

NOTICE OF OFFICE OF MANAGEMENT AND BUDGET ACTION

Date 12/02/2011

Department of Commerce
National Oceanic and Atmospheric Administration
FOR CERTIFYING OFFICIAL: Simon Szykman
FOR CLEARANCE OFFICER: Diana Hynek

In accordance with the Paperwork Reduction Act, OMB has taken action on your request received 12/02/2011

ACTION REQUESTED: Revision of a currently approved collection
TYPE OF REVIEW REQUESTED: Regular
ICR REFERENCE NUMBER: 201112-0648-001
AGENCY ICR TRACKING NUMBER:
TITLE: Pacific Coast Groundfish Trawl Rationalization Program Permit and License Information Collection
LIST OF INFORMATION COLLECTIONS: See next page

OMB ACTION: Approved without change
OMB CONTROL NUMBER: 0648-0620
The agency is required to display the OMB Control Number and inform respondents of its legal significance in accordance with 5 CFR 1320.5(b).

EXPIRATION DATE: 11/30/2014 DISCONTINUE DATE:

BURDEN:	RESPONSES	HOURS	COSTS
Previous	1,949	645	17,273
New	1,955	651	17,337
Difference			
Change due to New Statute	0	0	0
Change due to Agency Discretion	6	6	64
Change due to Agency Adjustment	0	0	0
Change Due to Potential Violation of the PRA	0	0	0

TERMS OF CLEARANCE:

OMB Authorizing Official: Kevin F. Neyland
Deputy Administrator,
Office Of Information And Regulatory Affairs

List of ICs

IC Title	Form No.	Form Name	CFR Citation
QS Permit Renewal (and application after QS transfer)	NA, NA	Trawl Rationalization Quota Share Permit Renewal , Trawl Rationalization Quota Share Permit Application	
First Receiver Site License Initial Issuance/Renewal	NA	Pacific Coast Groundfish First Receiver Site License Application	
MS Renewal	NA	Mothership Limited Entry Permit Renewal	
MS Transfer	NA	Change of vessel registration owner or permit owner application	
Catcher/Processor Co-op Permit	NA	Catcher/Processor Co-op Permit Application	
Mothership Co-op Permit Application	NA	Pacific Coast Groundfish Mothership Cooperative Permit Application	
Change in vessel fishing for coop			50 CFR 660.25
Material change to Coop			50 CFR 660.25
Mothership Withdrawal/Mutual Exception			50 CFR 660.25
Ownership interest	NA	Trawl Identification fo Interest	
Ownership interest form when transferring	NA	Trawl Identification of Interest	
Vessel Account Registrastion/Activation/R renewal (initial and ongoing) and NEW account registration (ongoing)	NA	Trawl Rationalization Vessel Account Renewal Form	
Quota Share Account Registration			50 CFR 660.25
Quota Share/Quota Pounds transfer from QS account to vessel account			50 CFR 660.25
Quota Pounds Transfer for Quota Share account to vessel account			50 CFR 660.25
Transaction dispute request			50 CFR 660.25

List of ICs

IC Title	Form No.	Form Name	CFR Citation
Transfer (severability) of Mothership/Catcher Vessel (MS/CV)Endorsement and whiting catch history assignment (CHA)	NA	Change in registration of a mothership/catcher vessel endorsement and catch history assignment - application	

PAPERWORK REDUCTION ACT SUBMISSION

Please read the instructions before completing this form. For additional forms or assistance in completing this form, contact your agency's Paperwork Clearance Officer. Send two copies of this form, the collection instrument to be reviewed, the supporting statement, and any additional documentation to: Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.

1. Agency/Subagency originating request	2. OMB control number b. <input type="checkbox"/> None a. _____ - _____
3. Type of information collection (<i>check one</i>) a. <input type="checkbox"/> New Collection b. <input type="checkbox"/> Revision of a currently approved collection c. <input type="checkbox"/> Extension of a currently approved collection d. <input type="checkbox"/> Reinstatement, without change, of a previously approved collection for which approval has expired e. <input type="checkbox"/> Reinstatement, with change, of a previously approved collection for which approval has expired f. <input type="checkbox"/> Existing collection in use without an OMB control number For b-f, note Item A2 of Supporting Statement instructions	4. Type of review requested (<i>check one</i>) a. <input type="checkbox"/> Regular submission b. <input type="checkbox"/> Emergency - Approval requested by _____ / _____ / _____ c. <input type="checkbox"/> Delegated
	5. Small entities Will this information collection have a significant economic impact on a substantial number of small entities? <input type="checkbox"/> Yes <input type="checkbox"/> No
	6. Requested expiration date a. <input type="checkbox"/> Three years from approval date b. <input type="checkbox"/> Other Specify: <u>11/30/2013</u>
7. Title	
8. Agency form number(s) (<i>if applicable</i>)	
9. Keywords	
10. Abstract	
11. Affected public (<i>Mark primary with "P" and all others that apply with "x"</i>) a. ___ Individuals or households d. ___ Farms b. ___ Business or other for-profit e. ___ Federal Government c. ___ Not-for-profit institutions f. ___ State, Local or Tribal Government	12. Obligation to respond (<i>check one</i>) a. <input type="checkbox"/> Voluntary b. <input type="checkbox"/> Required to obtain or retain benefits c. <input type="checkbox"/> Mandatory
13. Annual recordkeeping and reporting burden a. Number of respondents _____ b. Total annual responses _____ 1. Percentage of these responses collected electronically _____ % c. Total annual hours requested _____ d. Current OMB inventory _____ e. Difference _____ f. Explanation of difference 1. Program change _____ 2. Adjustment _____	14. Annual reporting and recordkeeping cost burden (<i>in thousands of dollars</i>) a. Total annualized capital/startup costs _____ b. Total annual costs (O&M) _____ c. Total annualized cost requested _____ d. Current OMB inventory _____ e. Difference _____ f. Explanation of difference 1. Program change _____ 2. Adjustment _____
15. Purpose of information collection (<i>Mark primary with "P" and all others that apply with "X"</i>) a. ___ Application for benefits e. ___ Program planning or management b. ___ Program evaluation f. ___ Research c. ___ General purpose statistics g. ___ Regulatory or compliance d. ___ Audit	16. Frequency of recordkeeping or reporting (<i>check all that apply</i>) a. <input type="checkbox"/> Recordkeeping b. <input type="checkbox"/> Third party disclosure c. <input type="checkbox"/> Reporting 1. <input type="checkbox"/> On occasion 2. <input type="checkbox"/> Weekly 3. <input type="checkbox"/> Monthly 4. <input type="checkbox"/> Quarterly 5. <input type="checkbox"/> Semi-annually 6. <input type="checkbox"/> Annually 7. <input type="checkbox"/> Biennially 8. <input type="checkbox"/> Other (describe) _____
17. Statistical methods Does this information collection employ statistical methods <input type="checkbox"/> Yes <input type="checkbox"/> No	18. Agency Contact (person who can best answer questions regarding the content of this submission) Name: _____ Phone: _____

19. Certification for Paperwork Reduction Act Submissions

On behalf of this Federal Agency, I certify that the collection of information encompassed by this request complies with 5 CFR 1320.9

NOTE: The text of 5 CFR 1320.9, and the related provisions of 5 CFR 1320.8(b)(3), appear at the end of the instructions. *The certification is to be made with reference to those regulatory provisions as set forth in the instructions.*

The following is a summary of the topics, regarding the proposed collection of information, that the certification covers:

- (a) It is necessary for the proper performance of agency functions;
- (b) It avoids unnecessary duplication;
- (c) It reduces burden on small entities;
- (d) It used plain, coherent, and unambiguous terminology that is understandable to respondents;
- (e) Its implementation will be consistent and compatible with current reporting and recordkeeping practices;
- (f) It indicates the retention period for recordkeeping requirements;
- (g) It informs respondents of the information called for under 5 CFR 1320.8(b)(3):
 - (i) Why the information is being collected;
 - (ii) Use of information;
 - (iii) Burden estimate;
 - (iv) Nature of response (voluntary, required for a benefit, mandatory);
 - (v) Nature and extent of confidentiality; and
 - (vi) Need to display currently valid OMB control number;
- (h) It was developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected (see note in Item 19 of instructions);
- (i) It uses effective and efficient statistical survey methodology; and
- (j) It makes appropriate use of information technology.

If you are unable to certify compliance with any of the provisions, identify the item below and explain the reason in Item 18 of the Supporting Statement.

Signature of Senior Official or designee

Date

Agency Certification (signature of Assistant Administrator, Deputy Assistant Administrator, Line Office Chief Information Officer, head of MB staff for L.O.s, or of the Director of a Program or StaffOffice)

Signature

Date

Signature of NOAA Clearance Officer

Signature

Date

**SUPPORTING STATEMENT
PACIFIC COAST GROUND FISH TRAWL (PCGT) RATIONALIZATION PROGRAM
PERMIT AND LICENSE INFORMATION COLLECTION
OMB CONTROL NO. 0648-0620**

INTRODUCTION

This supporting statement describes revisions to the current information collection, OMB Control No. 0648-0620.

The [Magnuson-Stevens Fishery Conservation and Management Act](#) (MSA) authorizes the Fishery Management Councils to prepare and amend fishery management plans (FMP) for any fishery in waters under its jurisdiction. The National Oceanic and Atmospheric Administration (NOAA) National Marine Fisheries Service (NMFS) manages the groundfish fishery in the 3-200 mile zone off of the coasts of Washington, Oregon and California. In 1993, the Council, under Amendment 6 ([50 CFR 660 Subpart D](#)), implemented a limited entry program for the groundfish fishery. Currently, there are a total of 399 Pacific Coast limited entry permits of which 177 permits are endorsed for trawl gear.

In January 2011, NMFS implemented a trawl rationalization program, a catch share program, for the Pacific coast groundfish fishery's trawl fleet. The program was developed through Amendment 20 to the FMP and consists of an IFQ program for the shorebased trawl fleet (including whiting and non-whiting fisheries); and cooperative (coop) programs for the at-sea mothership (MS) and catcher/processor (C/P) trawl fleets (whiting only). Fixed allocations to the limited entry trawl fleet were developed through a parallel process with Amendment 21 to the FMP.

The regulations implementing the program were effective January 1, 2011; however, all of the necessary tracking systems to make the program operational became active on January 11, 2011, the date fishing began under the new program. Since that time, the Council and NMFS have been addressing implementation issues as they arise, some of which are the subject of this proposed rule. The Council took final action at its June 2011 meeting on some trailing actions for the program that are included in this proposed rule. This proposed rule also includes items that are further revisions and refinements to the program that are still within Council intent for Amendments 20 and 21, including revisions to existing language to provide greater clarity and to remove outdated language and include some minor changes to the existing program.

JUSTIFICATION

The trawl rationalization program is intended to increase net economic benefits, create individual economic stability, provide full utilization of the trawl sector allocation, consider environmental impacts, and achieve individual accountability of catch and bycatch for participants in the shorebased IFQ groundfish fishery and at-sea whiting mothership fishery.

1. Explain the circumstances that make the collection of information necessary.

First Receiver Site License (FRSL)

NMFS is proposing several changes that will affect the first receiver site license requirements. First, NMFS intends to revise the regulation to require every buyer of groundfish from an IFQ landing to have a first receiver site license for each physical location where they purchase groundfish as part of an IFQ landing. This revision will clarify that the buyer is accountable for having a FRSL for every landing location where they purchase IFQ groundfish and meeting all of the requirements required for an IFQ landing.

The current regulations define a first receiver as “a person who receives, purchases, or takes custody, control, or possession of catch onshore directly from a vessel”. This definition resulted in licenses being issued to both buyers of IFQ groundfish and to individuals/entities that are the first receiver (serve to offload, weigh and sort) of an IFQ landing. To date, some buyers have employed a first receiver with a license for a specific site to meet the requirements of an IFQ landing (must have a catch monitor present to observe/account for the landing, the landing must be weighed and sorted before transported away from the landing site). Those first receivers typically fill out an E Fish ticket for the buyer(s) of the IFQ groundfish but the E fish ticket does not indicate which license holder met the requirements for a legal IFQ landing. NMFS wants to clearly assign responsibility for meeting the IFQ landing requirements to the actual buyer who is given on the E-ticket for specific landing at specific site. This will eliminate current 3rd party arrangements where a first receiver (who has a license for the landing location) assumes the responsibility of meeting the IFQ landing requirements on behalf of the buyer(s). By requiring buyers to have a FRSL for each landing location where they buy IFQ groundfish, the catch accounting system can readily associate the buyer as listed on the E ticket to the list of persons who currently have valid first receiver site licenses.

Second, NMFS is proposing to revise the application process for a first receiver site license so that it does not require a separate written request for a site inspection. Currently, a separate written request for a site inspection must be included with the application in order to receive approval for the first receiver site license application. This requirement is unnecessary and redundant. NMFS is proposing to revise the regulations at §660.140(f)(3)(iii)(B) to state that NMFS will contact applicants to arrange an inspection after receiving a complete first receiver site license application, including the proposed catch monitoring plan.

Quota Share and Vessel Accounts

NMFS is proposing to remove references from the regulations that required the account owner to formally request NMFS to register an account manager. Beginning in either late 2011 or 2012, owners of the accounts will have the capability to designate certain roles and associated privileges for users within their online QS and vessel account system under an "account information" tab. This new functionality will alleviate the need for NMFS to establish these roles/privileges on their behalf. For example, account owners will be able to designate whether an individual can initiate or accept/reject transfers of quota pounds, while others will be designated to only view account balances. To date, NMFS has allowed for vessel owners to

designate a vessel account manager through a formal request and only about 30% have made this designation. Account managers typically have the full range of privileges available in the account system.

Given that account managers frequently are employees of account owners who may have changing duties or employment status, NMFS believes it best to provide QS and vessel account owners the ability to grant roles directly in the system. The regulations at §660.140(d)(2)(ii), (d)(3)(i)(D), (e)(2)(ii), and (e)(3)(i)(D) will be revised to remove the reference to designating an account manager.

In addition, NMFS proposes to clarify regulations regarding what constitutes a change in ownership for all QS (permits) and vessel accounts. The current regulations do not specify exactly what constitutes a change in ownership. The revision to the regulations will state that any change to the legal, registered name of the QS permit/account owner, or vessel account owner is considered a change in ownership. A change will include adding or removing an individual or entity from the current legally registered name on the QS permit or vessel account.

Transfer (severability) of Mothership/Catcher Vessel (MS/CV) Endorsement and whiting catch history assignment (CHA)

With implementation of the trawl rationalization program, MS/CV endorsements and associated whiting CHA were issued for limited entry trawl permits that met the qualifying requirements for participation in the mothership sector of the whiting fishery. The CHA is expressed as a percentage of the sector's annual optimal yield. The initial allocation was based on the relative catch history of the individual permits during the qualifying period. Each qualifying trawl permit (37) was issued one MS/CV endorsement and CHA.

Subsequent to the implementation of the program, it was found that some permit owners participated primarily in the shoreside groundfish fishery and had some relatively minor amounts of catch history in the at-sea whiting mothership fishery. These permits received MS/CV endorsements with small amounts of whiting CHA. In order to use the CHA allocation associated with an MS/CV endorsement, the permit must be assigned to a coop. For the owners of permits with relatively small amounts of whiting CHA, the burden (transaction costs) of joining a coop may not be worth the benefits from that permit's allocation. While these permit owners could sell their limited entry trawl permits to other mothership whiting fishery participants; they might not want to because they need a limited entry trawl permit to participate in the Shorebased IFQ Program. If permit owners with small amounts of whiting CHA join coops each year, there may be transaction costs that offset the benefits of the small allocation, reducing the overall efficiency and benefits from the trawl rationalization program.

If permits with small amounts do not join a coop, their allocations will automatically go to the non-coop fishery where they may go unharvested. If all other MS/CV-endorsed permits have joined coops and the owners of the permits with small allocations do not have interest in gearing up for the mothership whiting fishery, this situation may contribute toward an incentive for MS/CV-endorsed permits to enter the non-coop fishery instead of joining a coop, decreasing the effectiveness of the trawl rationalization program.

In order to address these concerns, the Council took final action at their June 2011 meeting to allow permit owners to formally request a change in the registration of the MS/CV endorsement and its associated CHAs from one limited entry trawl permit to another (called severability in Council documents). Under the proposed regulations, multiple MS/CV endorsements and associated CHA could be registered to a single limited entry trawl permit, and each MS/CV endorsement will be permanently linked with its CHA as originally issued by NMFS. An MS/CV endorsement cannot be divided or registered separately to another limited entry trawl permit separate from its CHA. In addition to the MS/CV endorsement and CHA being linked together, a any change in registration of an MS/CV endorsement and CHA must be to another limited entry trawl permit (an MS/CV endorsement and CHA cannot be registered to fixed gear permit or held independent of a trawl permit). The owner of the MS/CV endorsements and CHAs must be the same as the owner who is registered on the associated limited entry trawl permit.

Each year any request to change the registration of a unique MS/CV endorsement and associated CHA allocation from one trawl permit to another trawl permit must be submitted to NMFS during the period of September 1 – December 31. This coincides with the trawl permit renewal period and will allow NMFS to make all changes in MS/CV endorsement and CHA registrations effective on January 1 of the following year. These registrations that are effective January 1 will remain in place for that calendar year. This schedule is necessary as MS coop permit applications may be submitted starting on February 1 and it is necessary for coop managers to know which CHA amounts are registered to specific permits.

In addition, the current groundfish regulations provide that trawl permits may be combined for the purposes of increasing the size endorsement of the remaining permit. The combination provision allows permit owners who choose to either increase the length of their vessel, or to purchase or build a larger vessel, to combine 2 or more permits to increase the size endorsement on one permit. When permits are combined, only one permit remains active while all others are permanently expired. *A request to combine is covered in OMB Control 0648-0203 but does not fully address impacts on MS/CV endorsements and CHA that are registered to these permits.* The current regulations provide that if two or more MS/CV endorsed permits are combined, the resultant permit will have one MS/CV endorsement and the CHA amount will be a single CHA amount which is the aggregate of all CHAs given on each of the permits involved in the combination. The proposed regulations provide an additional provision that will allow a permit owner to maintain the distinct CHA amounts on the resulting permit, however the permit owner must first change the registration of the CHA amounts to one of the permits involved in the combination while the other permits involved in the combination will have no CHA allocations registered to them. The practical effect is if the permit owner wants to maintain distinct MS/CV endorsements and CHA allocations on the permit resulting from a combination, he/she must first transfer all MS/CV endorsements and CHA to one permit involved in the combination.

Mothership Cooperative Permit Application

The proposed regulation will allow a trawl endorsed permit with two or more MS/CV endorsements and CHA amounts to participate in two or more coops simultaneously or to assign the catch history assignment to both a coop and the non-coop fishery. Specifically, the owner of

a single trawl permit could designate a specific CHA amount to be assigned to one coop and assign a second CHA amount to another coop. The MS coop permit application, as currently described in OMB Control 0648-0620, does not provide for the respondent to specify which MS/CV endorsement and CHA is being assigned to the coop.

2. Explain how, by whom, how frequently, and for what purpose the information will be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, then explain how the collection complies with all applicable Information Quality Guidelines.

First Receiver Site License:

The two revisions to the approved collection will: 1) clarify who is required to have a first receiver site license and 2) remove the current requirement that a respondent make a separate request for a site inspection at the time of application. The existing instructions in the FRSL application form will be modified to reflect these changes. Neither of the proposed revisions made here require a new or expanded information collection. The frequency of making an application (licenses are effective for one year after approval by NMFS) and purpose of the information collection remains unchanged.

Most of the current first receiver site license holders are buyers. The clarification that buyers must hold a FRSL may require some additional buyers to apply for a FRSL specific to a particular location. However, the estimated number of additional buyers who may be required to apply for a FRSL will fall within the current estimate of number of respondents (to date about 50 entities have received a FRSL and the estimated number of respondents in the approved collection is 80). The time burden for any new buyers who need to obtain a FRSL may be reduced as buyers who share a common landing facility can submit a single standard catch monitor plan (also required as part of the application) for that location.

Also, the elimination of the requirement for a separate written request for a site inspection will reduce the time burden slightly. The proposed regulation will clarify that any application for a FRSL serves as a request for a site inspection. Currently, most applicants send a very brief email or letter to make this request. As such, the reduction in time burden is minimal. This requirement for a site inspection is covered in OMB Control 0648-0619, however, as a practical matter these site inspection requests were required as part of the application for the FRSL. The proposed regulations will eliminate the requirement for a separate written request for a site inspection and clarify that any request for a FRSL will serve as the request for a site inspection.

QS Account (Permit) and Vessel Account

The two proposed revisions will: 1) eliminate the need for the account owner to formally request NMFS to register an account manager either as part of account renewal or during the year and 2) clarify that any change in the ownership of QS permit (registration of ownership is fixed on QS permits for 2011 and 2012 but may change starting in 2013) or of a vessel will require the new owners to make a new application for a QS permit or re-register for a vessel account. The revisions proposed for the QS account and vessel account will not require new or expanded

information collections, or a change the frequency of establishing or renewing the QS account (permit) and vessel account.

The designation of an account manager is currently an optional requirement. The approved collection anticipated that such designations will be made typically at the time such accounts were initially established or renewed and were not itemized as a separate request. The revision to the approved collection slightly reduces the burden on account owner when either registering for an account or renewing an account or requesting it mid-year. However, if owners of such accounts want to establish access levels (transactions v. view only) for various additional users, they will have to make such designations in the online account.

Similarly, although the approved information collection anticipated that changes in the registrants will be made to the QS and vessel accounts, the regulations were not as clear in specifying exactly what type of change will require a new registration. The revision will stipulate that any change to the legal registrant to these accounts (either adding or removing partner, or modifying an entity/person name) prompts a need to reregister the accounts in the name of the new owners. Among the reasons for this change are: 1) there is a need for the registration to accurately reflect ownership of such accounts; 2) NMFS must establish unique identifiers in its data base for any new ownership group to aid with tracking and monitoring responsibilities; and 3) NMFS must obtain an ownership interest form from any new registrant to check for compliance with various accumulation limits. The number of additional applications for changes in ownership of these accounts is covered within the current estimates of the approved collection.

Change in registration of MS/CV endorsements and Catch History Assignment (CHA)

This revision will require a new information collection. Specifically, any permit owner who wishes to change an MS/CV endorsement and CHA registration to another trawl permit will be required to submit to NMFS an application form. NMFS will review and either approve or disapprove the request. Any disapproval by NMFS can be appealed by the permit owner consistent with existing regulations specifying the process for appeals (i.e.; must be in writing, allege facts, etc). Requests to transfer MS/CV endorsements and CHA from one trawl permit to another must be requested in the September 1 – December 31 period each year.

The request to change an MS/CV endorsement and CHA will require respondents to provide the following information on the attached application form:

- **Section A – Current Permit Registration:** permit number, MS/CV endorsement and CHA registration number, permit owner name, date of birth or tax identification number, business address, business phone, fax number and email (optional).
- **Section B – New Permit Registration:** permit number that MS/CV and CHA will be registered to, permit owner name, date of birth or tax identification number, business address, business phone number, fax number, and email (optional). Also, Section B requires that the applicant indicate whether the transaction (change in registration) was monetary or non-monetary in nature and if the MS/CV endorsement and CHA was monetary, to provide the sale price. If the transaction was non-monetary, the applicant

must indicate the nature of transaction. For example, the transaction may involve a trade of the whiting CHA for quota pounds of a particular IFQ species. Section C – Certify and Notary: The applicant or their authorized representative must attest that the information provided is true and correct and sign and date the form. The form must be notarized.

This information collection will be required to formally establish accurate registrations to support the sale of such endorsements and whiting CHA allocations. Both NMFS and industry need accurate records of ownership of specific MS/CV endorsement and CHA currently registered to a specific trawl permit. Coop managers will want to know how much CHA is assigned to a particular permit owner as they make annual plans to form a coop. Permit owners will want to identify whiting CHA allocations that they may seek to purchase. Further, NMFS must track the amount of CHA registered to individual permit owner for compliance with accumulation limits. The current regulations limit the amount of CHA that may be owned to 30%. If an individual through ownership of multiple permits with MS/CV endorsements and CHA exceeds the accumulation limit, NMFS is required to disapprove the transfer.

The questions regarding nature of the transaction (non-monetary v. monetary) are required in order to help NMFS analyze and assess the program. NMFS is required to review the program after 4 years and this information will assist in understanding the relative value of whiting allocations to individual permit owners and better understand the nature of non-monetary transactions that may involve whiting CHA.

In addition, the regulations will be changed to allow the owner of a permit with 2 or more MS/CV endorsements and CHA to specify that individual's CHA amounts be assigned to a coop. If there are 2 or more coops, a permit owner could be a member of multiple coops and individual CHA amounts could be assigned to different coops. Any mothership cooperative entity that makes an application for a MS coop permit will be required to specify in the application form which MS/CV endorsements and CHA are being assigned to their coop. The existing MS coop application form has been revised such that in Section B, in addition to providing the permit number that is joining the coop and the CHA amount, the applicant will need to provide the registration number for MS/CV endorsement and CHA that will be assigned to the coop. The incremental time burden will be minimal and does not require a revision to the current time burden estimate in the approved collection.

The estimated number of changes in MS/CV endorsement and CHA registrations from one trawl permit to another trawl permit includes situations where a permit owner registers all MZS/CV endorsements and CHA to one permit as part of a permit combination request, for the purpose of increasing the size endorsement of the remaining permit. Permit owners may request changes in MS/CV endorsement and CHA registrations to one trawl permit to maintain them as unique registrations on the resulting permit. Please note that the number of combinations requested in a given year is very limited (1-2 per year maximum).

The number of possible changes in MS/CV endorsement and CHA registrations is covered as part of the estimate given in Question 12 below (estimate of 6 requests per year). . The cost of

purchasing permits for purpose of combination and the loss of a permit in the combination process makes such actions expensive, and as such, the number of requests to combine permits is very few.

The proposed regulations provide that any MS/CV endorsed permit owners that have already combined permits before January 1, 2012, a window of time would be provided for them to change that permit arrangement by sending a letter to NMFS. Since January 2011, only one permit owner combined 2 MS/CV endorsed permits and the resulting permit has one CHA with an aggregated amount. The proposed regulations would provide a one-time opportunity to make a request that NMFS reissue the permit with 2 separate MS/CV endorsement and catch history assignment allocations. The proposed regulation would afford the permit owner with the same option being afforded to other permits starting in 2012 as described in the prior paragraph. Any such request would need to be submitted to NMFS within 90 days of the publication of the final rule.

Mothership Cooperative Permit Application

The approved MS Coop Permit form has been revised to add a registration number for a unique MS/CV endorsement and catch history assignment (it is one extra column in Section B). The current collection anticipates one application per year and estimates 4 hours to prepare the application. The requirement of the respondent to list each MS/CV endorsement and CHA registration number on the application form (estimated 30 entries x ~30 seconds to copy from permit = 15 minutes) will be covered within the existing time burden estimate of 4 hours.

It is anticipated that the information collected will be disseminated to the public or used to support publicly disseminated information. As explained in the preceding paragraphs, the information gathered has utility. NMFS will retain control over the information and safeguard it from improper access, modification, and destruction, consistent with National Oceanic and Atmospheric Administration (NOAA) standards for confidentiality, privacy, and electronic information. See response to Question 10 of this Supporting Statement for more information on confidentiality and privacy. The information collection is designed to yield data that meet all applicable information quality guidelines. Prior to dissemination, the information will be subjected to quality control measures and a pre-dissemination review pursuant to [Section 515 of Public Law 106-554](#).

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.

NMFS will make the application form to change the MS/CV and CHA registration available as a fillable form (pdf) on the Web site. NMFS will continue to consider whether to develop a Web-based system to allow applicants to make such requests online.

4. Describe efforts to identify duplication.

This is a unique information collection and does not duplicate other collections. This opportunity for an exemption from current Federal groundfish regulations has been developed by

the Pacific Fishery Management Council and is unique to the Pacific Coast groundfish fishery. The exemption has been reviewed been discussed at least 2 Council meetings and the proposed rule will be subject to public comment. No issues have been raised in the Council process identifying duplication. This program and the associated information collection are targeted at specific individuals in the trawl fishing industry and authorize specific information required to implement and administer this program.

5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.

The applicants will be small businesses. The collection of information does not impose a significant impact on small entities.

6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.

If NMFS does not allow for changes in MS/CV endorsement and CHA amounts, the industry will not have the flexibility to redirect CHA amounts to other permits. As mentioned above, individuals will be faced with having to sell the trawl permit and the endorsement/CHA allocation, when permit owner may wish to retain the trawl permit to conduct their shorebased IFQ operations. Further, because some CHA allocations are small, if a permit owner cannot change the registration of the MS/CV endorsement and CHA, the CHA amount may not be used by the current owner and it will be left unharvested. If the information collection was conducted less frequently (i.e.; every other year), the industry will have less flexibility to buy and sell the CHA amounts available to the region and to adapt to changing business strategies and circumstances.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.

Not Applicable.

8. Provide information on the PRA Federal Register Notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

NMFS Northwest Region will submit a proposed rule, RIN 0648-BB13, coincident with this submission, requesting comments from the public.

9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.

Not Applicable.

10. Describe any assurance of confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.

Information provided on the forms: The information collected is mandatory and is required to manage commercial fishing efforts under 50 CFR part 660 and under section 402(a) of the Magnuson-Stevens Act (16 U.S.C. 1801, *et seq.*). Responses to this information request are confidential under section 402(b) of the Magnuson-Stevens Act as amended in 2006 and under [NOAA Administrative Order 216-100](#), which sets forth procedures to protect confidentiality of fishery statistics.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

Not Applicable.

12. Provide an estimate in hours of the burden of the collection of information.

The number of respondents for a change in registration of a MS/CV endorsement and CHA is estimated to be 6 per year. The time required to complete and submit the application is one hour per application. The estimated personnel costs: 6 hours x \$25 per hour = \$150.

6 applications per year x 1 hour per application = annual time burden of 6 hours

There are no burden or cost changes for the QS account or Vessel account, MS Coop Permit form or the First Receiver Site License - no additional responses are expected, and the changes to the forms will not require time beyond the current estimated time.

Estimated total respondents for the entire collection: The number of unduplicated respondents remains the same. Estimated total responses: Revise to 1,955 up from 1,949. Estimated total burden: Revise to 651 hours up from 645 hours.

13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection (excluding the value of the burden hours in Question 12 above).

MS/CV endorsement and CHA Application fee: -0-

Mailing cost: 6 applications x \$0.44 = \$2.64

Notarized form: 6 applications x \$10 = \$60

Copy cost: 6 applications x 5 pages x .05 per page = \$1.50

Total Estimated Reporting and Recordkeeping Costs: \$64.14.

This addition would increase the recordkeeping/reporting cost from \$17,273 to \$17,337.

14. Provide estimates of annualized cost to the Federal government.

The approved collection currently provides an estimate of \$700,000. The incremental costs to review and reissue trawl permits with will include staff time to: review applications received, print and prepare revised permits; respond to questions about make changes in registrations; organizing and filing application documents, mailing costs associated with the letter. The incremental annual cost to the Federal government review applications and to reissue permits with changes in MS/CV endorsement and CHA is included in regular staff time).

15. Explain the reasons for any program changes or adjustments.

Program Change associated with a change in burden: Previously, NMFS issued a single MS/CV endorsement and whiting CHA to trawl limited entry permit and current regulations do not allow for the endorsement and CHA to be separated from the permit. The proposed regulation will allow permit owners to sever their endorsement and CHA allocation from the permit and register them to another trawl permit and for a single trawl permit to have multiple endorsements and CHA allocations.

16. For collections whose results will be published, outline the plans for tabulation and publication.

The results from this collection are not planned for statistical publication.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display will be inappropriate.

Not Applicable.

18. Explain each exception to the certification statement.

Not Applicable.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

Not Applicable.

**MOTHERSHIP COOPERATIVE
PERMIT
PACIFIC COAST
GROUNDFISH**

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
National Marine Fisheries Service, Northwest Region
Fisheries Permits Office
7600 Sand Point Way NE, Bldg. 1
Seattle, WA 98115-0070



Phone (206) 526-4353 Fax (206) 526-4461 www.nwr.noaa.gov

SECTION A - COOPERATIVE CONTACT INFORMATION

1. Name of Cooperative:		TIN
2. Co-op Business Mailing Address (P.O. Box or street address)		
3. City	4. State	5. Zip
6. Business Telephone Number:	7. Business Fax Number:	8. E-mail Address (if available):
9. Name of Cooperative Manager:		10. DOB:

SECTION B –MS/CV PERMITS OBLIGATED TO COOPERATIVE – List all MS/CV Permits Numbers, MS/CV Endorsement and Catch History Registration Number and associated whiting catch history assignment amounts (Add additional pages if necessary)		
Permit Number: GF0	MS/CV Endorsement and CHA Registration Number:	Whiting Catch History Assignment %:
Permit Number: GF0	MS/CV Endorsement and CHA Registration Number:	Whiting Catch History Assignment %:
Permit Number: GF0	MS/CV Endorsement and CHA Registration Number:	Whiting Catch History Assignment %:
Permit Number: GF0	MS/CV Endorsement and CHA Registration Number:	Whiting Catch History Assignment %:
Permit Number: GF0	MS/CV Endorsement and CHA Registration Number:	Whiting Catch History Assignment %:
Permit Number: GF0	MS/CV Endorsement and CHA Registration Number:	Whiting Catch History Assignment %:
Permit Number: GF0	MS/CV Endorsement and CHA Registration Number:	Whiting Catch History Assignment %:
Permit Number: GF0	MS/CV Endorsement and CHA Registration Number:	Whiting Catch History Assignment %:
Permit Number: GF0	MS/CV Endorsement and CHA Registration Number:	Whiting Catch History Assignment %:
Permit Number: GF0	MS/CV Endorsement and CHA Registration Number:	Whiting Catch History Assignment %:
Permit Number: GF0	MS/CV Endorsement and CHA Registration Number:	Whiting Catch History Assignment %:
Permit Number: GF0	MS/CV Endorsement and CHA Registration Number:	Whiting Catch History Assignment %:
Permit Number: GF0	MS/CV Endorsement and CHA Registration Number:	Whiting Catch History Assignment %:
Permit Number: GF0	MS/CV Endorsement and CHA Registration Number:	Whiting Catch History Assignment %:

	Total Co-op Whiting Allocation (sum of permit whiting catch history assignments expressed as %):
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1. Vessel Name:	2. USGC No.:	3. Designated MS Vessel Name	4. USGC No.:
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Section D – Certification and Notary	
<i>Under penalties of perjury, I hereby declare that I, the undersigned, is authorized to sign this form on behalf of the applicant and completed this form, and the information contained herein is true, correct, and complete to the best of my knowledge and belief.</i>	
Signature of Authorized Representative	
Date	
Printed Name of Authorized Representative (NOTE: attach authorization, if needed)	
Notary Public Signature	<input type="checkbox"/> ATTEST
Date Commission Expires	Affix Notary Stamp or Seal Here

WARNING STATEMENT: A false statement on this form is punishable by permit sanctions (revocation, suspension, or modification) under 15 CFR 904, a civil penalty of up to \$140,000 under 16 USC 1858, and/or criminal penalties including, but not limited to, fines or imprisonment or both under 18 USC 1001.

PRIVACY ACT STATEMENT: Your DOB and/or TIN are confidential and protected under the Privacy Act. Provision of your DOB or TIN is mandatory as part of this collection. The primary purpose for requiring the DOB and/or TIN is to verify the identity of individuals/entities doing business with the government to provide a unique identification for assistance to comply with the Debt Collection Improvement Act of 1996 (Public Law 104-134) and for enforcement activities. The information collected is part of a Privacy Act System of Records, COMMERCE/NOAA #19, Permits and Registration for United States Federally Regulated Fisheries. A notice was published in the Federal Register on April 17, 2008 (73 FR 20914) and became effective on June 11, 2008 (73 FR 33065).

