



Excessive Shares Amendment FMAT Recommendations Review

June 5, 2018

Philadelphia, PA

Today's Objectives

- Review FMAT recommendations for excessive shares amendment
- Approve range of alternatives for further FMAT work and consideration by the Council
- Review next steps and timeline

Data Collection SCOQ

- Compass Lexecon Report and CIE Review – Indicated that reliably data showing the ownership and control of quota following transfers in the SCOQ fisheries are not available
 - Important in monitoring and setting ESCL
- Data on prices – ITQ sales and leases

Data Review (Cont'd)

- June 2013 - Council approved data collection document for submission to NMFS
- NMFS implemented Atlantic surfclam and ocean quahog information collection program
 - data collection began 2016

Data Review (Cont'd)

- Preliminary work on data
- GARFO - Analysis and Program Support Division
- We have started to tabulate the ownership data in various ways
 - A few models for the Council to consider

Data Review (Cont'd)

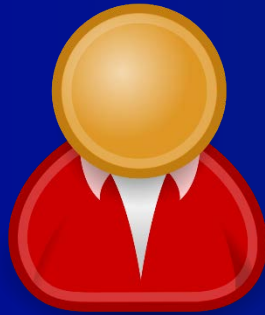
- **100% model** - Any ownership interest in a quota share by an individual is calculated as 100% of that share
- Example: John owns 50% of a corporation or LLC, but in this scenario, he receives all (100%) of the quota share for determining an overall quota number

Data Review (Cont'd)

J & J Inc.
comprised
of 2 owners

100% model

John



- 50% owner of a company
- Company owns 10% quota share
- John receives full 10%

Jane



- 50% owner of the same company
- Again, company owns 10%
- Jane also receives full 10%

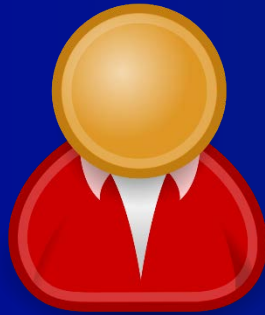
Data Review (Cont'd)

- **Actual percentage model** – Each owner's share in an LLC or company is used to determine percentage (%) ownership in the quota share
- **Example:** Since John owns 50% of the corporation or LLC, he receives 50% of the quota share held by the company

Data Review (Cont'd)

J & J Inc.
comprised
of 2 owners

John



Jane



Actual percentage model

- 50% owner of a company
- Company owns 10% quota share
- John receives 5%

- 50% owner of the same company
- Again, company owns 10%
- Jane also receives 5%

10%
quota
share

Data Review (Cont'd)

- Now, using the 100% ownership model and the actual owner percentage model
- We determined ownership or share totals for:
 - Lease only
 - Quota share only
 - Combined level (leasing + quota share)

Data Review (Cont'd)

■ Net Balance

- Credits and debits are tabulated throughout the year at the time of each transaction
- The maximum net balance that a person attained in a year is used for this determination

Data Review (Cont'd)

■ Cumulative total

- Credits (lease and quota share inputs) accrue over the year for each person
- Debits or leases out and permanent transfers out are not included in this calculation
- The total accrued credits for a year are used in the determination

Data Review (Cont'd)

- Above data tabulation can be applied to:
 - Individual level or business level
 - Family level (immediate) – SBA guidelines
 - CEO level

Data Review (Cont'd)

- Values
 - at the individual/business level
 - for 2016 & 2017

Data Review (Cont'd)

Ocean Quahog Values

Model		2016	2017
100% model (net)	Leased – in	25	28
	Leased – out	15	15
	Owned	22	22
	Combined (Ownership + Leasing)	36	37
Actual Percentage model (net)	Combined (Ownership + Leasing)	28	26
Cumulative Total (cumulative)	Owned	23	23
	Combined (Ownership + Leasing)	37	41

Data Review (Cont'd)

Surfclam Values

Model		2016	2017
100% model (net)	Leased – in	35	35
	Leased – out	11	10
	Owned	28	28
	Combined (Ownership + Leasing)	42	42
Actual Percentage model (net)	Combined (Ownership + Leasing)	26	26
Cumulative Total (cumulative)	Owned	27	27
	Combined (Ownership + Leasing)	48	46

Data Review (Cont'd)

- Next steps in the data analysis process
 - Tabulate maximum values
 - Family level
 - CEO level
 - Include 2018 data

What constitutes "excessive shares"

- May be socially determined and/or economically determined
 - Economics perspective; level of quota control that results in mkt power
 - Social perspective; equity, social and community structure

Draft Alternatives

- **Alternative 1: No Action Alternative (Status Quo)**
 - the current management approach addressing excessive shares would continue
 - no limit on accumulation of shares is specified within the management plan

Draft Alternatives (Cont'd)

