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PACIFIC COAST GROUND FISH FISHERY

Shorebased Trawl Sector Post-season Quota Trading Final Rule Compliance Guide

On December 17, 2019, NOAA Fisheries published a Final Rule in the Federal Register (84 FR 68799) implementing regulatory changes under Amendment 21-4 to allow the use of the post-season Quota Pound (QP) trading in the Shorebased trawl Individual Fishing Quota program.

Regulations contained in this rule are effective **January 16, 2020**. The final rule, proposed rule, comments and supporting documents can be viewed by following this link to Regulations.gov

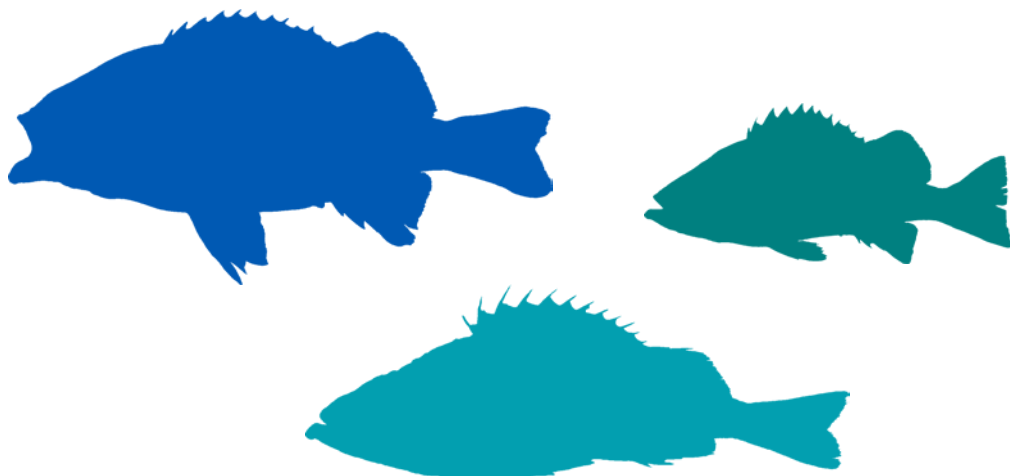
For Information on Post-Season Trades, contact:

- Groundfish Branch (206) 526-6140
- Fisheries Permit Office (206) 526-4353

This document serves as a Small Entity Compliance Guide, complying with section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996.

Table of Contents

Key Terms	3
Summary of Changes	5
New Rules for Covering Quota Deficits	6
Post-Season Quota Trading Period	8
Conditions for Covering Deficits	9
Additional New Rules for Covering Deficits	11
Example Situations.....	13
End-of-the-Year Account Corrections	15
Summary of Rules for Conducting Post-Season Trades	17
Example of Post-season Trading in IFQ System	19
FAQs	21



Terms Used in this Guide

Key Terms

Several new key terms are used in regulations and this guide to describe important timeframes for post-season Quota Pound (QP) trading. These terms are:

- **Base year** – the immediately prior fishing year in which a deficit is incurred, or unused QP was issued. This is the technical term used in regulations. *Example: 2019 will be the base year in 2020. In 2021, the base year will be 2020, and so on.*
- **Following year** – the year directly after the year a deficit is incurred. This is the technical term used in regulations. *Example: if a deficit occurred in 2019, the following year is 2020. If the current year is 2021, it would be considered the following year from 2020.*
- **Post-season trading period** – the period of time in which any and all post-season trading may occur: January 1st to on or about March 14th of the immediately following year. *Example: 2019 deficits can be cured in the 2020 post-season trading period.*
- **Post-season Pounds** – the term given to surplus QP remaining from the base year used in the IFQ trading system. Post-season pounds are tradeable only during the post-season trading period and can only be used to cover deficits that also remain from the base year.

Terms Used in this Guide

Acronyms and Initialisms

- **ABC**- Acceptable Biological Catch
- **ACL**- Annual Catch Limit
- **IBQ** – Individual Bycatch Quota
- **IFQ** – Individual Fishing Quota
- **NMFS** – National Marine Fisheries Service
- **QS** – Quota Share
- **QP** – Quota Pounds
- **VA** – Vessel Account

Summary of Changes Made in this Rule

Under this rule, NMFS is implementing three major changes to Shorebased IFQ Trawl Sector Quota management:

1. There will be a post-season quota trading period open from January 1 to about March 14 of each year to cover quota pound deficits carried over from the prior year.
2. We removed the annual quota pound vessel limit when covering a quota pound deficit carried over from the previous year.
3. We eliminated the September 1st quota transfer deadline to transfer quota pounds from a quota share account into a vessel account.