PRA STATEMENT: Public reporting burden for this collection of information is estimated to average 2.0 hours per response, including the time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to NOAA/National Marine Fisheries Service, Northwest Region, Attn: Assistant Regional Administrator, Sustainable Fisheries Division, 7600 Sand Point Way NE, Seattle, WA 98115. Some of the information collection described above is confidential under section 402(b) of the Magnuson-Stevens Act and under NOAA Administrative Order 216-100, Protection of Confidential Fisheries Statistics. Phone number, fax, email, TIN, and DOB are not released to the public. The names of individuals who have an ownership interest in an entity that owns a permit, vessel or processing plant and the actual percentage of ownership are considered business confidential and released to the public.

**MOTHERSHIP COOPERATIVE
PERMIT
PACIFIC COAST
GROUND FISH**

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
National Marine Fisheries Service, Northwest Region
Fisheries Permits Office
7600 Sand Point Way NE, Bldg. 1
Seattle, WA 98115-0070



Phone (206) 526-4353 Fax (206) 526-4461 www.nwr.noaa.gov

Instructions

Deadline Date March 31, 2012

This form must be completed and submitted to the National Marine Fisheries Service (NMFS) to the address given above in order to apply for and obtain a mothership cooperative (coop) permit. This application must be postmarked no later than March 31, 2011. This permit authorizes the cooperative to operate in the whiting mothership fishery.

Section A – Cooperative Contact Information

The applicant must provide the name of cooperative business entity as given with the state registered in, tax identification number, business mailing address, phone number, fax number and email address. The applicant must provide the name of the manager of the cooperative and their date of birth.

Section B – MS/CV Permits and Catch History Assignment Obligated to Coop

The applicant must provide the permit number for all MS/CV endorsed Pacific Coast limited entry permits being assigned to the coop, the registration number for each of the MS/CV endorsement and catch history assignment being assigned to the coop and the associated whiting catch history assignment amounts (expressed as percentage). If Section B does not provide sufficient space to list all permits, please make a copy of this section, add the additional permits and catch history assignment amounts and append to the application. Please note: A cooperative must have a minimum of 20% of all permit holders to form a co-op. The applicant must indicate the total whiting catch history allocation that will accrue to the coop based on the sum of the individual MS/CV permits obligated to the coop.

Section C – Catcher Vessels and Mothership Obligation

The applicant must list the name and USCG vessel documentation number for each catcher vessel fishing for the coop and provide the name and USCG vessel documentation number of the mothership each catcher vessel is obligated to.

Section D - Certification of Applicant and Notary:

The applicant or authorized representative must sign and date the form in the presence of a notary to certify that the individual(s) signing the form have satisfactorily identified themselves. By signing and dating the form, the applicant or authorized representative certifies that all information set forth in the form is true, correct, and complete to the best of the applicant's knowledge and belief. The form will not be considered without the authorized representative's signature. The notary must sign and date this section, and affix notary stamp or seal.



If the applicant is business entity, the authorized representative must include a copy of the corporate resolution or other document authorizing the individual to sign and certify on behalf of the business entity.

Supplemental Documentation Required:

The applicant must provide a copy of the cooperative agreement consistent with the regulations given at **660.XXX.**

The applicant must provide any inter-coop agreement entered into at the time of application.

**FIRST RECEIVER SITE
LICENSE
PACIFIC COAST
GROUND FISH**

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
National Marine Fisheries Service, Northwest Region
Fisheries Permits Office
7600 Sand Point Way NE, Bldg. 1
Seattle, WA 98115-0070



Phone (206) 526-4353 Fax (206) 526-4461 www.nwr.noaa.gov

INSTRUCTIONS

This form must be completed and submitted to the National Marine Fisheries Service (NMFS) at the address given above to apply for an interim first receiver site license. All buyers of groundfish from Individual Fishing Quota (IFQ) landing are required to have a first receiver site license for each site of the physical landing location. In making this application, you are requesting a site inspection which must occur prior to approval of the license.

Section A – First Receiver Information

Please provide the name of the buyer of groundfish from an IFQ landing as given on the state buyer's license, the state in which the buyer's license was issued and the buyer license number. The buyer's license must be issued by the state in which the receiving facility is located as given in Section B. A copy of the state buyer's license must be included with the application. Provide the tax identification number if the first receiver is a business entity or date of birth if an individual. The applicant must provide the first receiver's business address, phone number, fax number (optional) and email address. Please provide the name of contact person if the first receiver is a business entity and phone number if different from that given for the first receiver business entity.

Section B – Physical Location of Receiving Facility

The applicant must provide the name of the legal owner of the landing facility where the IFQ landing will occur, the owner's tax identification number or date of birth (if individual), the physical location of the receiving facility (**street address only**), city, state and zip code. The applicant must provide a phone number, fax number and email address (optional) and the name of the receiving facility's manager. If the first receiver intends to receive IFQ landings at multiple sites, please append the application and provide all information requested in Section B for these receiving facilities. A separate catch monitor plan must be provided for each unique receiving facility.

Section C - Certification of Applicant and Notary

The applicant or authorized representative must sign and date the form in the presence of a notary to certify that the individual(s) signing the form have satisfactorily identified themselves. By signing and dating the form, the applicant or authorized representative certifies that all information set forth in the form is true, correct, and complete to the best of the applicant's knowledge and belief. The form will not be considered without the authorized representative's signature. The notary must sign and date this section, and affix notary stamp or seal.

Supplemental Documentation

The applicant must provide a **catch monitor plan** for the receiving/landing site given in Section B, providing the information given in the attached guidelines. The applicant must provide a copy of their **state buyer's license** in the state where the receiving facility is located. The applicant must include a **check or money order for the application fee in the amount of \$50.00**, made payable to: U.S Department of Commerce/NOAA.

FIRST RECEIVER SITE LICENSE APPLICATION PACIFIC COAST GROUND FISH

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
National Marine Fisheries Service, Northwest Region
Fisheries Permits Office
7600 Sand Point Way NE, Bldg. 1
Seattle, WA 98115-0070



Phone (206) 526-4353 Fax (206) 526-4461 www.nwr.noaa.gov

SECTION A – Applicant/First Receiver Information

1. State of Buyer License			2. Buyer License #		
3. First Receiver Name (Buyer)			4. TIN or DOB		
			6. If business entity, state registered in:		
7. Business Mailing Address <i>Street or PO Box Number</i>			8. Business Phone ()		
			9. Business Fax (<i>optional</i>) ()		
City	State	Zip Code	10. Business Email (<i>optional</i>)		
11. <i>First Receiver Contact Person/Name:</i>			12. Contact Business Phone (if different from above) ()		

SECTION B – Receiving Facility Information (Physical Location of IFQ Landing)

1. Name of Owner of the Receiving Facility		2. TIN or DOB	
3. Street Address (No P.O. Box numbers)			
City	State	Zip Code	
4. Business Phone ()	5. Business Fax ()	6. Business E-mail Address	
9. Name of Plant Manager/Point of Contact at receiving facility			

SECTION C - CERTIFICATION OF APPLICANT AND NOTARY

This section must be completed by a notary to certify that the individual(s) have satisfactorily identified themselves.

Under penalties of perjury, I hereby declare that I, the undersigned, am authorized to certify this application on behalf of the applicant and that I completed this form, and the information contained herein is true, correct, and complete to the best of my knowledge and belief.

Signature of Authorized Representative

Date

Printed Name of Authorized Representative (NOTE: attach authorization, if needed)

Notary Public Signature

ATTEST

Affix Notary Stamp or Seal Here

Date Commission Expires

WARNING STATEMENT: A false statement on this form is punishable by permit sanctions (revocation, suspension, or modification) under 15 CFR 904, a civil penalty of up to \$140,000 under 16 USC 1858, and/or criminal penalties including, but not limited to, fines or imprisonment or both under 18 USC 1001.

PRIVACY ACT STATEMENT: Your DOB and/or TIN are confidential and protected under the Privacy Act. Provision of your DOB or TIN is mandatory as part of this collection. The primary purpose for requiring the DOB and/or TIN is to verify the identity of individuals/entities doing business with the government to provide a unique identification for assistance to comply with the Debt Collection Improvement Act of 1996 (Public Law 104-134) and for enforcement activities. The information collected is part of a Privacy Act System of Records, COMMERCE/NOAA #19, Permits and Registration for United States Federally Regulated Fisheries. A notice was published in the Federal Register on April 17, 2008 (73 FR 20914) and became effective on June 11, 2008 (73 FR 33065).

PRA STATEMENT: Public reporting burden for this collection of information is estimated to average 1.0 hours per response, including the time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to NOAA/National Marine Fisheries Service, Northwest Region, Attn: Assistant Regional Administrator, Sustainable Fisheries Division, 7600 Sand Point Way NE, Seattle, WA 98115. Some of the information collection described above is confidential under section 402(b) of the Magnuson-Stevens Act and under NOAA Administrative Order 216-100, Protection of Confidential Fisheries Statistics. Phone number, fax, email, TIN, and DOB are not released to the public. The names of individuals who have an ownership interest in an entity that owns a permit, vessel or processing plant and the actual percentage of ownership are considered business confidential and are not released to the public.

<p>Change in Registration of a Mothership/Catcher Vessel Endorsement/Catch History Assignment Application Pacific Coast Groundfish Limited Entry Permit</p>	<p>UNITED STATES DEPARTMENT OF COMMERCE National Oceanic and Atmospheric Administration National Marine Fisheries Service Northwest Region , Fisheries Permits Office 7600 Sand Point Way NE, Bldg. 1 Seattle, WA 98115-0070</p> <p style="text-align: right;">  Phone (206) 526-4353 Fax (206) 526-4461 www.nwr.noaa.gov </p>
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Section A – Current Permit Registration

Permit Number GF0			MS/CV Endorsement and CHA ID Number		
Current Permit Owner			Tax Identification Number		
Last	First	MI	Date of Birth		
Business Mailing Address (Street or P.O. Box)			Business Phone Number ()		
City	State	Zip Code	Business Fax Number ()		

Section B – New Permit Registration
 [identify the new permit that MS/CV endorsement and Catch History Assignment will be registered to]

Permit Number GF0			Tax Identification Number		
Permit Owner Name			Tax Identification Number		
Last	First	MI	Date of Birth		
Business Mailing Address (Street or PO Box)			Business Phone Number ()		
City	State	Zip Code	Business Fax Number ()		

Transaction Price Information for MS/CV endorsement and whiting CHA. (mandatory)

The nature of the transaction was: [] Monetary [] Non-monetary
 If transaction was monetary, please provide the selling price of the listed MS/CV endorsement and CHA: \$ _____
 If the transaction was non-monetary, please explain the nature of the transaction (i.e.; registered to another that I own or traded whiting CHA for XX quota pounds of Dover sole): _____

SECTION C – CERTIFICATION AND NOTARY	
<i>Under penalties of perjury, I hereby declare that I, the undersigned, am authorized to sign this form on behalf of the applicant and I completed this form, and the information contained herein is true, correct, and complete to the best of my knowledge and belief.</i>	
Signature of Authorized Representative	
Printed Name of Authorized Representative <i>(NOTE: attach authorization, if needed)</i>	
Notary Public Signature	<input type="checkbox"/> ATTEST
Date Commission Expires	Affix Notary Stamp or Seal Here

WARNING STATEMENT: A false statement on this form is punishable by permit sanctions (revocation, suspension, or modification) under 15 CFR 904, a civil penalty of up to \$140,000 under 16 USC 1858, and/or criminal penalties including, but not limited to, fines or imprisonment or both under 18 USC 1001.

PRIVACY ACT STATEMENT: Your DOB and/or TIN are confidential and protected under the Privacy Act. Provision of your DOB or TIN is mandatory as part of this collection. The primary purpose for requiring the DOB and/or TIN is to verify the identity of individuals/entities doing business with the government to provide a unique identification for assistance to comply with the Debt Collection Improvement Act of 1996 (Public Law 104-134) and for enforcement activities. The information collected is part of a Privacy Act System of Records, COMMERCE/NOAA #19, Permits and Registration for United States Federally Regulated Fisheries. A notice was published in the Federal Register on April 17, 2008 (73 FR 20914) and became effective on June 11, 2008 (73 FR 33065).

PRA STATEMENT: Public reporting burden for this collection of information is estimated to average **2.0 hours** per response, including the time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to NOAA/National Marine Fisheries Service, Northwest Region, Attn: Assistant Regional Administrator, Sustainable Fisheries Division, 7600 Sand Point Way NE, Seattle, WA 98115. Some of the information collection described above is confidential under section 402(b) of the Magnuson-Stevens Act and under NOAA Administrative Order 216-100, Protection of Confidential Fisheries Statistics. Phone number, fax, email, TIN, and DOB are not released to the public. The names of individuals who have an ownership interest in an entity that owns a permit, vessel or processing plant and the actual percentage of ownership are considered business confidential and released to the public.

**Change in Registration of a
Mothership/Catcher Vessel
Endorsement and Catch History
Assignment Application
Pacific Coast Groundfish
Limited Entry Permit**

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
Northwest Region , Fisheries Permits Office
7600 Sand Point Way NE, Bldg. 1
Seattle, WA 98115-0070



Phone (206) 526-4353 Fax (206) 526-4461
www.nwr.noaa.gov

INSTRUCTIONS

In order to request a change in the registration of a Mothership Catcher Vessel (MS/CV) Endorsement and the associated whiting Catch History Assignment (CHA) from one trawl endorsed permit to another trawl endorsed permit, the current permit owner must complete and submit this form to the National Marine Fisheries Service (NMFS) at the address given above. A separate form must be completed for each individual MS/CV endorsement and CHA being registered to another trawl permit. The application period is September 1 – December 31 of the current year. **NMFS will not accept any application received after December 31st.**

Section A – Current Permit Owner and MS/CV Endorsement and CHA Registration:

Please provide the current Pacific Coast groundfish permit number that the MS/CV endorsement and CHA is registered to and provide the identifier number for the MS/CV endorsement and CHA unit you wish to transfer. List the permit owner name, business address, business phone number and fax number of the trawl endorsed permit listed in this Section.

Section B – New Permit Registration: Please provide the number of the Pacific Coast Groundfish permit that the MS/CV endorsement and CHA will be registered to. List the permit owner's name, business address, business phone number and fax number. The applicant must respond to questions regarding the nature of the transaction involving the MS/CV endorsement and CHA. If the transaction was monetary in nature, please provide the sale price for the MS/CV endorsement and CHA. If non monetary, please describe the nature of the transaction. For example, the transaction might involve a trade of the MS/CV endorsement and CHA for a specific amount of quota pounds for one or more IFQ species.

Section C – Certification and Notary: An authorized representative must sign and date the form in the presence of a notary. A registered notary must sign and date this section and affix notary stamp or seal. By signing and dating the form, the authorized representative certifies that the information set forth in the form is true, correct and complete to the best of the applicant's knowledge and belief. The form will not be considered complete with the authorized representative's signature.

SEC. 303. CONTENTS OF FISHERY MANAGEMENT PLANS 16 U.S.C. 1853

95-354, 99-659, 101-627, 104-297

(a) **REQUIRED PROVISIONS.**—Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, shall—

(1) contain the conservation and management measures, applicable to foreign fishing and fishing by vessels of the United States, which are—

(A) necessary and appropriate for the conservation and management of the fishery to prevent overfishing and rebuild overfished stocks, and to protect, restore, and promote the long-term health and stability of the fishery;

(B) described in this subsection or subsection (b), or both; and

(C) consistent with the national standards, the other provisions of this Act, regulations implementing recommendations by international organizations in which the United States participates (including but not limited to closed areas, quotas, and size limits), and any other applicable law;

(2) contain a description of the fishery, including, but not limited to, the number of vessels involved, the type and quantity of fishing gear used, the species of fish involved and their location, the cost likely to be incurred in management, actual and potential revenues from the fishery, any recreational interest in the fishery, and the nature and extent of foreign fishing and Indian treaty fishing rights, if any;

(3) assess and specify the present and probable future condition of, and the maximum sustainable yield and optimum yield from, the fishery, and include a summary of the information utilized in making such specification;

(4) assess and specify—

(A) the capacity and the extent to which fishing vessels of the United States, on an annual basis, will harvest the optimum yield specified under paragraph (3),

(B) the portion of such optimum yield which, on an annual basis, will not be harvested by fishing vessels of the United States and can be made available for foreign fishing, and

(C) the capacity and extent to which United States fish processors, on an annual basis, will process that portion of such optimum yield that will be harvested by fishing vessels of the United States;

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(5) specify the pertinent data which shall be submitted to the Secretary with respect to commercial, recreational, charter fishing, and fish processing in the fishery, including, but not limited to, information regarding the type and quantity of fishing gear used, catch by species in numbers of fish or weight thereof, areas in which fishing was engaged in, time of fishing, number of hauls, economic information necessary to meet the requirements of this Act, and the estimated processing capacity of, and the actual processing capacity utilized by, United States fish processors;

(6) consider and provide for temporary adjustments, after consultation with the Coast Guard and persons utilizing the fishery, regarding access to the fishery for vessels otherwise prevented from harvesting because of weather or other ocean conditions affecting the safe conduct of the fishery; except that the adjustment shall not adversely affect conservation efforts in other fisheries or discriminate among participants in the affected fishery;

(7) describe and identify essential fish habitat for the fishery based on the guidelines established by the Secretary under section 305(b)(1)(A), minimize to the extent practicable adverse effects on such habitat caused by fishing, and identify other actions to encourage the conservation and enhancement of such habitat;

(8) in the case of a fishery management plan that, after January 1, 1991, is submitted to the Secretary for review under section 304(a) (including any plan for which an amendment is submitted to the Secretary for such review) or is prepared by the Secretary, assess and specify the nature and extent of scientific data which is needed for effective implementation of the plan;

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(9) include a fishery impact statement for the plan or amendment (in the case of a plan or amendment thereto submitted to or prepared by the Secretary after October 1, 1990) which shall assess, specify, and analyze the likely effects, if any, including the cumulative conservation, economic, and social impacts, of the conservation and management measures on, and possible mitigation measures for—

(A) participants in the fisheries and fishing communities affected by the plan or amendment;

(B) participants in the fisheries conducted in adjacent areas under the authority of another Council, after consultation with such Council and representatives of those participants; and

(C) the safety of human life at sea, including whether and to what extent such measures may affect the safety of participants in the fishery;

(10) specify objective and measurable criteria for identifying when the fishery to which the plan applies is overfished (with an analysis of how the criteria were determined and the relationship of the criteria to the reproductive potential of stocks of fish in that fishery) and, in the case of a fishery which the Council or the Secretary has determined is approaching an overfished condition or is overfished, contain conservation and management measures to prevent overfishing or end overfishing and rebuild the fishery;

(11) establish a standardized reporting methodology to assess the amount and type of bycatch occurring in the fishery, and include conservation and management measures that, to the extent practicable and in the following priority—

(A) minimize bycatch; and

(B) minimize the mortality of bycatch which cannot be avoided;

16 U.S.C. 1853
MSA § 303

(12) assess the type and amount of fish caught and released alive during recreational fishing under catch and release fishery management programs and the mortality of such fish, and include conservation and management measures that, to the extent practicable, minimize mortality and ensure the extended survival of such fish;

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(13) include a description of the commercial, recreational, and charter fishing sectors which participate in the fishery, including its economic impact, and, to the extent practicable, quantify trends in landings of the managed fishery resource by the commercial, recreational, and charter fishing sectors;

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(14) to the extent that rebuilding plans or other conservation and management measures which reduce the overall harvest in a fishery are necessary, allocate, taking into consideration the economic impact of the harvest restrictions or recovery benefits on the fishery participants in each sector, any harvest restrictions or recovery benefits fairly and equitably among the commercial, recreational, and charter fishing sectors in the fishery and;

109-479

(15) establish a mechanism for specifying annual catch limits in the plan (including a multiyear plan), implementing regulations, or annual specifications, at a level such that overfishing does not occur in the fishery, including measures to ensure accountability.

97-453, 99-659, 101-627, 102-251, 104-297

(b) DISCRETIONARY PROVISIONS.—Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, may—

(1) require a permit to be obtained from, and fees to be paid to, the Secretary, with respect to—

(A) any fishing vessel of the United States fishing, or wishing to fish, in the exclusive economic zone [or special areas,]* or for anadromous species or Continental Shelf fishery resources beyond such zone [or areas]*;

(B) the operator of any such vessel; or

(C) any United States fish processor who first receives fish that are subject to the plan;

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(2)(A) designate zones where, and periods when, fishing shall be limited, or shall not be permitted, or shall be permitted only by specified types of fishing vessels or with specified types and quantities of fishing gear;

(B) designate such zones in areas where deep sea corals are identified under section 408, to protect deep sea corals from physical damage from fishing gear or to prevent loss or damage to such fishing gear from interactions with deep sea corals, after considering long-term sustainable uses of fishery resources in such areas; and

(C) with respect to any closure of an area under this Act that prohibits all fishing, ensure that such closure—

- (i) is based on the best scientific information available;
- (ii) includes criteria to assess the conservation benefit of the closed area;
- (iii) establishes a timetable for review of the closed area's performance that is consistent with the purposes of the closed area; and
- (iv) is based on an assessment of the benefits and impacts of the closure, including its size, in relation to other management measures (either alone or in combination with such measures), including the benefits and impacts of limiting access to: users of the area, overall fishing activity, fishery science, and fishery and marine conservation;

(3) establish specified limitations which are necessary and appropriate for the conservation and management of the fishery on the—

- (A) catch of fish (based on area, species, size, number, weight, sex, bycatch, total biomass, or other factors);
- (B) sale of fish caught during commercial, recreational, or charter fishing, consistent with any applicable Federal and State safety and quality requirements; and
- (C) transshipment or transportation of fish or fish products under permits issued pursuant to section 204;

(4) prohibit, limit, condition, or require the use of specified types and quantities of fishing gear, fishing vessels, or equipment for such vessels, including devices which may be required to facilitate enforcement of the provisions of this Act;

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(5) incorporate (consistent with the national standards, the other provisions of this Act, and any other applicable law) the relevant fishery conservation and management measures of the coastal States nearest to the fishery and take into account the different circumstances affecting fisheries from different States and ports, including distances to fishing grounds and proximity to time and area closures;

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(6) establish a limited access system for the fishery in order to achieve optimum yield if, in developing such system, the Council and the Secretary take into account—

- (A) present participation in the fishery;
- (B) historical fishing practices in, and dependence on, the fishery;
- (C) the economics of the fishery;
- (D) the capability of fishing vessels used in the fishery to engage in other fisheries;
- (E) the cultural and social framework relevant to the fishery and any affected fishing communities;
- (F) the fair and equitable distribution of access privileges in the fishery; and
- (G) any other relevant considerations;

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(7) require fish processors who first receive fish that are subject to the plan to submit data which are necessary for the conservation and management of the fishery;

(8) require that one or more observers be carried on board a vessel of the United States engaged in fishing for species that are subject to the plan, for the purpose of collecting data necessary for the conservation and management of the fishery; except that such a vessel shall not be required to carry an observer on board if the facilities of the vessel for the quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized;

(9) assess and specify the effect which the conservation and management measures of the plan will have on the stocks of naturally spawning anadromous fish in the region;

(10) include, consistent with the other provisions of this Act, conservation and management measures that provide harvest incentives for participants within each gear group to employ fishing practices that result in lower levels of bycatch or in lower levels of the mortality of bycatch;

(11) reserve a portion of the allowable biological catch of the fishery for use in scientific research;

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(12) include management measures in the plan to conserve target and non-target species and habitats, considering the variety of ecological factors affecting fishery populations; and

(14)[sic]¹⁵ prescribe such other measures, requirements, or conditions and restrictions as are determined to be necessary and appropriate for the conservation and management of the fishery.

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(c) PROPOSED REGULATIONS.—Proposed regulations which the Council deems necessary or appropriate for the purposes of—

(1) implementing a fishery management plan or plan amendment shall be submitted to the Secretary simultaneously with the plan or amendment under section 304; and

(2) making modifications to regulations implementing a fishery management plan or plan amendment may be submitted to the Secretary at any time after the plan or amendment is approved under section 304.

¹⁵ So in original.

P.L. 109-479, sec. 104(b), MSA § 303 note

16 U.S.C. 1853 note

EFFECTIVE DATES; APPLICATION TO CERTAIN SPECIES.—The amendment made by subsection (a)(10)¹⁶—

(1) shall, unless otherwise provided for under an international agreement in which the United States participates, take effect—

(A) in fishing year 2010 for fisheries determined by the Secretary to be subject to overfishing; and

(B) in fishing year 2011 for all other fisheries; and

(2) shall not apply to a fishery for species that have a life cycle of approximately 1 year unless the Secretary has determined the fishery is subject to overfishing of that species; and

(3) shall not limit or otherwise affect the requirements of section 301(a)(1) or 304(e) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1851(a)(1) or 1854(e), respectively).

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SEC. 303A. LIMITED ACCESS PRIVILEGE PROGRAMS.

16 U.S.C. 1853a

(a) **IN GENERAL.**—After the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, a Council may submit, and the Secretary may approve, for a fishery that is managed under a limited access system, a limited access privilege program to harvest fish if the program meets the requirements of this section.

(b) **NO CREATION OF RIGHT, TITLE, OR INTEREST.**—Limited access privilege, quota share, or other limited access system authorization established, implemented, or managed under this Act—

(1) shall be considered a permit for the purposes of sections 307, 308, and 309;

(2) may be revoked, limited, or modified at any time in accordance with this Act, including revocation if the system is found to have jeopardized the sustainability of the stock or the safety of fishermen;

(3) shall not confer any right of compensation to the holder of such limited access privilege, quota share, or other such limited access system authorization if it is revoked, limited, or modified;

(4) shall not create, or be construed to create, any right, title, or interest in or to any fish before the fish is harvested by the holder; and

(5) shall be considered a grant of permission to the holder of the limited access privilege or quota share to engage in activities permitted by such limited access privilege or quota share.

¹⁶ Section 104(a)(10) of P.L. 109-479 added section 303(a)(15).

(c) REQUIREMENTS FOR LIMITED ACCESS PRIVILEGES.—

(1) IN GENERAL.—Any limited access privilege program to harvest fish submitted by a Council or approved by the Secretary under this section shall—

(A) if established in a fishery that is overfished or subject to a rebuilding plan, assist in its rebuilding;

(B) if established in a fishery that is determined by the Secretary or the Council to have over-capacity, contribute to reducing capacity;

(C) promote—

(i) fishing safety;

(ii) fishery conservation and management; and

(iii) social and economic benefits;

(D) prohibit any person other than a United States citizen, a corporation, partnership, or other entity established under the laws of the United States or any State, or a permanent resident alien, that meets the eligibility and participation requirements established in the program from acquiring a privilege to harvest fish, including any person that acquires a limited access privilege solely for the purpose of perfecting or realizing on a security interest in such privilege;

(E) require that all fish harvested under a limited access privilege program be processed on vessels of the United States or on United States soil (including any territory of the United States);

(F) specify the goals of the program;

(G) include provisions for the regular monitoring and review by the Council and the Secretary of the operations of the program, including determining progress in meeting the goals of the program and this Act, and any necessary modification of the program to meet those goals, with a formal and detailed review 5 years after the implementation of the program and thereafter to coincide with scheduled Council review of the relevant fishery management plan (but no less frequently than once every 7 years);

(H) include an effective system for enforcement, monitoring, and management of the program, including the use of observers or electronic monitoring systems;

(I) include an appeals process for administrative review of the Secretary's decisions regarding initial allocation of limited access privileges;

(J) provide for the establishment by the Secretary, in consultation with appropriate Federal agencies, for an information collection and review process to provide any additional information needed to determine whether any illegal acts of anti-competition, anti-trust, price collusion, or price fixing have occurred among regional fishery associations or persons receiving limited access privileges under the program; and

(K) provide for the revocation by the Secretary of limited access privileges held by any person found to have violated the antitrust laws of the United States.

(2) WAIVER.—The Secretary may waive the requirement of paragraph (1)(E) if the Secretary determines that—

- (A) the fishery has historically processed the fish outside of the United States; and
- (B) the United States has a seafood safety equivalency agreement with the country where processing will occur.

(3) FISHING COMMUNITIES.—

(A) IN GENERAL.—

(i) ELIGIBILITY.—To be eligible to participate in a limited access privilege program to harvest fish, a fishing community shall—

- (I) be located within the management area of the relevant Council;
- (II) meet criteria developed by the relevant Council, approved by the Secretary, and published in the Federal Register;
- (III) consist of residents who conduct commercial or recreational fishing, processing, or fishery-dependent support businesses within the Council's management area; and
- (IV) develop and submit a community sustainability plan to the Council and the Secretary that demonstrates how the plan will address the social and economic development needs of coastal communities, including those that have not historically had the resources to participate in the fishery, for approval based on criteria developed by the Council that have been approved by the Secretary and published in the Federal Register.

(ii) FAILURE TO COMPLY WITH PLAN.—The Secretary shall deny or revoke limited access privileges granted under this section for any person who fails to comply with the requirements of the community sustainability plan. Any limited access privileges denied or revoked under this section may be reallocated to other eligible members of the fishing community.

- (B) PARTICIPATION CRITERIA.—In developing participation criteria for eligible communities under this paragraph, a Council shall consider—
- (i) traditional fishing or processing practices in, and dependence on, the fishery;
 - (ii) the cultural and social framework relevant to the fishery;
 - (iii) economic barriers to access to fishery;
 - (iv) the existence and severity of projected economic and social impacts associated with implementation of limited access privilege programs on harvesters, captains, crew, processors, and other businesses substantially dependent upon the fishery in the region or subregion;
 - (v) the expected effectiveness, operational transparency, and equitability of the community sustainability plan; and
 - (vi) the potential for improving economic conditions in remote coastal communities lacking resources to participate in harvesting or processing activities in the fishery.

(4) REGIONAL FISHERY ASSOCIATIONS.—

(A) IN GENERAL.—To be eligible to participate in a limited access privilege program to harvest fish, a regional fishery association shall—

- (i) be located within the management area of the relevant Council;
- (ii) meet criteria developed by the relevant Council, approved by the Secretary, and published in the Federal Register;
- (iii) be a voluntary association with established by-laws and operating procedures;
- (iv) consist of participants in the fishery who hold quota share that are designated for use in the specific region or subregion covered by the regional fishery association, including commercial or recreational fishing, processing, fishery-dependent support businesses, or fishing communities;
- (v) not be eligible to receive an initial allocation of a limited access privilege but may acquire such privileges after the initial allocation, and may hold the annual fishing privileges of any limited access privileges it holds or the annual fishing privileges that is [sic]¹⁷ members contribute; and
- (vi) develop and submit a regional fishery association plan to the Council and the Secretary for approval based on criteria developed by the Council that have been approved by the Secretary and published in the Federal Register.

(B) FAILURE TO COMPLY WITH PLAN.—The Secretary shall deny or revoke limited access privileges granted under this section to any person participating in a regional fishery association who fails to comply with the requirements of the regional fishery association plan.

¹⁷ So in original.

(C) PARTICIPATION CRITERIA.—In developing participation criteria for eligible regional fishery associations under this paragraph, a Council shall consider—

- (i) traditional fishing or processing practices in, and dependence on, the fishery;
- (ii) the cultural and social framework relevant to the fishery;
- (iii) economic barriers to access to fishery;
- (iv) the existence and severity of projected economic and social impacts associated with implementation of limited access privilege programs on harvesters, captains, crew, processors, and other businesses substantially dependent upon the fishery in the region or subregion;
- (v) the administrative and fiduciary soundness of the association; and
- (vi) the expected effectiveness, operational transparency, and equitability of the fishery association plan.

(5) ALLOCATION.—In developing a limited access privilege program to harvest fish a Council or the Secretary shall—

(A) establish procedures to ensure fair and equitable initial allocations, including consideration of—

- (i) current and historical harvests;
- (ii) employment in the harvesting and processing sectors;
- (iii) investments in, and dependence upon, the fishery; and
- (iv) the current and historical participation of fishing communities;

(B) consider the basic cultural and social framework of the fishery, especially through—

- (i) the development of policies to promote the sustained participation of small owner-operated fishing vessels and fishing communities that depend on the fisheries, including regional or port-specific landing or delivery requirements; and
- (ii) procedures to address concerns over excessive geographic or other consolidation in the harvesting or processing sectors of the fishery;

(C) include measures to assist, when necessary and appropriate, entry-level and small vessel owner-operators, captains, crew, and fishing communities through set-asides of harvesting allocations, including providing privileges, which may include set-asides or allocations of harvesting privileges, or economic assistance in the purchase of limited access privileges;

(D) ensure that limited access privilege holders do not acquire an excessive share of the total limited access privileges in the program by—

- (i) establishing a maximum share, expressed as a percentage of the total limited access privileges, that a limited access privilege holder is permitted to hold, acquire, or use; and
- (ii) establishing any other limitations or measures necessary to prevent an inequitable concentration of limited access privileges; and

(E) authorize limited access privileges to harvest fish to be held, acquired, used by, or issued under the system to persons who substantially participate in the fishery, including in a specific sector of such fishery, as specified by the Council.

(6) PROGRAM INITIATION.—

(A) LIMITATION.—Except as provided in subparagraph (D), a Council may initiate a fishery management plan or amendment to establish a limited access privilege program to harvest fish on its own initiative or if the Secretary has certified an appropriate petition.

(B) PETITION.—A group of fishermen constituting more than 50 percent of the permit holders, or holding more than 50 percent of the allocation, in the fishery for which a limited access privilege program to harvest fish is sought, may submit a petition to the Secretary requesting that the relevant Council or Councils with authority over the fishery be authorized to initiate the development of the program. Any such petition shall clearly state the fishery to which the limited access privilege program would apply. For multispecies permits in the Gulf of Mexico, only those participants who have substantially fished the species proposed to be included in the limited access program shall be eligible to sign a petition for such a program and shall serve as the basis for determining the percentage described in the first sentence of this subparagraph.

(C) CERTIFICATION BY SECRETARY.—Upon the receipt of any such petition, the Secretary shall review all of the signatures on the petition and, if the Secretary determines that the signatures on the petition represent more than 50 percent of the permit holders, or holders of more than 50 percent of the allocation in the fishery, as described by subparagraph (B), the Secretary shall certify the petition to the appropriate Council or Councils.

(D) NEW ENGLAND AND GULF REFERENDUM.—

(i) Except as provided in clause (iii) for the Gulf of Mexico commercial red snapper fishery, the New England and Gulf Councils may not submit, and the Secretary may not approve or implement, a fishery management plan or amendment that creates an individual fishing quota program, including a Secretarial plan, unless such a system, as ultimately developed, has been approved by more than 2/3 of those voting in a referendum among eligible permit holders, or other persons described in clause (v), with respect to the New England Council, and by a majority of those voting in the referendum among eligible permit holders with respect to the Gulf Council. For multispecies permits in the Gulf of Mexico, only those participants who have substantially fished the species proposed to be included in the individual fishing quota program shall be eligible to vote in such a referendum. If an individual fishing quota program fails to be approved by the requisite number of those voting, it may be revised and submitted for approval in a subsequent referendum.

(ii) The Secretary shall conduct a referendum under this subparagraph, including notifying all persons eligible to participate in the referendum and making available to them information concerning the schedule, procedures, and eligibility requirements for the referendum process and the proposed individual fishing quota program. Within 1 year after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, the Secretary shall publish guidelines and procedures to determine procedures and voting eligibility requirements for referenda and to conduct such referenda in a fair and equitable manner.

(iii) The provisions of section 407(c) of this Act shall apply in lieu of this subparagraph for an individual fishing quota program for the Gulf of Mexico commercial red snapper fishery.

