

WIDOW ROCKFISH REALLOCATION AND DIVESTITURE ISSUES

Under the Amendment 20 trawl catch share program, overfished species were allocated in a manner intended to meet the bycatch needs for those receiving quota for target species. Amendment 20 included a provision which noticed the possibility that when an overfished species attains rebuilt status, quota shares (QS) for the species would be actively considered for reallocation. Widow was declared rebuilt for the 2013-2014 biennial specifications cycle, but consideration of a QS reallocation was delayed due to other pressing fishery management workload. Under the September 2014 groundfish omnibus agenda item, the Council prioritized the consideration of widow QS reallocation, scheduled adoption of a range of alternatives for analysis at this meeting, and scheduled selection of a final preferred alternative for the April 2015 Council meeting. This schedule, along with a listing of significant upcoming events and some alternative implementation scenarios, is provided in Agenda Item J.2.a, Attachment 1.

A draft scoping document has been produced (Agenda Item J.2.a, Attachment 2) which includes a purpose and needs statement (Chapter 1), some strawman alternatives for consideration (Chapter 2), and some preliminary analysis (Chapter 3). The strawman alternatives for widow QS reallocation include two alternatives (Strawman Alternatives 4 and 5) which were recommended by the Groundfish Advisory Subpanel in November 2011. Those alternatives did not move forward at that time because the Council prioritized other trawl trailing issues for more immediate attention. The widow reallocation alternatives provided in Chapter 2 of the attached scoping document are:

Alternative 1: *No Action*

Alternative 2 (Strawman): *Reallocate Widow QS Using the Amendment 20 Target Species Allocation Formula* (a portion to all permits equally and a portion to permits based on landings history x to y)

Alternative 3 (Strawman): *Include Landings History to 2010* (same as Alternative 2 but for the landings history portion of the formula include landings history through 2010)

Alternative 4 (Strawman): *Pounds Neutral Reallocation* (leave a base amount of QS unallocated, such that in 2016 every permit would receive the same amount of quota pound (QP) that they received in 2012, the last year of rebuilding; and reallocate the remainder using the historic landings formula from Alternative 2)

Alternative 5 (Strawman): *Pounds Neutral – Plus* (same as Alternative 4 but leave an additional amount of QS in each account such that in 2016 every permit would receive an increase in QP relative to their 2012 QP allocations)

Allocation policy guidance for Council consideration is provided in Agenda Item J.2.a, Attachment 3.

In addition to deciding on an allocation formula, a number of decisions or determinations may be needed pertaining to the requirement that those who control QS in excess of the control limits (accumulation limits) divest themselves down to those limits. The single species QS accumulation

limit for widow rockfish is 5.1 percent. The aggregate non-whiting species QS accumulation limit is 2.7 percent. The regulations state:

Any person that qualifies for an initial allocation of QS or IBQ [individual bycatch quota] in excess of the accumulation limits will be allowed to receive that allocation, but must divest themselves of the QS (except for widow rockfish QS) or IBQ in excess of the accumulation limits by November 30, 2015.... Once the divestiture period is completed, any QS or IBQ held by a person ... in excess of the accumulation limits will be revoked and redistributed to the remainder of the QS or IBQ owners in proportion to the QS or IBQ. § 660.140(d)(4)(v).

Widow rockfish is exempted from the deadline because there is a moratorium on widow QS trading, pending action on the widow rockfish QS reallocation decision (or a determination that no reallocation will occur). The following questions are outstanding with respect to the divestiture deadline.

- What should be the divestiture deadline for widow rockfish QS?
- Should there be a delay in the divestiture deadline for the aggregate non-whiting control limit?
- If revocation of QS becomes necessary, how should that revocation be distributed in situations where a person:
 - has multiple permits, or
 - is over the aggregate limit?

Widow Rockfish Divestiture Deadline

A deadline for divestiture of widow QS should be set for a reasonable period after widow QS has been reallocated (or after the Council makes a decision not to reallocate). For the original program, the divestiture deadline was set for two years after the end of the QS trading moratorium. This period may or may not be appropriate for widow rockfish divestiture. See Section 2.2.1 for an example alternative.

Aggregate Non-whiting Species Divestiture Deadline

In a number of ways, the widow rockfish QS reallocation affects choices individuals need to make in order to meet the aggregate non-whiting control limit.

- A widow rockfish reallocation could affect where a person's holdings stand in relation to the aggregate non-whiting limit (pushing people above or below that limit). For example, a person who divests because they are over the aggregate limit might find that after widow QS reallocation they are under the limit.
- The reallocation results could change the optimal choices for divesting down to the aggregate limit. For example, a person who finds themselves with substantially more widow QS after reallocation might want to have held on to species that would be taken while targeting widow rockfish.
- The widow QS trading moratorium eliminates the option of divesting of widow QS, forcing divestiture of other species to get within the aggregate limit.

It should be noted that regardless of divestiture outcomes, individuals will be able to trade QS afterward to rebalance their accounts. If the widow rockfish reallocation can be completed and implemented by October 2015, there might not be a need to delay the deadline for the aggregate limit (assuming that if QS owners know their expected widow QS reallocations well in advance of that deadline, a month would provide a reasonable amount of time to complete any final divestiture transactions). In this case, the implementation timeline would be that identified in “Implementation Scenario 1” of the calendar in Agenda Item J.2.a, Attachment 1. However, if full implementation by October is not feasible, or a period of about a month for completing divestiture transactions not reasonable, then a delay in the divestiture deadline might be appropriate. “Implementation Scenario 2” shows a timeline in which widow QS reallocations are completed on time for the 2016 QP allocations, and a delay in divestiture is implemented in the same rulemaking. “Implementation Scenario 3” shows a timeline in which widow QS reallocations are completed on time for 2017, and a separate earlier rulemaking is undertaken to delay the divestiture deadline. There is no need for the Council to choose between Scenarios 2 and 3; however, Scenario 1 would require a significant reprioritization of resources to meet the deadlines. See Section 2.2.2 for some example alternatives for a divestiture deadline delay or guidance.

Revoking Forfeited QS in Complex Situations

National Marine Fisheries Service (NMFS) will have to make a determination on how to implement the revocation provision for situations in which a person is over the control limit for a species and has multiple permits or is over the aggregate non-whiting limit. A rulemaking may not be required for this determination. An opportunity is being provided for Council comment. Agenda Item J.2.b, NMFS Report provides additional information on this issue and the need for action.

Council Action:

- 1. Select ranges of alternatives on the following topics, as needed**
 - a. Widow rockfish QS reallocation**
 - b. Widow rockfish divestiture deadline**
 - c. Delay of the aggregate non-whiting species divestiture deadline**
- 2. Guidance on revoking QS in complex situations.**

Reference Materials:

1. Agenda Item J.2.a, Attachment 1: Calendars for Action and Implementation.
2. Agenda Item J.2.a, Attachment 2: Widow QS Reallocation Consideration: Initial Public Scoping Document (Draft).
3. Agenda Item J.2.a, Attachment 3: Guidance for Making Allocation Decisions Related to Catch Shares.
4. Agenda Item J.2.b, NMFS Report.

Agenda Order:

- a. Agenda Item Overview
- b. Reports and Comments of Advisory Bodies and Management Entities
- c. Public Comment

Jim Seger

- d. **Council Action:** Adopt Range of Alternatives for Widow Rockfish Reallocation and, as Necessary, Divestiture Issues

PFMC
10/24/14