

# Divestiture of Excess Quota Shares

## Small Entity Compliance Guide (CFR 660 Subpart D)



NOAA Fisheries West Coast Region

This guide explains the process for divestiture of excess quota shares in the Pacific Coast Groundfish shorebased Individual Fishing Quota program

Effective November 4, 2015

## Control Limits

Control limits are the maximum amount of quota share (QS) or individual bycatch quota (IBQ) that a person may own or control in the Pacific Coast Groundfish shorebased individual fishing quota (IFQ) program. These limits were established in 2010 as part of the trawl rationalization program.

### Control Limits for Individual Species

There are 30 individual species control limits, one set for each IFQ species (see the table to the right). Each limit is expressed as a percentage. For example, the maximum amount of dover sole that a person may own or control is 2.6%. If one person solely owned one QS permit with 2% of dover sole, they would be under the control limit for that species. The permit owner could acquire up to 0.6% more dover sole shares and remain at or under the limit.

### Control Limit for Aggregate Non-Whiting QS Holdings

The aggregate non-whiting control limit is a total limit of 2.7% across all non-whiting, non-halibut IFQ species (see the bottom row in the table to the right). The limit is calculated by converting a person's QS percentages into pounds based on the 2010 shorebased trawl allocation, and then dividing the sum of those pounds by the summed 2010 shorebased trawl allocation to convert it back to a percentage. For example, if a person owned 3% of the aggregate non-whiting QS, they would be over the aggregate non-whiting control limit by 0.3% and would need to divest of some shares to get down to the limit.

This small entity compliance guide was prepared pursuant to section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. 104-121. The statements in this document are intended solely as guidance. This document is intended to provide a plain-language summary of how small businesses can comply with regulations. Any discrepancies between this guide and the Federal Register will be resolved in favor of the Federal Register.

## Ownership Interest

NOAA Fisheries collects ownership interest information annually in order to ensure compliance with the control limits, and QS permit owners must disclose the identity and share of any persons who have an ownership interest greater or equal to 2% of the QS permit. If someone owns part of a permit, say 50%, that person is individually counted as owning half of the permit's shares.

| IFQ Species                               | QS and IBQ Control Limit (%) |
|---|------------------------------|
| Arrowtooth flounder                       | 10.0%                        |
| Bocaccio rockfish South of 40°10' N.      | 13.2%                        |
| Canary rockfish                           | 4.4%                         |
| Chilipepper rockfish South of 40°10' N.   | 10.0%                        |
| Cowcod South of 40°10' N.                 | 17.7%                        |
| Darkblotched rockfish                     | 4.5%                         |
| Dover sole                                | 2.6%                         |
| English sole                              | 5.0%                         |
| Lingcod N. of 40°10' N. lat.              | 2.5%                         |
| Lingcod S. of 40°10' N. lat.              | 2.5%                         |
| Longspine thornyheads North of 34°27' N.  | 6.0%                         |
| Minor shelf rockfish North of 40°10' N.   | 5.0%                         |
| Minor shelf rockfish South of 40°10' N.   | 9.0%                         |
| Minor slope rockfish North of 40°10' N.   | 5.0%                         |
| Minor slope rockfish South of 40°10' N.   | 6.0%                         |
| Other flatfish                            | 10.0%                        |
| Pacific cod                               | 12.0%                        |
| Pacific halibut (IBQ) North of 40°10' N.  | 5.4%                         |
| Pacific ocean perch North of 40°10' N.    | 4.0%                         |
| Pacific whiting                           | 10.0%                        |
| Petrable sole                             | 3.0%                         |
| Sablefish North of 36° N.                 | 3.0%                         |
| Sablefish South of 36° N.                 | 10.0%                        |
| Shortspine thornyheads North of 34°27' N. | 6.0%                         |
| Shortspine thornyheads South of 34°27' N. | 6.0%                         |
| Splitnose rockfish South of 40°10' N.     | 10.0%                        |
| Starry flounder                           | 10.0%                        |
| Widow rockfish                            | 5.1%                         |
| Yelloweye rockfish                        | 5.7%                         |
| Yellowtail rockfish North of 40°10' N.    | 5.0%                         |
| <b>Non-whiting groundfish species</b>     | <b>2.7%</b>                  |

## Calculation to Determine How Much Aggregate Non-Whiting QS a Person Holds

As explained above, aggregate non-whiting QS holdings are calculated by converting a person's QS percentages into pounds based on the 2010 shorebased trawl allocation, and then dividing the sum of those pounds by the summed 2010 shorebased trawl allocation to convert it back to a percentage.