(iv) Chapter 35 of title 44, United States Code, (commonly known as the Paperwork Reduction Act) does not apply to the referenda conducted under this subparagraph.

(v) The Secretary shall promulgate criteria for determining whether additional fishery participants are eligible to vote in the New England referendum described in clause (i) in order to ensure that crew members who derive a significant percentage of their total income from the fishery under the proposed program are eligible to vote in the referendum.

(vi) In this subparagraph, the term ‘individual fishing quota’ does not include a sector allocation.

(7) TRANSFERABILITY.—In establishing a limited access privilege program, a Council shall—

(A) establish a policy and criteria for the transferability of limited access privileges (through sale or lease), that is consistent with the policies adopted by the Council for the fishery under paragraph (5); and

(B) establish, in coordination with the Secretary, a process for monitoring of transfers (including sales and leases) of limited access privileges.

(8) PREPARATION AND IMPLEMENTATION OF SECRETARIAL PLANS.—This subsection also applies to a plan prepared and implemented by the Secretary under section 304(c) or 304(g).

(9) ANTITRUST SAVINGS CLAUSE.—Nothing in this Act shall be construed to modify, impair, or supersede the operation of any of the antitrust laws. For purposes of the preceding sentence, the term ‘antitrust laws’ has the meaning given such term in subsection (a) of the first section of the Clayton Act, except that such term includes section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair methods of competition.

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MSA § 303A

(d) AUCTION AND OTHER PROGRAMS.—In establishing a limited access privilege program, a Council shall consider, and may provide, if appropriate, an auction system or other program to collect royalties for the initial, or any subsequent, distribution of allocations in a limited access privilege program if—

(1) the system or program is administered in such a way that the resulting distribution of limited access privilege shares meets the program requirements of this section; and

(2) revenues generated through such a royalty program are deposited in the Limited Access System Administration Fund established by section 305(h)(5)(B) and available subject to annual appropriations.

(e) COST RECOVERY.—In establishing a limited access privilege program, a Council shall—

(1) develop a methodology and the means to identify and assess the management, data collection and analysis, and enforcement programs that are directly related to and in support of the program; and

(2) provide, under section 304(d)(2), for a program of fees paid by limited access privilege holders that will cover the costs of management, data collection and analysis, and enforcement activities.

(f) CHARACTERISTICS.—A limited access privilege established after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 is a permit issued for a period of not more than 10 years that—

(1) will be renewed before the end of that period, unless it has been revoked, limited, or modified as provided in this subsection;

(2) will be revoked, limited, or modified if the holder is found by the Secretary, after notice and an opportunity for a hearing under section 554 of title 5, United States Code, to have failed to comply with any term of the plan identified in the plan as cause for revocation, limitation, or modification of a permit, which may include conservation requirements established under the plan;

(3) may be revoked, limited, or modified if the holder is found by the Secretary, after notice and an opportunity for a hearing under section 554 of title 5, United States Code, to have committed an act prohibited by section 307 of this Act; and

(4) may be acquired, or reacquired, by participants in the program under a mechanism established by the Council if it has been revoked, limited, or modified under paragraph (2) or (3).

(g) LIMITED ACCESS PRIVILEGE ASSISTED PURCHASE PROGRAM.—

(1) IN GENERAL.—A Council may submit, and the Secretary may approve and implement, a program which reserves up to 25 percent of any fees collected from a fishery under section 304(d)(2) to be used, pursuant to section 53706(a)(7) of title 46, United States Code, to issue obligations that aid in financing—

(A) the purchase of limited access privileges in that fishery by fishermen who fish from small vessels; and

(B) the first-time purchase of limited access privileges in that fishery by entry level fishermen.

(2) ELIGIBILITY CRITERIA.—A Council making a submission under paragraph (1) shall recommend criteria, consistent with the provisions of this Act, that a fisherman must meet to qualify for guarantees under subparagraphs (A) and (B) of paragraph (1) and the portion of funds to be allocated for guarantees under each subparagraph.

(h) EFFECT ON CERTAIN EXISTING SHARES AND PROGRAMS.—Nothing in this Act, or the amendments made by the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, shall be construed to require a reallocation or a reevaluation of individual quota shares, processor quota shares, cooperative programs, or other quota programs, including sector allocation in effect before the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006.

(i) TRANSITION RULES.—

(1) IN GENERAL.—The requirements of this section shall not apply to any quota program, including any individual quota program, cooperative program, or sector allocation for which a Council has taken final action or which has been submitted by a Council to the Secretary, or approved by the Secretary, within 6 months after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, except that—

(A) the requirements of section 303(d) of this Act in effect on the day before the date of enactment of that Act shall apply to any such program;

(B) the program shall be subject to review under subsection (c)(1)(G) of this section not later than 5 years after the program implementation; and

(C) nothing in this subsection precludes a Council from incorporating criteria contained in this section into any such plans.

(2) PACIFIC GROUND FISH PROPOSALS.—The requirements of this section, other than subparagraphs (A) and (B) of subsection (c)(1) and subparagraphs (A), (B), and (C) of paragraph (1) of this subsection, shall not apply to any proposal authorized under section 302(f) of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 that is submitted within the timeframe prescribed by that section.

16 U.S.C. 1853a note, 1854
MSA §§ 303A note, 304

P.L. 109-479, sec. 106(e), MSA § 303A note

16 U.S.C. 1853a note

APPLICATION WITH AMERICAN FISHERIES ACT.—Nothing in section 303A of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), as added by subsection (a) [P.L. 109-479], shall be construed to modify or supersede any provision of the American Fisheries Act (46 U.S.C. 12102 note; 16 U.S.C. 1851 note; et alia).

P.L. 104-297, sec. 108(i), MSA § 303 note

EXISTING QUOTA PLANS.—Nothing in this Act [P.L.104-297] or the amendments made by this Act shall be construed to require a reallocation of individual fishing quotas under any individual fishing quota program approved by the Secretary before January 4, 1995.

SEC. 304. ACTION BY THE SECRETARY

16 U.S.C. 1854

104-297

(a) REVIEW OF PLANS.—

(1) Upon transmittal by the Council to the Secretary of a fishery management plan or plan amendment, the Secretary shall—

(A) immediately commence a review of the plan or amendment to determine whether it is consistent with the national standards, the other provisions of this Act, and any other applicable law; and

(B) immediately publish in the Federal Register a notice stating that the plan or amendment is available and that written information, views, or comments of interested persons on the plan or amendment may be submitted to the Secretary during the 60-day period beginning on the date the notice is published.

(2) In undertaking the review required under paragraph (1), the Secretary shall—

(A) take into account the information, views, and comments received from interested persons;

(B) consult with the Secretary of State with respect to foreign fishing; and

(C) consult with the Secretary of the department in which the Coast Guard is operating with respect to enforcement at sea and to fishery access adjustments referred to in section 303(a)(6).

(3) The Secretary shall approve, disapprove, or partially approve a plan or amendment within 30 days of the end of the comment period under paragraph (1) by written notice to the Council. A notice of disapproval or partial approval shall specify—

(A) the applicable law with which the plan or amendment is inconsistent;

(B) the nature of such inconsistencies; and

(C) recommendations concerning the actions that could be taken by the Council to conform such plan or amendment to the requirements of applicable law.

If the Secretary does not notify a Council within 30 days of the end of the comment period of the approval, disapproval, or partial approval of a plan or amendment, then such plan or amendment shall take effect as if approved.

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SEC. 402. INFORMATION COLLECTION

16 U.S.C. 1881a

109-479

(a) COLLECTION PROGRAMS.—

(1) COUNCIL REQUESTS.—If a Council determines that additional information would be beneficial for developing, implementing, or revising a fishery management plan or for determining whether a fishery is in need of management, the Council may request that the Secretary implement an information collection program for the fishery which would provide the types of information specified by the Council. The Secretary shall undertake such an information collection program if he determines that the need is justified, and shall promulgate regulations to implement the program within 60 days after such determination is made. If the Secretary determines that the need for an information collection program is not justified, the Secretary shall inform the Council of the reasons for such determination in writing. The determinations of the Secretary under this paragraph regarding a Council request shall be made within a reasonable period of time after receipt of that request.

(2) SECRETARIAL INITIATION.—If the Secretary determines that additional information is necessary for developing, implementing, revising, or monitoring a fishery management plan, or for determining whether a fishery is in need of management, the Secretary may, by regulation, implement an information collection or observer program requiring submission of such additional information for the fishery.

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(b) CONFIDENTIALITY OF INFORMATION.—

(1) Any information submitted to the Secretary, a State fishery management agency, or a marine fisheries commission by any person in compliance with the requirements of this Act shall be confidential and shall not be disclosed except—

(A) to Federal employees and Council employees who are responsible for fishery management plan development, monitoring, or enforcement;

(B) to State or Marine Fisheries Commission employees as necessary to further the Department's mission, subject to a confidentiality agreement that prohibits public disclosure of the identity of business of any person;

(C) to State employees who are responsible for fishery management plan enforcement, if the States employing those employees have entered into a fishery enforcement agreement with the Secretary and the agreement is in effect;

(D) when required by court order;

(E) when such information is used by State, Council, or Marine Fisheries Commission employees to verify catch under a limited access program, but only to the extent that such use is consistent with subparagraph (B);

(F) when the Secretary has obtained written authorization from the person submitting such information to release such information to persons for reasons not otherwise provided for in this subsection, and such release does not violate other requirements of this Act;

(G) when such information is required to be submitted to the Secretary for any determination under a limited access program; or

(H) in support of homeland and national security activities, including the Coast Guard's homeland security missions as defined in section 888(a)(2) of the Homeland Security Act of 2002 (6 U.S.C. 468(a)(2)).

(2) Any observer information shall be confidential and shall not be disclosed, except in accordance with the requirements of subparagraphs (A) through (H) of paragraph (1), or—

(A) as authorized by a fishery management plan or regulations under the authority of the North Pacific Council to allow disclosure to the public of weekly summary bycatch information identified by vessel or for haul-specific bycatch information without vessel identification;

(B) when such information is necessary in proceedings to adjudicate observer certifications; or

(C) as authorized by any regulations issued under paragraph (3) allowing the collection of observer information, pursuant to a confidentiality agreement between the observers, observer employers, and the Secretary prohibiting disclosure of the information by the observers or observer employers, in order—

(i) to allow the sharing of observer information among observers and between observers and observer employers as necessary to train and prepare observers for deployments on specific vessels; or

(ii) to validate the accuracy of the observer information collected.

(3) The Secretary shall, by regulation, prescribe such procedures as may be necessary to preserve the confidentiality of information submitted in compliance with any requirement or regulation under this Act, except that the Secretary may release or make public any such information in any aggregate or summary form which does not directly or indirectly disclose the identity or business of any person who submits such information. Nothing in this subsection shall be interpreted or construed to prevent the use for conservation and management purposes by the Secretary, or with the approval of the Secretary, the Council, of any information submitted in compliance with any requirement or regulation under this Act or the use, release, or publication of bycatch information pursuant to paragraph (2)(A).

(c) RESTRICTION ON USE OF CERTAIN INFORMATION.—

(1) The Secretary shall promulgate regulations to restrict the use, in civil enforcement or criminal proceedings under this Act, the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.), and the Endangered Species Act (16 U.S.C. 1531 et seq.), of information collected by voluntary fishery data collectors, including sea samplers, while aboard any vessel for conservation and management purposes if the presence of such a fishery data collector aboard is not required by any of such Acts or regulations thereunder.

(2) The Secretary may not require the submission of a Federal or State income tax return or statement as a prerequisite for issuance of a permit until such time as the Secretary has promulgated regulations to ensure the confidentiality of information contained in such return or statement, to limit the information submitted to that necessary to achieve a demonstrated conservation and management purpose, and to provide appropriate penalties for violation of such regulations.

16 U.S.C. 1881a-1881b
MSA §§ 402-403

(d) **CONTRACTING AUTHORITY.**—Notwithstanding any other provision of law, the Secretary may provide a grant, contract, or other financial assistance on a sole-source basis to a State, Council, or Marine Fisheries Commission for the purpose of carrying out information collection or other programs if—

(1) the recipient of such a grant, contract, or other financial assistance is specified by statute to be, or has customarily been, such State, Council, or Marine Fisheries Commission; or

(2) the Secretary has entered into a cooperative agreement with such State, Council, or Marine Fisheries Commission.

(e) **RESOURCE ASSESSMENTS.**—

(1) The Secretary may use the private sector to provide vessels, equipment, and services necessary to survey the fishery resources of the United States when the arrangement will yield statistically reliable results.

(2) The Secretary, in consultation with the appropriate Council and the fishing industry--

(A) may structure competitive solicitations under paragraph (1) so as to compensate a contractor for a fishery resources survey by allowing the contractor to retain for sale fish harvested during the survey voyage;

(B) in the case of a survey during which the quantity or quality of fish harvested is not expected to be adequately compensatory, may structure those solicitations so as to provide that compensation by permitting the contractor to harvest on a subsequent voyage and retain for sale a portion of the allowable catch of the surveyed fishery; and

(C) may permit fish harvested during such survey to count toward a vessel's catch history under a fishery management plan if such survey was conducted in a manner that precluded a vessel's participation in a fishery that counted under the plan for purposes of determining catch history.

(3) The Secretary shall undertake efforts to expand annual fishery resource assessments in all regions of the Nation.

104-297

SEC. 403. OBSERVERS

16 U.S.C. 1881b

(a) **GUIDELINES FOR CARRYING OBSERVERS.**—Within one year after the date of enactment of the Sustainable Fisheries Act, the Secretary shall promulgate regulations, after notice and opportunity for public comment, for fishing vessels that carry observers. The regulations shall include guidelines for determining—

(1) when a vessel is not required to carry an observer on board because the facilities of such vessel for the quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized; and

(2) actions which vessel owners or operators may reasonably be required to take to render such facilities adequate and safe.

e-CFR Data is current as of July 14, 2011

Title 50: Wildlife and Fisheries

PART 660—FISHERIES OFF WEST COAST STATES

Subpart D—West Coast Groundfish—Limited Entry Trawl Fisheries

Source: 75 FR 60897, Oct. 1, 2010, unless otherwise noted.

§ 660.100 Purpose and scope.

This subpart covers the Pacific coast groundfish limited entry trawl fishery. Under the trawl rationalization program, the limited entry trawl fishery consists of the Shorebased IFQ Program, the MS Coop Program, and the C/P Coop Program. Nothing in these regulations shall be construed to modify, impair, or supersede the operation of any of the antitrust laws. The trawl rationalization program creates limited access privileges. These limited access privileges, including the QS or IBQ, QP or IBQ pounds, and catch history assignments, may be revoked, limited or modified at any time in accordance with the MSA—and do not create any right of compensation to the holder of the limited access privilege if it is revoked, limited, or modified. The trawl rationalization program does not create any right, title, or interest in or to any fish before the fish is harvested by the holder and shall be considered a grant of permission to the holder of the limited access privilege to engage in activities permitted by the trawl rationalization program.

[75 FR 78383, Dec. 15, 2010]

§ 660.111 Trawl fishery—definitions.

These definitions are specific to the limited entry trawl fisheries covered in this subpart. General groundfish definitions are found at §660.11, subpart C.

Accumulation limits mean the maximum extent of permissible ownership, control or use of a privilege within the trawl rationalization program, and include the following:

(1) *Shorebased IFQ Program.* (i) *Control limits* means the maximum amount of QS or IBQ that a person may own or control, as described at §660.140(d)(4).

(ii) *Vessel limits* means the maximum amount of QP a vessel can hold, acquire, and/or use during a calendar year, and specify the maximum amount of QP that may be registered to a single vessel during the year (QP Vessel Limit) and, for some species, the maximum amount of unused QP registered to a vessel account at any one time (Unused QP Vessel Limit), as described at §660.140(e)(4).

(2) *MS Coop Program.* (i) MS permit usage limit means the maximum amount of the annual mothership sector Pacific whiting allocation that a person owning an MS permit may cumulatively process, no more than 45 percent, as described at §660.150(f)(3)(i).

(ii) MS/CV permit ownership limit means the maximum amount of catch history assignment that a person may own, no more than 20 percent of the MS sector's allocation of Pacific whiting, as described at §660.150(g)(3)(i).

(iii) Catcher vessel usage limit means the maximum amount of the annual mothership sector Pacific whiting allocation that a vessel may catch, no more than 30 percent, as described at §660.150(g)(3)(ii).

Catch history assignment means a percentage of the mothership sector allocation of Pacific whiting based on a limited entry permit's qualifying history and which is specified on the MS/CV-endorsed limited entry permit.

Catcher/processor coop or C/P coop means a harvester group that includes all eligible catcher/processor at-sea Pacific whiting endorsed permit owners who voluntarily form a coop and who manage the catcher/processor-specified allocations through private agreements and contracts.

Catcher/Processor Coop Program or C/P Coop Program means the C/P Coop Program described at §660.160, subpart D.

Charterer means, for the purpose of economic data collection program, a person, other than the owner of the vessel, who: entered in to any agreement or commitment by which the possession or services of the vessel are secured for a period of time for the purposes of commercially harvesting or processing fish. A long-term or exclusive contract for the sale of all or a portion of the vessel's catch or processed products is not considered a charter.

Complete economic data collection (EDC) form means that a response is supplied for each question, sub-question, and answer-table cell. If particular question or sub-question is not applicable, "NA", must be entered in the appropriate space on the form. The form must also be signed and dated to certify that the information is true and complete to the best of the signatory's knowledge.

Coop agreement means a private agreement between a group of MS/CV-endorsed limited entry permit owners or C/P-endorsed permit owners that contains all information specified at §§660.150 and 660.160, subpart D.

Coop member means a permit owner of an MS/CV-endorsed permit for the MS Coop Program that is a party to an MS coop agreement, or a permit owner of a C/P-endorsed permit for the C/P Coop Program that is legally obligated to the C/P coop.

Coop permit means a Federal permit required to participate as a Pacific whiting coop in the catcher/processor or mothership sectors.

Designated coop manager means an individual appointed by a permitted coop that is identified in the coop agreement and is responsible for actions described at §§660.150 (for an MS coop) or 660.160 (for a C/P coop), subpart D.

IBQ pounds means the quotas, expressed in round weight of fish, that are issued annually to each QS permit owner in the Shorebased IFQ Program based on the amount of IBQ they own and the amount of allowable bycatch mortality allocated to the Shorebased IFQ Program. IBQ pounds have the same species/species group and area designations as the IBQ from which they are issued.

IFQ first receivers mean persons who first receive, purchase, or take custody, control, or possession of catch onshore directly from a vessel that harvested the catch while fishing under the Shorebased IFQ Program described at §660.140, subpart D.

IFQ landing means an offload of fish harvested under the Shorebased IFQ Program described at §660.140, subpart D.

IFQ trip means a trip in which the vessel has a valid fishing declaration for any of the following: Limited entry midwater trawl, non-whiting shorebased IFQ; Limited entry midwater trawl, Pacific whiting shorebased IFQ; Limited entry bottom trawl, shorebased IFQ, not including demersal trawl; Limited entry demersal trawl, shorebased IFQ; or Limited entry groundfish non-trawl, shorebased IFQ.

Individual bycatch quota (IBQ) means the amount of bycatch quota for an individual species/species group and area expressed as a percentage of the annual allocation of allowable bycatch mortality to the Shorebased IFQ Program.

IBQ is used as the basis for the annual calculation and allocation of a QS permit owner's IBQ pounds in the Shorebased IFQ Program. Both IBQ and QS may be listed on a QS permit and in the associated QS account. Species for which IBQ will be issued for the Shorebased IFQ Program are listed at §660.140, subpart D.

Individual fishing quota (IFQ) means a Federal permit to harvest a quantity of fish, expressed as a percentage of the total allowable catch of a fishery that may be received or held for exclusive use by a person. An IFQ is a harvest privilege that may be revoked at any time in accordance with the Magnuson-Stevens Act. IFQ species for the Shorebased IFQ Program are listed at §660.140, subpart D.

Inter-coop means two or more permitted coops that have submitted an accepted inter-coop agreement to NMFS that specifies a coordinated strategy for harvesting pooled allocations of Pacific whiting and non-whiting groundfish.

Inter-coop agreement means a written agreement between two or more permitted mothership coops and which contains private contractual arrangements for sharing catch and/or bycatch with one another.

Lessee means, for the purpose of economic data collection program, a person, other than the owner of the vessel or facility, who: was identified as the leaseholder, in a written lease, of the vessel or facility, or paid expenses of the vessel or facility, or claimed expenses for the vessel or facility as a business expense on a federal income tax return, or on a state income tax return.

Material change means, for the purposes of a coop agreement, a change to any of the required components of the coop agreement, defined at §§660.150 and 660.160, subpart D, which was submitted to NMFS during the application process for the coop permit.

Mothership coop or MS coop means a group of MS/CV-endorsed limited entry permit owners that are authorized by means of a coop permit to jointly harvest and process from a single coop allocation.

Mothership Coop Program or MS Coop Program means the MS Coop Program described at §660.150, subpart D, and includes both the coop and non-coop fisheries.

Mutual agreement exception means, for the purpose of §660.150, subpart D, an agreement that allows the owner of an MS/CV-endorsed limited entry permit to withdraw the permit's obligation of its catch history assignment to a permitted mothership processor, when mutually agreed to with the mothership processor, and to obligate to a different permitted mothership processor.

Pacific halibut set-aside means an amount of Pacific halibut annually set aside for the at-sea whiting fisheries (mothership and C/P sectors) and which is based on the trawl allocation of Pacific whiting.

Pacific whiting IFQ fishery means the Shorebased IFQ Program fishery composed of vessels making Pacific whiting IFQ trips pursuant to the requirements at §660.131 during the primary whiting season fishery dates for the Shorebased IFQ Program.

Pacific whiting IFQ trip means a trip in which a vessel registered to a limited entry permit uses legal midwater groundfish trawl gear with a valid declaration for limited entry midwater trawl, Pacific whiting shorebased IFQ, as specified at §660.13(d)(5)(iv)(A) during the dates for the Pacific whiting IFQ fishery primary season.

Processor obligation means an annual requirement for an MS/CV-endorsed limited entry permit to assign the amount of catch available from the permit's catch history assignment to a particular MS permit.

Quota pounds (QP) means the quotas, expressed in round weight of fish, that are issued annually to each QS permit owner in the Shorebased IFQ Program based on the amount of QS they own and the amount of fish allocated to the Shorebased IFQ Program. QP have the same species/species group and area designations as the QS from which they are issued.

Quota share (QS) means the amount of fishing quota for an individual species/species group and area expressed as a percentage of the annual allocation of fish to the Shorebased IFQ Program. The QS is used as the basis for the

annual calculation and allocation of a QS permit owner's QP in the Shorebased IFQ Program. Both QS and IBQ may be listed on a QS permit and in the associated QS account. Species for which QS will be issued for the Shorebased IFQ Program are listed at §660.140, subpart D.

Shorebased IFQ Program means the Shorebased IFQ Program described at §660.140, subpart D.

Vessel account means an account held by the vessel owner where QP and IBQ pounds are registered for use by a vessel in the Shorebased IFQ Program.

[75 FR 60897, Oct. 1, 2010, as amended at 75 FR 78383, Dec. 15, 2010]

§ 660.112 Trawl fishery—prohibitions.

These prohibitions are specific to the limited entry trawl fisheries. General groundfish prohibitions are defined at §660.12, subpart C. In addition to the general prohibitions specified in §600.725 of this chapter, it is unlawful for any person or vessel to:

(a) *General*—(1) *Trawl gear endorsement*. Fish with groundfish trawl gear, or carry groundfish trawl gear on board a vessel that also has groundfish on board, unless the vessel is registered for use with a valid limited entry permit with a trawl gear endorsement, with the following exception.

(i) The vessel is in continuous transit from outside the fishery management area to a port in Washington, Oregon, or California;

(ii) The vessel is registered to a limited entry MS permit with a valid mothership fishery declaration, in which case trawl nets and doors must be stowed in a secured and covered manner, and detached from all towing lines, so as to be rendered unusable for fishing.

(2) *Sorting*. Fail to sort catch consistent with the requirements specified at §660.130(d).

(3) *Recordkeeping and reporting*. (i) Fail to comply with all recordkeeping and reporting requirements at §660.13, subpart C; including failure to submit information, submission of inaccurate information, or intentionally submitting false information on any report required at §660.13(d), subpart C.

(ii) Falsify or fail to make and/or file, retain or make available any and all reports of groundfish landings, containing all data, and in the exact manner, required by the regulation at §660.13, subpart C, or §660.113, subpart D.

(iii) Failure to submit a complete EDC form to NMFS as required by §660.113.

(4) *Observers*. —(i) Fish (including processing, as defined at §600.10 of this chapter) in the Shorebased IFQ Program, the MS Coop Program, or the C/P Coop Program if NMFS determines the vessel is unsafe for an observer.

(ii) Fish in the Shorebased IFQ Program, the MS Coop Program, or the C/P Coop Program without observer coverage.

(5) *Fishing in conservation areas with trawl gear*. (i) Operate any vessel registered to a limited entry permit with a trawl endorsement and trawl gear on board in a applicable GCA (defined at §660.11, subpart C and §660.130(e), subpart D), except for purposes of continuous transiting, with all groundfish trawl gear stowed in accordance with §660.130(e)(4), subpart D or except as authorized in the groundfish management measures published at §660.130, subpart D.

(ii) Fish with bottom trawl gear (defined at §660.11, subpart C) anywhere within EFH seaward of a line approximating the 700-fm (1280-m) depth contour, as defined in §660.76, subpart C. For the purposes of regulation, EFH seaward of 700-fm (1280-m) within the EEZ is described at §660.75, subpart C.

(iii) Fish with bottom trawl gear (defined at §660.11, subpart C) with a footrope diameter greater than 19 inches (48 cm) (including rollers, bobbins or other material encircling or tied along the length of the footrope) anywhere within EFH within the EEZ. For the purposes of regulation, EFH within the EEZ is described at §660.75, subpart C.

(iv) Fish with bottom trawl gear (defined at §660.11, subpart C) with a footrope diameter greater than 8 inches (20 cm) (including rollers, bobbins or other material encircling or tied along the length of the footrope) anywhere within the EEZ shoreward of a line approximating the 100-fm (183-m) depth contour (defined at §660.73, subpart C).

(v) Fish with bottom trawl gear (defined at §660.11, subpart C), within the EEZ in the following areas (defined at §§660.77 and 660.78, Subpart C): Olympic 2, Biogenic 1, Biogenic 2, Grays Canyon, Biogenic 3, Astoria Canyon, Nehalem Bank/Shale Pile, Siletz Deepwater, Daisy Bank/Nelson Island, Newport Rockpile/Stonewall Bank, Heceta Bank, Deepwater off Coos Bay, Bandon High Spot, Rogue Canyon.

(vi) Fish with bottom trawl gear (defined at §660.11, subpart C), other than demersal seine, unless otherwise specified in this section or §660.381, within the EEZ in the following areas (defined at §660.79, subpart C): Eel River Canyon, Blunts Reef, Mendocino Ridge, Delgada Canyon, Tolo Bank, Point Arena North, Point Arena South Biogenic Area, Cordell Bank/Biogenic Area, Farallon Islands/Fanny Shoal, Half Moon Bay, Monterey Bay/Canyon, Point Sur Deep, Big Sur Coast/Port San Luis, East San Lucia Bank, Point Conception, Hidden Reef/Kidney Bank (within Cowcod Conservation Area West), Catalina Island, Potato Bank (within Cowcod Conservation Area West), Cherry Bank (within Cowcod Conservation Area West), and Cowcod EFH Conservation Area East.

(vii) Fish with bottom contact gear (defined at §660.11, subpart C) within the EEZ in the following areas (defined at §§660.78 and 660.79, subpart C): Thompson Seamount, President Jackson Seamount, Cordell Bank (50–fm (91-m) isobath), Harris Point, Richardson Rock, Scorpion, Painted Cave, Anacapa Island, Carrington Point, Judith Rock, Skunk Point, Footprint, Gull Island, South Point, and Santa Barbara.

(viii) Fish with bottom contact gear (defined at §660.11, subpart C), or any other gear that is deployed deeper than 500-fm (914-m), within the Davidson Seamount area (defined at §660.79, subpart C).

(b) *Shorebased IFQ Program* —(1) *General*. (i) Own or control by any means whatsoever an amount of QS or IBQ that exceeds the Shorebased IFQ Program accumulation limits.

(ii) Fish in the Shorebased IFQ Program with a vessel that does not have a valid vessel account or that has a vessel account with a deficit (negative balance) for any species/species group.

(iii) Have any IFQ species/species group catch (landings and discards) from an IFQ trip not covered by QP for greater than 30 days from the date the deficit (negative balance) from that trip is documented, unless the deficit is within the limits of the carryover provision specified at §660.140(e)(5), subpart D, in which case the vessel has 30 days after the QP for the following year are issued to eliminate the deficit.

(iv) Transfer the limited entry trawl endorsed permit to another vessel or sell the limited entry trawl endorsed permit to another owner if the vessel registered to the permit has an overage (catch not covered by QP), until the overage is covered, regardless of the amount of the overage.

(v) Use QP by vessels not registered to a limited entry trawl permit with a valid vessel account.

(vi) Use QP in an area or for species/species groups other than that for which it is designated.

(vii) Fish in more than one IFQ management area, specified at §660.140(c)(2), on the same trip.

(viii) Fish on a Pacific whiting IFQ trip with a gear other than legal midwater groundfish trawl gear.

(ix) Fish on a Pacific whiting IFQ trip without a valid declaration for limited entry midwater trawl, Pacific whiting shorebased IFQ, as specified at §660.13(d)(5)(iv)(A), subpart C.

(x) Use midwater trawl gear to fish for Pacific whiting within an RCA outside the Pacific whiting IFQ fishery primary season as specified at §660.131(b)(2)(iii).

(xi) Bring a haul on board before all catch from the previous haul has been stowed.

(xii) Process groundfish at-sea (“at-sea processing”) by vessels in the Shorebased IFQ Program regardless of the type of gear used, with the following exceptions:

(A) A vessel that is 75-ft (23-m) or less LOA that harvests whiting and, in addition to heading and gutting, cuts the tail off and freezes the whiting, is not considered to be a catcher/processor nor is it considered to be processing fish, and

(B) A vessel that has a sablefish at-sea processing exemption, defined at §660.25(b)(3)(iv)(D), subpart C may process sablefish at-sea.

(xiii) Retain any IFQ species/species group onboard a vessel unless the vessel has observer coverage during the entire trip and until all IFQ species from the trip are offloaded. A vessel may deliver IFQ species/species groups to more than one IFQ first receiver, but must maintain observer coverage until all IFQ species from the trip are offloaded. Once transfer of fish begins, all fish aboard the vessel are counted as part of the same landing as defined at §660.11.

(xiv) Discard IFQ species/species group at sea unless the observer has documented or estimated the discards.

(xv) Begin a new fishing trip until all fish from an IFQ landing have been offloaded from the vessel.

(2) *IFQ first receivers.* (i) Accept an IFQ landing without a valid first receiver site license.

(ii) Fail to sort fish received from a IFQ landing prior to first weighing after offloading as specified at §660.130(d)(2) for the Shorebased IFQ Program, except the vessels declared in to the limited entry midwater trawl, Pacific whiting shorebased IFQ at §660.13(d)(5)(iv)(A), subpart C may weigh catch on a bulk scale before sorting as described at §660.140(j)(2).

(iii) Process, sell, or discard any groundfish received from an IFQ landing that has not been weighed on a scale that is in compliance with requirements at §660.15, subpart C.

(iv) Transport catch away from the point of landing before that catch has been sorted and weighed by federal groundfish species or species group, and recorded for submission on an electronic fish ticket. (If fish will be transported to a different location for processing, all sorting and weighing to federal groundfish species groups must occur before transporting the catch away from the point of landing).

(v) Receive an IFQ landing without coverage by a catch monitor when one is required by regulations, unless NMFS has granted a written waiver exempting the IFQ first receiver from the catch monitor coverage requirements. On a case-by-case basis, a temporary written waiver may be granted by the Assistant Regional Administrator or designee if he/she determines that the failure to obtain coverage of a catch monitor was due to circumstances beyond the control of the first receiver. The duration of the waiver will be determined on a case-by-case basis.

(vi) Receive an IFQ landing without a NMFS-accepted catch monitoring plan or not in accordance with their NMFS-accepted catch monitoring plan.

(vii) Mix catch from more than one IFQ landing prior to the catch being sorted and weighed.

(viii) Fail to comply with the IFQ first receiver responsibilities specified at §660.140(b)(2).

(ix) Process, sell, or discard any groundfish received from an IFQ landing that has not been accounted for on an electronic fish ticket with the identification number for the vessel that delivered the fish.

(x) Fail to submit, or submit incomplete or inaccurate information on any report, application, or statement required under this part.

(c) *MS and C/P Coop Programs.* (1) Process Pacific whiting in the fishery management area during times or in areas where at-sea processing is prohibited for the sector in which the vessel fishes, unless:

(i) The fish are received from a member of a Pacific Coast treaty Indian tribe fishing under §660.50, subpart C;

(ii) The fish are processed by a waste-processing vessel according to §660.131(h), subpart D; or

(iii) The vessel is completing processing of Pacific whiting taken on board prior to the close of that vessel's primary season.

(2) During times or in areas where at-sea processing is prohibited, take and retain or receive Pacific whiting, except as cargo or fish waste, on a vessel in the fishery management area that already has processed Pacific whiting on board. An exception to this prohibition is provided if the fish are received within the tribal U&A from a member of a Pacific Coast treaty Indian tribe fishing under §660.50, subpart C.

(3) Operate as a waste-processing vessel within 48 hours of a primary season for Pacific whiting in which that vessel operates as a catcher/processor or mothership, according to §660.131(h), subpart D.

(4) On a vessel used to fish for Pacific whiting, fail to keep the trawl doors on board the vessel, when taking and retention is prohibited under §660.131(b), subpart D.

(5) Sort or discard any portion of the catch taken by a catcher vessel in the mothership sector before the catcher vessel observer completes sampling of the catch, with the exception of minor amounts of catch that are lost when the codend is separated from the net and prepared for transfer.

(d) *MS Coop Program (coop and non-coop fisheries).* (1) Catch, take, or harvest fish in the mothership non-coop fishery with a vessel that is not registered to a current MS/CV-endorsed limited entry trawl permit.

(2) Receive catch, process catch, or otherwise fish as a mothership vessel if it is not registered to a current MS permit.

(3) Fish with a vessel in the mothership sector, if that vessel was used to fish in the C/P fishery in the same calendar year.

(4) Catch, take, or harvest fish in the MS Coop Program with a vessel that does not have a valid VMS declaration for limited entry midwater trawl, Pacific whiting mothership sector, as specified at §660.13(d)(5)(iv)(A), subpart C.

(5) Transfer catch to a vessel that is not registered to an MS permit. (i.e. a tender vessel).

(6) Use a vessel registered to a limited entry permit with a trawl endorsement (with or without an MS/CV endorsement) to catch more than 30 percent of the Pacific whiting allocation for the mothership sector.

(7) Process more than 45 percent of the annual mothership sector's Pacific whiting allocation.

(8) Catch, take, or harvest fish before all catch from any previous haul has been transferred to a single vessel registered to an MS permit.

(9) Transfer catch from a single haul to more than one permitted MS vessel.

(10) Catch, take, or harvest fish for a MS coop with a vessel that has not been identified by the coop as a vessel authorized to harvest that coop's allocation.

(11) Catch, take, or harvest fish in the non-coop fishery with a vessel registered to an MS/CV-endorsed permit in the same year the MS/CV-endorsed permit was registered to a vessel that fished as a member of a coop in the MS Coop Program.