- **Alternative 2: Single Cap – Ownership only with unlimited leasing**
 - 2.1 - Maximum value based on ownership data, 2016-2018
 - 2.2 - Maximum value at 49%

Draft Alternatives (Cont'd)

- **Alternative 3: Single Cap – Combined (ownership + lease)**
 - 3.1 - Maximum value at 40%
 - 3.2 - Maximum value based on ownership data, 2016-2018
 - 3.3 - Maximum value at 49%

Draft Alternatives (Cont'd)

- **Alternative 4: Two-Part Cap Approach.** A cap on ownership and a cap on combine throughout the year
 - 4.1 - Maximum of 30% ownership and a maximum of 60% combined (ownership + lease)
 - 4.2 - Maximum value based on ownership data, 2016-2018
 - 4.3 - Maximum value based on ownership data, 2016-2018 plus X% (for anticipated growth)

Draft Alternatives (Cont'd)

- **Alternative 5:** Cap of 3 entities plus Two-Tier Quota – Cap of 3 entities (the cap is 49% based on ownership) with no restriction on leasing. Plus, Quota A and B shares, where A shares = current 3-year landings level (to be defined; e.g., rolling average; largest last 3 years) and B shares = the difference between the ACT (or overall quota level) and A shares. B shares are not released until all A shares are used/exhausted

Draft Alternatives (Cont'd)

- Alternative 5, numerical example of A and B shares (OQ):
 - Average landings – 3 year rolling average 2.769 million bushels
 - Quota 5.333 million bushels
- A shares = 2.769 million bushels
- B shares = 2.564 million bushels

Draft Alternatives (Cont'd)

- Alternative 5, numerical example of A and B shares (SC):
 - Average landings - 3 year rolling average 2.346 million bushels
 - Quota 3.400 million bushels
- A shares = 2.346 million bushels
- B shares = 1.054 million bushels

Draft Alternatives (Cont'd)

- **Alternative 6:** Cap of 3 entities plus Two-Tier Quota – Cap of 3 entities (the cap is 40% based on ownership) with no restriction on leasing. Plus, Quota A and B shares, where A shares = current 3-year landings level (to be defined; e.g., rolling average; largest last 3 years) and B shares = the difference between the ACT (or overall quota level) and A shares. B shares are not released until all A shares are used/exhausted

Other Potential Alternatives

- Other Potential Alternatives for Council Consideration
 - Revisit the cap (if implemented) at specific intervals
 - Allow for Joint Ventures in these fisheries
 - Set the cap at a specific level. But allow for opportunity for further consolidation upon review by NMFS

Action Plan / Timeline

- The FMAT reviewed the action plan and timeline
- The FMAT noted that the current draft timeline is feasible
- The FMAT agreed that the action plan was well developed
- Recommended that additional information on subsequent meetings (e.g., FMAT, Committee) be added to the detailed timeline

2016	<i>NMFS implemented Atlantic surfclam and ocean quahog information collection program</i>
July 2017	<i>Scoping hearings & public comment period</i>
August 2017	<i>FMAT & FF worked on scoping comments regarding g/o and developed range of alternatives for Council to review</i>
October 2017	<i>The Council reviewed the FMAT's recommendations for goals and objectives</i>
May 2018	<i>FMAT developed range of alternatives on excessive shares for the Council to consider</i>
June 2018	<i>Committee review and approve a range of alternatives for further FMAT work and consideration by the Council</i>
Late Summer 2018	Advisory Panel meeting to solicit input on alternatives
Late Summer - Fall 2018	Additional FMAT and/or Committee meetings as needed to refine range of alternatives on excessive shares
Fall 2018	Analysis of alternatives and development of public hearing document
December 2018	Council adopts public hearing draft
February-April 2019	Public Hearings and summarization of comments
June 2019	Council consider public comments; final action; rulemaking
January 1, 2020	Final Rule Effective

Industry Input

- Industry supports alternative 1
- The current antitrust laws and DOJ take care of market power issues
- The SCOQ industry cannot exert market power due to industry dynamics

Industry Input (Cont'd)

- The fishery is one of the best managed fisheries in the country if not the world
- The alternatives developed by the FMAT add a large degree of complexity to the management system (specially proposed alternatives 5 and 6)

Industry Input (Cont'd)

- If a cap needed to be implemented, a cap [alone] would be better than the cap plus two-tier quota approach
- When the Council last worked on this issue back in 2009, the scoping document contained cap share levels ranging from 22% to 100% for each species
- Industry preferred 100%

Next Steps

- Continue ownership data tabulation
- Advisory Panel meeting to solicit input on alternatives (Late Summer 2018)
- Additional FMAT and/or Committee meetings as needed to refine range of alternatives on excessive shares (Late Summer/Fall 2018)

Next Steps (Cont'd)

- Analysis of alternatives and development of public hearing document (Fall 2018)
- Council adopts public hearing draft (December 2018)

Thank you.