In the table to the right, you can see a calculation for an example person who owns one or more QS permits.

1. The first column lists all of the IFQ species that are included in the calculation. Pacific whiting QS and Pacific halibut IBQ are excluded from the calculation.
2. The second column lists the 2010 shorebased trawl allocation for each species. At the bottom of the second column, you can see that we've summed each species allocation to come up with a total of 131,854,570 pounds.
3. In the third column, we've inserted the QS holdings of an example person. We set this example person's QS holdings equal to the individual species control limits, but you could replace the QS percentages with your own to determine your aggregate nonwhiting QS holdings.
4. In the last column, we've multiplied the allocations by the person's QS percentage for each species, to come up with a total amount of pounds for that species. At the bottom of the last column, we've summed this person's individual holdings in terms of 2010 pounds, for a total of 7,700,338 pounds.
5. To find the example person's aggregate non-whiting QS holdings, we can now divide their summed pounds (7,700,338) by the total 2010 shorebased trawl allocation pounds (131,854,570). This example person's aggregate non-whiting QS holdings are equal to 5.840% (see bottom left box).
6. The control limit for aggregate non-whiting QS holdings is 2.7%, so this example person exceeds the limit by 3.140% and must divest of their excess QS to get down to the limit (see bottom right box).

| IFQ Species                                  | 2010 Shorebased Trawl Allocation | The Example Person's QS Percentages (here set equal to the individual species control limits) | Conversion of the Example Person's QS to Pounds |
|--|----------------------------------|---|---|
| Arrowtooth flounder                          | 21,156,441                       | 10.0%   | 2,115,644                                       |
| Bocaccio rockfish South of 40°10' N.         | 113,287                          | 13.2%   | 14,954  |
| Canary rockfish                              | 34,294                           | 4.4%  | 1,509   |
| Chilipepper rockfish South of 40°10' N.      | 4,046,034                        | 10.0%   | 404,603   |
| Cowcod South of 40°10' N.                    | 4,409                            | 17.7%   | 780   |
| Darkblotched rockfish                        | 655,071                          | 4.5%  | 29,478  |
| Dover sole                                   | 34,546,436                       | 2.6%  | 898,207   |
| English sole                                 | 20,398,822                       | 5.0%  | 1,019,941                                       |
| Lingcod N. of 40°10' N. lat.                 | 3,494,084                        | 2.5%  | 87,352  |
| Lingcod S. of 40°10' N. lat.                 | 1,283,443                        | 2.5%  | 32,086  |
| Longspine thornyheads North of 34°27' N.     | 4,544,278                        | 6.0%  | 272,657   |
| Minor shelf rockfish North of 40°10' N.      | 543,925                          | 5.0%  | 27,196  |
| Minor shelf rockfish South of 40°10' N.      | 133,526                          | 9.0%  | 12,017  |
| Minor slope rockfish North of 40°10' N.      | 1,950,209                        | 5.0%  | 97,510  |
| Minor slope rockfish South of 40°10' N.      | 869,459                          | 6.0%  | 52,168  |
| Other flatfish                               | 9,646,547                        | 10.0%   | 964,655   |
| Pacific cod                                  | 3,340,003                        | 12.0%   | 400,800   |
| Pacific ocean perch North of 40°10' N.       | 377,577                          | 4.0%  | 15,103  |
| Petrale sole                                 | 2,502,247                        | 3.0%  | 75,067  |
| Sablefish North of 36° N.                    | 6,606,862                        | 3.0%  | 198,206   |
| Sablefish South of 36° N.                    | 1,164,834                        | 10.0%   | 116,483   |
| Shortspine thornyheads North of 34°27' N.    | 3,288,084                        | 6.0%  | 197,285   |
| Shortspine thornyheads South of 34°27' N.    | 110,231                          | 6.0%  | 6,614   |
| Splitnose rockfish South of 40°10' N.        | 965,514                          | 10.0%   | 96,551  |
| Starry flounder                              | 1,176,166                        | 10.0%   | 117,617   |
| Widow rockfish                               | 713,178                          | 5.1%  | 36,372  |
| Yelloweye rockfish                           | 406                              | 5.7%  | 23  |
| Yellowtail rockfish North of 40°10' N.       | 8,189,203                        | 5.0%  | 409,460   |
| <b>2010 Shorebased Trawl Allocation Sum:</b> | <b>131,854,570</b>               | <b>Example Person's Sum:</b>  | <b>7,700,338</b>                                |