(12) Sort or discard any portion of the catch taken by a catcher vessel in the mothership sector before the catcher vessel observer completes sampling of the catch, except for minor operational amounts of catch lost by a catcher vessel provided the observer has accounted for the discard (i.e., a maximized retention fishery).

(13) Mix catch from more than one haul before the observer completes their collection of catch for sampling.

(14) Take deliveries without a valid scale inspection report signed by an authorized scale inspector on board the vessel.

(15) Sort, process, or discard catch delivered to a mothership before the catch is weighed on a scale that meets the requirements of §660.15(b), including the daily test requirements.

(e) *C/P Coop Program.* (1) Fish with a vessel in the catcher/processor sector that is not registered to a current C/P-endorsed limited entry trawl permit.

(2) Fish as a catcher/processor vessel in the same year that the vessel fishes as a catcher vessel in the mothership fishery.

(3) Fish as a catcher/processor vessel in the same year that the vessel operates as a mothership in the mothership fishery.

(4) Fish in the C/P Coop Program with a vessel that does not have a valid VMS declaration for limited entry midwater trawl, Pacific whiting catcher/processor sector, as specified at §660.13(d)(5)(iv)(A).

(5) Fish in the C/P Coop Program with a vessel that is not identified in the C/P coop agreement.

(6) Fish in the C/P Coop Program without a valid scale inspection report signed by an authorized scale inspector on board the vessel.

(7) Sort, process, or discard catch before the catch is weighed on a scale that meets the requirements of §660.15(b), including the daily test requirements.

(8) Discard any catch from the codend or net (i.e. bleeding) before the observer has completed their data collection.

(9) Mix catch from more than one haul before the observer completes their collection of catch for sampling.

[75 FR 60897, Oct. 1, 2010, as amended at 75 FR 78384, Dec. 15, 2010]

§ 660.113 Trawl fishery—recordkeeping and reporting.

General groundfish recordkeeping and reporting requirements are defined at §660.13, subpart C. The following recordkeeping and reporting requirements are in addition to those and are specific to the limited entry trawl fisheries.

(a) *General requirements.* (1) All records or reports required by this paragraph (a) must: be maintained in English, be accurate, be legible, be based on local time, and be submitted in a timely manner.

(2) *Retention of Records.* All records used in the preparation of records or reports specified in this section or corrections to these reports must be maintained for a period of not less than three years after the date of landing and must be immediately available upon request for inspection by NMFS or authorized officers or others as specifically authorized by NMFS. Records used in the preparation of required reports specified in this section or corrections to

these reports that are required to be kept include, but are not limited to, any written, recorded, graphic, electronic, or digital materials as well as other information stored in or accessible through a computer or other information retrieval system; worksheets; weight slips; preliminary, interim, and final tally sheets; receipts; checks; ledgers; notebooks; diaries; spreadsheets; diagrams; graphs; charts; tapes; disks; or computer printouts. All relevant records used in the preparation of electronic fish ticket reports or corrections to these reports must be maintained for a period of not less than three years after the date and must be immediately available upon request for inspection by NMFS or authorized officers or others as specifically authorized by NMFS.

(b) *Shorebased IFQ Program. (1) Economic data collection (EDC) program.* The following persons are required to submit an EDC form as specified at §660.114:

(i) All owners, lessees, and charterers of a catcher vessel registered to a limited entry trawl endorsed permit.

(ii) All owners of a first receiver site license.

(iii) All owners and lessees of a shorebased processor.

(2) *Electronic vessel logbook.* [Reserved]

(3) *Gear switching declaration.* Any person with a limited entry trawl permit participating in the Shorebased IFQ Program using groundfish non-trawl gear (i.e., gear switching) must submit a valid gear declaration reporting such participation as specified in §660.13(d)(5)(iv)(A).

(4) *Electronic fish ticket.* The IFQ first receiver is responsible for compliance with all reporting requirements described in this paragraph.

(i) *Required information.* All IFQ first receivers must provide the following types of information: Date of landing, vessel that made the delivery, vessel account number, gear type used, catch area, first receiver, actual weights of species landed listed by species or species group including species with no value, condition landed, number of salmon by species, number of Pacific halibut, and any other information deemed necessary by the Regional Administrator as specified on the appropriate electronic fish ticket form.

(ii) *Submissions.* The IFQ first receiver must:

(A) Include as part of each electronic fish ticket submission, the actual scale weight for each groundfish species as specified by requirements at §660.15(c) and the vessel identification number.

(B) Use for the purpose of submitting electronic fish tickets, and maintain in good working order, computer equipment as specified at §660.15(d)(1);

(C) Install, use, and update as necessary, any NMFS-approved software described at §660.15(d)(3);

(D) Submit a completed electronic fish ticket for every IFQ landing no later than 24 hours after the date the fish are received, unless a waiver of this requirement has been granted under provisions specified at paragraph (b)(4)(iv) of this section.

(iii) *Revising a submission.* In the event that a data error is found, electronic fish ticket submissions may be revised by resubmitting the revised form. Electronic fish tickets are to be used for the submission of final data. Preliminary data, including estimates of fish weights or species composition, shall not be submitted on electronic fish tickets.

(iv) *Waivers for submission.* On a case-by-case basis, a temporary written waiver of the requirement to submit electronic fish tickets may be granted by the Assistant Regional Administrator or designee if he/she determines that circumstances beyond the control of a first receiver would result in inadequate data submissions using the electronic fish ticket system. The duration of the waiver will be determined on a case-by-case basis.

(v) *Reporting requirements when a temporary waiver has been granted.* IFQ First receivers that have been granted a temporary waiver from the requirement to submit electronic fish tickets must submit on paper the same data as is required on electronic fish tickets within 24 hours of the date received during the period that the waiver is in effect. Paper fish tickets must be sent by facsimile to NMFS, Northwest Region, Sustainable Fisheries Division, 206–526–6736 or by delivering it in person to 7600 Sand Point Way, NE., Seattle, WA 98115. The requirements for submissions of paper tickets in this paragraph are separate from, and in addition to existing state requirements for landing receipts or fish receiving tickets.

(c) *MS Coop Program (coop and non-coop fisheries) —(1) Economic data collection (EDC) program.* The following persons are required to submit a complete economic data collection form as specified at §660.114.

(i) All owners, lessees, and charterers of a catcher vessel registered to a limited entry trawl MS/CV-endorsed permit.

(ii) All owners, lessees, and charterers of a vessel registered to an MS permit.

(2) *NMFS-approved scales —(i) Scale test report form.* Mothership vessel operators are responsible for conducting scale tests and for recording the scale test information on the at-sea scale test report form as specified at §660.15(b), subpart C, for mothership vessels.

(ii) *Printed scale reports.* Specific requirements pertaining to printed scale reports and scale weight print outs are specified at §660.15(b), subpart C, for mothership vessels.

(iii) *Retention of scale records and reports.* The vessel must maintain the test report form on board until the end of the fishing year during which the tests were conducted, and make the report forms available to observers, NMFS staff, or authorized officers. In addition, the vessel owner must retain the scale test report forms for 3 years after the end of the fishing year during which the tests were performed. All scale test report forms must be signed by the vessel operator.

(3) *Annual coop report —(i)* The designated coop manager for the mothership coop must submit an annual report to the Pacific Fishery Management Council for their November meeting each year. The annual coop report will contain information about the current year's fishery, including:

(A) The mothership sector's annual allocation of Pacific whiting and the permitted mothership coop allocation;

(B) The mothership coop's actual retained and discarded catch of Pacific whiting, salmon, Pacific halibut, rockfish, groundfish, and other species on a vessel-by-vessel basis;

(C) A description of the method used by the mothership coop to monitor performance of coop vessels that participated in the fishery;

(D) A description of any actions taken by the mothership coop in response to any vessels that exceed their allowed catch and bycatch; and

(E) Plans for the next year's mothership coop fishery, including the companies participating in the cooperative, the harvest agreement, and catch monitoring and reporting requirements.

(ii) The annual coop report submitted to the Pacific Fishery Management Council must be finalized to capture any additional fishing activity that year and submitted to NMFS by March 31 of the following year before a coop permit is issued for the following year.

(4) *Cease fishing report.* As specified at §660.150(c)(4)(ii), the designated coop manager, or in the case of an inter-coop agreement, all of the designated coop managers must submit a cease fishing report to NMFS indicating that harvesting has concluded for the year.

(d) *C/P Coop Program* —(1) *Economic data collection (EDC) program*. All owners, lessees, and charterers of a vessel registered to a C/P-endorsed limited entry trawl permit are required to submit a complete economic data collection form as specified at §660.114.

(2) *NMFS-approved scales* —(i) *Scale test report form*. Catcher/processor vessel operators are responsible for conducting scale tests and for recording the scale test information on the at-sea scale test report form as specified at §660.15(b), subpart C, for C/P vessels.

(ii) *Printed scale reports*. Specific requirements pertaining to printed scale reports and scale weight print outs are specified at §660.15(b), subpart C, for C/P vessels.

(iii) *Retention of scale records and reports*. The vessel must maintain the test report form on board until the end of the fishing year during which the tests were conducted, and make the report forms available to observers, NMFS staff, or authorized officers. In addition, the vessel owner must retain the scale test report forms for 3 years after the end of the fishing year during which the tests were performed. All scale test report forms must be signed by the vessel operator.

(3) *Annual coop report* —(i) The designated coop manager for the C/P coop must submit an annual report to the Pacific Fishery Management Council for their November meeting each year. The annual coop report will contain information about the current year's fishery, including:

(A) The C/P sector's annual allocation of Pacific whiting;

(B) The C/P coop's actual retained and discarded catch of Pacific whiting, salmon, Pacific halibut, rockfish, groundfish, and other species on a vessel-by-vessel basis;

(C) A description of the method used by the C/P coop to monitor performance of cooperative vessels that participated in the fishery;

(D) A description of any actions taken by the C/P coop in response to any vessels that exceed their allowed catch and bycatch; and

(E) Plans for the next year's C/P coop fishery, including the companies participating in the cooperative, the harvest agreement, and catch monitoring and reporting requirements.

(ii) The annual coop report submitted to the Pacific Fishery Management Council must be finalized to capture any additional fishing activity that year and submitted to NMFS by March 31 of the following year before a coop permit is issued for the following year.

(4) *Cease fishing report*. As specified at §660.160(c)(5), the designated coop manager must submit a cease fishing report to NMFS indicating that harvesting has concluded for the year.

[75 FR 60897, Oct. 1, 2010, as amended at 75 FR 78385, Dec. 15, 2010]

§ 660.114 Trawl fishery—economic data collection program.

(a) *General*. The economic data collection (EDC) program collects mandatory economic data from participants in the trawl rationalization program. NMFS requires submission of an EDC form to gather ongoing, annual data for 2011 and beyond, as well as a onetime collection in 2011 of baseline economic data from 2009 through 2010.

(b) *Economic data collection program requirements*. The following fishery participants in the limited entry groundfish trawl fisheries are required to comply with the following EDC program requirements:

Fishery	Economic data	Who is required to	Consequence for failure to
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participant	collection	submit an EDC?	submit (In addition to consequences listed below, failure to submit an EDC may be a violation of the MSA.)
(1) Limited entry trawl catcher vessels	(i) Baseline (2009 and 2010) economic data	All owners, lessees, and charterers of a catcher vessel registered to a limited entry trawl endorsed permit at any time in 2009 or 2010	(A) For permit owner, a limited entry trawl permit application (including MS/CV-endorsed limited entry trawl permit) will not be considered complete until the required EDC for that permit owner associated with that permit is submitted, as specified at §660.25(b)(4)(i), subpart C. (B) For a vessel owner, participation in the groundfish fishery (including, but not limited to, changes in vessel registration, vessel account actions, or if own QS permit, issuance of annual QP or IBQ pounds) will not be authorized until the required EDC for that owner for that vessel is submitted, as specified, in part, at §660.25(b)(4)(v), subpart C and §660.140(e), subpart D. (C) For a vessel lessee or charterer, participation in the groundfish fishery (including, but not limited to, issuance of annual QP or IBQ pounds if own QS or IBQ) will not be authorized, until the required EDC for their operation of that vessel is submitted.
	(ii) Annual/ongoing (2011 and beyond) economic data	All owners, lessees, and charterers of a catcher vessel registered to a limited entry trawl endorsed permit at any time in 2011 and beyond	(A) For permit owner, a limited entry trawl permit application (including MS/CV-endorsed limited entry trawl permit) will not be considered complete until the required EDC for that permit owner associated with that permit is submitted, as specified at §660.25(b)(4)(i), subpart C.

			<p>(B) For a vessel owner, participation in the groundfish fishery (including, but not limited to, changes in vessel registration, vessel account actions, or if own QS permit, issuance of annual QP or IBQ pounds) will not be authorized until the required EDC for that owner for that vessel is submitted, as specified, in part, at §660.25(b)(4)(v), subpart C and §660.140(e), subpart D.</p> <p>(C) For a vessel lessee or charterer, participation in the groundfish fishery (including, but not limited to, issuance of annual QP or IBQ pounds if own QS or IBQ) will not be authorized, until the required EDC for their operation of that vessel is submitted.</p>
(2) Motherships	(i) Baseline (2009 and 2010) economic data	All owners, lessees, and charterers of a mothership vessel that received whiting in 2009 or 2010 as recorded in NMFS' NORPAC database	<p>(A) For permit owner, an MS permit application will not be considered complete until the required EDC for that permit owner associated with that permit is submitted, as specified at §660.25(b)(4)(i), subpart C.</p> <p>(B) For a vessel owner, participation in the groundfish fishery (including, but not limited to, changes in vessel registration) will not be authorized until the required EDC for that owner for that vessel is submitted, as specified, in part, at §660.25(b)(4)(v), subpart C.</p> <p>(C) For a vessel lessee or charterer, participation in the groundfish fishery will not be authorized, until the required EDC for their operation of that</p>

			vessel is submitted.
	(ii) Annual/ongoing (2011 and beyond) economic data	All owners, lessees, and charterers of a mothership vessel registered to an MS permit at any time in 2011 and beyond	(A) For permit owner, an MS permit application will not be considered complete until the required EDC for that permit owner associated with that permit is submitted, as specified at §660.25(b)(4)(i), subpart C. (B) For a vessel owner, participation in the groundfish fishery (including, but not limited to, changes in vessel registration) will not be authorized until the required EDC for that owner for that vessel is submitted, as specified, in part, at §660.25(b)(4)(v), subpart C. (C) For a vessel lessee or charterer, participation in the groundfish fishery will not be authorized, until the required EDC for their operation of that vessel is submitted.
(3) Catcher processors	(i) Baseline (2009 and 2010) economic data	All owners, lessees, and charterers of a catcher processor vessel that harvested whiting in 2009 or 2010 as recorded in NMFS' NORPAC database	(A) For permit owner, a C/P-endorsed limited entry trawl permit application will not be considered complete until the required EDC for that permit owner associated with that permit is submitted, as specified at §660.25(b)(4)(i), subpart C. (B) For a vessel owner, participation in the groundfish fishery (including, but not limited to, changes in vessel registration) will not be authorized until the required EDC for that owner for that vessel is submitted, as specified, in part, at §660.25(b)(4)(v), subpart C. (C) For a vessel lessee or charterer, participation in the

			groundfish fishery will not be authorized, until the required EDC for their operation of that vessel is submitted.
	(ii) Annual/ongoing (2011 and beyond) economic data	All owners, lessees, and charterers of a catcher processor vessel registered to a catcher processor permit at any time in 2011 and beyond	(A) For permit owner, a C/P-endorsed limited entry trawl permit application will not be considered complete until the required EDC for that permit owner associated with that permit is submitted, as specified at §660.25(b)(4)(i), subpart C. (B) For a vessel owner, participation in the groundfish fishery (including, but not limited to, changes in vessel registration) will not be authorized until the required EDC for that owner for that vessel is submitted, as specified, in part, at §660.25(b)(4)(v), subpart C. (C) For a vessel lessee or charterer, participation in the groundfish fishery will not be authorized, until the required EDC for their operation of that vessel is submitted.
(4) First receivers/shorebased processors	(i) Baseline (2009 and 2010) economic data	All owners and lessees of a shorebased processor and all buyers that received groundfish or whiting harvested with a limited entry trawl permit as listed in the PacFIN database in 2009 or 2010	A first receiver site license application for a particular physical location for processing and buying will not be considered complete until the required EDC for the applying processor or buyer is submitted, as specified at §660.140(f)(3), subpart D.
	(ii) Annual/ongoing (2011 and beyond) economic data	(A) All owners of a first receiver site license in 2011 and beyond	A first receiver site license application will not be considered complete until the required EDC for that license owner associated with that

			license is submitted, as specified at §660.140(f)(3), subpart D. See paragraph (b)(4)(ii)(A) of this table.
		(B) All owners and lessees of a shore-based processor (as defined under “processor” at §660.11, subpart C, for purposes of EDC) that received round or headed-and-gutted IFQ species groundfish or whiting from a first receiver in 2011 and beyond	

(c) *Submission of the EDC form and deadline* —(1) *Submission of the EDC form.* The complete, certified EDC form must be submitted to ATTN: Economic Data Collection Program (FRAM Division), NMFS, Northwest Fisheries Science Center, 2725 Montlake Boulevard East, Seattle, WA 98112. A complete EDC form contains responses for all data fields, which include but are not limited to costs, labor, earnings, activity in a fishery, vessel or plant characteristics, value, quota, operational information, location of expenditures and earnings, ownership information and leasing information.

(2) *Deadline.* Complete, certified EDC forms must be mailed and postmarked by or hand-delivered to NMFS NWFS no later than September 1, 2011, for baseline data, and, for the annual/ongoing data collection beginning September 1, 2012, September 1 each year for the prior year’s data.

(d) *Confidentiality of information.* Information received on an EDC form will be considered confidential under applicable law and guidance.

(e) *EDC audit procedures* —(1) NMFS reserves the right to conduct verification of economic data with the submitter of the form. NMFS may employ a third party agent to conduct the audits.

(2) The submitter of the EDC form must respond to any inquiry by NMFS or a NMFS agent within 20 days of the date of issuance of the inquiry, unless an extension is granted by NMFS.

(3) The submitter of the form must provide copies of additional data to facilitate verification by NMFS or NMFS’ agent upon request. The NMFS auditor may review and request copies of additional data provided by the submitter, including but not limited to, previously audited or reviewed financial statements, worksheets, tax returns, invoices, receipts, and other original documents substantiating the economic data submitted.

[75 FR 78387, Dec. 15, 2010]

§ 660.120 Trawl fishery—crossover provisions.

(a) *General.* In addition to the General provisions listed at §660.60, subpart C, the crossover provisions of this section apply to vessels operating in the limited entry trawl fishery.

(b) *Operating in north-south management areas with different trip limits* —(1) *Minor Rockfish*.

(i) If a trawl vessel takes and retains minor shelf rockfish south of 40°10'N. lat., that vessel is also permitted to take and retain, possess, or land yellowtail rockfish up to its cumulative limits north of 40°10'N. lat., even if yellowtail rockfish is part of the landings from minor shelf rockfish taken and retained south of 40°10'N. lat. Widow rockfish is included in overall shelf rockfish limits for all gear groups.

(ii) If a trawl vessel takes and retains minor shelf rockfish north of 40°10'N. lat., that vessel is also permitted to take and retain, possess, or land chilipepper rockfish up to its cumulative limits south of 40°10' N. lat., even if chilipepper rockfish is part of the landings from minor shelf rockfish taken and retained north of 40°10' N. lat.

(2) *DTS complex*. Differential trawl trip limits for the “DTS complex” north and south of latitudinal management lines may be specified in trip limits, Table 1 (North) and Table 1 (South) of this subpart. Vessels operating in the limited entry trawl fishery are subject to the crossover provisions in this paragraph when making landings that include any one of the four species in the “DTS complex.”

(3) *Flatfish complex*. There are often differential trip limits for the flatfish complex (butter, curlfin, English, flathead, petrale, rex, rock, and sand soles, Pacific sanddab, and starry flounder) north and south of latitudinal management lines. Vessels operating in the limited entry trawl fishery are subject to the crossover provisions in this paragraph when making landings that include any one of the species in the flatfish complex.

§ 660.130 Trawl fishery—management measures.

(a) *General*. Limited entry trawl vessels are those vessels registered to a limited entry permit with a trawl endorsement and those vessels registered to an MS permit. Most species taken in limited entry trawl fisheries will be managed with quotas (see §660.140), allocations or set-asides (see §660.150 or §660.160), or cumulative trip limits (see trip limits in Tables 1 (North) and 1 (South) of this subpart), size limits (see §660.60 (h)(5), subpart C), seasons (see Pacific whiting at §660.131(b), subpart D), gear restrictions (see paragraph (b) of this section) and closed areas (see paragraph (e) of this section and §§660.70 through 660.79, subpart C). The trawl fishery has gear requirements and harvest limits that differ by the type of trawl gear on board and the area fished. Groundfish vessels operating south of Point Conception must adhere to CCA restrictions (see paragraph (e)(1) of this section and §660.70, subpart C). The trip limits in Tables 1 (North) and 1 (South) of this subpart apply to vessels participating in the limited entry groundfish trawl fishery and may not be exceeded. Federal commercial groundfish regulations are not intended to supersede any more restrictive state commercial groundfish regulations relating to federally-managed groundfish.

(b) *Trawl gear requirements and restrictions*. Trawl nets may be fished with or without otter boards, and may use warps or cables to herd fish.

(1) *Codends*. Only single-walled codends may be used in any trawl. Double-walled codends are prohibited.

(2) *Mesh size*. Groundfish trawl gear must meet the minimum mesh size requirements in this paragraph. Mesh size requirements apply throughout the net. Minimum trawl mesh sizes are: Bottom trawl, 4.5 inches (11.4 cm); midwater trawl, 3.0 inches (7.6 cm). Minimum trawl mesh size requirements are met if a 20-gauge stainless steel wedge, less one thickness of the metal wedge, can be passed with only thumb pressure through at least 16 of 20 sets of two meshes each of wet mesh.

(3) *Chafing gear*. Chafing gear may encircle no more than 50 percent of the net's circumference. No section of chafing gear may be longer than 50 meshes of the net to which it is attached. Chafing gear may be used only on the last 50 meshes, measured from the terminal (closed) end of the codend. Except at the corners, the terminal end of each section of chafing gear on all trawl gear must not be connected to the net. (The terminal end is the end farthest from the mouth of the net.) Chafing gear must be attached outside any riblines and restraining straps. There is no limit on the number of sections of chafing gear on a net.

(4) *Large footrope trawl gear*. Large footrope gear is bottom trawl gear with a footrope diameter larger than 8 inches (20 cm) (including rollers, bobbins or other material encircling or tied along the length of the footrope). Fishing with bottom trawl gear with a footrope diameter greater than 19 inches (48 cm) (including rollers, bobbins, or other

material encircling or tied along the length of the footrope) is prohibited anywhere in EFH within the EEZ, as defined by latitude/longitude coordinates at §660.75, subpart C.

(5) *Small footrope trawl gear.* Small footrope gear is bottom trawl gear with a footrope diameter of 8 inches (20 cm) or smaller (including rollers, bobbins or other material encircling or tied along the length of the footrope). Other lines or ropes that run parallel to the footrope may not be augmented with material encircling or tied along their length such that they have a diameter larger than 8 inches (20 cm). For enforcement purposes, the footrope will be measured in a straight line from the outside edge to the opposite outside edge at the widest part on any individual part, including any individual disk, roller, bobbin, or any other device.

(i) *Selective flatfish trawl gear.* Selective flatfish trawl gear is a type of small footrope trawl gear. The selective flatfish trawl net must be a two-seamed net with no more than two riblines, excluding the codend. The breastline may not be longer than 3 ft (0.92 m) in length. There may be no floats along the center third of the headrope or attached to the top panel except on the riblines. The footrope must be less than 105 ft (32.26 m) in length. The headrope must be not less than 30 percent longer than the footrope. An explanatory diagram of a selective flatfish trawl net is provided as Figure 1 of part 660, subpart D.

(ii) [Reserved]

(6) *Midwater (or pelagic) trawl gear.* Midwater trawl gear must have unprotected footropes at the trawl mouth, and must not have rollers, bobbins, tires, wheels, rubber discs, or any similar device anywhere on any part of the net. The footrope of midwater gear may not be enlarged by encircling it with chains or by any other means. Ropes or lines running parallel to the footrope of midwater trawl gear must be bare and may not be suspended with chains or any other materials. Sweep lines, including the bottom leg of the bridle, must be bare. For at least 20 ft (6.15 m) immediately behind the footrope or headrope, bare ropes or mesh of 16-inch (40.6-cm) minimum mesh size must completely encircle the net. A band of mesh (a "skirt") may encircle the net under transfer cables, lifting or splitting straps (chokers), but must be: over riblines and restraining straps; the same mesh size and coincide knot-to-knot with the net to which it is attached; and no wider than 16 meshes.

(c) *Prohibitions by limited entry trawl gear type.* Management measures may vary depending on the type of trawl gear (i.e., large footrope, small footrope, selective flatfish, or midwater trawl gear) used and/or on board a vessel during a fishing trip, cumulative limit period, and the area fished. Trawl nets may be used on and off the seabed. For some species or species groups, Table 1 (North) and Table 1 (South) of this subpart provide trip limits that are specific to different types of trawl gear: large footrope, small footrope (including selective flatfish), selective flatfish, midwater, and multiple types. If Table 1 (North) and Table 1 (South) of this subpart provide gear specific limits for a particular species or species group, it is unlawful to take and retain, possess or land that species or species group with limited entry trawl gears other than those listed.

(1) *Fishing with large footrope trawl gear.* It is unlawful for any vessel using large footrope gear to fish for groundfish shoreward of the RCAs defined at paragraph (e)(4) of this section and at §§660.70 through 660.74, subpart C. The use of large footrope gear is permitted seaward of the RCAs coastwide.

(2) *Fishing with small footrope trawl gear.* North of 40°10' N. lat., it is unlawful for any vessel using small footrope gear (except selective flatfish gear) to fish for groundfish or have small footrope trawl gear (except selective flatfish gear) onboard while fishing shoreward of the RCA defined at paragraph (d) of this section and at §§660.70 through 660.74, subpart C. South of 40°10' N. lat., small footrope gear is required shoreward of the RCA. Small footrope gear is permitted seaward of the RCA coastwide.

(i) North of 40°10' N. lat., selective flatfish gear is required shoreward of the RCA defined at paragraph (d) of this section and at §§660.70, through 660.74, subpart C. South of 40°10' N. lat., selective flatfish gear is permitted, but not required, shoreward of the RCA. The use of selective flatfish trawl gear is permitted seaward of the RCA coastwide.

(ii) [Reserved]

(3) *Fishing with midwater trawl gear.* North of 40°10' N. lat., midwater trawl gear is permitted only for vessels participating in the primary Pacific whiting fishery (for details on the Pacific whiting fishery see §660.131, subpart D.)

South of 40°10' N. lat., the use of midwater trawl gear is prohibited shoreward of the RCA and permitted seaward of the RCA.

(4) *More than one type of trawl gear on board.* The cumulative trip limits in Table 1 (North) or Table 1 (South) of this subpart must not be exceeded.

(i) The following restrictions apply to vessels operating north of 40°10' N. lat.:

(A) A vessel may not have both groundfish trawl gear and non-groundfish trawl gear onboard simultaneously. A vessel may not have both bottom trawl gear and midwater trawl gear onboard simultaneously. A vessel may have more than one type of limited entry bottom trawl gear on board, either simultaneously or successively, during a cumulative limit period.

(B) If a vessel fishes exclusively with large or small footrope trawl gear during an entire cumulative limit period, the vessel is subject to the small or large footrope trawl gear cumulative limits and that vessel must fish seaward of the RCA during that limit period.

(C) If a vessel fishes exclusively with selective flatfish trawl gear during an entire cumulative limit period, then the vessel is subject to the selective flatfish trawl gear-cumulative limits during that limit period, regardless of whether the vessel is fishing shoreward or seaward of the RCA.

(D) If more than one type of bottom trawl gear (selective flatfish, large footrope, or small footrope) is on board, either simultaneously or successively, at any time during a cumulative limit period, then the most restrictive cumulative limit associated with the bottom trawl gear on board during that cumulative limit period applies for the entire cumulative limit period, regardless of whether the vessel is fishing shoreward or seaward of the RCA.

(E) If a vessel fishes both north and south of 40°10' N. lat. with any type of small footrope gear onboard the vessel at any time during the cumulative limit period, the most restrictive trip limit associated with the gear on board applies for that trip and will count toward the cumulative trip limit for that gear (See crossover provisions at §660.120, subpart D.)

(F) Midwater trawl gear is allowed only for vessels participating in the primary whiting season.

(ii) The following restrictions apply to vessels operating south of 40°10' N. lat.:

(A) A vessel may not have both groundfish trawl gear and non-groundfish trawl gear onboard simultaneously. A vessel may not have both bottom trawl gear and midwater trawl gear onboard simultaneously. A vessel may not have small footrope trawl gear and any other type of bottom trawl gear onboard simultaneously.

(B) For vessels using more than one type of trawl gear during a cumulative limit period, limits are additive up to the largest limit for the type of gear used during that period.

(C) If a vessel fishes both north and south of 40°10' N. lat. with any type of small footrope gear onboard the vessel at any time during the cumulative limit period, the most restrictive trip limit associated with the gear on board applies for that trip and will count toward the cumulative trip limit for that gear (See crossover provisions at §660.120, subpart D.)

(d) *Sorting.* Under §660.12 (a)(8), subpart C, it is unlawful for any person to “fail to sort, prior to the first weighing after offloading, those groundfish species or species groups for which there is a trip limit, size limit, scientific sorting designation, quota, harvest guideline, ACL or ACT or OY, if the vessel fished or landed in an area during a time when such trip limit, size limit, scientific sorting designation, quota, harvest guideline, ACL or ACT or OY applied.” The States of Washington, Oregon, and California may also require that vessels record their landings as sorted on their state landing receipt.

(1) *Species and areas* —(i) *Coastwide.* Widow rockfish, canary rockfish, darkblotched rockfish, yelloweye rockfish, shortbelly rockfish, black rockfish, blue rockfish, minor nearshore rockfish, minor shelf rockfish, minor slope rockfish,

shortspine and longspine thornyhead, Dover sole, arrowtooth flounder, petrale sole, starry flounder, English sole, other flatfish, lingcod, sablefish, Pacific cod, spiny dogfish, other fish, longnose skate, and Pacific whiting;

(ii) *North of 40°10' N. lat.* POP, yellowtail rockfish;

(iii) *South of 40°10' N. lat.* Minor shallow nearshore rockfish, minor deeper nearshore rockfish, California scorpionfish, chilipepper rockfish, bocaccio rockfish, splitnose rockfish, Pacific sanddabs, cowcod, bronzespotted rockfish and cabezon.

(2) *Sorting requirements for the Shorebased IFQ Program* —(i) *First receivers.* Fish landed at IFQ first receivers (including shoreside processing facilities and buying stations that intend to transport catch for processing elsewhere) must be sorted, prior to first weighing after offloading from the vessel and prior to transport away from the point of landing, except the vessels declared in to the limited entry midwater trawl, Pacific whiting shorebased IFQ at §660.13(d)(5)(iv)(A), subpart C, may weigh catch on a bulk scale before sorting as described at §660.140(j)(2).

(ii) *Catcher vessels.* All catch must be sorted to the species groups specified in paragraph (d)(1) of this section for vessels with limited entry permits, except those retaining all catch during a Pacific whiting IFQ trip. The catch must not be discarded from the vessel and the vessel must not mix catch from hauls until the observer has sampled the catch. Prohibited species must be sorted according to the following species groups: Dungeness crab, Pacific halibut, Chinook salmon, other salmon. Non-groundfish species must be sorted as required by the state of landing.

(3) *Sorting requirements for the at-sea sectors of the Pacific whiting fishery.*

(i) Pacific whiting at-sea processing vessels may use an accurate in-line conveyor or hopper type scale to derive an accurate total catch weight prior to sorting. Immediately following weighing of the total catch, the catch must be sorted to the species groups specified in paragraph (d)(1) of this section and all incidental catch (groundfish and non-groundfish species) must be accurately accounted for and the weight of incidental catch deducted from the total catch weight to derive the weight of target species.

(ii) *Catcher vessels in the MS sector.* If sorting occurs on the catcher vessel, the catch must not be discarded from the vessel and the vessel must not mix catch from hauls until the observer has sampled the catch.

(e) *Groundfish conservation areas (GCAs) applicable to trawl vessels.* A GCA, a type of closed area, is a geographic area defined by coordinates expressed in degrees of latitude and longitude. The latitude and longitude coordinates of the GCA boundaries are specified at §§660.70 through 660.74, subpart C. A vessel that is fishing within a GCA listed in this paragraph (d) with trawl gear authorized for use within a GCA may not have any other type of trawl gear on board the vessel. The following GCAs apply to vessels participating in the limited entry trawl fishery. Additional closed areas that specifically apply to the Pacific whiting fisheries are described at §660.131(c), subpart D.

(1) *Cowcod conservation areas (CCAs).* Vessels using limited entry trawl gear are prohibited from fishing within the CCAs. See §660.70 for the coordinates that define the CCAs. Limited entry trawl vessels may transit through the Western CCA with their gear stowed and groundfish on board only in a corridor through the Western CCA bounded on the north by the latitude line at 33°00.50' N. lat., and bounded on the south by the latitude line at 32°59.50' N. lat. It is unlawful to take and retain, possess, or land groundfish within the CCAs, except as authorized in this paragraph, when those waters are open to fishing.

(2) *Farallon islands.* Under California law, commercial fishing for all groundfish is prohibited between the shoreline and the 10 fm (18 m) depth contour around the Farallon Islands. (See §660.70, subpart C)

(3) *Cordell Banks.* Commercial fishing for groundfish is prohibited in waters of depths less than 100-fm (183-m) around Cordell Banks as defined by specific latitude and longitude coordinates at §660.70, subpart C.

(4) *Trawl rockfish conservation areas.* The trawl RCAs are closed areas, defined by specific latitude and longitude coordinates which are specified at §§660.70 through 660.74, subpart C. Boundaries for the trawl RCAs applicable to groundfish trawl vessels throughout the year are provided in the header to Table 1 (North) and Table 1 (South) of this subpart and may be modified by NMFS inseason pursuant to §660.60(c), subpart C.

(i) It is unlawful to operate a vessel with trawl gear onboard within the trawl RCA, except for the purpose of continuous transiting, or when the use of trawl gear is authorized in this section. It is lawful to fish with groundfish trawl gear within the trawl RCA only under the following conditions: vessels fishing with midwater trawl gear on Pacific whiting trips during the primary whiting season, provided a valid declaration report has been filed with NMFS OLE, as required at §660.12(d), subpart C; and vessels fishing with demersal seine gear between 38° N. lat. and 36° N. lat. shoreward of a boundary line approximating the 100 fm (183 m) depth contour as defined at §660.73, subpart C, provided a valid declaration report has been filed.

(ii) Trawl vessels may transit through an applicable GCA, with or without groundfish on board, provided all groundfish trawl gear is stowed either: below deck; or if the gear cannot readily be moved, in a secured and covered manner, detached from all towing lines, so that it is rendered unusable for fishing; or remaining on deck uncovered if the trawl doors are hung from their stanchions and the net is disconnected from the doors. These restrictions do not apply to vessels fishing with midwater trawl gear for whiting during a primary season.

(iii) It is unlawful to take and retain, possess, or land groundfish taken with limited entry trawl gear within the trawl RCA, unless otherwise authorized in this section.

(iv) If a vessel fishes in the trawl RCA, it may not participate in any fishing on that trip that is prohibited within the trawl RCA. [For example, if a vessel fishes in the pink shrimp fishery within the RCA, the vessel cannot on the same trip fish in the DTS fishery seaward of the RCA.] Nothing in these Federal regulations supersedes any state regulations that may prohibit trawling shoreward of the fishery management area (3–200 nm).