New Rules for Covering Quota Deficits

Background

Each year in the Shorebased IFQ program, some vessels end the fishing year with a quota pound (QP) deficit for one or more IFQ species or stocks, while other vessels have a surplus of remaining unused QP that expires in the new year. Vessels starting the year in deficit have been required to cover these deficits with QP issued for the new year. Often times these deficits could be covered with unused surplus QP that expired each year.

This issue was identified in the course of conducting the Catch Share Program 5-Year Review. In November 2018 the Pacific Fishery Management Council took final action to implement a “post-season” trading period to allow Vessel Account owners in the Shorebased IFQ program the option to trade unused QP, called Post-season pounds, to cover deficits remaining from the previous year.

The new post-season trading rule is intended to ensure that more newly issued quota is used for fishing, instead of being used to cover deficits carried over from the previous fishing year.

New Rules for Covering Quota Deficits

This rule gives Vessel Account (VA) owners **three options for covering deficits from the previous year**, in the current year:

1. **Using new QP** issued for the immediately following fishing year by carrying over the deficit (e.g., using current QP issued for 2020 to cover a deficit from 2019) This was previously the only option.
2. **Trading surplus QP (Post-season pounds)** from the base year with other VA owners during the post-season trading period (e.g., in 2020 vessel A buys surplus 2019 QP from vessel B to cover a 2019 deficit); or
3. **Using a combination** of their own QP from the following year, and post-season trading for others' surplus QP from the base year.

Description of Post-Season Quota Trading Period

Post-season trading occurs immediately following the end of the previous fishing year (base year), during a **post-season transfer period from January 1st to on or about March 14th**. NMFS will inform fishery participants of the exact date of the period via public notice. *Due to the timing of rulemaking, the first post-season trading period will open on January 16th, 2020.*

On or about March 1st, NMFS will issue a public notice to announce that catch data from the base year are finalized (e.g., data from 2019 are finalized in 2020). **Post-season trading will remain open for two weeks from the date of the notice** to allow final post-season trades. After this time the post-season trading period will close until the next year. Any **eligible Post-season pounds remaining will be issued as carryover QP** for the following year, as has been the practice with carryover in previous years of the Catch Share Program.

The **surplus carryover limit is still 10%** of a vessel account total QP for a stock or complex, provided the total carryover for the IFQ stock does not exceed the ABC for the following year. Instead of forgoing any surplus QP above 10%, as was previously required under old regulations, vessel account owners may now use the post-season trading period to trade that surplus as post-season pounds to Vessel Account owners who have a quota deficit in that IFQ stock.

Conditions for Covering Deficits: Using Post-Season Trading

You may trade Post-season pounds to cover a deficit from the base year for any IFQ species without incurring a regulatory violation if the following conditions are met:

- 1. The total QP (post-season pounds and new QP) required to cover your deficit is less than or equal to the deficit carryover limit.** You may still engage in post-season trading above the deficit carryover limit without incurring a violation for the trading itself, but will still incur a violation for having fished into deficit over the deficit carryover limit.
- 2. The total QP (post-season pounds and new QP) required to cover your total catch from the base year is not greater than the annual QP vessel limit for the base year.** You may engage in post-season trading to cure a deficit above the annual QP vessel limit without incurring a violation for the trading itself, but you will still incur a violation for having fished over the limit.

Conditions for Covering Deficits: Using New QP

You are not required to use post-season trading! Like in past years of the Shorebased IFQ program, you may cover a QP deficit that occurred in the prior base year for any IFQ species with new QP issued for the current year without incurring a violation (e.g. cover a 2019 deficit with 2020 QP) if you meet either of the following conditions:

- Sufficient QP are transferred into your Vessel Account to cure the deficit within 30 days of NMFS' issuance of QP to QS accounts in the following year.
- You as the Vessel Account owner, have declared out of the Shorebased IFQ Program for the year in which the deficit occurred. To declare out of the fishery, you must submit a signed, dated and notarized letter to NOAA Office of Law Enforcement, declaring out of the Shorebased IFQ program for the remainder of the year and invoke the carryover provision to cover the deficit. These letters may be sent to:

NMFS, West Coast Region, Office of Law Enforcement
ATTN: VMS
7600 Sand Point Way NE.
Seattle, WA 98115

If you as the vessel account owner cover the deficit later within the same calendar year, you may re-enter the Shorebased IFQ Program. If a deficit is documented less than 30 days before the end of the calendar year, exiting out of the Shorebased IFQ program is not required.

