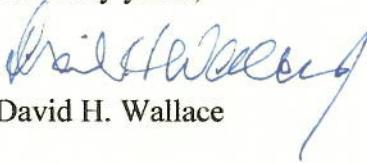
The clam fishery already provides NMFS vast amounts of information on the vessel that lands the clams, where and how much they cough, the price paid, date landed along with the cage tag numbers and other information. The tags numbers can be traced back to the ITQ owner, through written request and approval of the transfers by NMFS. The processing plants are required to provide the vessel name catch, amount of clams provided to the plant and tag numbers so that they can be verified with the vessel catch report. The individual or company that own the ITQ's is known by NMFS. NMFS communicates with the individual ITQ holder all the time.

In the near future MAFMC will complete an amendment on cost recovery. The cost of all federal work on the clam fishery will be charged to the industry for the collection and analyses of information. It is harmful and unfair that proprietary, confidential and unnecessary information is collected and then the parties must pay for all this work. It should not be allowed.

In summary, I, on behalf of my clients, completely oppose this information collection rule. The data are not needed by the organization that is likely to use it for the definition of excessive shares. No proposed or implemented rule during the past 40 years of Federal management has so unified the industry in opposition as this information collection program. Why not define excessive share and then see what data is necessary to implement that data which is needed. This information collection system creates huge paper work requirements and violates the Paper Work Reduction Act.

Thank you in advance for your consideration of these comments. Please feel free to contact me should you have any questions.

Sincerely yours,

  
David H. Wallace