(5) *Essential fish habitat conservation areas.* An EFHCA, a type of closed area, is a geographic area defined by coordinates expressed in degrees of latitude and longitude at §§660.75 through 660.79, subpart C, where specified types of fishing are prohibited in accordance with §660.12, subpart C. EFHCAs apply to vessels using bottom trawl gear or to vessels using “bottom contact gear,” which is defined at §660.11, subpart C, to include bottom trawl gear, among other gear types.

(i) The following EFHCAs apply to vessels operating within the West Coast EEZ with bottom trawl gear:

(A) *Seaward of a boundary line approximating the 700-fm (1280-m) depth contour.* Fishing with bottom trawl gear is prohibited in waters of depths greater than 700 fm (1280 m) within the EFH, as defined by specific latitude and longitude coordinates at §§660.75 and 660.76, subpart C.

(B) *Shoreward of a boundary line approximating the 100-fm (183-m) depth contour.* Fishing with bottom trawl gear with a footrope diameter greater than 8 inches (20 cm) is prohibited in waters shoreward of a boundary line approximating the 100-fm (183-m) depth contour, as defined by specific latitude and longitude coordinates at §660.73, subpart C.

(C) *EFHCAs for all bottom trawl gear.* Fishing with bottom trawl gear is prohibited within the following EFHCAs, which are defined by specific latitude and longitude coordinates at §§660.77 through 660.78, subpart C: Olympic 2, Biogenic 1, Biogenic 2, Grays Canyon, Biogenic 3, Astoria Canyon, Nehalem Bank/Shale Pile, Siletz Deepwater, Daisy Bank/Nelson Island, Newport Rockpile/Stonewall Bank, Heceta Bank, Deepwater off Coos Bay, Bandon High Spot, Rogue Canyon.

(D) *EFHCAs for all bottom trawl gear, except demersal seine gear.* Fishing with bottom trawl gear except demersal seine gear (defined at §660.11, subpart C) is prohibited within the following EFHCAs, which are defined by specific latitude and longitude coordinates at §660.79, subpart C: Eel River Canyon, Blunts Reef, Mendocino Ridge, Delgada Canyon, Tolo Bank, Point Arena North, Point Arena South Biogenic Area, Cordell Bank/Biogenic Area, Farallon Islands/Fanny Shoal, Half Moon Bay, Monterey Bay/Canyon, Point Sur Deep, Big Sur Coast/Port San Luis, East San Lucia Bank, Point Conception, Hidden Reef/Kidney Bank (within Cowcod Conservation Area West), Catalina Island, Potato Bank (within Cowcod Conservation Area West), Cherry Bank (within Cowcod Conservation Area West), and Cowcod EFH Conservation Area East.

(ii) *EFHCAs for bottom contact gear, which includes bottom trawl gear.* Fishing with bottom contact gear, including bottom trawl gear is prohibited within the following EFHCAs, which are defined by specific latitude and longitude coordinates at §§660.75 through 660.79, subpart C: Thompson Seamount, President Jackson Seamount, Cordell

Bank (50 fm (91 m) isobath), Harris Point, Richardson Rock, Scorpion, Painted Cave, Anacapa Island, Carrington Point, Judith Rock, Skunk Point, Footprint, Gull Island, South Point, and Santa Barbara. Fishing with bottom contact gear is also prohibited within the Davidson Seamount EFH Area, which is defined with specific latitude and longitude coordinates at §660.75, subpart C.

[75 FR 60897, Oct. 1, 2010, as amended at 75 FR 78389, Dec. 15, 2010; 75 FR 82305, Dec. 30, 2010; 76 FR 27546, May 11, 2011]

§ 660.131 Pacific whiting fishery management measures.

(a) *Sectors* —(1) The catcher/processor sector, or C/P Coop Program, is composed of catcher/processers registered to a limited entry permit with a C/P endorsement.

(2) The mothership sector, or MS Coop Program, is composed of motherships and catcher vessels that harvest Pacific whiting for delivery to motherships. Motherships are vessels registered to an MS permit, and catcher vessels are vessels registered to a limited entry permit with an MS/CV endorsement or vessels registered to a limited entry permit without an MS/CV endorsement if the vessel is authorized to harvest the coop's allocation.

(3) The Pacific whiting IFQ fishery is composed of vessels that harvest Pacific whiting for delivery shoreside to IFQ first receivers during the primary season.

(b) *Pacific whiting seasons* —(1) *Primary seasons*. The primary seasons for the Pacific whiting fishery are:

(i) For the Shorebased IFQ Program, Pacific whiting IFQ fishery, the period(s) of the large-scale target fishery is conducted after the season start date;

(ii) For catcher/processers, the period(s) when catching and at-sea processing is allowed for the catcher/processor sector (after the season closes at-sea processing of any fish already on board the processing vessel is allowed to continue); and

(iii) For vessels delivering to motherships, the period(s) when catching and at-sea processing is allowed for the mothership sector (after the season closes at-sea processing of any fish already on board the processing vessel is allowed to continue).

(2) *Different primary season start dates*. North of 40°30' N. lat., different starting dates may be established for the catcher/processor sector, the mothership sector, and in the Pacific whiting IFQ fishery for vessels delivering to IFQ first receivers north of 42° N. lat. and vessels delivering to IFQ first receivers between 42° through 40°30' N. lat.

(i) *Procedures*. The primary seasons for the whiting fishery north of 40°3' N. lat. generally will be established according to the procedures of the PCGFMP for developing and implementing harvest specifications and apportionments. The season opening dates remain in effect unless changed, generally with the harvest specifications and management measures.

(ii) *Criteria*. The start of a primary season may be changed based on a recommendation from the Council and consideration of the following factors, if applicable: Size of the harvest guidelines for whiting and bycatch species; age/size structure of the whiting population; expected harvest of bycatch and prohibited species; availability and stock status of prohibited species; expected participation by catchers and processors; the period between when catcher vessels make annual processor obligations and the start of the fishery; environmental conditions; timing of alternate or competing fisheries; industry agreement; fishing or processing rates; and other relevant information.

(iii) *Primary whiting season start dates and duration*. After the start of a primary season for a sector of the whiting fishery, the season remains open for that sector until the sector allocation of whiting or non-whiting groundfish (with allocations) is reached or projected to be reached and the fishery season for that sector is closed by NMFS. The starting dates for the primary seasons for the whiting fishery are as follows:

(A) Catcher/processor sector—May 15.

(B) Mothership sector—May 15.

(C) Shorebased IFQ Program, Pacific whiting IFQ fishery.

(1) North of 42° N. lat.—June 15;

(2) Between 42°–40°30' N. lat.—April 1; and

(3) South of 40°30' N. lat.—April 15.

(3) *Trip limits in the whiting fishery.* The “per trip” limit for whiting before the regular (primary) season for the shorebased sector is announced in Table 1 of this subpart, and is a routine management measure under §660.60(c). This trip limit includes any whiting caught shoreward of 100–fm (183–m) in the Eureka, CA area. The “per trip” limit for other groundfish species for the shorebased sector are announced in Table 1 (North) and Table 1 (South) of this subpart and apply as follows:

(i) During the groundfish cumulative limit periods both before and after the primary whiting season, vessels may use either small and/or large footrope gear, but are subject to the more restrictive trip limits for those entire cumulative periods.

(ii) If, during a primary whiting season, a whiting vessel harvests a groundfish species other than whiting for which there is a midwater trip limit, then that vessel may also harvest up to another footrope-specific limit for that species during any cumulative limit period that overlaps the start or close of the primary whiting season.

(c) *Closed areas.* Vessels fishing in the Pacific whiting primary seasons for the Shorebased IFQ Program, MS Coop Program, or C/P Coop Program shall not target Pacific whiting with midwater trawl gear in the following portions of the fishery management area:

(1) *Klamath river salmon conservation zone.* The ocean area surrounding the Klamath River mouth bounded on the north by 41°38.80' N. lat. (approximately 6 nm north of the Klamath River mouth), on the west by 124°23' W. long. (approximately 12 nm from shore), and on the south by 41°26.80' N. lat. (approximately 6 nm south of the Klamath River mouth).

(2) *Columbia river salmon conservation zone.* The ocean area surrounding the Columbia River mouth bounded by a line extending for 6 nm due west from North Head along 46°18' N. lat. to 124°13.30' W. long., then southerly along a line of 167 True to 46°11.10' N. lat. and 124°11' W. long. (Columbia River Buoy), then northeast along Red Buoy Line to the tip of the south jetty.

(3) *Ocean salmon conservation zone.* All waters shoreward of a boundary line approximating the 100 fm (183 m) depth contour. Latitude and longitude coordinates defining the boundary line approximating the 100 fm (183 m) depth contour are provided at §660.73, subpart C. This closure will be implemented through automatic action, defined at §660.60(d), subpart C, when NMFS projects the Pacific whiting fishery may take in excess of 11,000 Chinook within a calendar year.

(4) *Pacific whiting bycatch reduction areas (BRAs).* Vessels using limited entry midwater trawl gear during the primary whiting season may be prohibited from fishing shoreward of a boundary line approximating the 75-fm (137-m), 100-fm (183-m) or 150-fm (274-m) depth contours. Latitude and longitude coordinates for the boundary lines approximating the depth contours are provided at §660.73, subpart C. Closures may be implemented inseason for a sector(s) through automatic action, defined at §660.60(d), subpart C, when NMFS projects that a sector will exceed a bycatch limit specified for that sector before the sector's whiting allocation is projected to be reached.

(d) *Eureka area trip limits.* Trip landing or frequency limits may be established, modified, or removed under §660.60, subpart C, or §660.131, subpart D, specifying the amount of Pacific whiting that may be taken and retained, possessed, or landed by a vessel that, at any time during a fishing trip, fished in the fishery management area shoreward of the 100 fathom (183 m) contour (as shown on NOAA Charts 18580, 18600, and 18620) in the Eureka area (from 43 00' to 40 30' N. lat.). Unless otherwise specified, no more than 10,000-lb (4,536 kg) of whiting may be

taken and retained, possessed, or landed by a vessel that, at any time during a fishing trip, fished in the fishery management area shoreward of the 100 fm (183 m) contour (as shown on NOAA Charts 18580, 18600, and 18620) in the Eureka management area (defined at §660.11, subpart C).

(e) *At-sea processing.* Whiting may not be processed at sea south of 42°00' N. lat. (Oregon-California border), unless by a waste-processing vessel as authorized under paragraph (g) of this section.

(f) *Time of day.* Vessels fishing in the Pacific whiting primary seasons for the Shorebased IFQ Program, MS Coop Program or C/P Coop Program shall not target Pacific whiting with midwater trawl gear in the fishery management area south of 42°00' N. lat. between 0001 hours to one-half hour after official sunrise (local time). During this time south of 42°00'N. lat., trawl doors must be on board any vessel used to fish for whiting and the trawl must be attached to the trawl doors. Official sunrise is determined, to the nearest 5° lat., in The Nautical Almanac issued annually by the Nautical Almanac Office, U.S. Naval Observatory, and available from the U.S. Government Printing Office.

(g) *Processing fish waste at sea.* A vessel that processes only fish waste (a “waste-processing vessel”) is not considered a whiting processor and therefore is not subject to the allocations, seasons, or restrictions for catcher/processors or motherships while it operates as a waste-processing vessel. However, no vessel may operate as a waste-processing vessel 48 hours immediately before and after a primary season for whiting in which the vessel operates as a catcher/processor or mothership. A vessel must meet the following conditions to qualify as a waste-processing vessel:

(1) The vessel makes meal (ground dried fish), oil, or minced (ground flesh) product, but does not make, and does not have on board, surimi (fish paste with additives), fillets (meat from the side of the fish, behind the head and in front of the tail), or headed and gutted fish (head and viscera removed).

(2) The amount of whole whiting on board does not exceed the trip limit (if any) allowed under §660.60(c), subpart C, or Tables 1 (North) or 1 (South) in subpart D.

(3) Any trawl net and doors on board are stowed in a secured and covered manner, and detached from all towing lines, so as to be rendered unusable for fishing.

(4) The vessel does not receive codends containing fish.

(5) The vessel's operations are consistent with applicable state and Federal law, including those governing disposal of fish waste at sea.

[75 FR 60897, Oct. 1, 2010, as amended at 75 FR 75421, Dec. 3, 2010; 75 FR 78390, Dec. 15, 2010; 76 FR 27546, May 11, 2011]

§ 660.140 Shorebased IFQ Program.

(a) *General.* The Shorebased IFQ Program requirements in this section will be effective beginning January 1, 2011, except for paragraphs (d)(4), (d)(6), and (d)(8) of this section, which are effective immediately. The Shorebased IFQ Program applies to qualified participants in the Pacific Coast Groundfish fishery and includes a system of transferable QS for most groundfish species or species groups, IBQ for Pacific halibut, and trip limits or set-asides for the remaining groundfish species or species groups. NMFS will issue a QS permit to eligible participants and will establish a QS account for each QS permit owner to track the amount of QS or IBQ and QP or IBQ pounds owned by that owner. QS permit owners may own QS or IBQ for IFQ species, expressed as a percent of the allocation to the Shorebased IFQ Program for that species. NMFS will issue QP or IBQ pounds to QS permit owners, expressed in pounds, on an annual basis, to be deposited in the corresponding QS account. NMFS will establish a vessel account for each eligible vessel owner participating in the Shorebased IFQ Program, which is independent of the QS permit and QS account. In order to use QP or IBQ pounds, a QS permit owner must transfer the QP or IBQ pounds from the QS account into the vessel account for the vessel to which the QP or IBQ pounds is to be assigned. Harvests of IFQ species may only be delivered to an IFQ first receiver with a first receiver site license. In addition to the requirements of this section, the Shorebased IFQ Program is subject to the following groundfish regulations of subparts C and D:

(1) Regulations set out in the following sections of subpart C: §660.11 Definitions, §660.12 Prohibitions, §660.13 Recordkeeping and reporting, §660.14 VMS requirements, §660.15 Equipment requirements, §660.16 Groundfish observer program, §660.20 Vessel and gear identification, §660.25 Permits, §660.55 Allocations, §660.60 Specifications and management measures, §660.65 Groundfish harvest specifications, and §§660.70 through 660.79 Closed areas.

(2) Regulations set out in the following sections of subpart D: §660.111 Trawl fishery definitions, §660.112 Trawl fishery prohibitions, §660.113 Trawl fishery recordkeeping and reporting, §660.120 Trawl fishery crossover provisions, §660.130 Trawl fishery management measures, and §660.131 Pacific whiting fishery management measures.

(3) The Shorebased IFQ Program may be restricted or closed as a result of projected overages within the Shorebased IFQ Program, the MS Coop Program, or the C/P Coop Program. As determined necessary by the Regional Administrator, area restrictions, season closures, or other measures will be used to prevent the trawl sector in aggregate or the individual trawl sectors (Shorebased IFQ, MS Coop, or C/P Coop) from exceeding an ACL, OY, ACT or formal allocation specified in the PCGFMP or regulation at §660.55, subpart C, or §§660.140, 660.150, or 660.160, subpart D.

(b) *Participation requirements and responsibilities* —(1) *IFQ vessels*. (i) Vessels must be registered to a groundfish limited entry permit, endorsed for trawl gear with no C/P endorsement.

(ii) To start a fishing trip in the Shorebased IFQ Program, a vessel and its owner(s) (as described on the USCG documentation or state registration document) must be registered to the same vessel account established by NMFS with no deficit (negative balance) for any species/species group.

(iii) All IFQ species/species group catch (landings and discards) must be covered by QP or IBQ pounds. Any deficit (negative balance in a vessel account) must be cured within 30 calendar days from the date the deficit from that trip is documented in the vessel account, unless the deficit is within the limits of the carryover provision at paragraph (e)(5) of this section, in which case the vessel may declare out of the IFQ fishery for the remainder of the year in which the deficit occurred, and must cure the deficit within 30 days after the issuance of QP or IBQ pounds for the following year.

(iv) Any vessel with a deficit (negative balance) in its vessel account is prohibited from fishing that is within the scope of the Shorebased IFQ Program until sufficient QP or IBQ pounds are transferred into the vessel account to remove any deficit, regardless of the amount of the deficit.

(v) A vessel account may not have QP or IBQ pounds (used and unused combined) in excess of the QP Vessel Limit in any year, and for species covered by Unused QP Vessel Limit, may not have QP or IBQ pounds in excess of the Unused QP Vessel Limit at any time. These amounts are specified at paragraph (e)(4) of this section.

(vi) Vessels must use either trawl gear as specified at §660.130(b), or a legal non-trawl groundfish gear under the gear switching provisions as specified at §660.140(k).

(vii) Vessels that are registered to MS/CV-endorsed permits may be used to fish in the Shorebased IFQ Program provided that the vessel is registered to a valid Shorebased IFQ Program vessel account.

(viii) In the same calendar year, a vessel registered to a trawl endorsed limited entry permit with no MS/CV or C/P endorsements may be used to fish in the Shorebased IFQ Program if the vessel has a valid vessel account, and to fish in the mothership sector for a permitted MS coop as authorized by the MS coop.

(ix) Vessels that are registered to C/P-endorsed permits may not be used to fish in the Shorebased IFQ Program.

(2) *IFQ first receivers*. The IFQ first receiver must:

(i) Ensure that all catch removed from a vessel making an IFQ delivery is weighed on a scale or scales meeting the requirements described in §660.15(c), subpart C;

(ii) Ensure that all catch is landed, sorted, and weighed in accordance with a valid catch monitoring plan as described in §660.140(f)(3)(iii), subpart D.

(iii) Ensure that all catch is sorted, prior to first weighing, by species or species groups as specified at §660.130(d), except the vessels declared in to the limited entry midwater trawl, Pacific whiting shorebased IFQ at §660.13(d)(5)(iv)(A), subpart C may weigh catch on a before sorting as described at §660.140(j)(2).

(iv) Provide uninhibited access to all areas where fish are or may be sorted or weighed to NMFS staff, NMFS-authorized personnel, or authorized officer at any time when a delivery of IFQ species, or the processing of those species, is taking place.

(v) Ensure that each scale produces a complete and accurate printed record of the weight of all catch in a delivery, unless exempted in the NMFS-accepted catch monitoring plan.

(vi) Retain and make available to NMFS staff, NMFS-authorized personnel, or an authorized officer, all printed output from any scale used to weigh catch, and any hand tally sheets, worksheets, or notes used to determine the total weight of any species.

(vii) Ensure that each delivery of IFQ catch is monitored by a catch monitor and that the catch monitor is on site the entire time the delivery is being weighed or sorted.

(viii) Ensure that sorting and weighing is completed prior to catch leaving the area that can be monitored from the observation area.

(c) *IFQ species, management areas, and allocations.* (1) *IFQ species.* IFQ species are those groundfish species and Pacific halibut in the exclusive economic zone or adjacent state waters off Washington, Oregon and California, under the jurisdiction of the Pacific Fishery Management Council, for which QS and IBQ will be issued. Groupings and area subdivisions for IFQ species are those groupings and area subdivisions for which ACLs or ACTs are specified in the Tables 1a through 2d, subpart C, and those for which there is an area-specific precautionary harvest policy. The lists of individual groundfish species included in the minor shelf complex north of 40°10' N. lat., minor shelf complex south of 40°10' N. lat., minor slope complex north 40°10' N. lat., minor slope complex south of 40°10' N. lat., and in the other flatfish complex are specified under the definition of "groundfish" at §660.11. The following are the IFQ species:

IFQ Species

ROUNDFISH
Lingcod
Pacific cod
Pacific whiting
Sablefish N. of 36°
Sablefish S. of 36°
FLATFISH
Dover sole
English sole
Petrals sole

Arrowtooth flounder
Starry flounder
Other flatfish stock complex
Pacific halibut (IBQ) N. of 40°10'
ROCKFISH
Pacific ocean perch N. of 40°10'
Widow rockfish
Canary rockfish
Chilipepper rockfish S. of 40°10'
Bocaccio S. of 40°10'
Splitnose rockfish S. of 40°10'
Yellowtail rockfish N. of 40°10'
Shortspine thornyhead N. of 34°27'
Shortspine thornyhead S. of 34°27'
Longspine thornyhead N. of 34°27'
Cowcod S. of 40°10'
Darkblotched rockfish
Yelloweye rockfish
Minor shelf rockfish complex N. of 40°10'
Minor shelf rockfish complex S. of 40°10'
Minor slope rockfish complex N. of 40°10'
Minor slope rockfish complex S. of 40°10'

(2) *IFQ management areas.* A vessel participating in the Shorebased IFQ Program may not fish in more than one IFQ management area during a trip. IFQ management areas are as follows:

- (i) Between the US/Canada border and 40°10' N. lat.,
- (ii) Between 40°10' N. lat. and 36° N. lat.,
- (iii) Between 36° N. lat. and 34°27' N. lat., and
- (iv) Between 34°27' N. lat. and the US/Mexico border.

(3) *IFQ program allocations.* Allocations for the Shorebased IFQ Program are determined for IFQ species as follows:

- (i) For Pacific whiting, the Shorebased IFQ Program allocation is specified at §660.55(i)(2), subpart C, 42 percent.
- (ii) For Sablefish N. of 36° N. lat., the Shorebased IFQ Program allocation is the limited entry trawl allocation specified at §660.55(h), subpart C, minus any set-asides for the mothership and C/P sectors for that species.
- (iii) For IFQ species listed in the trawl/nontrawl allocation table, specified at §660.55(c), subpart C, allocations are determined by applying the trawl column percent to the fishery harvest guideline minus any set-asides for the mothership and C/P sectors for that species and minus allocations for darkblotched rockfish, POP, and widow rockfish.
- (iv) The remaining IFQ species (canary rockfish, bocaccio, cowcod, yelloweye rockfish, minor shelf rockfish N. of 40°10' N. lat., and minor shelf rockfish S. of 40°10' N. lat., and minor slope rockfish S. of 40°10' N. lat.) are allocated through the biennial specifications and management measures process minus any set-asides for the mothership and C/P sectors for that species.
- (v) For Pacific halibut N. of 40°10' N. lat., the Shorebased IFQ Program allocation is specified at 660.55(m).
- (vi) For each IFQ species, NMFS will determine annual sub-allocations to individual QS accounts by multiplying the percent of QS or IBQ registered to the account by the amount of each respective IFQ species allocated to the Shorebased IFQ Program for that year. For each IFQ species, NMFS will deposit QP or IBQ pounds in the respective QS account in the amount of each sub-allocation determined.
- (vii) *Reallocations* —(A) *Reallocation with changes in management areas.*
- (1) *Area subdivision.* If at any time after the initial allocation, an IFQ species is geographically subdivided, those holding QS or IBQ for the IFQ species being subdivided will receive an amount of QS or IBQ for each newly created area that is equivalent to the amount they held for the area before it was subdivided.
- (2) *Area recombination.* When two areas are combined for an IFQ species, the QS or IBQ held by individuals in each area will be adjusted proportionally such that:
- (i) The total QS or IBQ for the area sums to 100 percent, and
- (ii) A person holding QS or IBQ in the newly created area will receive the same amount of total QP or IBQ pounds as they would if the areas had not been combined.
- (3) *Area line movement.* When a management area boundary line is moved for an IFQ species, the QS or IBQ held by individuals in each area will be adjusted proportionally such that they each maintain their same share of the trawl allocation on a coastwide basis (a fishing area may expand or decrease, but the individual's QP or IBQ pounds for both areas combined wouldn't change because of the change in areas). In order to achieve this end, the holders of QS or IBQ in the area being reduced will receive QS or IBQ for the area being expanded, such that the total QP or IBQ pounds they would be issued will not be reduced as a result of the area reduction. Those holding QS or IBQ in the area being expanded will have their QS or IBQ reduced such that the total QP or IBQ pounds they receive in the year of the line movement will not increase as a result of the expansion (nor will it be reduced).
- (B) *Reallocation with subdivision of a species group.* If at any time after the initial allocation an IFQ species which is a species group is subdivided, each species or species group resulting from the subdivision will be an IFQ species. QS owners for the species group being subdivided will receive an amount of QS for each newly created IFQ species that is equivalent to the amount they held for the species group before it was subdivided. For example, if a person holds one percent of a species group before the subdivision, that person will hold one percent of the QS for each IFQ species resulting from the subdivision.
- (d) *QS permits and QS accounts* —(1) *General.* In order to obtain QS and/or IBQ, a person must apply for a QS permit. NMFS will determine if the applicant is eligible to own QS and/or IBQ in accordance with paragraph (d)(2) of this section. If eligible, NMFS will issue a QS permit, and will establish a QS account to track QS and IBQ balances for all IFQ species identified at §660.140(c)(1). NMFS will issue initial allocations of QS and IBQ in accordance with

paragraph (d)(8) of this section. Transfers of QS and IBQ, and of QP or IBQ pounds, are subject to provisions at paragraph (d)(3) of this section. QS permit owners can monitor the status of their QS and IBQ, and associated QP and IBQ pounds, throughout the year in their QS account.

(i) *Annual QS adjustments.* On or about January 1 each year, QS permit owners will be notified, via the IFQ Web site and their QS account, of any adjustments to their QS and/or IBQ allocations, for each of the IFQ species. Updated QS and/or IBQ values, if applicable, will reflect the results of: any recalculation of initial allocation formulas resulting from changes in provisional OYs used in the allocation formulas or appeals, any redistribution of QS and IBQ (e.g., resulting from permanent revocation of applicable permits, subject to accumulation limits), and any transfers of QS and/or IBQ made during the prior year.

(ii) *Annual QP and IBQ pound allocations.* QP and IBQ pounds will be deposited into QS accounts annually. QS permit owners will be notified of QP deposits via the IFQ Web site and their QS account. QP and IBQ pounds will be issued to the nearest whole pound using standard rounding rules (i.e. decimal amounts less than 0.5 round down and 0.5 and greater round up), except that in the first year of the Shorebased IFQ Program, issuance of QP for overfished species greater than zero but less than one pound will be rounded up to one pound. QS permit owners must transfer their QP and IBQ pounds from their QS account to a vessel account in order for those QP and IBQ pounds to be fished. QP and IBQ pounds must be transferred in whole pounds (i.e. no fraction of a QP or IBQ pound can be transferred). All QP and IBQ pounds in a QS account must be transferred to a vessel account by September 1 of each year in order to be fished.

(A) *Nonwhiting QP annual sub-allocations.* NMFS will issue QP for IFQ species other than Pacific whiting and Pacific halibut annually by multiplying the QS permit owner's QS for each such IFQ species by that year's shorebased trawl allocation for that IFQ species. Deposits to QS accounts for IFQ species other than Pacific whiting and Pacific halibut will be made on or about January 1 each year.

(B) *Pacific whiting QP annual allocation.* NMFS will issue QP for Pacific whiting annually by multiplying the QS permit owner's QS for Pacific whiting by that year's shorebased trawl allocation for Pacific whiting.

(1) In years where the Pacific whiting harvest specification is known by January 1, deposits to QS accounts for Pacific whiting will be made on or about January 1.

(2) In years where the Pacific whiting harvest specification is not known by January 1, NMFS will issue Pacific whiting QP in two parts. On or about January 1, NMFS will deposit Pacific whiting QP based on the shorebased trawl allocation multiplied by the lower end of the range of potential harvest specifications for Pacific whiting for that year. After the final Pacific whiting harvest specifications are established later in the year, NMFS will deposit additional QP to the QS account so that the total QP issued for that year is equal to the QS permit owner's QS for Pacific whiting multiplied by that year's shorebased trawl allocation for Pacific whiting.

(C) *Pacific halibut IBQ pounds annual allocation.* NMFS will issue IBQ pounds for Pacific halibut annually by multiplying the QS permit owner's IBQ percent by the Shorebased IFQ Program component of the trawl mortality limit for that year (expressed in net weight), dividing by 0.75 to convert to round weight pounds, and dividing by 0.62 to convert from legal sized to legal and non-legal sized halibut. Consistent with §660.55(m), the Shorebased IFQ Program component of the trawl mortality limit will be 130,000 pounds of legal size halibut, net weight in the first four years of the Shorebased IFQ Program and not to exceed 100,000 pounds starting in the fifth year of the Shorebased IFQ Program, less the set-aside amount of Pacific halibut to accommodate the incidental catch in the trawl fishery south of 40°10' N. lat. and in the at-sea whiting fishery. Deposits to QS accounts for Pacific halibut IBQ pounds will be made on or about January 1 each year.

(D) For the 2011 trawl fishery, NMFS will issue QP based on the following shorebased trawl allocations:

IFQ Species	Management area	Shorebased trawl allocation (mt)
Lingcod		1,863.30
Pacific cod		1,135.00

Pacific Whiting		92,817.90
Sablefish	North of 36° N. lat.	2,546.34
Sablefish	South of 36° N. lat.	530.88
Dover sole		22,234.50
English sole		18,672.95
PETRALE SOLE		871.00
Arrowtooth flounder		12,431.20
Starry flounder		667.50
Other flatfish		4,197.40
PACIFIC OCEAN PERCH	North of 40°10' N. lat.	119.36
WIDOW ROCKFISH		342.62
CANARY ROCKFISH		25.90
Chilipepper rockfish	South of 40°10' N. lat.	1,475.25
BOCACCIO ROCKFISH	South of 40°10' N. lat.	60.00
Splitnose rockfish	South of 40°10' N. lat.	1,381.30
Yellowtail rockfish	North of 40°10' N. lat.	3,094.16
Shortspine thornyhead	North of 34°27' N. lat.	1,431.60
Shortspine thornyhead	South of 34°27' N. lat.	50.00
Longspine thornyhead	North of 34°27' N. lat.	1,966.25
COWCOD	South of 40°10' N. lat.	1.80
DARKBLOTCHED ROCKFISH		250.84
YELLOWEYE ROCKFISH		0.60
Minor shelf rockfish complex	North of 40°10' N. lat.	522.00
Minor shelf rockfish complex	South of 40°10' N. lat.	86.00
Minor slope rockfish complex	North of 40°10' N. lat.	829.52
Minor slope rockfish complex	South of 40°10' N. lat.	377.37

(2) *Eligibility and registration* —(i) *Eligibility*. Only the following persons are eligible to own QS permits:

(A) A United States citizen, that is eligible to own and control a U.S. fishing vessel with a fishery endorsement pursuant to 46 U.S.C. 12113 (general fishery endorsement requirements and 75 percent citizenship requirement for entities);

(B) A permanent resident alien, that is eligible to own and control a U.S. fishing vessel with a fishery endorsement pursuant to 46 U.S.C. 12113 (general fishery endorsement requirements and 75 percent citizenship requirement for entities); or

(C) A corporation, partnership, or other entity established under the laws of the United States or any State, that is eligible to own and control a U.S. fishing vessel with a fishery endorsement pursuant to 46 U.S.C. 12113 (general fishery endorsement requirements and 75 percent citizenship requirement for entities). However, there is an exception for any entity that owns a mothership that participated in the west coast groundfish fishery during the allocation period and is eligible to own or control that U.S. fishing vessel with a fishery endorsement pursuant to sections 203(g) and 213(g) of the AFA.

(ii) *Registration.* A QS account will be established by NMFS with the issuance of a QS permit. The administrative functions associated with the Shorebased IFQ Program (e.g., account registration, landing transactions, and transfers) are designed to be accomplished online; therefore, a participant must have access to a computer with Internet access and must set up online access to their QS account to participate. The computer must have Internet browser software installed (e.g., Internet Explorer, Netscape, Mozilla Firefox); as well as the Adobe Flash Player software version 9.0 or greater. NMFS will mail initial QS permit owners instructions to set up online access to their QS account. NMFS may require QS account owners that are business entities to designate an account manager that may act on behalf of the entity and their contact information. NMFS will use the QS account to send messages to QS permit owners; it is important for QS permit owners to monitor their online QS account and all associated messages.

(3) *Renewal, change of permit ownership, and transfers* —(i) *Renewal.* (A) QS permits expire at the end of each calendar year, and must be renewed between October 1 and November 30 of each year in order to remain in force the following year. A complete QS permit renewal package must be received by SFD no later than November 30 to be accepted by NMFS.

(B) Notification to renew QS permits will be sent by SFD by September 1 each year to the QS permit owner's most recent address in the SFD record. The QS permit owner shall provide SFD with notice of any address change within 15 days of the change.

(C) Any QS permit for which SFD does not receive a QS permit renewal request by November 30 will have its QS account inactivated by NMFS at the end of the calendar year and the QS permit will not be renewed by NMFS for the following year. NMFS will not issue QP or IBQ pounds to the inactivated QS account associated with the non-renewed QS permit for that year. Any QP or IBQ pounds derived from the QS or IBQ in the inactivated QS account will be redistributed among all other QS permit owners that renewed their permit by the deadline. Redistribution of QP or IBQ pounds to QS permit owners will be proportional to the QS or IBQ for each IFQ species. A non-renewed QS permit may be renewed in a subsequent year by submission of a complete QS permit renewal package during the permit renewal period for that year, and NMFS will issue the associated QP or IBQ pounds for that year.

(D) QS permits will not be renewed until SFD has received a complete application for a QS permit renewal, which includes payment of required fees, complete documentation of QS permit ownership on the Trawl Identification of Ownership Interest Form as required under paragraph (d)(4)(iv) of this section, a complete economic data collection form if required under §660.114, subpart D. The QS permit renewal will be considered incomplete until the required information is submitted. NMFS may require QS account owners that are business entities to designate an account manager and their contact information through the QS permit renewal process.

(E) *Effective Date.* A QS permit is effective on the date given on the permit and remains effective until the end of the calendar year.

(F) *IAD and appeals.* QS permit renewals are subject to the permit appeals process specified at §660.25(g), subpart C.

(ii) *Change of permit ownership and transfer restrictions* —(A) *Restriction on the transfer of ownership for QS permits.* A QS permit cannot be transferred to another individual or entity. The QS permit owner cannot change or add additional individuals or entities as owners of the permit (i.e., cannot change the registered permit owners as given on the permit). Any change to the owner of the QS permit requires the new owner(s) to apply for a QS permit, and is subject to accumulation limits and approval by NMFS.

(B) *Transfers of QS or IBQ or QP or IBQ pounds. (1) General.* Transfers of QS or IBQ from one QS account to another QS account and transfers of QP or IBQ pounds from a QS account to a vessel account must be accomplished via the online QS account. During the year there may be situations where NMFS deems it necessary to prohibit transfers (i.e., account reconciliation, system maintenance, or for emergency fishery management reasons). To make a transfer, a QS permit owner must initiate a transfer request by logging onto the online QS account. Following the instructions provided on the Web site, the QS permit owner must enter pertinent information regarding the transfer request including, but not limited to: IFQ species, amount of QS, IBQ, QP, or IBQ pounds to be transferred for each IFQ species; name and any other identifier of the eligible transferee (e.g., QS permit number, vessel account number); and the value of the transferred QS, IBQ, QP, or IBQ pounds for each IFQ species. The online system will verify whether all information has been entered and whether the transfer complies with ownership limits or vessel limits, as applicable. If the information is not accepted, an electronic message will record as much in the transferor's QS account explaining the reason(s). If the information is accepted, the online system will record the pending transfer in both the transferor's QS account and the transferee's QS account or vessel account. The transferee must approve the transfer by electronic signature in order for the transfer to be completed. If the transferee accepts the transfer, the online system will record the transfer and confirm the transaction in both the transferor's QS account and the transferee's QS account or vessel account through a transaction confirmation notice. Once the transferee accepts the transaction, the transaction is final and permanent.

(2) *Transfer of QS or IBQ between QS accounts.* After the second year of the trawl rationalization program, QS permit owners may transfer QS or IBQ to another QS permit owner, subject to accumulation limits and approval by NMFS. QS or IBQ is transferred as a percent, divisible to one-thousandth of a percent (i.e., greater than or equal to 0.001%). During the first 2 years after implementation of the program, QS or IBQ cannot be transferred to another QS permit owner, except under U.S. court order or authorization and as approved by NMFS. QS or IBQ may not be transferred between December 1 through December 31 each year. QS or IBQ may not be transferred to a vessel account.