| Example Person's Aggregate Non-Whiting QS Calculation |               |
|---|---------------|
| Example Person's Sum                                  | 7,700,338     |
| 2010 Shorebased Trawl Allocation Sum                  | 131,854,570   |
| <b>Example Person's Aggregate Non-Whiting QS</b>      | <b>5.840%</b> |

| Compliance with Control Limit for Aggregate Non-Whiting QS Holdings |               |
|---|---------------|
| Example Person's Aggregate Non-Whiting QS                           | 5.840%        |
| Control Limit for Aggregate Non-Whiting QS Holdings                 | 2.700%        |
| <b>Example Person's Excess Aggregate Non-Whiting QS</b>             | <b>3.140%</b> |

## Divestiture

### Why Do Some People Hold Shares Above the Control Limits?

Consistent with the trawl rationalization program, some QS permit owners were initially allocated an amount of QS and/or IBQ above one or more of the control limits (the individual species control limits and/or the aggregate nonwhiting control limit), based on their catch history during the qualifying years.

### Do They Need to Divest?

Yes. The regulations provided an adjustment period for QS permit owners who were initially allocated excess shares to hold those excess shares, but they must completely divest of any excess QS or IBQ by **November 30, 2015**. This means that any person who holds QS or IBQ above the control limits must transfer their excess amount to another QS permit owner - and that transfer cannot put any other QS permit owner over a control limit.

### What Will Happen if They Don't Divest by the Deadline?

For any QS permit owner who does not divest of their excess shares by the November 30, 2015 deadline, the regulations specify that NMFS will revoke the excess QS or IBQ and redistribute it to all other QS permits in proportion to their current QS and IBQ holdings, up to the control limits.

### What About Widow Rockfish?

The Pacific Fishery Management Council considered a reallocation of widow rockfish QS, and placed a moratorium on the transfer of widow rockfish QS until any reallocation is complete. Current regulations exclude widow rockfish from the divestiture deadline since it will not be transferrable prior to November 30, 2015. NMFS will not revoke excess widow QS on November 30, 2015.

## Process for Divestiture of Excess Quota Shares - Final Rule

### What Does this Final Rule Change?

This final rule makes narrow procedural additions to regulations to clarify how divestiture and revocation of excess quota share will occur. The rule:

1. Clarifies the revocation protocols for cases where QS permit owners do not voluntarily divest of QS holdings in excess of the control limits by the divestiture deadline,
2. Adds an option where QS permit owners who exceed the aggregate nonwhiting control limit can abandon excess QS to NOAA Fisheries, and
3. Establishes procedures if divestiture becomes necessary in 2016 and beyond.

### Clarified Revocation Protocols

The existing regulations made it clear that if a QS permit owner owned non-widow QS in excess of a control limit after the divestiture deadline, NOAA Fisheries would revoke and redistribute the excess QS to all other QS permits in proportion to their QS and IBQ holdings, up to the control limits. These regulations were sufficient in simple situations where the permit owner only owned one permit. But the regulations did not address how NOAA Fisheries would revoke shares from a person who is *over an individual species control limit across multiple QS permits* after the deadline, or from a person who is *over the aggregate non-whiting control limit* after the deadline.