Additional New Rules for Covering Deficits

Relief from the Annual QP Vessel Limit for Covering Deficits

Previously, annual vessel QP limits have restricted the amount of deficit that could be covered in a single year. This rule removes QP limits *when covering prior year deficits*, allowing vessels to use any combination of methods to cover their deficits without restriction from the annual QP vessel limit of the base year *or* of the following year. While trading over the vessel limit will be allowed, the QS permit owner will still incur a violation for *fishing* over the annual vessel limit.

Vessels that incur a QP deficit that exceeds the annual QP vessel limit must declare out of the Shorebased IFQ program for the remainder of the year in which the deficit occurred. The annual QP vessel limit is only waived when covering the deficit in the following year, through post-season trading or deficit carryover.

The removal of this restriction will allow large deficits from high-bycatch events known as “lightning-strikes” to be cured more quickly. This measure will improve the prospects of vessels who experience lightning-strike events to be able to fish in future years. However, restriction from *fishing* in excess of annual QP vessel limits will still apply, and exceeding it will result in a violation.

Additional New Rules for Covering Deficits

Removal of the September 1st Quota Transfer Deadline

Starting in 2020, this rule will eliminate the September 1st quota transfer deadline, making unused QP in QS accounts available for transfer to a vessel account, for trading and fishing, until December 31st of the fishing year in which they were issued. 2021 will be the first year unused QP will remain in a QS account after January 1st of the following year and will be available for transfer to a vessel account for use in post-season trading until the end of the post-season trading period.

Example Situations: Post-Season Trading

Post-Season Trading Under the Deficit Carryover Limit

Vessel Account A has 1,500 lb of petrale sole QP in the base year, but ends the fishing year having caught 1,600 lb of petrale, incurring a deficit of 100 lb. Vessel Account B has 2,000 lb of petrale QP, and ends the year having only caught 1,700 lb, resulting in a surplus of 300 lbs. Because Vessel Account B can only carryover 10%, which is 200 lb of their QP, they can either forgo the additional 100 lb, or they can trade them as post-season pounds to Vessel Account A, which will allow Vessel Account A to no longer be in a deficit. Because 100 lb is less than the deficit carryover limit of 10% (150 lb), Vessel Account A will not incur any violations.

Example Situations: Post-Season Trading

Example: Post-Season Trading Over the Deficit Carryover Limit

However, if the same Vessel Account A ends the fishing year having instead caught 1,800 lb of petrale, they will have incurred a deficit of 300 lbs. If the same Vessel Account B ends the year having only caught 1,500 lb, Vessel Account B would have a surplus of 500 lb. Because Vessel Account B can only carryover 10%, which is 200 lb of their QP, they can either forgo the additional 300 lb, or they can trade them as post-season pounds to Vessel Account A, which will allow Vessel Account A to no longer be in a deficit. Because 300 lb is more than the deficit carryover limit of 10% (for Vessel Account A, 300 lb is equivalent to 20% of their QP), Vessel Account A will still incur a violation for fishing over this limit, but will not incur one for the trade itself.

Example: Lightning-Strike Event

Vessel Account C experiences a “lightning-strike” event, whereby the vessel catches an unexpectedly high load of bycatch. To cover this deficit, they must trade for other accounts’ QP above and beyond the annual vessel limit. Under this new rule, Vessel Account C may trade for as much QP as necessary (post-season pounds and new QP) in order to cover the deficit, even though these trades will exceed the annual vessel limit. While Vessel Account C would still incur violations for *fishing* above the annual limit, they would be able to cover them with post-season trading and return to the water the following year.

Post-season Trading and End-of-the-Year Account Corrections

Following each calendar year, NMFS must complete tabulating all catch data from the base year, concluding on or about March 1st, but sometimes occurring later in the year. This final data reconciliation is necessary to correct end-of-the-year VA balances, and issue carryover QP. This has been standard practice since the Catch Share Program was implemented. With the introduction of Post-Season trading regulations some new scenarios may occur related to end-of-the-year account corrections.

Example: Account Correction Resulting in a Deficit

At the beginning of the post-season trading period in 2020, Vessel Account A has 100 lb of sablefish post-season pounds. The vessel account owner transfers all 100 post-season pounds to Vessel Account B with a 100lb deficit for sablefish, resulting in a balance of 0 lb of sablefish QP in Vessel Account A. On or about March 1st, after NMFS completes final account corrections (finalizing catch data from the 2019 base year), it is discovered the Vessel Account A actually had 97 lb of sablefish QP, 3 QP fewer than had been displayed before correction. This correction **will** result in a 3 QP deficit that can be cured through post-season trading until the end of the period; two weeks from the date catch data from the base year is finalized and public notice issued.