(3) *Transfer of QP or IBQ pounds from a QS account to a vessel account.* QP or IBQ pounds must be transferred in whole pounds (i.e. no fraction of a QP can be transferred). QP or IBQ pounds must be transferred to a vessel account in order to be used. Transfers of QP or IBQ pounds from a QS account to a vessel account are subject to vessel accumulation limits and NMFS' approval. All QP or IBQ pounds from a QS account must be transferred to one or more vessel accounts by September 1 each year. Once QP or IBQ pounds are transferred from a QS account to a vessel account (accepted by the transferee/vessel owner), they cannot be transferred back to a QS account and may only be transferred to another vessel account. QP or IBQ pounds may not be transferred from one QS account to another QS account.

(C) *Effective date* —(1) Transfer of QS or IBQ between QS accounts is effective on the date approved by NMFS.

(2) Transfer of QP or IBQ pounds from a QS account to a vessel account is effective on the date approved by NMFS.

(D) *IAD and appeals.* Transfers are subject to the permit appeals process specified at §660.25 (g), subpart C.

(4) *Accumulation limits* —(i) *QS and IBQ control limits.* QS and IBQ control limits are accumulation limits and are the amount of QS and IBQ that a person, individually or collectively, may own or control. QS and IBQ control limits are expressed as a percentage of the Shorebased IFQ Program's allocation.

(A) *Control limits for individual species.* No person may own or control, or have a controlling influence over, by any means whatsoever an amount of QS or IBQ for any individual species that exceeds the Shorebased IFQ Program accumulation limits.

(B) *Control limit for aggregate nonwhiting QS holdings.* To determine how much aggregate nonwhiting QS a person holds, NMFS will convert the person's QS to pounds. This conversion will always be conducted using the trawl allocations applied to the 2010 OYs, until such time as the Council recommends otherwise. Specifically, NMFS will multiply each person's QS for each species by the shoreside trawl allocation for that species. The person's pounds for all nonwhiting species will be summed and divided by the shoreside trawl allocation of all nonwhiting species to calculate the person's share of the aggregate nonwhiting trawl quota. To determine the shoreside trawl allocation for the purpose of determining compliance with the aggregate nonwhiting control limit, for species that have specific trawl allocation percentages in Amendment 21, NMFS will apply the Amendment 21 trawl allocation percentages to (set

forth at §660.55) the 2010 OYs, and where applicable, will deduct the preliminary set-asides for the at-sea sectors from Amendment 21. For species that do not have specific trawl allocation percentages in Amendment 21, NMFS will apply a percentage based on the Northwest Fishery Science Center final report on 2010 estimated total fishing mortality of groundfish by sector, or, if the final report for 2010 is not available, based on the most recent report available.

(C) The Shorebased IFQ Program accumulation limits are as follows:

Species category	QS and IBQ control limit (in percent)
Non-whiting groundfish species	2.7
Lingcod—coastwide	2.5
Pacific cod	12.0
Pacific whiting (shoreside)	10.0
Sablefish:	
N. of 36° (Monterey north)	3.0
S. of 36° (Conception area)	10.0
Pacific ocean perch N. of 40°10'	4.0
Widow rockfish	5.1
Canary rockfish	4.4
Chilipepper rockfish S. of 40°10'	10.0
Bocaccio S. of 40°10'	13.2
Splitnose rockfish S. of 40°10'	10.0
Yellowtail rockfish N. of 40°10'	5.0
Shortspine thornyhead:	
N. of 34°27'	6.0
S. of 34°27'	6.0
Longspine thornyhead:	
N. of 34°27'	6.0
Cowcod S. of 40°10'	17.7
Darkblotched rockfish	4.5
Yelloweye rockfish	5.7
Minor rockfish complex N. of 40°10':	

Shelf species	5.0
Slope species	5.0
Minor rockfish complex S. of 40°10':	
Shelf species	9.0
Slope species	6.0
Dover sole	2.6
English sole	5.0
Petrable sole	3.0
Arrowtooth flounder	10.0
Starry flounder	10.0
Other flatfish stock complex	10.0
Pacific halibut (IBQ) N. of 40°10'	5.4

(ii) *Ownership—individual and collective rule.* The QS or IBQ that counts toward a person's accumulation limit will include:

(A) The QS or IBQ owned by that person, and

(B) That portion of the QS or IBQ owned by an entity in which that person has an economic or financial interest, where the person's share of interest in that entity will determine the portion of that entity's QS or IBQ that counts toward the person's limit.

(iii) *Control.* Control means, but is not limited to, the following:

(A) The person has the right to direct, or does direct, in whole or in part, the business of the entity to which the QS or IBQ are registered;

(B) The person has the right to limit the actions of or replace, or does limit the actions of or replace, the chief executive officer, a majority of the board of directors, any general partner, or any person serving in a management capacity of the entity to which the QS or IBQ are registered;

(C) The person has the right to direct, or does direct, and/or the right to prevent or delay, or does prevent or delay, the transfer of QS or IBQ, or the resulting QP or IBQ pounds;

(D) The person, through loan covenants or any other means, has the right to restrict, or does restrict, and/or has a controlling influence over the day to day business activities or management policies of the entity to which the QS or IBQ are registered;

(E) The person, excluding banks and other financial institutions that rely on QS or IBQ as collateral for loans, through loan covenants or any other means, has the right to restrict, or does restrict, any activity related to QS or IBQ or QP or IBQ pounds, including, but not limited to, use of QS or IBQ, or the resulting QP or IBQ pounds, or disposition of fish harvested under the resulting QP or IBQ pounds;

(F) The person, excluding banks and other financial institutions that rely on QS or IBQ as collateral for loans, has the right to control, or does control, the management of, or to be a controlling factor in, the entity to which the QS or IBQ, or the resulting QP or IBQ pounds, are registered;

(G) The person, excluding banks and other financial institutions that rely on QS or IBQ as collateral for loans, has the right to cause or prevent, or does cause or prevent, the sale, lease or other disposition of QS or IBQ, or the resulting QP or IBQ pounds; and

(H) The person has the ability through any means whatsoever to control or have a controlling influence over the entity to which QS or IBQ is registered.

(iv) *Trawl identification of ownership interest form.* Any person that owns a limited entry trawl permit and that is applying for or renewing a QS permit shall document those persons that have an ownership interest in the limited entry trawl or QS permit greater than or equal to 2 percent. This ownership interest must be documented with the SFD via the Trawl Identification of Ownership Interest Form. For renewal, if the limited entry trawl permit and QS permit have identical ownership interest, only one form need be submitted attesting to such ownership. SFD will not issue a QS permit unless the Trawl Identification of Ownership Interest Form has been completed. Further, if SFD discovers through review of the Trawl Identification of Ownership Interest Form that a person owns or controls more than the accumulation limits and is not authorized to do so under paragraph (d)(4)(v) of this section, the person will be notified and the QS permit will be issued up to the accumulation limit specified in the QS or IBQ control limit table from paragraph (d)(4)(i) of this section. NMFS may request additional information of the applicant as necessary to verify compliance with accumulation limits.

(v) *Divestiture.* Accumulation limits will be calculated by first calculating the aggregate nonwhiting QS limit and then the individual species QS or IBQ control limits. For QS permit owners (including any person who has ownership interest in the owner named on the permit) that are found to exceed the accumulation limits during the initial issuance of QS permits, an adjustment period will be provided after which they will have to completely divest of QS or IBQ in excess of the accumulation limits. QS or IBQ will be issued for amounts in excess of accumulation limits only for owners of limited entry permits transferred to them by November 8, 2008, if such transfers of ownership have been registered with NMFS by November 30, 2008. The owner of any permit transferred after November 8, 2008, or if transferred earlier, not registered with NMFS by November 30, 2008, will only be eligible to receive an initial allocation for that permit of those QS or IBQ that are within the accumulation limits; any QS or IBQ in excess of the accumulation limits will be redistributed to the remainder of the initial recipients of QS or IBQ in proportion to each recipient's initial allocation of QS or IBQ for each species. Any person that qualifies for an initial allocation of QS or IBQ in excess of the accumulation limits will be allowed to receive that allocation, but must divest themselves of the excess QS or IBQ during years three and four of the IFQ program. Holders of QS or IBQ in excess of the control limits may receive and use the QP or IBQ pounds associated with that excess, up to the time their divestiture is completed. At the end of year 4 of the IFQ program, any QS or IBQ held by a person (including any person who has ownership interest in the owner named on the permit) in excess of the accumulation limits will be revoked and redistributed to the remainder of the of the QS or IBQ owners in proportion to the QS or IBQ holdings in year 5. No compensation will be due for any revoked shares.

(5) *Appeals.* An appeal to a QS permit or QS account action follows the same process as the general permit appeals process as defined at §660.25(g), subpart C.

(6) *Fees.* The Regional Administrator is authorized to charge fees for administrative costs associated with the issuance of a QS permit consistent with the provisions given at §660.25(f), subpart C.

(7) [Reserved]

(8) *Application requirements and initial issuance for QS permit and QS/IBQ* —(i) *Additional definitions.* The following definitions are applicable to paragraph (d)(8) of this section and apply to terms used for the purposes of application requirements and initial issuance of QS permits and QS/IBQ:

(A) *Nonwhiting trip* means a fishing trip where less than 50 percent by weight of all fish reported on the state landing receipt is whiting.

(B) *PacFIN* means the Pacific Fisheries Information Network of the Pacific States Marine Fisheries Commission.

(C) *Relative history* means the landings history of a permit for a species, year, and area subdivision, divided by the total fleet history of the sector for that species, year, and area subdivision, as appropriate, or, in the case of shoreside processors, the annual sum of the shoreside processor's whiting receipts divided by the aggregate annual sum of whiting received by all shoreside processors in that year. Relative history is expressed as a percent.

(D) *Shoreside processor* means an operation, working on U.S. soil, that takes delivery of trawl caught groundfish that has not been processed; and that thereafter engages that fish in shoreside processing. Entities that received fish that have not undergone at-sea processing or shoreside processing and sell that fish directly to consumers shall not be considered a processor for purposes of QS allocations. Shoreside processing is defined as either of the following:

(1) Any activity that takes place shoreside; and that involves: Cutting groundfish into smaller portions; or freezing, cooking, smoking, drying groundfish; or packaging that groundfish for resale into 100 pound units or smaller for sale or distribution into a wholesale or retail market.

(2) The purchase and redistribution in to a wholesale or retail market of live groundfish from a harvesting vessel.

(E) *Whiting trip* means a fishing trip where greater than or equal to 50 percent by weight of all fish reported on the state landing receipt is whiting.

(ii) *Eligibility criteria for QS permit and QS/IBQ*. Only the following persons are eligible to receive a QS permit or QS/IBQ:

(A) The owner of a valid trawl limited entry permit is eligible to receive a QS permit and its associated QS or IBQ amount. Any past landings history associated with the current limited entry trawl permit accrues to the current permit owner. NMFS will not recognize any person as the limited entry permit owner other than the person listed as limited entry permit owner in NMFS permit database. If a limited entry permit has history on state landing receipts and has been combined with a permit that has received or will receive a C/P endorsement, the trawl limited entry permit does not qualify for QS or IBQ.

(B) Shoreside processors that meet the recent participation requirement of having received deliveries of 1 mt or more of whiting from whiting trips in each of any two years from 1998 through 2004 are eligible for an initial issuance of whiting QS. NMFS will initially identify shoreside processors by reference to Pacific whiting shoreside first receivers recorded on fish tickets in the relevant *PacFIN* dataset on July 1, 2010, subject to correction as described in paragraph (d)(8)(iv)(G) of this section.

(iii) *Steps for QS and IBQ allocation formulas*. The QS and IBQ allocation formulas are applied in the following steps:

(A) First, for each limited entry trawl permit owner, NMFS will determine a preliminary QS allocation for non-whiting trips.

(B) Second, for each limited entry trawl permit owner, NMFS will determine a preliminary QS allocation for whiting trips.

(C) Third, for each limited entry trawl permit owner, NMFS will combine the amounts resulting from paragraphs (d)(8)(iii)(A) and (B) of this section.

(D) Fourth, NMFS will reduce the results for limited entry trawl permit owners by 10 percent of non-whiting species as a set aside for Adaptive Management Program (AMP) and by 20 percent of whiting for the initial issuance of QS allocated to qualifying shoreside processors.

(E) Fifth, NMFS will determine the whiting QS allocation for qualifying shoreside processors from the 20 percent of whiting QS allocated to qualifying shoreside processors at initial issuance of QS.

(F) Sixth, for each limited entry trawl permit owner, NMFS will determine the Pacific halibut IBQ allocation.

(G) Seventh, for limited entry trawl permits transferred after November 8, 2008, or if transferred earlier, not registered with NMFS by November 30, 2008, for which NMFS determines the owners of such permits would exceed the accumulation limits specified at paragraph (d)(4) of this section based on the previous steps, NMFS will redistribute the excess QS or IBQ to other qualified QS permit owners within the accumulation limits.

(iv) *Allocation formula for specific QS and IBQ amounts* —(A) *Allocation formula rules*. Unless otherwise specified, the following rules will be applied to data for the purpose of calculating an initial allocation of QS and IBQ:

(1) For limited entry trawl permit owners, a permit will be assigned catch history or relative history based on the landing history of the vessel(s) associated with the permit at the time the landings were made.

(2) The relevant PacFIN dataset includes species compositions based on port sampled data and applied to data at the vessel level.

(3) Only landings of IFQ species which are caught in the exclusive economic zone or adjacent state waters off Washington, Oregon and California will be used for calculation of allocation formulas. For the purpose of allocation of IFQ species for which the QS or IBQ will be subdivided by area, catch areas have been assigned to landings of IFQ species reported on state landing receipts based on port of landing.

(4) History from limited entry permits that have been combined with a permit that may qualify for a C/P endorsement and which has shorebased permit history will not be included in the preliminary QS and IBQ allocation formula, other than in the determination of fleet history used in the calculation of relative history for permits that do not have a C/P endorsement.

(5) History of illegal landings and landings made under non-whiting EFPs that are in excess of the cumulative limits in place for the non-EFP fishery will not count toward the allocation of QS or IBQ.

(6) The limited entry permit's landings history includes the landings history of permits that have been previously combined with that permit.

(7) If two or more limited entry trawl permits have been simultaneously registered to the same vessel, NMFS will split the landing history evenly between all such limited entry trawl-endorsed permits during the time they were simultaneously registered to the vessel.

(8) Unless otherwise noted, the calculation for QS or IBQ allocation under paragraph (d)(8) of this section will be based on state landing receipts (fish tickets) as recorded in the relevant PacFIN dataset on July 1, 2010.

(9) For limited entry trawl permits, landings under provisional "A" permits that did not become "A" permits and "B" permits will not count toward the allocation of QS or IBQ, other than in the determination of fleet history used in the calculation of relative history for permits that do not have a C/P endorsement.

(10) For limited entry trawl permits, NMFS will calculate initial issuance of QS separately based on whiting trips and non-whiting trips, and will weigh each calculation according to initial issuance allocations between whiting trips and non-whiting trips, which are one-time allocations necessary for the formulas used during the initial issuance of QS to create a single Shorebased IFQ Program. The initial issuance allocations between whiting and non-whiting trips for canary rockfish, bocaccio, cowcod, yelloweye rockfish, minor shelf rockfish N. of 40°10', minor shelf rockfish S. of 40°10', and minor slope rockfish S. of 40°10' will be determined through the biennial specifications process. The initial issuance allocations for the remaining IFQ species are as follows:

Species	Initial issuance allocation percentage	
	Non-whiting	Whiting

Lingcod	99.7%	0.3%
Pacific Cod	99.9%	0.1%
Pacific Whiting	0.1%	99.9%
Sablefish N. of 36° N. lat.	98.2%	1.8%
Sablefish S. of 36° N. lat.	100.0%	0.0%
PACIFIC OCEAN PERCH	remaining	17% or 30 mt, whichever is greater, to shorebased + at-sea whiting.
		If under rebuilding, 52% to shorebased + at-sea whiting.
WIDOW	remaining	If stock rebuilt, 10% or 500 mt, whichever is greater, to shorebased + at-sea whiting.
Chilipepper S. of 40°10' N. lat.	100.0%	0.0%
Splitnose S. of 40°10' N. lat.	100.0%	0.0%
Yellowtail N. of 40°10' N. lat.	remaining	300 mt.
Shortspine N. of 34°27' N. lat.	99.9%	0.1%
Shortspine S. of 34°27' N. lat.	100.0%	0.0%
Longspine N. of 34°27' N. lat.	100.0%	0.0%
DARKBLOTCHED	remaining	9% or 25 mt, whichever is greater, to shorebased + at-sea whiting.
Minor Slope Rockfish N. of 40°10' N. lat	98.6%	1.4%
Dover Sole	100.0%	0.0%
English Sole	99.9%	0.1%
Petrale Sole	100.0%	0.0%
Arrowtooth Flounder	100.0%	0.0%
Starry Flounder	100.0%	0.0%
Other Flatfish	99.9%	0.1%

(B) *Preliminary QS allocation for nonwhiting trips.* NMFS will calculate the non-whiting preliminary QS allocation differently for different species groups, Groups 1 through 3.

(1) *Allocation formula species groups.* For the purposes of preliminary QS allocation, IFQ species will be grouped as follows:

(i) Group 1 includes lingcod, Pacific cod, Pacific whiting, sablefish north of 36° N. lat., sablefish south of 36° N. lat., Dover sole, English sole, petrale sole, arrowtooth flounder, starry flounder, other flatfish stock complex, chilipepper rockfish, splitnose rockfish, yellowtail rockfish, shortspine thornyhead north of 34°27' N. lat., shortspine thornyhead south of 34°27' N. lat., longspine thornyhead north of 34°27' N. lat., minor rockfish north slope species complex, minor rockfish south slope species complex, minor rockfish north shelf species complex, and minor rockfish south shelf species complex.

(ii) Group 2 includes bocaccio, cowcod, darkblotched rockfish, Pacific ocean perch, widow rockfish, and yelloweye rockfish.

(iii) Group 3 includes canary rockfish.

(2) *Group 1 species*: The preliminary QS allocation process indicated in paragraph (d)(8)(iii)(A) of this section for Group 1 species follows a two-step process, one to allocate a pool of QS equally among all eligible limited entry permits and the other to allocate the remainder of the preliminary QS based on permit history. Through these two processes, preliminary QS totaling 100 percent for each Group 1 species will be allocated. In later steps this amount will be adjusted and reduced as indicated in paragraph (d)(8)(iii)(C) and (D), to determine the QS allocation.

(i) *QS to be allocated equally*. The pool of QS for equal allocation will be determined using the landings history from Federal limited entry groundfish permits that were retired through the Federal buyback program (*i.e.*, buyback permit) (70 FR 45695, August 8, 2005). The QS pool associated with the buyback permits will be the buyback permit history as a percent of the total fleet history for the allocation period. The calculation will be based on total absolute pounds with no dropped years and no other adjustments. The QS pool will be divided equally among qualifying limited entry permits for all QS species/species groups and areas in Group 1.

(ii) *QS to be allocated based on each permit's history*. The pool for QS allocation based on limited entry trawl permit history will be the QS remaining after subtracting out the QS allocated equally. This pool will be allocated to each qualifying limited entry trawl permit based on the permit's relative history from 1994 through 2003. For each limited entry trawl permit, NMFS will calculate a set of relative histories using the following methodology. First, NMFS will sum the permit's landings by each year for each Group 1 species/species group and area subdivision. Second, NMFS will divide each permit's annual sum for a particular species/species group and area subdivision by the shoreside limited entry trawl fleet's annual sum for the same species/species group and area subdivision. NMFS will then calculate a total relative history for each permit by species/species group and area subdivision by adding all relative histories for the permit together and subtracting the three years with the lowest relative history for the permit. The result for each permit by species/species group and areas subdivision will be divided by the aggregate sum of all total relative histories of all qualifying limited entry trawl permits for that species/species group and area subdivision. NMFS will then multiply the result from this calculation by the amount of QS in the pool to be allocated based on each permit's history.

(3) *Group 2 species*: The preliminary QS allocation step indicated in paragraph (d)(8)(iii)(A) of this section will be calculated for each limited entry trawl permit using a formula based on QS allocations for each limited entry trawl permit for 11 target species, areas of distribution of fishing effort as determined from 2003–2006 target species catch data from the PacFIN Coastwide Trawl Logbook Database, average bycatch ratios for each area as derived from West Coast Groundfish Observer Program (WCGOP) data from 2003 through 2006, and the non-whiting initial issuance allocation of the limited entry trawl allocation amounts for 2011 for each of the 11 target species. These data are used in a series of sequential steps to estimate the allocation of Group 2 species to each limited entry trawl permit. Paragraphs (d)(8)(iv)(B)(3)(iii) to (vi) of this section estimate the permit's total 2003–2006 target species by area. Paragraphs (d)(8)(iv)(B)(3)(vii) to (xii) of this section project Group 2 species bycatch amounts using 2003–2006 WCGOP observer ratios and the initial issuance allocation applied to the 2011 limited entry trawl allocation. Paragraphs (d)(8)(iv)(B)(3)(xiv) to (xvii) of this section convert these amounts into QS. As with Group 1 species, preliminary QS totaling 100 percent for each Group 2 species unit will be allocated and the amount of the allocations will be adjusted and reduced as indicated in paragraph (d)(8)(iii)(C) and (D) of this section to determine the QS allocation.

(i) The 11 target species are arrowtooth flounder, starry flounder, other flatfish, Dover sole, English sole, petrale sole, minor slope rockfish, shortspine thornyheads, longspine thornyheads, sablefish, and Pacific cod.

(ii) The 8 areas of distribution of fishing effort are defined latitudinally and by depth. The latitudinal areas are (a) north of 47°40' N. lat.; (b) between 47°40' N. lat. and 43°55' N. lat.; (c) 43°55' N. lat. and 40°10' N. lat.; and (d) south of 40°10' N. lat. Each latitudinal area is further divided by depth into areas shoreward and seaward of the trawl Rockfish Conservation Area as defined at §660.130(e)(4) of this subpart.

(iii) For each limited entry trawl permit, NMFS will review the permit logbook data for that permit and sum target species catch recorded for the years 2003–2006, resulting in total target species catch in each area for each permit for the years 2003 through 2006 for all 11 target species in aggregate.

(iv) For each limited entry trawl permit, NMFS will also sum target species catch by area into total coastwide target species catch for each permit for the years 2003 through 2006 for all 11 target species in aggregate. For practicability, seaward or shoreward of the RCA as identified in the logbook data is defined as being deeper than or shallower than 115 fathoms, respectively.

(v) For each limited entry trawl permit, NMFS will divide logbook aggregate target species catch in each area (paragraph (d)(8)(iv)(B)(3)(iii) of this section) by the permit's total coastwide target species catch (paragraph (d)(8)(iv)(B)(3)(iv) of this section) to create a set of 8 area catch ratios for each permit. (Note: The sum of all area catch ratios equals 1 for each permit).

(vi) For limited entry trawl permits where the vessel registered to the permit did not submit logbooks showing any catch of the 11 target species for any of the years 2003 through 2006, NMFS will use the following formula to calculate area target catch ratios: (a) NMFS will sum by area all limited entry trawl permits' total logbook area target catches from paragraph (d)(8)(iv)(B)(3)(iii) of this section, (b) NMFS will sum coastwide all limited entry trawl permits' total logbook target catches across all areas from paragraph (d)(8)(iv)(B)(3)(iv) of this section, and (c) NMFS will divide these sums (i.e., a/b) to create average permit logbook area target catch ratios.

(vii) NMFS will calculate the 2011 non-whiting short term allocation amount for each of the 11 target species by multiplying the limited entry trawl allocation amounts for 2011 for each by the corresponding initial issuance allocation percentage for the non-whiting sector given in paragraph (d)(8)(iii)(A)(10) of this section or determined through the biennial specifications process, as applicable.

(viii) For each limited entry trawl permit, NMFS will obtain the percentage of the limited entry trawl permit initial QS allocation for each of the 11 target species resulting from paragraph (d)(8)(iv)(B)(2) of this section.

(ix) NMFS will calculate each limited entry trawl permit's projected non-whiting sector quota pounds for 2011 by multiplying the 2011 non-whiting sector initial issuance allocation amounts for each of the 11 target species from paragraph (d)(8)(iv)(B)(3)(vii) of this section by each permit's target species QS allocation percentage from paragraph (d)(8)(iv)(B)(3)(viii) of this section.

(x) For each limited entry trawl permit, NMFS will sum the projected quota pounds for the 11 target species from paragraph (d)(8)(iv)(B)(3)(ix) of this section to get a total projected weight of all 11 target species for the limited entry trawl permit.

(xi) For each limited entry trawl permit, NMFS will estimate the permit's total incidental catch of Group 2 species by area by multiplying the projected 2011 total weight of all 11 target species by the applicable area catch ratio for each area as calculated in either paragraph (d)(8)(iv)(B)(3)(v) of this section (permits with logbook data) or paragraph (d)(8)(iv)(B)(3)(vi) of this section (permits without logbook data).

(xii) NMFS will apply WCGOP average bycatch ratios for each Group 2 species (observed Group 2 species catch/total target species catch) by area. The WCGOP average bycatch ratios are as follows:

Area	Shoreward	Seaward
Bocaccio		
N. of 47°40' N. lat.		

43°55' N. lat. to 47°40' N. lat.		
40°10' N. lat. to 43°55' N. lat.		
S. of 40°10' N. lat.	0.019013759	0.001794203
Cowcod		
N. of 47°40' N. lat.		
43°55' N. lat. to 47°40' N. lat.		
40°10' N. lat. to 43°55' N. lat.		
S. of 40°10' N. lat.	0.001285088	0.000050510
Darkblotched		
N. of 47°40' N. lat.	0.001560461	0.009950330
43°55' N. lat. to 47°40' N. lat.	0.002238054	0.018835786
40°10' N. lat. to 43°55' N. lat.	0.002184788	0.015025697
S. of 40°10' N. lat.	0.000006951	0.004783988
Pacific ocean perch		
N. of 47°40' N. lat.	0.001069954	0.019848047
43°55' N. lat. to 47°40' N. lat.	0.000110802	0.015831815
40°10' N. lat. to 43°55' N. lat.	0.000148715	0.001367645
S. of 40°10' N. lat.		
Widow		
N. of 47°40' N. lat.	0.000132332	0.000065291
43°55' N. lat. to 47°40' N. lat.	0.000387346	0.000755163
40°10' N. lat. to 43°55' N. lat.	0.000175128	0.000008118
S. of 40°10' N. lat.	0.001049485	0.000676828
Yelloweye		
N. of 47°40' N. lat.	0.000334697	0.000006363
43°55' N. lat. to 47°40' N. lat.	0.000083951	0.000010980
40°10' N. lat. to 43°55' N. lat.	0.000128942	0.000006300
S. of 40°10' N. lat.	0.000094029	

(*xiii*) For each limited entry trawl permit, NMFS will calculate projected Group 2 species amounts by area by multiplying the limited entry trawl permit's projected 2011 total weight of all target species by area from paragraph

(d)(8)(iv)(B)(3)(*xi*) of this section by the applicable average bycatch ratio for each Group 2 species and corresponding area of paragraph (d)(8)(iv)(B)(3)(*xii*) of this section.

(*xiv*) For each limited entry trawl permit, NMFS will sum all area amounts for each Group 2 species from paragraph (d)(8)(iv)(B)(3)(*xiii*) of this section to calculate the total projected amounts of each Group 2 species for each limited entry trawl permit.

(*xv*) NMFS will sum all limited entry trawl permits' projected Group 2 species amounts from paragraph (d)(8)(iv)(B)(3)(*xiv*) of this section to calculate coastwide total projected amounts for each Group 2 species.

(*xvi*) NMFS will estimate preliminary QS for each limited entry trawl permit for each Group 2 species by dividing each limited entry trawl permit's total projected amount of each Group 2 species from paragraph (d)(8)(iv)(B)(3)(*xiv*) of this section by the coastwide total projected amount for that species from paragraph (d)(8)(iv)(B)(3)(*xv*) of this section.

(4) *Group 3 Species:* (*i*) The preliminary QS allocation step indicated in paragraph (d)(8)(iii)(A) of this section will be performed in two calculations that result in the division of preliminary QS allocation into two pools, one to allocate QS equally among all eligible limited entry permits, using the approach identified for Group 1 species in paragraph (d)(8)(iv)(B)(2)(*i*) of this section, and the other to allocate QS using a formula based on QS allocations for target species and areas fished, using the approach identified for Group 2 species in paragraph (d)(8)(iv)(B)(3) of this section, using the following WCGOP average bycatch rates:

Canary

Area	Shoreward	Seaward
N. of 47°40' N. lat.	0.008041898	0.000030522
43°55' N. lat. to 47°40' N. lat.	0.003081830	0.000142136
40°10' N. lat. to 43°55' N. lat.	0.008716148	0.000021431
S. of 40°10' N. lat.	0.001581194	0.000009132

(*ii*) Through these two processes, preliminary QS totaling 100 percent for each species will be allocated. In later steps, this amount will be adjusted and reduced as indicated in paragraphs (d)(8)(iii)(C) and (D) of this section to determine the QS allocation. In combining the two QS pools for each permit, the equal allocation portion is weighted according to the process in paragraph (d)(8)(iv)(B)(2)(*i*) of this section, and the portion calculated based on allocations for target species and areas fished is weighted according to the process in (d)(8)(iv)(B)(2)(*ii*) of this section.

(C) *Preliminary QS allocation for whiting trips.* The preliminary QS allocation based on whiting trips as indicated in paragraph (d)(8)(iii)(B) of this section for limited entry trawl permits follows a two step process, one to allocate a pool of QS equally among all eligible limited entry permits and the other to allocate the remainder of the preliminary QS based on permit history. Through these two processes, preliminary QS totaling 100 percent for each species will be allocated. In later steps, this amount will be adjusted and reduced, as indicated in paragraphs (d)(8)(iii)(C) and (D) of this section, to determine the QS allocation.

(1) *QS to be allocated equally.* The pool of QS for equal allocation will be determined using the whiting trip landings history from Federal limited entry groundfish permits that were retired through the Federal buyback program (*i.e.*, buyback permit) (70 FR 45695, August 8, 2005). For each species, the whiting trip QS pool associated with the buyback permits will be the buyback permit history as a percent of the total fleet history for the allocation period. The calculation will be based on total absolute pounds with no dropped years and no other adjustments. The whiting trip QS pool associated with the buyback permits will be divided equally among all qualifying limited entry permits for each species.

(2) *QS to be allocated based on each permit's history.* The pool for QS allocation based on each limited entry trawl permit's history will be the QS remaining after subtracting out the QS associated with the buyback permits allocated equally.

(i) *Whiting QS allocated based on each permit's history.* Whiting QS based on each limited entry trawl permit's history will be allocated based on the permit's relative history from 1994 through 2003. For each limited entry trawl permit, NMFS will calculate a whiting relative history for each qualifying year, as follows. First, NMFS will sum the permit's history of landings of whiting from whiting trips for each year. Second, NMFS will divide each permit's annual sum of whiting from whiting trips by the shoreside limited entry trawl fleet's annual sum of whiting. NMFS will then calculate a total relative history for each permit by adding all relative histories for the permit together and subtracting the two years with the lowest relative history. NMFS will then divide the result for each permit by the total relative history for whiting of all qualifying limited entry trawl permits. The result from this calculation will then be multiplied by the amount of whiting QS in the pool to be allocated based on each permit's history.

(ii) *Other incidentally caught species QS allocation for eligible limited entry trawl permit owners.* Other incidentally caught species from the QS remaining after subtracting out the QS associated with the buyback permits will be allocated pro-rata based on each limited entry trawl permit's whiting QS from whiting trips. Pro-rata means a percent that is equal to the percent of whiting QS.

(D) *QS from limited entry permits calculated separately for non-whiting trips and whiting trips.* NMFS will calculate the portion of QS for each species which a permit receives based on non-whiting trips and whiting trips separately and will weight each preliminary QS in proportion to the initial issuance allocation percentage between whiting trips and non-whiting trips for that species in paragraph (d)(8)(iv)(A)(10) of this section or determined through the biennial specifications process, as applicable.

(1) *Nonwhiting trips.* To determine the amount of QS of each species for non-whiting trips for each limited entry trawl permit, NMFS will multiply the preliminary QS for the permit from paragraph (d)(8)(iii)(A) of this section for each species by the initial issuance allocation percentage for that species for non-whiting trips.

(2) *Whiting trips.* To determine the amount of QS of each species for whiting trips for each limited entry trawl permit, NMFS will multiply the preliminary QS from paragraph (d)(8)(iii)(B) of this section for each species by the initial issuance allocation percentage for that species for whiting trips.

(E) *QS for each limited entry trawl permit.* For each limited entry trawl permit, NMFS will add the results for the permit from paragraphs (d)(8)(iv)(D)(1) and (D)(2) of this section in order to determine the total QS for each species on that permit.

(F) *Adjustment for AMP set-aside and shoreside processor initial issuance allocations.* NMFS will reduce the non-whiting QS allocation to each limited entry trawl permit by 10 percent, for a QS set-aside to AMP. NMFS will reduce the whiting QS allocation to each limited entry trawl permit by 20 percent for the initial QS allocation to shoreside processors.

(G) *Allocation of initial issuance of whiting QS for shoreside processors.* NMFS will calculate the amount of whiting QS available to shoreside processors from the 20 percent adjustment of whiting QS allocations in paragraph (d)(8)(iv)(F) of this section. For each eligible shoreside processor, whiting QS will be allocated based on the eligible shoreside processor's relative history from 1998 through 2004. Only the deliveries for which the shoreside processor is the first processor of the fish will be used in the calculation of whiting relative history.

(1) For each shoreside processor which has received deliveries of at least 1 mt of whiting from whiting trips in each of any two years from 1998 through 2004, NMFS will calculate a whiting relative history for each qualifying year, as follows. First, NMFS will sum the shoreside processor's receipts of whiting for each year. Second, NMFS will calculate the relative history for each year by dividing each shoreside processor's annual sum of whiting receipts by the aggregate annual sum of whiting received by all shoreside processors in that year. NMFS will then calculate a total relative history for each shoreside processor by adding all relative histories for the shoreside processor together and subtracting the two years with the lowest relative history. NMFS will then divide the result for each shoreside processor by the aggregate sum of all total relative histories for whiting by all qualifying shoreside processors. The result from this calculation will then be multiplied by 20 percent to determine the shoreside processor's whiting QS.

(2) For purposes of making an initial issuance of whiting QS to a shoreside processor, NMFS will attribute landing history to the Pacific whiting shoreside first receiver reported on the landing receipt (the entity responsible for filling out the state landing receipt) as recorded in the relevant PacFIN dataset on July 1, 2010. History may be reassigned to a shoreside processor not on the state landings receipt as described at paragraph (d)(8)(vi)(B) of this section.

(H) *Allocation of Pacific halibut IBQ for each limited entry trawl permit.* For each eligible limited entry trawl permit owner, NMFS will calculate Pacific halibut individual bycatch quota (IBQ) for the area north of 40°10' N. lat. using a formula based on (a) QS allocations for each limited entry trawl permit for two target species, (b) areas of distribution of fishing effort as determined from 2003–2006 target species catch data from the PacFIN Coastwide Trawl Logbook Database, (c) average bycatch ratios for each area as derived from WCGOP data from 2003 through 2006, and (d) the non-whiting initial issuance allocation of the limited entry trawl allocation amounts for 2011 for arrowtooth and petrale sole. These data are used in a series of sequential steps to determine the allocation of IBQ to each limited entry trawl permit. Paragraphs (d)(8)(iv)(H)(3) to (6) of this section estimate the permit's total 2003–2006 target species by area. Paragraphs (d)(8)(iv)(H)(7) to (13) of this section project Pacific halibut bycatch amounts using 2003–2006 WCGOP observer ratios and the 2011 non-whiting initial issuance allocation of the limited entry trawl allocation amounts. Paragraphs (d)(8)(iv)(H)(14) to (16) of this section convert these amounts into QS.