The Process for Divestiture final rule establishes proportional reduction methods in these cases. If a QS permit owner fails to divest to the control limit for an individual species (non-widow) across multiple QS permits, NOAA Fisheries would revoke QS or IBQ at the species level in proportion to the amount the QS percentage from each permit contributes to the total QS or IBQ percentage owned. If a QS permit owner fails to divest to the control limit for aggregate non-whiting QS holdings, NOAA Fisheries will revoke QS at the species level in proportion to the amount of the aggregate overage divided by the aggregate total owned. Until widow reallocation is complete, the proportion will be

adjusted to hold widow QS at a constant level while bringing the aggregate percentage owned down to 2.7%, using normal rounding rules. Please find examples for both scenarios in the following pages.

### Abandonment

The Pacific Fishery Management Council's Groundfish Advisory Panel identified a situation where a QS permit owner who was over the 2.7% aggregate non-whiting control limit might wish to divest of specific IFQ species that are not fully utilized in the fishery (such as starry flounder), but be unable to find another QS permit owner who is willing to purchase or accept as a donation the excess QS of these species. If the QS permit owner continued to hold QS in excess of the aggregate non-whiting control limit after the divestiture deadline, NOAA Fisheries would proceed with the proportional reduction method (previously described), potentially revoking some of all non-whiting non-halibut species held by the QS permit owner.

The Process for Divestiture final rule establishes an abandonment option, whereby QS permit owners who exceed the 2.7% aggregate non-whiting control limit may voluntarily abandon QS percentages of their choosing to NOAA Fisheries in order to get under the limit by the divestiture deadline and avoid having QS revoked proportionally after the deadline. QS permit owners who wish to abandon QS to NOAA Fisheries may complete the Aggregate Nonwhiting Abandonment Request form, found on the West Coast Region website and submit it to NOAA Fisheries (at the address on the form) postmarked no later than November 15, 2015.

### Divestiture in 2016 and Beyond

NOAA Fisheries has established abandonment and revocation procedures to be used in the future, should they become necessary. If NOAA Fisheries identifies that a QS permit owner exceeds a limit in 2016 or beyond, we will notify the permit owner that they have 90 days to divest of the excess QS or IBQ. If that permit owner exceeded the aggregate non-whiting control limit, they would have the option to abandon QS to NOAA Fisheries within 60 days.

## Revocation of QS or IBQ Exceeding Individual Species Control Limits

As explained above, there are individual species control limits for all 30 IFQ species. If one QS permit owner was the sole owner of a single QS permit, and exceeded an individual species control limit past the divestiture deadline, NOAA Fisheries would revoke the excess amount and redistribute it to all other QS permit owners in proportion to their current holdings, up to the control limits. For example, the individual species control limit for starry flounder is 10%. If a QS permit owner held 11% of starry flounder in their single QS permit after the divestiture deadline, NOAA Fisheries would revoke 1% of starry flounder (the amount above the limit), and redistribute it to all other QS permit owners in proportion to their current QS holdings.

But if a QS permit owner fails to divest to the control limit for an individual species (non-widow) across *multiple* QS permits by the divestiture deadline, things get a little bit more complicated, so NOAA Fisheries clarified the process in this rulemaking. First, NOAA Fisheries would establish the amount of QS a permit owner holds for each species across all permits they own. For example, in the table to the right, an example person owns Lingcod N. of 40°10' N. lat. across three QS permits. He owns 0.5% in the first permit, 2% in the second permit, and 1% in the third permit, for a total of 3.5% across permits. The control limit for Lingcod N. of

40°10' N. lat. is 2.5%, so this example person has 1% of excess QS.

Next, NOAA Fisheries would revoke QS or IBQ at the species level in proportion to the amount the QS percentage from each permit contributes to the total QS or IBQ percentage owned. We would first determine how much each permit is proportionally contributing to the total amount owned by dividing the QS in each permit by the total QS owned for the species. In the example at the bottom of the page, we calculated how much each of the three permits was contributing to the total amount the permit owner's first permit is Lingcod N. of 40°10' N. The first permit's share was 14.286% of the total owned, second permit 57.143%, third permit 28.571%.

Then we applied this same proportion to the overage amount, in this case 1%, to determine how much to revoke from each permit. So we would revoke 0.143% from

the first permit, 0.571% from the second permit, and 0.286% from the third permit – for a total of 1% revoked, which is equal to the amount of the excess QS. The revoked QS would be redistributed to all other QS permit owners in proportion to their current holdings, up to the control limits.