Post-season Trading and End-of-the-Year Account Corrections

Example: Account Correction Resulting in a Surplus

During the post-season trading window, a Vessel Account C has a deficit of 25 QP for canary rockfish, and covers this deficit by acquiring surplus QP from Vessel Account D. On or about March 14, NMFS completes required account corrections, resulting in the Vessel Account C having a positive balance of 3 QP for canary rockfish. If eligible, these 3 QP surplus will be **issued as carryover** for the following year, subject to restrictions on carryover.

Summary of Rules for Conducting Post-Season Trades

- Vessel Accounts will retain the total of all unused QP from the base year into the immediately following year. In the IFQ Account System, these surplus QP will be labeled as “Post-season pounds”, and appear distinct from QP issued for fishing in the new year.
- You can only use “Post-season” pounds to cover QP deficits from the prior year (e.g., a deficit from 2019 covered in 2020). You cannot fish in the current year using Post-season pounds.
- After the post-season trading period, eligible post-season pounds will be converted and issued as carryover QP for fishing in the current fishing year. (e.g., eligible surplus QP from 2019 will be issued as carryover in 2020) This new rule does not change the timing or nature of carryover QP.
- You cannot cover QP deficits incurred in the current fishing year (e.g., 2020) during the post-season trading period with “Post-season” pounds (e.g., surplus QP from the 2019 base year).

Summary of Rules for Conducting Post-Season Trades

- The IFQ trading system will only accept “Post-season” pound transfers between vessel accounts in which QP is moving *from* a VA (or QS account) with a QP surplus *into* a VA with a QP deficit for the same IFQ species.
- The trading system will only transfer Post-season pounds up to the amount of the deficit; any QP in excess of the deficit that would result in a positive balance will not be transferred.
- A NMFS account correction can cause a VA to have a deficit following a transfer out of “Post-season” pounds earlier in the post-season trading period. **This can happen until NMFS issues public notice that catch data is finalized on or about March 1st.** You can use post-season trades to cure the new deficit until the end of the period, two weeks after public notice.

Example: Post-Season Trading IFQ System

-When you log into the IFQ trading system during the post-season trading period you will be notified of any deficits from the prior year that are eligible to be covered with Post-season pounds.

Quota Pound Balance for Account: ##### Vessel Name: "F/V Post-Trader"

Your account has a prior year deficit carryover. You are eligible to cover this deficit with Post Season pounds.

Quota year: 2020

Quota Year	IFQ Species	QP Transferred In (A)	QP Transferred Out (B)	Prior Year Deficit Carryover (C)	Catch To Date (D)	Pending QP Transfer Incoming	Pending QP Transfer Outgoing (E)	Other QP Balance	Current Year QP Balance	Available QP Balance (F) = (A) - (B+C+D+E)	QP Limit to Transfer In
2020	Arrowtooth flounder	0	0	0	0	0	0	0	0	0	5,895,979
2020	Bocaccio rockfish South of 40°10' N.	0	0	2,000	0	0	0	0	0	-2,000	285,439
2020	Canary rockfish	0	0	0	0	0	0	0	0	0	219,194
2020	Chillipepper rockfish South of 40°10' N.	0	0	0	0	0	0	0	0	0	638,309
2020	Cowcod South of 40°10' N.	0	0	0	0	0	0	0	0	0	901
2020	Darkblotched rockfish	0	0	0	0	0	0	0	0	0	103,639
2020	Dover sole	0	0	0	0	0	0	0	0	0	4,150,970
2020	English sole	0	0	0	0	0	0	0	0	0	1,627,849
2020	Lingcod North of 40°10' N.	0	0	0	0	0	0	0	0	0	251,742
2020	Lingcod South of 40°10' N.	0	0	0	0	0	0	0	0	0	142,392
2020	Longspine thornyheads North of 34°27' N.	0	0	0	0	0	0	0	0	0	504,175
2020	Minor shell rockfish North of 40°10' N.	0	0	0	0	0	0	0	0	0	200,559

-If you have surplus QP from the prior (base) year, these will be available during the post-season trading period from the IFQ trading drop-down menu under “post season transfer” as “Post Season pounds.”

Select the Quota Pound Transaction Type for Account: ##### Vessel Name: "F/V Post-Trader"

* Current year QPs consist of QPs allocated in the current year. Other QPs consist of any surplus carryover QPs, any transfer Pounds you want to transfer.