(1) The target species are arrowtooth flounder and petrale sole.

(2) The four bycatch areas are defined latitudinally and by depth. The latitudinal areas are (a) north of 47°30' N. lat., and (b) between 40°10' N. lat. and 47°30' N. lat. Each latitudinal area is further divided by depth into areas shoreward and seaward of the trawl Rockfish Conservation Area as defined at §660.130(e)(4), subpart D.

(3) For each limited entry trawl permit, NMFS will review the permit logbook data for that permit and sum target species catch recorded for the years 2003–2006, resulting in total target species catch in each of the four areas for each permit for the years 2003 through 2006 for both target species in aggregate. For practicability, seaward or shoreward of the RCA as identified in the logbook data is defined as being deeper than or shallower than 115 fathoms, respectively.

(4) For each limited entry trawl permit, NMFS will also sum the target species catch by area into total aggregate target species catch for each permit for the years 2003 through 2006.

(5) For each limited entry trawl permit, NMFS will divide logbook aggregate target species catch in each area (paragraph (d)(8)(iv)(H)(3) of this section) by the sum of the permit's catch of each target species in all four bycatch areas (paragraph (d)(8)(iv)(H)(4) of this section) to create a set of area catch ratios for each permit. (Note: The sum of all four area catch ratios in aggregate equals 1 for each permit).

(6) For limited entry trawl permits where the vessel registered to the permit did not submit logbooks showing any catch of either of the two target species for any of the years 2003 through 2006, NMFS will use the following formula to calculate area target catch ratios: NMFS will sum by area all limited entry trawl permits' total logbook area target catches from paragraph (d)(8)(iv)(H)(3) of this section, and sum all limited entry trawl permits' total logbook target catches across all four areas from paragraph (d)(8)(iv)(H)(4) of this section; and divide these sums to create average permit logbook area target catch ratios.

(7) NMFS will calculate the 2011 non-whiting initial issuance allocation amount for each of the two target species by multiplying the limited entry trawl allocation amounts for 2011 for each by the corresponding initial issuance allocation percentage for the non-whiting sector given in paragraph (d)(8)(iv)(A)(10) of this section.

(8) For each limited entry trawl permit, NMFS will obtain the non-whiting portion of each limited entry trawl permit's initial QS allocations for each of the two target species resulting from paragraph (d)(8)(iv)(B)(2) of this section.

(9) NMFS will calculate each limited entry trawl permit's projected non-whiting sector quota pounds for the two target species for 2011 by multiplying the 2011 non-whiting sector short term allocation amounts for each of the target species by the permit's QS allocation percentage for the species from paragraph (d)(8)(iv)(H)(8) of this section.

(10) For each limited entry trawl permit, NMFS will sum the projected quota pounds for the two target species from paragraph (d)(8)(iv)(H)(9) of this section to get a total projected weight of the two target species for the limited entry trawl permit.

(11) For each limited entry trawl permit, NMFS will multiply the projected 2011 total weight of the two target species by the applicable area catch ratio for each area as calculated in either paragraph (d)(8)(iv)(H)(5) of this section (permits with logbook data) or paragraph (d)(8)(iv)(H)(6) of this section (permits without logbook data).

(12) NMFS will apply WCGOP average halibut bycatch ratios (observed halibut catch/total of two target species catch) by area. The WCGOP average halibut bycatch ratios are as follows:

Pacific Halibut

Area	Shoreward	Seaward
N. of 47°30' N. lat.	0.225737162	0.084214162
40°10' N. lat. to 47°30' N. lat.	0.086250913	0.033887839

(13) For each limited entry trawl permit, NMFS will calculate projected Pacific halibut amounts by area by multiplying the limited entry trawl permit's projected 2011 total weight of the two target species by area from paragraph (d)(8)(iv)(H)(11) of this section by the average bycatch ratio for the corresponding area of paragraph (d)(8)(iv)(H)(12) of this section.

(14) For each limited entry trawl permit, NMFS will sum all area amounts from paragraph (d)(8)(iv)(H)(13) of this section to calculate the total projected Pacific halibut amount for each limited entry trawl permit.

(15) NMFS will sum all limited entry trawl permits' projected Pacific halibut amounts from paragraph (d)(8)(iv)(H)(14) of this section to calculate aggregate total amounts of Pacific halibut.

(16) NMFS will estimate preliminary Pacific halibut IBQ for each limited entry trawl permit by dividing each limited entry trawl permit's total projected Pacific halibut amount from paragraph (d)(8)(iv)(H)(14) of this section by the aggregate total amounts of Pacific halibut from paragraph (d)(8)(iv)(H)(15) of this section.

(l) *Redistribution of QS and IBQ.* For each limited entry trawl permit transferred after November 8, 2008, or if transferred earlier, not registered with NMFS by November 30, 2008, for which NMFS determines that the owner of such permit would exceed the accumulation limits specified at paragraph (d)(4)(i) of this section based on calculation of the preceding allocation formulas for all limited entry trawl permits owned by such owner using the individual and collective rule described at §660.140(d)(4)(ii), NMFS will redistribute the excess QS or IBQ to other qualified QS permit owners within the accumulation limits.

(v) *QS application.* Persons may apply for an initial issuance of QS and IBQ and a QS permit in one of two ways: Complete and submit a prequalified application received from NMFS, or complete and submit an application package. The completed application must be either postmarked or hand-delivered within normal business hours no later than November 1, 2010. If an applicant fails to submit a completed application by the deadline date, they forgo the opportunity to receive consideration for initial issuance of QS and IBQ and a QS permit.

(A) *Prequalified application.* A "prequalified application" is a partially pre-filled application where NMFS has preliminarily determined the landings history that may qualify the applicant for an initial issuance of QS and IBQ. The application package will include a prequalified application (with landings history), a Trawl Identification of Ownership Interest form, and any other documents NMFS believes are necessary to aid the limited entry permit owner in completing the QS application.

(1) For current trawl limited entry permit owners, NMFS will mail a prequalified application to all owners, as listed in the NMFS permit database at the time applications are mailed, that NMFS determines may qualify for QS or IBQ.

NMFS will mail the application by certified mail to the current address of record in the NMFS permit database. The application will contain the basis of NMFS' calculation of the permit owner's QS and IBQ for each species/species group or area.

(2) For shoreside processors, NMFS will mail a prequalified application to those Pacific whiting shoreside first receivers with receipts of 1 mt or more of whiting from whiting trips in each of any two years from 1998 through 2004, as documented on fish tickets in the relevant PacFIN dataset on July 1, 2010. NMFS will mail the prequalified application by certified mail to the current address of record given by the state in which the entity is registered. For all qualified entities who meet the eligibility requirement at paragraph (d)(8)(ii)(B) of this section, the application will provide the basis of NMFS' calculation of the initial issuance of Pacific whiting QS.

(B) *Request for an application.* An owner of a current limited entry trawl permit or a Pacific whiting first receiver or shoreside processor that believes it is qualified for an initial issuance of QS and IBQ and does not receive a prequalified application, must complete an application package and submit the completed application to NMFS by the application deadline. Application packages are available on NMFS' Web site (<http://www.nwr.noaa.gov/Groundfish-Halibut/Groundfish-Permits/index.cfm>) or by contacting SFD. An application must include valid PacFIN data or other credible information that substantiates the applicant's qualification for an initial issuance of QS and IBQ.

(vi) *Corrections to the application.* If an applicant does not accept NMFS' calculation in the prequalified application either in part or whole, the applicant must identify in writing to NMFS which parts the applicant believes to be inaccurate, and must provide specific credible information to substantiate any requested corrections. The completed application and specific credible information must be provided to NMFS in writing by the application deadline. Written communication must either be post-marked or hand-delivered within normal business hours no later than November 1, 2010. Requests for corrections may only be granted for the following reasons:

(A) Errors in NMFS' use or application of data, including:

(1) Errors in NMFS' use or application of landings data from PacFIN;

(2) Errors in NMFS' use or application of state logbook data from PacFIN;

(3) Errors in NMFS' application of the QS or IBQ allocation formula;

(4) Errors in identification of the permit owner, permit combinations, or vessel registration as listed in NMFS permit database;

(5) Errors in identification of ownership information for the first receiver or the processor that first processed the fish; and

(6) Errors in NMFS' use or application of ownership interest information.

(B) *Reassignment of Pacific whiting landings history for shoreside processors.* For shoreside processors, the landing history may be reassigned from the Pacific whiting shoreside first receiver identified in the relevant PacFIN database to a shoreside processor that was in fact the first processor of the fish. In order for an applicant to request that landing history be reassigned, an authorized representative for the Pacific whiting shoreside first receiver identified on the state landing receipt must submit, by the application deadline date specified in paragraph (d)(8)(vii)(B) of this section for initial issuance of QS, a written request that the whiting landings history from the qualifying years be conveyed to a shoreside processor. The letter must be signed and dated by the authorized representative of the Pacific whiting shoreside first receiver named on the state landing receipt and signed and dated by the authorized representative of the shoreside processor to which the Pacific whiting landing history is requested to be reassigned. The letter must identify the dates of the landings history and the associated amounts that are requested to be reassigned, and include the legal name of the shoreside processor to which the Pacific whiting landing history is requested to be reassigned, their date of birth or tax identification number, business address, business phone number, fax number, and e-mail address. If any document exists that demonstrates that the shoreside processor to which the Pacific whiting landing history is requested to be reassigned was in fact the first processor of the fish, such documentation must be provided to NMFS. NMFS will review the information submitted and will make a determination as part of the IAD.

(vii) *Submission of the application and application deadline* —(A) *Submission of the application*. Submission of the complete, certified application includes, but is not limited to, the following:

(1) The applicant is required to sign and date the application and have the document notarized by a licensed Notary Public.

(2) The applicant must certify that they qualify to own QS and IBQ.

(3) The applicant must indicate they accept NMFS' calculation of initial issuance of QS and IBQ provided in the prequalified application, or provide credible information that demonstrates their qualification for QS and IBQ.

(4) The applicant is required to provide a complete Trawl Identification of Ownership Interest Form as specified at paragraph (d)(4)(iv) of this section.

(5) Business entities may be required to submit a corporate resolution or other credible documentation as proof that the representative of the entity is authorized to act on behalf of the entity; and

(6) NMFS may request additional information of the applicant as necessary to make an IAD on initial issuance of QS or IBQ.

(B) *Application deadline*. A complete, certified application must be either postmarked or hand-delivered within normal business hours to NMFS, Northwest Region, Permits Office, Bldg. 1, 7600 Sand Point Way, NE., Seattle, WA 98115, no later than November 1, 2010. NMFS will not accept or review any applications received or postmarked after the application deadline. There are no hardship exemptions for this deadline.

(viii) *Permit transfer during application period*. NMFS will not review or approve any request for a change in limited entry trawl permit owner at any time after either November 1, 2010 or the date upon which the application is received by NMFS, whichever occurs first, until a final decision is made by the Regional Administrator on behalf of the Secretary of Commerce regarding the QS and IBQ to be issued for that permit.

(ix) *Initial Administrative Determination (IAD)*. NMFS will issue an IAD for all complete, certified applications received by the application deadline date. If NMFS approves an application for initial issuance of QS and IBQ, the applicant will receive a QS permit specifying the amounts of QS and IBQ for which the applicant has qualified and the applicant will be registered to a QS account. If NMFS disapproves or partially disapproves an application, the IAD will provide the reasons. As part of the IAD, NMFS will indicate whether the QS permit owner qualifies for QS or IBQ in amounts that exceed the accumulation limits and are subject to divestiture provisions given at paragraph (d)(4)(v) of this section, or whether the QS permit owner qualifies for QS or IBQ that exceed the accumulation limits and does not qualify to receive the excess under paragraph (d)(4)(v) of this section. If the applicant does not appeal the IAD within 60 calendar days of the date on the IAD, the IAD becomes the final decision of the Regional Administrator acting on behalf of the Secretary of Commerce.

(x) *Appeals*. For QS permits and QS/IBQ issued under this section, the appeals process and timelines are specified at §660.25(g), subpart C. For the initial issuance of QS/IBQ and the QS permits, the bases for appeal are described in paragraph (d)(8)(vi) of this section. An additional basis for appeal for whiting QS based on shoreside processing is an allegation that the shoreside processor or Pacific whiting shoreside first receiver to which a QS permit and whiting QS have been assigned was not in fact the first processor of the fish included in the qualifying landings history. The appellant must submit credible information supporting the allegation that they were in fact the first shoreside processor for the fish in question. Items not subject to appeal include, but are not limited to, the accuracy of permit landings data or Pacific whiting shoreside first receiver landings data in the relevant PacFIN dataset on July 1, 2010.

(e) *Vessel accounts* —(1) *General*. In order to participate in the Shorebased IFQ Program, a vessel must be registered to an eligible limited entry trawl permit. A vessel account will be established on request for an owner of a vessel registered to an eligible limited entry trawl permit in order to track QP and IBQ pounds. QP or IBQ pounds will have the same species/species groups and area designations as the QS or IBQ from which it was issued. Annually, QS or IBQ (expressed as a percent) are converted to QP or IBQ pounds (expressed as a weight) in a QS account. QP or IBQ pounds may be transferred from a QS account to a vessel account or from one vessel account to another

vessel account. QP or IBQ pounds are required to cover catch (landings and discards) by limited entry trawl vessels of all IFQ species/species groups, except for:

(i) *Gear exception.* Vessels with a limited entry trawl permit using the following gears would not be required to cover groundfish catch with QP or Pacific halibut catch with IBQ pounds: Non-groundfish trawl, gear types defined in the coastal pelagic species FMP, gear types defined in the highly migratory species FMP, salmon troll, crab pot, and limited entry fixed gear when the vessel also has a limited entry permit endorsed for fixed gear and has declared that they are fishing in the limited entry fixed gear fishery.

(ii) *Species exception.* QP are not required for the following species: Longspine thornyheads south of 34°27' N. lat., minor nearshore rockfish (north and south), black rockfish (coastwide), California scorpionfish, cabezon, kelp greenling, shortbelly rockfish, and "other fish" (as defined at §660.11, subpart C, under the definition of "groundfish"). For these species, trip limits remain in place as specified in the trip limit tables at Table 1 (North) and Table 1 (South) of this subpart.

(2) *Eligibility and registration* —(i) *Eligibility.* To establish a registered vessel account, a person must own a vessel and that vessel must be registered to a groundfish limited entry permit endorsed for trawl gear.

(ii) *Registration.* A vessel account must be registered with the NMFS SFD Permits Office. A vessel account may be established at any time during the year. An eligible vessel owner must submit a request in writing to NMFS to establish a vessel account. The request must include the vessel name; USCG vessel registration number (as given on USCG Form 1270) or state registration number, if no USCG documentation; all vessel owner names (as given on USCG Form 1270, or on state registration, as applicable); and business contact information, including: Address, phone number, fax number, and e-mail. NMFS may require vessel account owners that are business entities to designate an account manager that may act on behalf of the entity and their contact information. Requests for a vessel account must also include the following information: A complete economic data collection form as required under §660.113(b), (c) and (d), subpart D, and a complete Trawl Identification of Ownership Interest Form as required under paragraph (e)(4)(ii) of this section. The request for a vessel account will be considered incomplete until the required information is submitted. Any change in the legal name of the vessel owner(s) will require the new owner to register with NMFS for a vessel account. A participant must have access to a computer with Internet access and must set up online access to their vessel account to participate. The computer must have Internet browser software installed (e.g., Internet Explorer, Netscape, Mozilla Firefox); as well as the Adobe Flash Player software version 9.0 or greater. NMFS will mail vessel account owners instructions to set up online access to their vessel account. NMFS may require vessel account owners that are business entities to designate an account manager that may act on behalf of the entity and their contact information. NMFS will use the vessel account to send messages to vessel owners in the Shorebased IFQ Program; it is important for vessel owners to monitor their online vessel account and all associated messages.

(3) *Renewal, change of account ownership, and transfer of QP or IBQ pounds* —(i) *Renewal.* (A) Vessel accounts expire at the end of each calendar year, and must be renewed between October 1 and November 30 of each year in order to ensure the vessel account is active on January 1 of the following year. A complete vessel account renewal package must be received by SFD no later than November 30 to be accepted by NMFS.

(B) Notification to renew vessel accounts will be issued by SFD prior to September 1 each year to the vessel account owner's most recent address in the SFD record. The vessel account owner shall provide SFD with notice of any address change within 15 days of the change.

(C) Any vessel account for which SFD does not receive a vessel account renewal request by November 30 will have its vessel account inactivated by NMFS at the end of the calendar year. NMFS will not issue QP or IBQ pounds to the inactivated vessel account. Any QP or IBQ pounds in the vessel account will expire and surplus QP or IBQ pounds will not be available for carryover. A non-renewed vessel account may be renewed in a subsequent year by submission of a complete vessel account renewal package.

(D) Vessel accounts will not be renewed until SFD has received a complete application for a vessel account renewal, which includes payment of required fees, a complete documentation of permit ownership on the Trawl Identification of Ownership Interest Form as required under (e)(4)(ii) of this section, and a complete economic data collection form as required under §660.114, subpart D. The vessel account renewal will be considered incomplete until the required

information is submitted. NMFS may require vessel account owners that are business entities to designate an account manager that may act on behalf of the entity and their contact information.

(E) *Effective Date.* A vessel account is effective on the date issued by NMFS and remains effective until the end of the calendar year.

(F) *IAD and appeals.* Vessel account renewals are subject to the appeals process specified at §660.25(g), subpart C.

(ii) *Change in vessel account ownership.* Vessel accounts are non-transferable and ownership of a vessel account cannot change. If the ownership of a vessel changes, then a new vessel account must be opened by the new owner in order for the vessel to participate in the Shorebased IFQ Program.

(iii) *Transfer of QP or IBQ pounds —(A) General.* QP or IBQ pounds may only be transferred from a QS account to a vessel account or between vessel accounts. QP or IBQ pounds cannot be transferred from a vessel account to a QS account. Transfers of QP or IBQ pounds are subject to accumulation limits. QP or IBQ pounds in a vessel account may only be transferred to another vessel account. QP or IBQ pounds must be transferred in whole pounds (i.e., no fraction of a QP or IBQ pound can be transferred). During the year there may be situations where NMFS deems it necessary to prohibit transfers (i.e., account reconciliation, system maintenance, or for emergency fishery management reasons).

(B) *Transfer procedures.* QP or IBQ pound transfers from one vessel account to another vessel account must be accomplished via the online vessel account. To make a transfer, a vessel account owner must initiate a transfer request by logging onto the online vessel account. Following the instructions provided on the Web site, the vessel account owner must enter pertinent information regarding the transfer request including, but not limited to: IFQ species, amount of QP or IBQ pounds to be transferred for each IFQ species (in whole pound increments); name and any other identifier of the eligible transferee (e.g., USCG documentation number or state registration number, as applicable) of the eligible vessel account receiving the transfer; and the value of the transferred QP or IBQ pounds. The online system will verify whether all information has been entered and whether the transfer complies with vessel limits, as applicable. If the information is not accepted, an electronic message will record as much in the transferor's vessel account explaining the reason(s). If the information is accepted, the online system will record the pending transfer in both the transferor's and the transferee's vessel accounts. The transferee must approve the transfer by electronic signature. If the transferee accepts the transfer, the online system will record the transfer and confirm the transaction in both accounts through a transaction confirmation notice. Once the transferee accepts the transaction, the transaction is final and permanent. QP or IBQ pounds may be transferred to vessel accounts at any time during January 1 through December 14 each year unless otherwise notified by NMFS. QP or IBQ pounds may not be transferred between December 15 and December 31 each year.

(4) *Accumulation limits —(i) Vessel limits.* Vessel accounts may not have QP or IBQ pounds in excess of the QP Vessel Limit in any year, and, for species covered by Unused QP Vessel Limits, may not have QP or IBQ pounds in excess of the Unused QP Vessel Limit at any time. These amounts are as follows:

Species category	QP vessel limit (annual limit) (in percent)	Unused QP vessel limit (daily limit) (in percent)
Non-whiting groundfish species	3.2	
Lingcod—coastwide	3.8	
Pacific cod	20.0	
Pacific whiting (shoreside)	15.0	
Sablefish:		

N. of 36° (Monterey north)	4.5	
S. of 36° (Conception area)	15.0	
Pacific ocean perch N. of 40°10'	6.0	4.0
Widow rockfish ¹	8.5	5.1
Canary rockfish	10.0	4.4
Chilipepper rockfish S. of 40°10'	15.0	
Bocaccio S. of 40°10'	15.4	13.2
Splitnose rockfish S. of 40°10'	15.0	
Yellowtail rockfish N. of 40°10'	7.5	
Shortspine thornyhead:		
N. of 34°27'	9.0	
S. of 34°27'	9.0	
Longspine thornyhead:		
N. of 34°27'	9.0	
Cowcod S. of 40°10'	17.7	17.7
Darkblotched rockfish	6.8	4.5
Yelloweye rockfish	11.4	5.7
Minor rockfish complex N. of 40°10':		
Shelf species	7.5	
Slope species	7.5	
Minor rockfish complex S. of 40°10':		
Shelf species	13.5	
Slope species	9.0	
Dover sole	3.9	
English sole	7.5	
Petrале sole	4.5	
Arrowtooth flounder	20.0	
Starry flounder	20.0	
Other flatfish stock complex	15.0	

Pacific halibut (IBQ) N. of 40° 10'	14.4	5.4
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¹If widow rockfish is rebuilt before initial allocation of QS, the vessel limit will be set at 1.5 times the control limit.

(ii) *Trawl identification of ownership interest form.* Any person that owns a vessel registered to a limited entry trawl permit and that is applying for or renewing a vessel account shall document those persons that have an ownership interest in the vessel greater than or equal to 2 percent. This ownership interest must be documented with the SFD via the Trawl Identification of Ownership Interest Form. SFD will not issue a vessel account unless the Trawl Identification of Ownership Interest Form has been completed. NMFS may request additional information of the applicant as necessary to verify compliance with accumulation limits.

(5) *Carryover.* The carryover provision allows a limited amount of surplus QP or IBQ pounds in a vessel account to be carried over from one year to the next or allows a deficit in a vessel account in one year to be covered with QP or IBQ pounds from a subsequent year, up to a carryover limit. The carryover limit is calculated by multiplying the carryover percentage by the cumulative total of QP or IBQ pounds (used and unused) in a vessel account for the base year, less any transfers out of the vessel account or any previous carryover amounts. The percentage used for the carryover provision may be changed during the biennial specifications and management measures process.

(i) *Surplus QP or IBQ pounds.* A vessel account with a surplus of QP or IBQ pounds (unused QP or IBQ pounds) for any IFQ species at the end of the fishing year may carryover for use in the immediately following year an amount of unused QP or IBQ pounds up to its carryover limit. The carryover limit for the surplus is calculated as 10 percent of the cumulative total QP or IBQ pounds (used and unused, less any transfers or any previous carryover amounts) in the vessel account at the end of the year. NMFS will credit the carryover amount to the vessel account in the immediately following year. If there is a decline in the OY between the base year and the following year in which the QP or IBQ pounds would be carried over, the carryover amount will be reduced in proportion to the reduction in the OY. Surplus QP or IBQ pounds may not be carried over for more than one year. Any amount of QP or IBQ pounds in a vessel account and in excess of the carryover amount will expire on December 31 each year and will not be available for any future use.

(ii) *Deficit QP or IBQ pounds.* A vessel account with a deficit (negative balance) of QP or IBQ pounds for any IFQ species in the current year may cover that deficit with QP or IBQ pounds from the following year without incurring a violation if all of the following conditions are met:

(A) The vessel declares out of the Shorebased IFQ Program for the year in which the deficit occurred. To declare out of the Shorebased IFQ Program, the vessel owner must submit a signed, dated, and notarized letter to the NMFS Office of Law Enforcement, declaring the vessel owner's intent to declare out of the Shorebased IFQ Program for the remainder of the year and invoke the carryover provision to cover the deficit. (If the deficit occurs less than 30 days before the end of the calendar year, declaring out of the Shorebased IFQ Program for the remainder of the year is not required, however, the vessel owner must notify the NMFS Office of Law Enforcement of the owner's intent to invoke the carryover provision to cover the deficit.)

(B) The amount of QP or IBQ pounds required to cover the deficit from the current fishing year is less than or equal to the vessel's carryover limit for a deficit. The carryover limit for a deficit is calculated as 10 percent of the total cumulative QP or IBQ pounds (used and unused, less any transfers or any previous carryover amounts) in the vessel account 30 days after the date the deficit is documented; and

(C) Sufficient QP or IBQ pounds are transferred in to the vessel account to cure the deficit within 30 days of NMFS' issuance of QP or IBQ pounds to QS accounts in the following year.

(6) *Appeals.* An appeal to a vessel account action follows the appeals process defined at §660.25(g), subpart C.

(7) *Fees.* The Regional Administrator is authorized to charge fees for administrative costs associated with the vessel accounts consistent with the provisions given at §660.25(f), subpart C.

(8) *Cost recovery.* [Reserved]

(f) *First receiver site license* —(1) *General*. Any IFQ first receiver that receives IFQ landings must hold a valid first receiver site license. The first receiver site license authorizes the holder to receive, purchase, or take custody, control, or possession of an IFQ landing at a specific physical site onshore directly from a vessel. Once the trawl rationalization program is implemented, a temporary, interim first receiver site license will be available by application to NMFS and will be valid until June 30, 2011, or until an application for a first receiver site license as specified in paragraph (f)(3) of this section is approved by NMFS, whichever comes first. An application for an interim first receiver site license is subject to all of the requirements in this paragraph (f) including the submission of a catch monitoring plan, except that the catch monitoring plan in paragraph (f)(3)(iii) does not have to have been previously accepted by NMFS and the site does not have to have been previously inspected.

(2) *Issuance*. (i) First receiver site licenses will only be issued to a person registered to a valid license issued by the state of Washington, Oregon, or California, and that authorizes the person to receive fish from a catcher vessel.

(ii) A first receiver may apply for a first receiver site license at any time during the calendar year.

(iii) A first receiver site license is valid for one year from the date it was issued by NMFS, or until the state license required by paragraph (f)(2)(i) of this section is no longer effective, whichever occurs first. IFQ first receivers must reapply for a first receiver site license each year and whenever a change in the ownership occurs.

(3) *Application process*. Persons interested in being licensed as an IFQ first receiver must submit a complete application for a first receiver site license to NMFS, Northwest Region, Permits Office, ATTN: Catch Monitor Coordinator, Bldg. 1, 7600 Sand Point Way NE, Seattle, WA 98115. NMFS will only consider complete applications for approval. A complete application includes:

(i) *State license*. A copy of a valid license issued by the state in which they operate which allows the person to receive fish from a catcher vessel.

(ii) *Contact information*. (A) The name of the first receiver,

(B) The physical location of the first receiver, including the street address where the IFQ landings will be received and/or processed.

(C) The name and phone number of the plant manager and any other authorized representative who will serve as a point of contact with NMFS.

(iii) *A NMFS-accepted catch monitoring plan*. All IFQ first receivers must prepare and operate under a NMFS-accepted catch monitoring plan. NMFS will not issue a first receiver site license to a processor that does not have a current, NMFS-accepted catch monitoring plan.

(A) *Catch monitoring plan review process*. NMFS will accept a catch monitoring plan if it meets all the requirements specified in paragraph (f)(3)(iii)(C) of this section. The site must be inspected by NMFS staff or a NMFS designated inspector prior to acceptance to ensure that the first receiver conforms to the elements addressed in the catch monitoring plan. If NMFS does not accept a catch monitoring plan for any reason, a new or revised catch monitoring plan may be submitted.

(B) *Arranging an inspection*. The time and place of a monitoring plan inspection must be arranged by submitting a written request for an inspection as part of the application for a first receiver site license. After receiving a complete application for a first receiver site license, NMFS will contact the applicant to schedule a site inspection. The inspection request must include:

(1) Name and signature of the person submitting the application and the date of the application;

(2) Address, telephone number, fax number, and email address (if available) of the person submitting the application;

(3) A proposed catch monitoring plan detailing how the IFQ first receiver will meet each of the performance standards in paragraph (f)(3)(iii)(C) of this section.

(C) *Contents of a catch monitoring plan.* The catch monitoring plan must:

(1) *Catch sorting.* Describe the amount and location of all space used for sorting catch, the number of staff assigned to catch sorting, and the maximum rate that catch will flow through the sorting area.

(2) *Monitoring for complete sorting.* Detail how IFQ first receiver staff will ensure that sorting is complete; what steps will be taken to prevent unsorted catch from entering the factory or other areas beyond the location where catch sorting and weighing can be monitored from the observation area; and what steps will be taken if unsorted catch enters the factory or other areas beyond the location where catch sorting and weighing can be monitored from the observation area.

(3) *Scales used for weighing IFQ landings.* Identify each scale that will be used to weigh IFQ landings by the type and capacity and describe where it is located and what it will be used for. Each scale must be appropriate for its intended use.

(4) *Printed record.* Identify all scales that will be used to weigh IFQ landings that cannot produce a complete printed record as specified at §660.15(c), subpart C. State how the scale will be used, and how the plant intends to produce a complete and accurate record of the total weight of each delivery.

(5) *Weight monitoring.* Detail how the IFQ first receiver will ensure that all catch is weighed and the process used to meet the catch weighing requirements specified at paragraph (j) of this section. If a catch monitoring plan proposes the use of totes in which IFQ species will be weighed, or a deduction for the weight of ice, the catch monitoring plan must detail how the process will accurately account for the weight of ice and/or totes.

(6) *Delivery points.* Identify specific delivery points where catch is removed from an IFQ vessel. The delivery point is the first location where fish removed from a delivering catcher vessel can be sorted or diverted to more than one location. If the catch is pumped from the hold of a catcher vessel or a codend, the delivery point will be the location where the pump first discharges the catch. If catch is removed from a vessel by brailing, the delivery point normally will be the bin or belt where the brailer discharges the catch.

(7) *Observation area.* Designate and describe the observation area. The observation area is a location where a catch monitor may monitor the flow of fish during a delivery, including: Access to the observation area, the flow of fish, and lighting used during periods of limited visibility. Standards for the observation area are specified at paragraph (i)(4)(ii) of this section.

(8) *Lockable cabinet.* Identify the location of a secure, dry, and lockable cabinet or locker with the minimum interior dimensions of two feet wide by two feet deep for the exclusive use of the catch monitor, NMFS staff, or authorized officers.

(9) *Plant liaison.* Identify the designated plant liaison. The plant liaison responsibilities are specified at paragraph (i)(6) of this section.

(10) *First receiver diagram.* The catch monitoring plan must be accompanied by a diagram of the plant showing:

(i) The delivery point(s);

(ii) The observation area;

(iii) The lockable cabinet;

(iv) The location of each scale used to weigh catch; and

(v) Each location where catch is sorted.

(D) *Catch monitoring plan acceptance period and changes.* NMFS will accept a catch monitoring plan if it meets the performance standards specified in paragraph (f)(3)(iii)(C) of this section. For the first receiver site license to remain in effect, an owner or manager must notify NMFS in writing of any and all changes made in IFQ first receiver operations or layout that do not conform to the catch monitoring plan.

(E) *Changing a NMFS-accepted catch monitoring plan.* An owner and manager may change an accepted catch monitoring plan by submitting a plan addendum to NMFS. NMFS will accept the modified catch monitoring plan if it continues to meet the performance standards specified in paragraph (f)(3)(iii)(C) of this section. Depending on the nature and magnitude of the change requested, NMFS may require an additional catch monitoring plan inspection. A catch monitoring plan addendum must contain:

(1) Name and signature of the person submitting the addendum;

(2) Address, telephone number, fax number and email address (if available) of the person submitting the addendum;

(3) A complete description of the proposed catch monitoring plan change.

(iv) *Completed EDC form.* A first receiver site license application must include a complete economic data collection form as required under §660.113(b), subpart D. The application for a first receiver site license will be marked incomplete until the required information is submitted.

(4) *Initial administrative determination.* For all complete applications, NMFS will issue an IAD that either approves or disapproves the application. If approved, the IAD will include a first receiver site license. If disapproved, the IAD will provide the reasons for this determination.

(5) *Effective date.* The first receiver site license is effective upon approval and issuance by NMFS and will be effective for one year from the date of NMFS issuance.

(6) *Reissuance in subsequent years.* Existing license holders must reapply annually. If the existing license holder fails to reapply, the first receiver's site license will expire one year from the date of NMFS issuance of the license. The first receiver will not be authorized to receive or process groundfish IFQ species if their first receiver site license has expired.

(7) *Change in ownership of an IFQ first receiver.* If there are any changes to the owner of a first receiver registered to a first receiver site license during a calendar year, the first receiver site license is void. The new owner of the first receiver must apply to NMFS for a first receiver site license. A first receiver site license is not transferrable by the license holder to any other person.

(8) *Fees.* The Regional Administrator is authorized to charge fees for administrative costs associated with processing the application consistent with the provisions given at §660.25(f), subpart C.

(9) *Appeals.* If NMFS does not accept the first receiver site license application through an IAD, the applicant may appeal the IAD consistent with the general permit appeals process defined at §660.25(g), subpart C.

(g) *Retention requirements (whiting and non-whiting vessels)* —(1) *Non-whiting vessels.* Vessels participating in the Shoreside IFQ Program other than vessels participating in the Pacific whiting IFQ fishery (non-whiting vessels) may discard IFQ species/species groups, provided such discards are accounted for and deducted from QP in the vessel account. Non-whiting vessels must discard Pacific halibut and the discard mortality must be accounted for and deducted from IBQ pounds in the vessel account. Non-whiting vessels may discard non-IFQ species and non-groundfish species. The sorting of catch, the weighing and discarding of any IBQ and IFQ species, and the retention of IFQ species must be monitored by the observer.

(2) *Whiting maximized retention vessels.* Maximized retention vessels participating in the Pacific whiting IFQ fishery may discard minor operational amounts of catch at sea if the observer has accounted for the discard (i.e., a maximized retention fishery).

(3) *Whiting vessels sorting at-sea.* Vessels participating in the Pacific whiting IFQ fishery that sort their catch at sea (whiting vessels sorting at-sea) may discard IFQ species/species groups, provided such discards are accounted for and deducted from QP in the vessel account. Whiting vessels sorting at sea must discard Pacific halibut and such discard mortality must be accounted for and deducted from IBQ pounds in the vessel account. Whiting vessels sorting at-sea may discard non-IFQ species and non-groundfish species. The sorting of catch, weighing and discarding of any IFQ or IBQ species must be monitored by the observer.

(h) *Observer requirements* —(1) *Observer coverage requirements.* (i) Any vessel participating in the Shorebased IFQ Program must carry a NMFS-certified observer during any trip until all fish from that trip have been offloaded. If a vessel delivers fish from an IFQ trip to more than one IFQ first receiver, the observer must remain onboard the vessel during any transit between delivery points.

(ii) *Observer deployment limitations and workload.* Observer must not be deployed for more than 22 calendar days in a calendar month. The observer program may issue waivers to allow observers to work more than 22 calendar days per month when it's anticipated one trip will last over 20 days or for issues with observer availability due illness or injury of other observers.

(A) If an observer is unable to perform their duties for any reason, the vessel is required to be in port within 36 hours of the last haul sampled by the observer.