The amount remaining owned in by the QS permit owner would just be the amount they started with in each permit minus the amount they had revoked. In the example below, the total remaining owned is 2.5%.

### Determining Compliance with Control Limit Across Multiple Permits - Example for Lingcod N. of 40°10' N. lat.

| <i>Example Person's QS Permits</i> | <i>QS Percentage of Lingcod N. of 40°10' N. lat.</i> |
|------------------------------------|--|
| QS00001                            | 0.500%   |
| QS00002                            | 2.000%   |
| QS00003                            | 1.000%   |
| <i>Total QS Owned for Species:</i> | 3.500%   |
| <i>Control Limit for Species:</i>  | 2.500%   |
| <i>Example Person's Excess QS:</i> | <b>1.000%</b>  |

### How NOAA Fisheries would Revoke QS in Excess of a Control Limit from Multiple Permits – Example for Lingcod N. of 40°10' N. lat.

| <i>Example Person's QS Permits</i> | <i>QS Percentage of Lingcod N. of 40°10' N. lat.</i> | <i>Each Permit's Share of Total Owned [Permit QS / Total QS Owned]</i> | <i>Amount Revoked by NOAA Fisheries [Permit's Share * Overage]</i> | <i>Amount Remaining Owned by Example Person [QS Percentage – Revoked]</i> |
|------------------------------------|--|--|--|---|
| QS00001                            | 0.500%   | 14.286%  | 0.143%   | 0.357%  |
| QS00002                            | 2.000%   | 57.143%  | 0.571%   | 1.429%  |
| QS00003                            | 1.000%   | 28.571%  | 0.286%   | 0.714%  |
| <i>Totals:</i>                     |  |  | 1.000%   | 2.500%  |

# Revocation of QS Exceeding the Control Limit for Aggregate Non-Whiting Holdings

As explained above, there is an aggregate non-whiting control limit of 2.7% across all IFQ species except Pacific whiting and Pacific halibut. Previous regulations did not describe how QS should be revoked if a QS permit owner fails to divest to the control limit for aggregate non-whiting holdings by the divestiture deadline, so NOAA Fisheries clarified the process in this rulemaking. We would revoke QS at the species level in proportion to the amount of the aggregate overage divided by the aggregate total owned.

For example, if a QS permit owner held the maximum allowable amount of each IFQ species (we set this example person's QS holdings equal to the individual species control limits – same as example on Page 2), they would have aggregate holdings of 5.840%, or 3.140% above the 2.7% aggregate control limit. We would divide the aggregate overage (3.140%) by the total amount owned (5.840%) and multiply this value (53.767%) by the QS owned for each species to revoke from each species (see Columns E-H in the table to the right). This would bring the permit owner down to the 2.7% limit. This example illustrates the basis for the calculation, but the calculation will be affected by the moratorium on widow rockfish trading until widow is reallocated, as described below.

