

CONSIDERATIONS FOR INDIVIDUAL FISHING QUOTA (IFQ) WIDOW ROCKFISH DIVESTITURE

Control Limit and Divestiture Considerations

Under Amendment 20, widow rockfish QS for the shoreside trawl IFQ fishery was originally allocated using an allocation formula for overfished species. Based on a 2011 assessment of widow rockfish, the stock was declared rebuilt and increased fishing opportunities were provided for the 2013-2014 biennial specifications period. The ACLs for the fishery were further increased for the 2015-2016 biennial specifications period. The widow rockfish QS reallocation consideration creates several issues with the existing IFQ control limit and divestiture regulations that NMFS would like to bring to the Council's attention.

In particular, NMFS would like to raise four specific circumstances under which the Council may wish to provide additional input on divestiture:

- 1) Widow Rockfish Control Limit and Divestiture
- 2) Aggregate Nonwhiting Control Limit and Divestiture
- 3) Forced Divestiture for Individual Species Control Limits
- 4) Forced Divestiture for Aggregate Nonwhiting

Widow Rockfish Control Limit and Divestiture

The regulations currently prohibit the transfer of widow rockfish QS (§660.140 (d)(3)(ii)(B)(2)), so any QS permit owner over the current widow 5.1% accumulation limit would be unable to divest of their excess shares by the divestiture deadline of November 30, 2015. However, current regulations, §660.140(d)(4)(v), already have a provision indefinitely delaying divestiture for widow QS. To address this issue, the Council may want to consider options applying to widow only, allowing widow quota holders that want to leave the fishery to divest, or changing the 5.1% widow control limit.

Aggregate Nonwhiting Control Limit and Divestiture

It is unclear whether the widow rockfish QS reallocation consideration will create overages of the 2.7% control limit for aggregate nonwhiting QS holdings for some quota share holders. Because widow rockfish was considered to be under rebuilding in 2010, the aggregate nonwhiting formula currently uses the rebuilding formula to determine the 2010 OY value (§660.140 (d)(4)(i)(B)).¹ The regulations at §660.140 (d)(4)(i)(B) left flexibility for the Council to change the method for calculating the aggregate nonwhiting control limit. The Council may want to consider delaying divestiture for the aggregate nonwhiting control limit to determine which formula to use for widow in the calculation, and/or to reconsider the use of the 2010 OYs.

¹ see also:

http://www.westcoast.fisheries.noaa.gov/publications/fishery_management/groundfish/catch_shares/aggregateqs-explanation.pdf

Forced Divestiture for Individual Species Control Limits

While not directly related to the widow rockfish reallocation, NMFS has developed a proposed method by which to force divestiture in cases where QS permit owners have not divested of non-widow species by November 30, 2015.

If one QS permit owner was over an individual species control limit by 1%, the regulations are clear that NMFS would revoke and redistribute that 1% to the remainder of the QS or IBQ owners in proportion to their QS or IBQ holdings (§ 660.140 (d)(4)(v)). However, if an individual person held full or partial ownership in 5 QS permits and exceeded a control limit by 1% for a certain species across those QS permits, it is unclear how NMFS would revoke QS across permits.

NMFS proposes to revoke QS from each QS permit in proportion to the amount owned by the individual in each permit. As in the example below, first NMFS would calculate the share of permits 1-5 in terms of the total percent of the species owned by the individual (see column E below). Next, the total overage would be multiplied by this share to determine the amount to revoke (see column F below). The amount revoked would equal the total individual’s overage, while the total amount remaining would equal the control limit. NMFS would apply normal rounding rules.

Table 1: Example of QS ownership and subsequent control limit for an individual species (see Table 2).

Total QS % Owned by Individual Across QS Permits	11.00%
QS Control Limit for Species	10.00%
Amount Over Control Limit	1.00%

Table 2: Example of forced divestiture calculation (using table 1 example).

A	B	C, D	E	F	G
QS Permit	QS Permit Owned by Individual in Each Permit for Species	Total Overage of Individual, Total Owned by Individual	Individual Permit's Share (sum of column B rows) of Total Percent Owned Across Permits (B/D)	Amount Revoked and Redistributed by NMFS (C*E)	Amount Remaining Owned by Individual (B-F)
1	2.50%	1%, 11%	22.727%	0.227%	2.273%
2	1.00%	1%, 11%	9.091%	0.091%	0.909%
3	3.00%	1%, 11%	27.273%	0.273%	2.727%
4	0.50%	1%, 11%	4.545%	0.045%	0.455%
5	4.00%	1%, 11%	36.364%	0.364%	3.636%
			100.00%	1.000%	10.000%

Forced Divestiture for Aggregate Nonwhiting

In addition to potential issues with divestiture of individual species, the regulations do not currently describe a method for NMFS to revoke and redistribute QS if a business entity or individual is over the aggregate nonwhiting control limit of 2.7%. NMFS proposes to

use a similar method as above – that is, use a proportion (*overage/total amount owned*, in terms of 2010 shorebased trawl allocations) to determine how much to revoke from each non-whiting, non-halibut species.

Although NMFS hopes that there will not be a need to revoke QS from any QS permit owning business or individual, we thought it was important to propose our plan so that the Council has time to consider it before the divestiture deadline, November 30, 2015.