- Select Quota Pound Type
 - Current Year QP Transfer
 - Other QP Transfer
 - Post Season Transfer

IFQ Species	Available QP	Transfer QP
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Example: Post-Season Trading IFQ System

-Post-season transfers, trades made with post-season pounds will be labeled, and recorded as such when pending and accepted. You will receive detailed confirmation of the post-season transfer as with other types of quota transactions.

Quota Pound Transfer Summary for Account: ##### Vessel Name: "F/V Post-Trader"

Quota year: 2020 Download Data

Status	Transfer Type	To Vessel Name	To Vessel Owner	Total QP	Number Of Species	Total Monetary Compensation	Date Initiated	Expiration Date	Date Completed	Transaction ID
Pending - - Post Season	Transfer - Post Season	[REDACTED]	[REDACTED]	10	1	\$0.00	01/07/2020 03:22 PM	01/21/2020 11:59 PM	-	
Accepted - - Post Season	Transfer - Post Season	[REDACTED]	[REDACTED]	5	1	\$0.00	01/07/2020 03:05 PM	-	01/07/2020 03:06 PM	
Accepted	Transfer	[REDACTED]	[REDACTED]	1,000	1	\$0.00	01/07/2020 02:59 PM	-	01/07/2020 02:59 PM	
Accepted	Transfer	[REDACTED]	[REDACTED]	1,615,652	27	\$0.00	01/05/2020 02:18 PM	-	01/05/2020 02:20 PM	

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Remember! The IFQ system will not process transfers of Post-season pounds greater than the deficit being cured; the system will provide an error message and the transfer will not be initiated.

Frequently Asked Questions and Answers

Q: When does post-season trading happen?

A: The post-season trading window is *each year* from January 1st to on or about March 14th, and will end two weeks after NMFS finalizes catch accounting data from the base year. NMFS will issue a public notice to inform fishery participants of the exact date.

Q: Is QP traded during the post-season trading window (e.g., 2019 QP) available for fishing the following year (e.g., 2020 fishing year)?

A: No. Surplus QP traded during post-season trading may only be used to cure vessel account deficits from the base year, unless issued as carryover after the post-season trading period ends.

Q: What is the maximum surplus carryover limit?

A: Surplus carryover is limited to at most 10% of a vessel account's total QP for a stock or stock complex, as long as the total carryover does not exceed the ABC of that stock or stock complex for the following year.

Q: How much deficit can I carryover to the following year?

A: There is no limit to the amount of deficit QP that may be carried over from the base year to the following year. However, if a QS permit holder carries over more than the deficit carryover limit, they will incur an enforcement violation. Additionally, all deficits require a pound for pound payback before the vessel may fish in the Shorebased IFQ Program.

Frequently Asked Questions and Answers

Q: What is the deficit carryover limit?

A: The deficit carryover limit is 10% of a VA's cumulative QP (both used and unused) in the vessel account 30 days after the date the deficit is documented. If a VA owner exceeds this limit, they will incur a violation.

Q: What if my surplus carryover places me above the annual QP vessel limit for the following year?

A: Surplus carryover that would place a vessel above the annual QP vessel limits for the immediately following year will not be issued.

Q: What happens when IFQ for a species is reallocated after the base year?

A: If an IFQ species is reallocated between the base year and the following year due to changes in management areas or the subdivision of a species group, a vessel account will not carryover the deficit for that IFQ species into the following year.

Q: What if I declare out of the Shorebased IFQ Program for the year, then cover the deficit later the same year?

A: A vessel account owner who has declared out of the Shorebased IFQ Program for the year and invoked the carryover provision to cover the deficit may re-enter the program if they cover the deficit later within the same calendar year.

Frequently Asked Questions and Answers

Q: What if I incur a deficit less than 30 days before the end of the calendar year?

A: A vessel account owner who has a deficit documented less than 30 days before the end of the calendar year is not required to declare out of the Shorebased IFQ program, though fishing while in a deficit is still prohibited.

Q: What happens after the Post-Season Trading Period?

A: Any base year QP or IBQ pounds (Post-season pounds) remaining in vessel accounts will be suspended from use while NMFS calculates annual surplus carryover amounts. NMFS will consult with the Pacific Fishery Management Council in making its final determination of the IFQ species and total QP or IBQ pound amounts to be issued as annual surplus carryover. After NMFS completes this determination, suspended base year QP or IBQ pounds in excess of the annual surplus carryover amount will expire. NMFS will then release any remaining suspended base year QP or IBQ pounds to vessel accounts and notify owners of the issuance. These pounds are only valid for the year in which they are issued.