| A  | B                                | C   | D   | E                                     | F  | G   | H   |
|--|----------------------------------|---|---|---------------------------------------|--|---|---|
| IFQ Species                                  | 2010 Shorebased Trawl Allocation | The Example Person's QS Percentages (here set equal to the individual species control limits) | Conversion of the Example Person's QS to Pounds | Overage/Total Owned = (3.140%/5.840%) | Amount Revoked and Redistributed by NOAA Fisheries = (C*E) | Amount Remaining Owned by Example Entity = (C-F)              | Conversion of Example Entity's Remaining QS to Pounds |
| Arrowtooth flounder                          | 21,156,441                       | 10.000%   | 2,115,644                                       | 53.767%                               | 5.377%   | 4.623%  | 978,119   |
| Bocaccio rockfish South of 40°10' N.         | 113,287                          | 13.200%   | 14,954  | 53.767%                               | 7.097%   | 6.103%  | 6,914   |
| Canary rockfish                              | 34,294                           | 4.400%  | 1,509   | 53.767%                               | 2.366%   | 2.034%  | 698   |
| Chilipepper rockfish South of 40°10' N.      | 4,046,034                        | 10.000%   | 404,603   | 53.767%                               | 5.377%   | 4.623%  | 187,059   |
| Cowcod South of 40°10' N.                    | 4,409                            | 17.700%   | 780   | 53.767%                               | 9.517%   | 8.183%  | 361   |
| Darkblotched rockfish                        | 655,071                          | 4.500%  | 29,478  | 53.767%                               | 2.420%   | 2.080%  | 13,629  |
| Dover sole                                   | 34,546,436                       | 2.600%  | 898,207   | 53.767%                               | 1.398%   | 1.202%  | 415,265   |
| English sole                                 | 20,398,822                       | 5.000%  | 1,019,941                                       | 53.767%                               | 2.688%   | 2.312%  | 471,546   |
| Lingcod North of 40°10' N.                   | 3,494,084                        | 2.500%  | 87,352  | 53.767%                               | 1.344%   | 1.156%  | 40,385  |
| Lingcod South of 40°10' N.                   | 1,283,443                        | 2.500%  | 32,086  | 53.767%                               | 1.344%   | 1.156%  | 14,834  |
| Longspine thornyheads North of 34°27' N.     | 4,544,278                        | 6.000%  | 272,657   | 53.767%                               | 3.226%   | 2.774%  | 126,057   |
| Minor shelf rockfish North of 40°10' N.      | 543,925                          | 5.000%  | 27,196  | 53.767%                               | 2.688%   | 2.312%  | 12,574  |
| Minor shelf rockfish South of 40°10' N.      | 133,526                          | 9.000%  | 12,017  | 53.767%                               | 4.839%   | 4.161%  | 5,556   |
| Minor slope rockfish North of 40°10' N.      | 1,950,209                        | 5.000%  | 97,510  | 53.767%                               | 2.688%   | 2.312%  | 45,082  |
| Minor slope rockfish South of 40°10' N.      | 869,459                          | 6.000%  | 52,168  | 53.767%                               | 3.226%   | 2.774%  | 24,118  |
| Other flatfish                               | 9,646,547                        | 10.000%   | 964,655   | 53.767%                               | 5.377%   | 4.623%  | 445,986   |
| Pacific cod                                  | 3,340,003                        | 12.000%   | 400,800   | 53.767%                               | 6.452%   | 5.548%  | 185,301   |
| Pacific ocean perch North of 40°10' N.       | 377,577                          | 4.000%  | 15,103  | 53.767%                               | 2.151%   | 1.849%  | 6,983   |
| Petrале sole                                 | 2,502,247                        | 3.000%  | 75,067  | 53.767%                               | 1.613%   | 1.387%  | 34,706  |
| Sablefish North of 36° N.                    | 6,606,862                        | 3.000%  | 198,206   | 53.767%                               | 1.613%   | 1.387%  | 91,636  |
| Sablefish South of 36° N.                    | 1,164,834                        | 10.000%   | 116,483   | 53.767%                               | 5.377%   | 4.623%  | 53,853  |
| Shortspine thornyheads North of 34°27' N.    | 3,288,084                        | 6.000%  | 197,285   | 53.767%                               | 3.226%   | 2.774%  | 91,210  |
| Shortspine thornyheads South of 34°27' N.    | 110,231                          | 6.000%  | 6,614   | 53.767%                               | 3.226%   | 2.774%  | 3,058   |
| Splitnose rockfish South of 40°10' N.        | 965,514                          | 10.000%   | 96,551  | 53.767%                               | 5.377%   | 4.623%  | 44,638  |
| Starry flounder                              | 1,176,166                        | 10.000%   | 117,617   | 53.767%                               | 5.377%   | 4.623%  | 54,377  |
| Widow rockfish                               | 713,178                          | 5.100%  | 36,372  | 53.767%                               | 2.742%   | 2.358%  | 16,816  |
| Yelloweye rockfish                           | 406                              | 5.700%  | 23  | 53.767%                               | 3.065%   | 2.635%  | 11  |
| Yellowtail rockfish North of 40°10' N.       | 8,189,203                        | 5.000%  | 409,460   | 53.767%                               | 2.688%   | 2.312%  | 189,304   |
| <b>2010 Shorebased Trawl Allocation Sum:</b> | <b>131,854,570</b>               | <b>Example Person's Sum:</b>  | <b>7,700,338</b>                                |                                       |  | <b>Example Person's NEW Sum:</b>                              | <b>3,560,075</b>                                      |
|  |                                  | <b>Example Person's Aggregate Non-Whiting QS:</b>   | <b>5.840%</b>                                   |                                       |  | <b>Example Person's NEW Aggregate Non-Whiting Percentage:</b> | <b>2.700%</b>   |
|  |                                  | <b>Control Limit for Aggregate Non-Whiting QS Holdings:</b>                                   | <b>2.700%</b>                                   |                                       |  | <b>Control Limit for Aggregate Non-Whiting QS Holdings:</b>   | <b>2.700%</b>   |
|  |                                  | <b>Example Person's Excess Aggregate Non-Whiting QS:</b>                                      | <b>3.140%</b>                                   |                                       |  | <b>NEW Excess Aggregate Non-Whiting QS:</b>                   | <b>0.000%</b>   |

# Revocation of QS Exceeding the Control Limit for Aggregate Non-Whiting Holdings

Although widow rockfish is included in the aggregate non-whiting control limit calculation, widow rockfish QS cannot currently be transferred, pending reallocation. As described above, NOAA Fisheries will not revoke widow rockfish QS since it could be reallocated and therefore the percentage owned by each QS permit owner could change.

If a QS permit owner fails to divest to the control limit for aggregate non-whiting holdings by the divestiture deadline, NMFS will revoke some of each IFQ species included in the calculation *except* widow rockfish. We will follow the same calculation described in more detail above, but would hold the QS permit owner's widow QS constant (as done in the table to the right). We would then adjust the proportion in order to determine how much QS to revoke of the other 27 species in the calculation to bring the permit owner's holdings to the 2.700% limit. The proportion used would apply to each species, as above, but would be adjusted to take 0% away from widow rockfish, and slightly more away from each of the other species included in the aggregate calculation in order to get the permit owner down to the limit.

| A  | B                                | C   | D   | E                                     | F  | G   | H   |
|--|----------------------------------|---|---|---------------------------------------|--|---|---|
| IFQ Species                                  | 2010 Shorebased Trawl Allocation | The Example Person's QS Percentages (here set equal to the individual species control limits) | Conversion of the Example Person's QS to Pounds | Overage/Total Owned = (3.140%/5.840%) | Amount Revoked and Redistributed by NOAA Fisheries = (C*E) | Amount Remaining Owned by Example Entity = (C-F)              | Conversion of Example Entity's Remaining QS to Pounds |
| Arrowtooth flounder                          | 21,156,441                       | 10.000%   | 2,115,644                                       | 54.023%                               | 5.402%   | 4.598%  | 978,119   |
| Bocaccio rockfish South of 40°10' N.         | 113,287                          | 13.200%   | 14,954  | 54.023%                               | 7.131%   | 6.069%  | 6,914   |
| Canary rockfish                              | 34,294                           | 4.400%  | 1,509   | 54.023%                               | 2.377%   | 2.023%  | 698   |
| Chilipepper rockfish South of 40°10' N.      | 4,046,034                        | 10.000%   | 404,603   | 54.023%                               | 5.402%   | 4.598%  | 187,059   |
| Cowcod South of 40°10' N.                    | 4,409                            | 17.700%   | 780   | 54.023%                               | 9.562%   | 8.138%  | 361   |
| Darkblotched rockfish                        | 655,071                          | 4.500%  | 29,478  | 54.023%                               | 2.431%   | 2.069%  | 13,629  |
| Dover sole                                   | 34,546,436                       | 2.600%  | 898,207   | 54.023%                               | 1.405%   | 1.195%  | 415,265   |
| English sole                                 | 20,398,822                       | 5.000%  | 1,019,941                                       | 54.023%                               | 2.701%   | 2.299%  | 471,546   |
| Lingcod North of 40°10' N.                   | 3,494,084                        | 2.500%  | 87,352  | 54.023%                               | 1.351%   | 1.149%  | 40,385  |
| Lingcod South of 40°10' N.                   | 1,283,443                        | 2.500%  | 32,086  | 54.023%                               | 1.351%   | 1.149%  | 14,834  |
| Longspine thornyheads North of 34°27' N.     | 4,544,278                        | 6.000%  | 272,657   | 54.023%                               | 3.241%   | 2.759%  | 126,057   |
| Minor shelf rockfish North of 40°10' N.      | 543,925                          | 5.000%  | 27,196  | 54.023%                               | 2.701%   | 2.299%  | 12,574  |
| Minor shelf rockfish South of 40°10' N.      | 133,526                          | 9.000%  | 12,017  | 54.023%                               | 4.862%   | 4.138%  | 5,556   |
| Minor slope rockfish North of 40°10' N.      | 1,950,209                        | 5.000%  | 97,510  | 54.023%                               | 2.701%   | 2.299%  | 45,082  |
| Minor slope rockfish South of 40°10' N.      | 869,459                          | 6.000%  | 52,168  | 54.023%                               | 3.241%   | 2.759%  | 24,118  |
| Other flatfish                               | 9,646,547                        | 10.000%   | 964,655   | 54.023%                               | 5.402%   | 4.598%  | 445,986   |
| Pacific cod                                  | 3,340,003                        | 12.000%   | 400,800   | 54.023%                               | 6.483%   | 5.517%  | 185,301   |
| Pacific ocean perch North of 40°10' N.       | 377,577                          | 4.000%  | 15,103  | 54.023%                               | 2.161%   | 1.839%  | 6,983   |
| Petrале sole                                 | 2,502,247                        | 3.000%  | 75,067  | 54.023%                               | 1.621%   | 1.379%  | 34,706  |
| Sablefish North of 36° N.                    | 6,606,862                        | 3.000%  | 198,206   | 54.023%                               | 1.621%   | 1.379%  | 91,636  |
| Sablefish South of 36° N.                    | 1,164,834                        | 10.000%   | 116,483   | 54.023%                               | 5.402%   | 4.598%  | 53,853  |
| Shortspine thornyheads North of 34°27' N.    | 3,288,084                        | 6.000%  | 197,285   | 54.023%                               | 3.241%   | 2.759%  | 91,210  |
| Shortspine thornyheads South of 34°27' N.    | 110,231                          | 6.000%  | 6,614   | 54.023%                               | 3.241%   | 2.759%  | 3,058   |
| Splitnose rockfish South of 40°10' N.        | 965,514                          | 10.000%   | 96,551  | 54.023%                               | 5.402%   | 4.598%  | 44,638  |
| Starry flounder                              | 1,176,166                        | 10.000%   | 117,617   | 54.023%                               | 5.402%   | 4.598%  | 54,377  |
| Widow rockfish                               | 713,178                          | 5.100%  | 36,372  |                                       |  | 5.100%  | 36,372  |
| Yelloweye rockfish                           | 406                              | 5.700%  | 23  | 54.023%                               | 3.079%   | 2.621%  | 11  |
| Yellowtail rockfish North of 40°10' N.       | 8,189,203                        | 5.000%  | 409,460   | 54.023%                               | 2.701%   | 2.299%  | 189,304   |
| <b>2010 Shorebased Trawl Allocation Sum:</b> | <b>131,854,570</b>               | <b>Example Person's Sum:</b>  | <b>7,700,338</b>                                |                                       |  | <b>Example Person's NEW Sum:</b>                              | <b>3,560,035</b>                                      |
|  |                                  | <b>Example Person's Aggregate Non-Whiting QS:</b>   | <b>5.840%</b>                                   |                                       |  | <b>Example Person's NEW Aggregate Non-Whiting Percentage:</b> | <b>2.700%</b>   |
|  |                                  | <b>Control Limit for Aggregate Non-Whiting QS Holdings:</b>                                   | <b>2.700%</b>                                   |                                       |  | <b>Control Limit for Aggregate Non-Whiting QS Holdings:</b>   | <b>2.700%</b>   |
|  |                                  | <b>Example Person's Excess Aggregate Non-Whiting QS:</b>                                      | <b>3.140%</b>                                   |                                       |  | <b>NEW Excess Aggregate Non-Whiting QS:</b>                   | <b>0.000%</b>   |