(B) [Reserved]

(iii) *Refusal to board.* Any boarding refusal on the part of the observer or vessel must be immediately reported to the observer program and NOAA OLE by the observer provider. The observer must be available for an interview with the observer program or NOAA OLE if necessary.

(2) *Vessel responsibilities.* An operator and/or crew of a vessel required to carry an observer must provide:

(i) *Accommodations and food.* (A) Accommodations and food for trips less than 24 hours must be equivalent to those provided for the crew.

(B) Accommodations and food for trips of 24 hours or more must be equivalent to those provided for the crew and must include berthing space, a space that is intended to be used for sleeping and is provided with installed bunks and mattresses. A mattress or futon on the floor or a cot is not acceptable if a regular bunk is provided to any crew member, unless other arrangements are approved in advance by the Regional Administrator or their designee.

(ii) *Safe conditions.* (A) Maintain safe conditions on the vessel for the protection of observers including adherence to all U.S. Coast Guard and other applicable rules, regulations, statutes, and guidelines pertaining to safe operation of the vessel, including, but not limited to rules of the road, vessel stability, emergency drills, emergency equipment, vessel maintenance, vessel general condition and port bar crossings. An observer may refuse boarding or reboarding a vessel and may request a vessel to return to port if operated in an unsafe manner or if unsafe conditions are identified.

(B) Have on board a valid Commercial Fishing Vessel Safety Decal that certifies compliance with regulations found in 33 CFR Chapter I and 46 CFR Chapter I, a certificate of compliance issued pursuant to 46 CFR 28.710 or a valid certificate of inspection pursuant to 46 U.S.C. 3311.

(iii) *Computer hardware and software.* [Reserved]

(iv) *Vessel position.* Allow observer(s) access to the vessel's navigation equipment and personnel, on request, to determine the vessel's position.

(v) *Access*. Allow observer(s) free and unobstructed access to the vessel's bridge, trawl or working deck, holding bins, sorting areas, cargo hold, and any other space that may be used to hold, process, weigh, or store fish at any time.

(vi) *Prior notification*. Notify observer(s) at least 15 minutes before fish are brought on board to allow sampling the catch.

(vii) *Records*. Allow observer(s) to inspect and copy any state or Federal logbook maintained voluntarily or as required by regulation.

(viii) *Assistance*. Provide all other reasonable assistance to enable observer(s) to carry out their duties, including, but not limited to:

(A) Measuring decks, codends, and holding bins.

(B) Providing a designated working area on deck for the observer(s) to collect, sort and store catch samples.

(C) Collecting samples of catch.

(D) Collecting and carrying baskets of fish.

(E) Allowing the observer(s) to collect biological data and samples.

(F) Providing adequate space for storage of biological samples.

(G) Providing time between hauls to sample and record all catch.

(H) Sorting retained and discarded catch into quota pound groupings.

(I) Stowing all catch from a haul before the next haul is brought aboard.

(ix) *Sampling station*. To allow the observer to carry out the required duties, the vessel owner must provide an observer sampling station that is:

(A) *Accessible*. The observer sampling station must be available to the observer at all times.

(B) *Limits hazards*. To the extent possible, the area should be free and clear of hazards including, but not limited to, moving fishing gear, stored fishing gear, inclement weather conditions, and open hatches.

(x) *Transfers at sea*. Transfers at-sea are prohibited.

(3) *Procurement of observer services* —(i) Owners of vessels required to carry observers under paragraph (a)(1) of this section must arrange for observer services from a permitted observer provider, except that:

(A) Vessels are required to procure observer services directly from NMFS when NMFS has determined and given notification that the vessel must carry NMFS staff or an individual authorized by NMFS in lieu of an observer provided by a permitted observer provider.

(B) Vessels are required to procure observer services directly from NMFS and a permitted observer provider when NMFS has determined and given notification that the vessel must carry NMFS staff and/or individuals authorized by NMFS, in addition to an observer provided by a permitted observer provider.

(ii) [Reserved]

(4) *Application to become an observer provider.* Any observer provider holding a valid permit issued by the North Pacific observer program in 2010 can supply observer services to the west coast trawl fishery and will be issued a West Coast Groundfish Observer Program permit.

(5) *Observer provider responsibilities.*

(i) *Provide qualified candidates to serve as observers.* Observer providers must provide qualified candidates to serve as observers. To be qualified, a candidate must have:

(A) A Bachelor's degree or higher from an accredited college or university with a major in one of the natural sciences;

(B) Successfully completed a minimum of 30 semester hours or equivalent in applicable biological sciences with extensive use of dichotomous keys in at least one course;

(C) Successfully completed at least one undergraduate course each in math and statistics with a minimum of 5 semester hours total for both; and

(D) Computer skills that enable the candidate to work competently with standard database software and computer hardware.

(ii) *Hiring an observer candidate* —(A) The observer provider must provide the candidate a copy of NMFS-provided pamphlets, information and other literature describing observer duties, for example, the West Coast Groundfish Observer Program's sampling manual. Observer job information is available from the Observer Program Office's web site at <http://www.nwfsc.noaa.gov/research/divisions/fram/observer/index.cfm>.

(B) *Observer contracts.* The observer provider must have a written contract or a written contract addendum signed by the observer and observer provider prior to the observer's deployment with the following clauses:

(1) That all the observer's in-season messages and catch reports required to be sent while deployed are delivered to the Observer Program Office as specified by written Observer Program instructions;

(2) That the observer inform the observer provider prior to the time of embarkation if he or she is experiencing any new mental illness or physical ailments or injury since submission of the physician's statement as required as a qualified observer candidate that would prevent him or her from performing their assigned duties; and

(3) That every observer completes a basic cardiopulmonary resuscitation/first aid course prior to the end of the NMFS West Coast Groundfish Observer Training class.

(iii) *Ensure that observers complete duties in a timely manner.* An observer provider must ensure that observers employed by that observer provider do the following in a complete and timely manner:

(A) Submit to NMFS all data, logbooks and reports and biological samples as required under the observer program policy deadlines.

(B) Report for his or her scheduled debriefing and complete all debriefing responsibilities; and

(C) Return all sampling and safety gear to the Observer Program Office at the termination of their contract.

(D) Immediately report to the Observer Program Office and the NOAA OLE any refusal to board an assigned vessel.

(iv) *Observers provided to vessel.* (A) Must have a valid West Coast Groundfish observer certification endorsement;

(B) Must not have informed the provider prior to the time of embarkation that he or she is experiencing a mental illness or a physical ailment or injury developed since submission of the physician's statement, as required in paragraph (h)(5)(xi)(B) of this section that would prevent him or her from performing his or her assigned duties; and

(C) Must have successfully completed all NMFS required training and briefing before deployment.

(v) *Respond to industry requests for observers.* An observer provider must provide an observer for deployment pursuant to the terms of the contractual relationship with the vessel to fulfill vessel requirements for observer coverage under paragraphs (h)(5)(xi)(D) of this section. An alternate observer must be supplied in each case where injury or illness prevents the observer from performing his or her duties or where the observer resigns prior to completion of his or her duties. If the observer provider is unable to respond to an industry request for observer coverage from a vessel for whom the provider is in a contractual relationship due to the lack of available observers by the estimated embarking time of the vessel, the provider must report it to NMFS at least 4 hours prior to the vessel's estimated embarking time.

(vi) *Provide observer salaries and benefits.* An observer provider must provide to its observer employees salaries and any other benefits and personnel services in accordance with the terms of each observer's contract.

(vii) *Provide observer deployment logistics.* (A) An observer provider must ensure each of its observers under contract:

(1) Has an individually assigned mobile or cell phones, in working order, for all necessary communication. An observer provider may alternatively compensate observers for the use of the observer's personal cell phone or pager for communications made in support of, or necessary for, the observer's duties.

(2) Calls into the NMFS deployment hotline upon departing and arriving into port for each trip to leave the following information: observer name, phone number, vessel departing on, expected trip end date and time.

(3) Remains available to NOAA Office for Law Enforcement and the Observer Program until the conclusion of debriefing.

(4) Receives all necessary transportation, including arrangements and logistics, of observers to the initial location of deployment, to all subsequent vessel assignments during that deployment, and to the debriefing location when a deployment ends for any reason; and

(5) Receives lodging, per diem, and any other services necessary to observers assigned to fishing vessels.

(i) An observer under contract may be housed on a vessel to which he or she is assigned: Prior to their vessel's initial departure from port; for a period not to exceed twenty-four hours following the completion of an offload when the observer has duties and is scheduled to disembark; or for a period not to exceed twenty-four hours following the vessel's arrival in port when the observer is scheduled to disembark.

(ii) During all periods an observer is housed on a vessel, the observer provider must ensure that the vessel operator or at least one crew member is aboard.

(iii) Otherwise, each observer between vessels, while still under contract with a permitted observer provider, shall be provided with accommodations in accordance with the contract between the observer and the observer provider. If the observer provider is responsible for providing accommodations under the contract with the observer, the accommodations must be at a licensed hotel, motel, bed and breakfast, or other shoreside accommodations that has an assigned bed for each observer that no other person may be assigned to for the duration of that observer's stay. Additionally, no more than four beds may be in any room housing observers at accommodations meeting the requirements of this section.

(viii) *Observer deployment limitations and workload.* (A) Not deploy an observer on the same vessel more than 90 calendar days in a 12-month period, unless otherwise authorized by NMFS.

(B) Not exceed observer deployment limitations and workload as outlined in paragraph (h)(1)(ii) of this section.

(ix) *Verify vessel's safety decal.* An observer provider must verify that a vessel has a valid USCG safety decal as required under paragraph (h)(2)(ii)(B) of this section before an observer may get underway aboard the vessel. One of the following acceptable means of verification must be used to verify the decal validity:

(A) An employee of the observer provider, including the observer, visually inspects the decal aboard the vessel and confirms that the decal is valid according to the decal date of issuance; or

(B) The observer provider receives a hard copy of the USCG documentation of the decal issuance from the vessel owner or operator.

(x) *Maintain communications with observers.* An observer provider must have an employee responsible for observer activities on call 24 hours a day to handle emergencies involving observers or problems concerning observer logistics, whenever observers are at sea, in transit, or in port awaiting vessel reassignment.

(xi) *Maintain communications with the Observer Program Office.* An observer provider must provide all of the following information by electronic transmission (e-mail), fax, or other method specified by NMFS.

(A) *Observer training, briefing, and debriefing registration materials.* This information must be submitted to the Observer Program Office at least 7 business days prior to the beginning of a scheduled West Coast groundfish observer certification training or briefing session.

(1) Training registration materials consist of the following:

(i) Date of requested training;

(ii) A list of observer candidates that includes each candidate's full name (i.e., first, middle and last names), date of birth, and gender;

(iii) A copy of each candidate's academic transcripts and resume;

(iv) A statement signed by the candidate under penalty of perjury which discloses the candidate's criminal convictions;

(v) Projected observer assignments. Prior to the observer's completion of the training or briefing session, the observer provider must submit to the Observer Program Office a statement of projected observer assignments that includes each observer's name, current mailing address, e-mail address, phone numbers and port of embarkation ("home port"); and

(vi) Length of each observer's contract.

(2) Briefing registration materials consist of the following:

(i) Date and type of requested briefing session;

(ii) List of observers to attend the briefing session, that includes each observer's full name (first, middle, and last names);

(iii) Projected observer assignments. Prior to the observer's completion of the training or briefing session, the observer provider must submit to the Observer Program Office a statement of projected observer assignments that includes each observer's name, current mailing address, e-mail address, phone numbers and port of embarkation ("home port"); and

(iv) Length of each observer's contract.

(3) *Debriefing.* The West Coast Groundfish Observer Program will notify the observer provider which observers require debriefing and the specific time period the provider has to schedule a date, time, and location for debriefing. The observer provider must contact the West Coast Groundfish Observer program within 5 business days by telephone to schedule debriefings.

(i) Observer providers must immediately notify the observer program when observers end their contract earlier than anticipated.

(ii) [Reserved]

(B) *Physical examination.* A signed and dated statement from a licensed physician that he or she has physically examined an observer or observer candidate. The statement must confirm that, based on that physical examination, the observer or observer candidate does not have any health problems or conditions that would jeopardize that individual's safety or the safety of others while deployed, or prevent the observer or observer candidate from performing his or her duties satisfactorily. The statement must declare that, prior to the examination, the physician was made aware of the duties of the observer and the dangerous, remote, and rigorous nature of the work by reading the NMFS-prepared information. The physician's statement must be submitted to the Observer Program Office prior to certification of an observer. The physical exam must have occurred during the 12 months prior to the observer's or observer candidate's deployment. The physician's statement will expire 12 months after the physical exam occurred. A new physical exam must be performed, and accompanying statement submitted, prior to any deployment occurring after the expiration of the statement.

(C) *Certificates of insurance.* Copies of "certificates of insurance", that name the NMFS Observer Program leader as the "certificate holder", shall be submitted to the Observer Program Office by February 1 of each year. The certificates of insurance shall verify the following coverage provisions and state that the insurance company will notify the certificate holder if insurance coverage is changed or canceled.

(1) Maritime Liability to cover "seamen's" claims under the Merchant Marine Act (Jones Act) and General Maritime Law (\$1 million minimum).

(2) Coverage under the U.S. Longshore and Harbor Workers' Compensation Act (\$1 million minimum).

(3) States Worker's Compensation as required.

(4) Commercial General Liability.

(D) *Observer provider contracts.* If requested, observer providers must submit to the Observer Program Office a completed and unaltered copy of each type of signed and valid contract (including all attachments, appendices, addendums, and exhibits incorporated into the contract) between the observer provider and those entities requiring observer services under paragraph (h)(1)(i) of this section. Observer providers must also submit to the Observer Program Office upon request, a completed and unaltered copy of the current or most recent signed and valid contract (including all attachments, appendices, addendums, and exhibits incorporated into the contract and any agreements or policies with regard to observer compensation or salary levels) between the observer provider and the particular entity identified by the Observer Program or with specific observers. The copies must be submitted to the Observer Program Office via e-mail, fax, or mail within 5 business days of the request. Signed and valid contracts include the contracts an observer provider has with:

(1) Vessels required to have observer coverage as specified at paragraph (h)(1)(i) of this section; and

(2) Observers.

(E) *Change in observer provider management and contact information.* An observer provider must submit to the Observer Program Office any change of management or contact information submitted on the provider's permit application under paragraph (h)(4) of this section within 30 days of the effective date of such change.

(F) *Biological samples.* The observer provider must ensure that biological samples are stored/handled properly prior to delivery/transport to NMFS.

(G) *Observer status report.* Each Tuesday, observer providers must provide NMFS with an updated list of contact information for all observers that includes the observer's name, mailing address, e-mail address, phone numbers, port of embarkation ("home port"), fishery deployed the previous week and whether or not the observer is "in service", indicating when the observer has requested leave and/or is not currently working for the provider.

(H) Providers must submit to NMFS, if requested, copies of any information developed and used by the observer providers distributed to vessels, such as informational pamphlets, payment notification, description of observer duties, etc.

(I) *Other reports.* Reports of the following must be submitted in writing to the West Coast Groundfish Observer Program Office by the observer provider via fax or e-mail address designated by the Observer Program Office within 24 hours after the observer provider becomes aware of the information:

(1) Any information regarding possible observer harassment;

(2) Any information regarding any action prohibited under §660.112 or §600.725(o), (t) and (u);

(3) Any concerns about vessel safety or marine casualty under 46 CFR 4.05–1(a)(1) through (7);

(4) Any observer illness or injury that prevents the observer from completing any of his or her duties described in the observer manual; and

(5) Any information, allegations or reports regarding observer conflict of interest or breach of the standards of behavior described in observer provider policy.

(xii) *Replace lost or damaged gear.* An observer provider must replace all lost or damaged gear and equipment issued by NMFS to an observer under contract to that provider. All replacements must be in accordance with requirements and procedures identified in writing by the Observer Program Office.

(xiii) *Maintain confidentiality of information.* An observer provider must ensure that all records on individual observer performance received from NMFS under the routine use provision of the Privacy Act or as otherwise required by law remain confidential and are not further released to anyone outside the employ of the observer provider company to whom the observer was contracted except with written permission of the observer.

(xiv) *Limitations on conflict of interest.* Observer providers:

(A) Must not have a direct financial interest, other than the provision of observer services, in the North Pacific or Pacific coast fishery managed under an FMP for the waters off the coasts of Alaska, Washington, Oregon, and California, including, but not limited to:

(1) Any ownership, mortgage holder, or other secured interest in a vessel or shoreside processor facility involved in the catching, taking, harvesting or processing of fish,

(2) Any business involved with selling supplies or services to any vessel or shoreside processors participating in a fishery managed pursuant to an FMP in the waters off the coasts of Alaska, California, Oregon, and Washington, or

(3) Any business involved with purchasing raw or processed products from any vessel or shoreside processor participating in a fishery managed pursuant to an FMP in the waters off the coasts of Alaska, California, Oregon, and Washington.

(B) Must assign observers without regard to any preference by representatives of vessels other than when an observer will be deployed.

(C) Must not solicit or accept, directly or indirectly, any gratuity, gift, favor, entertainment, loan, or anything of monetary value except for compensation for providing observer services from anyone who conducts fishing or fish processing activities that are regulated by NMFS in the Pacific coast or North Pacific regions, or who has interests that may be substantially affected by the performance or non-performance of the official duties of observer providers.

(xv) *Observer conduct and behavior.* An observer provider must develop and maintain a policy addressing observer conduct and behavior for their employees that serve as observers.

(A) The policy shall address the following behavior and conduct regarding:

(1) Observer use of alcohol;

(2) Observer use, possession, or distribution of illegal drugs; and;

(3) Sexual contact with personnel of the vessel or processing facility to which the observer is assigned, or with any vessel or processing plant personnel who may be substantially affected by the performance or non-performance of the observer's official duties.

(B) An observer provider shall provide a copy of its conduct and behavior policy to each observer candidate and to the Observer Program by February 1 of each year.

(xvi) *Refusal to deploy an observer.* Observer providers may refuse to deploy an observer on a requesting vessel if the observer provider has determined that the requesting vessel is inadequate or unsafe pursuant to those described at §600.746 or U.S. Coast Guard and other applicable rules, regulations, statutes, or guidelines pertaining to safe operation of the vessel.

(6) *Observer certification and responsibilities* —(i) *Applicability.* Observer certification authorizes an individual to fulfill duties as specified in writing by the NMFS Observer Program Office while under the employ of a NMFS-permitted observer provider and according to certification requirements as designated under paragraph (h)(6)(iii) of this section.

(ii) *Observer certification official.* The Regional Administrator will designate a NMFS observer certification official who will make decisions for the Observer Program Office on whether to issue or deny observer certification.

(iii) *Certification requirements* —(A) *Initial certification.* NMFS may certify individuals who, in addition to any other relevant considerations:

(1) Are employed by an observer provider company permitted pursuant to §660.140(h) at the time of the issuance of the certification;

(2) Have provided, through their observer provider:

(i) Information identified by NMFS at §679.50 regarding an observer candidate's health and physical fitness for the job;

(ii) Meet all observer candidate education and health standards as specified in §679.50; and

(iii) Have successfully completed NMFS-approved training as prescribed by the At-Sea Hake and/or West Coast Groundfish Observer Program. Successful completion of training by an observer applicant consists of meeting all attendance and conduct standards issued in writing at the start of training; meeting all performance standards issued in writing at the start of training for assignments, tests, and other evaluation tools; and completing all other training requirements established by the Observer Program.

(iv) Have not been decertified under paragraph (h)(6)(ix) of this section, or pursuant to §679.50.

(B) [Reserved]

(iv) *Denial of a certification.* The NMFS observer certification official will issue a written determination denying observer certification if the candidate fails to successfully complete training, or does not meet the qualifications for certification for any other relevant reason.

(v) *Issuance of an observer certification.* An observer certification may be issued upon determination by the observer certification official that the candidate has successfully met all requirements for certification as specified at paragraph (h)(6)(iii) of this section. The following endorsements must be obtained in addition to observer certification, in order for an observer to deploy.

(A) *West Coast Groundfish Observer Program training certification endorsement.* A training certification endorsement signifies the successful completion of the training course required to obtain observer certification. This endorsement expires when the observer has not been deployed and performed sampling duties as required by the Observer Program Office for a period of time, specified by the Observer Program, after his or her most recent debriefing. The Observer can renew the endorsement by successfully completing training once more.

(B) *West Coast Groundfish Observer Program annual general endorsement.* Each observer must obtain an annual general endorsement to their certification prior to his or her first deployment within any calendar year subsequent to a year in which a training certification endorsement is obtained. To obtain an annual general endorsement, an observer must successfully complete the annual briefing, as specified by the Observer Program. All briefing attendance, performance, and conduct standards required by the Observer Program must be met.

(C) *West Coast Groundfish Observer Program deployment endorsement.* Each observer who has completed an initial deployment after their certification or annual briefing must receive a deployment endorsement to their certification prior to any subsequent deployments for the remainder of that year. An observer may obtain a deployment endorsement by successfully completing all briefing requirements, when applicable. The type of briefing the observer must attend and successfully complete will be specified in writing by the Observer Program during the observer's most recent debriefing.

(vi) *Maintaining the validity of an observer certification.* After initial issuance, an observer must keep their certification valid by meeting all of the following requirements specified below:

(A) Successfully perform their assigned duties as described in the Observer Manual or other written instructions from the Observer Program Office including calling in to the NMFS deployment hotline upon departing and arriving in to port each trip to leave the following information: Observer name, phone number, vessel name departing on, date and time of departure and date and time of expected return.

(B) Accurately record their sampling data, write complete reports, and report accurately any observations of suspected violations of regulations relevant to conservation of marine resources or their environment.

(C) Not disclose collected data and observations made on board the vessel or in the processing facility to any person except the owner or operator of the observed vessel or an authorized officer or NMFS.

(D) Successfully complete NMFS-approved annual briefings as prescribed by the West Coast Groundfish Observer Program.

(E) Successful completion of briefing by an observer applicant consists of meeting all attendance and conduct standards issued in writing at the start of training; meeting all performance standards issued in writing at the start of training for assignments, tests, and other evaluation tools; and completing all other briefing requirements established by the Observer Program.

(F) Hold current basic cardiopulmonary resuscitation/first aid certification as per American Red Cross Standards.

(G) Successfully meet all expectations in all debriefings including reporting for assigned debriefings.

(H) Submit all data and information required by the Observer Program within the program's stated guidelines.

(l) Meet the minimum annual deployment period of 3 months at least once every 12 months.

(vii) *Limitations on conflict of interest.* Observers:

(A) Must not have a direct financial interest, other than the provision of observer services, in a fishery managed pursuant to an FMP for the waters off the coast of Alaska, or in a Pacific Coast fishery managed by either the state or Federal Governments in waters off Washington, Oregon, or California, including but not limited to:

(1) Any ownership, mortgage holder, or other secured interest in a vessel, shore-based or floating stationary processor facility involved in the catching, taking, harvesting or processing of fish,

(2) Any business involved with selling supplies or services to any vessel, shore-based or floating stationary processing facility; or

(3) Any business involved with purchasing raw or processed products from any vessel, shore-based or floating stationary processing facilities.

(B) Must not solicit or accept, directly or indirectly, any gratuity, gift, favor, entertainment, loan, or anything of monetary value from anyone who either conducts activities that are regulated by NMFS in the Pacific coast or North Pacific regions or has interests that may be substantially affected by the performance or nonperformance of the observers' official duties.

(C) May not serve as observers on any vessel or at any shore-based owned or operated by a person who employed the observer in the last two years.

(D) May not solicit or accept employment as a crew member or an employee of a vessel or shore-based processor while employed by an observer provider.

(E) Provisions for remuneration of observers under this section do not constitute a conflict of interest.

(viii) *Standards of behavior.* Observers must:

(A) Perform their duties as described in the Observer Manual or other written instructions from the Observer Program Office.

(B) Immediately report to the Observer Program Office and the NOAA OLE any time they refuse to board a vessel.

(C) Accurately record their sampling data, write complete reports, and report accurately any observations of suspected violations of regulations relevant to the conservation of marine resources of their environment.

(D) Not disclose collected data and observations made on board the vessel to any person except the owner or operator of the observed vessel, an authorized officer, or NMFS.

(ix) *Suspension and decertification* —(A) *Suspension and decertification review official.* The Regional Administrator (or a designee) will designate an observer suspension and decertification review official(s), who will have the authority to review observer certifications and issue initial administrative determinations of observer certification suspension and/or decertification.

(B) *Causes for suspension or decertification.* The suspension and decertification official may initiate suspension or decertification proceedings against an observer:

(1) When it is alleged that the observer has not met applicable standards, including any of the following:

(i) Failed to satisfactorily perform duties as described or directed by the observer program; or

(ii) Failed to abide by the standards of conduct for observers, including conflicts of interest;

(2) Upon conviction of a crime or upon entry of a civil judgment for:

(i) Commission of fraud or other violation in connection with obtaining or attempting to obtain certification, or in performing the duties as specified in writing by the NMFS Observer Program;

(ii) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(iii) Commission of any other offense indicating a lack of integrity or honesty that seriously and directly affects the fitness of observers.

(C) *Issuance of initial administrative determination.* Upon determination that suspension or decertification is warranted, the suspension/decertification official will issue a written IAD to the observer via certified mail at the observer's most current address provided to NMFS. The IAD will identify whether a certification is suspended or revoked and will identify the specific reasons for the action taken. Decertification is effective 30 calendar days after the date on the IAD, unless there is an appeal.

(D) *Appeals.* A certified observer who receives an IAD that suspends or revokes his or her observer certification may appeal the determination within 30 calendar days after the date on the IAD to the Office of Administrative Appeals pursuant to §679.43.

(i) *Catch monitor requirements for IFQ first receivers* —(1) *Catch monitor coverage requirements.* A catch monitor is required be present at each IFQ first receiver whenever an IFQ landing is received, unless the first receiver has been granted a written waiver from the catch monitor requirements by NMFS.

(2) *Procurement of catch monitor services.* Owners or managers of each IFQ first receiver must arrange for catch monitor services from a certified catch monitor provider prior to accepting IFQ landings.

(3) *Catch monitor safety.* (i) Each IFQ first receiver must adhere to all applicable rules, regulations, or statutes pertaining to safe operation and maintenance of a processing and/or receiving facility.

(ii) The working hours of each individual catch monitor will be limited as follows:

(A) An individual catch monitor shall not be required or permitted to work more than 16 hours per calendar day, with maximum of 14 hours being work other than the summary and submission of catch monitor data.

(B) Following monitoring shift of more than 10 hours, each catch monitor must be provided with a minimum 6 hours break before they may resume monitoring.

(4) *Catch monitor access.* (i) Each IFQ first receiver must allow catch monitors free and unobstructed access to the catch throughout the sorting process and the weighing process.

(ii) The IFQ first receiver must ensure that there is an observation area available to the catch monitor that meets the following standards:

(A) *Access to the observation area.* The observation area must be freely accessible to NMFS staff, NMFS-authorized personnel, or authorized officers at any time a valid catch monitoring plan is required.

(B) *Monitoring the flow of fish.* The catch monitor must have an unobstructed view or otherwise be able to monitor the entire flow of fish between the delivery point and a location where all sorting has takes place and each species has been weighed.

(C) *Adequate lighting.* Adequate lighting must be provided during periods of limited visibility.

(iii) Each IFQ first receiver must allow catch monitors free and unobstructed access to any documentation required by regulation including fish tickets, scale printouts and scale test results.

(5) *Lockable cabinet.* Each IFQ first receiver must provide a secure, dry, and lockable cabinet or locker with the minimum interior dimensions of two feet wide by two feet tall by two feet deep for the exclusive use the catch monitor and NMFS staff or NMFS-authorized agents.

(6) *Plant liaison for the catch monitor.* Each IFQ first receiver must designate a plant liaison. The plant liaison is responsible for:

(i) Orienting new catch monitors to the facility;

(ii) Assisting in the resolution of catch monitoring concerns; and

(iii) Informing NMFS if changes must be made to the catch monitoring plan.

(7) *Reasonable assistance.* Each IFQ first receiver must provide reasonable assistance to the catch monitors to enable each catch monitor to carry out his or her duties. Reasonable assistance includes, but is not limited to: informing the monitor when bycatch species will be weighed, and providing a secure place to store equipment and gear.

(j) *Catch weighing requirements* —(1) *Catch monitoring plan.* All first receivers must operate under a NMFS-accepted catch monitoring plan.

(2) *Sorting and weighing IFQ landings* —(i) *Approved scales.* The IFQ first receiver must ensure that all IFQ species received from a vessel making an IFQ landing are weighed on a scale(s) that meets the requirements specified at §660.15(c).

(ii) *Printed record.* All scales identified in the catch monitoring plan accepted by NMFS during the first receiver site license application process, must produce a printed record for each delivery, or portion of a delivery, weighed on that scale, with the following exception: If approved by NMFS as part of the catch monitoring plan, scales not designed for automatic bulk weighing may be exempted from part or all of the printed record requirements. The printed record must include:

(A) The first receiver's name;

(B) The weight of each load in the weighing cycle;

(C) The total weight of fish in each landing, or portion of the landing that was weighed on that scale;

(D) The date the information is printed; and

(E) The name and vessel registration or documentation number of the vessel making the delivery. The scale operator may write this information on the scale printout in ink at the time of printing.

(iii) *Scales that may be exempt from printed report.* An IFQ first receiver that receives no more than 200,000 pounds of groundfish in any calendar month will be exempt from the requirement to produce a printed record provided that:

(A) The first receiver has not previously operated under a catch monitoring plan where a printed record was required;

(B) The first receiver ensures that all catch is weighed; and

(C) The catch monitor, NMFS staff, or authorized officer can verify that all catch is weighed.

(iv) *Retention of printed records.* An IFQ first receiver must maintain printouts on site until the end of the fishing year during which the printouts were made and make them available upon request by NMFS staff or an authorized officer for 3 years after the end of the fishing year during which the printout was made.

(v) *Weight monitoring.* An IFQ first receiver must ensure that it is possible for the catch monitor, NMFS staff, or authorized officer to verify the weighing of all catch.

(vi) *Catch sorting.* All fish delivered to the plant must be sorted and weighed by species as specified at §660.130(d).

(vii) *Complete sorting.* Sorting and weighing must be completed prior to catch leaving the area that can be monitored from the catch monitor's observation area.

(viii) *Pacific whiting.* For Pacific Whiting taken with midwater trawl gear, IFQ first receivers may use an in-line conveyor or hopper type scale to derive an accurate total catch weight prior to sorting. Immediately following weighing of the total catch and prior to processing or transport away from the point of landing, the catch must be sorted to the species groups specified at §660.130(d) and all incidental catch (groundfish and non groundfish species) must be accurately weighed and the weight of incidental catch deducted from the total catch weight to derive the weight of target species.

(ix) For all other IFQ landings the following weighing standards apply:

(A) A belt or automatic hopper scale may be used to weigh all of the catch prior to sorting. All but a single predominant species must then be reweighed.

(B) An in-line conveyor or automatic hopper scale may be used to weigh the predominant species after catch has been sorted. Other species must be weighed in a manner that facilitates tracking of the weights of those species.

(C) IFQ species or species group may be weighed in totes on a platform scale capable of printing a label or tag and recording the label or tag information to memory for printing a report as specified at §660.15. The label or tag must remain affixed to the tote until the tote is emptied. The label or tag must show the following information:

(1) The species or species group;

(2) The weight of the fish in the tote;

(3) The date the label or tag was printed; and

(4) The vessel name.

(D) *Totes and ice.* If a catch monitoring plan proposes the use of totes in which fish will be weighed, or a deduction for the weight of ice, the deduction must be accurately accounted for. No deduction may be made for the weight of water or slime. This standard may be met by:

(1) Taring the empty or pre-iced tote on the scale prior to filling with fish;

(2) Labeling each tote with an individual tare weight. This weight must be accurate within 500 grams (1 pound if scale is denominated in pounds) for any given tote and the average error for all totes may not exceed 200 grams (8 ounces for scales denominated in pounds);

(3) An alternate approach accepted by NMFS. NMFS will only accept approaches that do not involve the estimation of the weight of ice or the weight of totes and allow NMFS staff or an authorized officer to verify that the deduction or tare weight is accurate.

(E) An alternate approach accepted by NMFS in the catch monitoring plan.

(3) *IFQ first receiver responsibilities relative to catch weighing and monitoring of catch weighing.* The IFQ first receiver must:

(i) *General.* (A) Ensure that all IFQ landings are sorted and weighed as specified at §660.130(d) and in accordance with an approved catch monitoring plan.

(B) [Reserved]

(ii) *Catch monitors, NMFS staff, and authorized officers.* (A) Have a catch monitor on site the entire time an IFQ landing is being offloaded, sorted, or weighed.

(B) Notify the catch monitor of the offloading schedule.

(C) Provide catch monitors, NMFS staff, or an authorized officer with unobstructed access to any areas where IFQ species are or may be sorted or weighed at any time IFQ species are being landed or processed.

(D) Ensure that catch monitors, NMFS staff, or an authorized officer are able to simultaneously observe the weighing of catch on the scale and read the scale display at any time.

(E) Ensure that printouts of the scale weight of each delivery or offload are made available to catch monitors, NMFS staff, or an authorized officer at the time printouts are generated.

(4) *Scale tests.* (i) All testing must meet the scale test standards specified at §660.15(c).

(ii) *Inseason scale testing.* First receivers must allow, and provide reasonable assistance to a catch monitor, NMFS staff or an authorized officer to test scales used to weigh IFQ catch. A scale that does not pass an inseason test may not be used to weigh IFQ catch until the scale passes an inseason test or is approved for continued use by the weights and measures authorities of the state in which the scale is located.

(k) *Gear switching.* (1) Participants in the Shorebased IFQ Program may take IFQ species using any legal groundfish non-trawl gear (i.e., gear switching) and are exempt from the gear endorsements at §660.25(b)(3) for limited entry fixed gear permits, provided the following requirements are met:

(i) The vessel must be registered to a limited entry trawl permit.

(ii) The vessel must be registered to a vessel account that is not in deficit on any IFQ species.

(iii) The vessel operator must have submitted a valid gear declaration for the trip that declares "Limited entry groundfish non-trawl, shorebased IFQ," as specified in §660.13(d)(5)(iv)(A), and does not declare any other designation (a Shorebased IFQ Program trip may not be combined with any other designation).

(iv) The vessel must comply with prohibitions applicable to limited entry fixed gear fishery as specified at §660.212, gear restrictions applicable to limited entry fixed gear as specified in §§660.219 and 660.230(b), and management measures specified in §660.230(d), including restrictions on the fixed gear allowed onboard, its usage, and applicable fixed gear groundfish conservation area restrictions, except that the vessel will not be subject to limited entry fixed gear trip limits when fishing in the Shorebased IFQ Program.

(v) The vessel must comply with the limited entry trawl trip limits for species/species groups not covered under the Shorebased IFQ Program or whiting trip limits outside the primary season.

(vi) The vessel must comply with recordkeeping and reporting requirements applicable to limited entry trawl gear as specified in §660.113.

(vii) The vessel must comply with and observer requirements and all other provisions of the Shoreside IFQ Program as specified in this section.

(2) [Reserved]

(l) *Adaptive management program* —(1) *General*. The adaptive management program (AMP) is a set-aside of 10 percent of the non-whiting QS to address the following objectives:

- (i) Community stability;
- (ii) Processor stability;
- (iii) Conservation;
- (iv) Unintended/unforeseen consequences of IFQ management; or
- (v) Facilitating new entrants.

(2) *Years one and two*. The 10 percent of non-whiting QS will be reserved for the AMP during years one and two of the Shorebased IFQ Program, but the resulting AMP QP will be issued to all QS permit owners in proportion to their non-whiting QS during years one and two.

[75 FR 60897, Oct. 1, 2010, as amended at 75 FR 78391, Dec. 15, 2010; 75 FR 82306, Dec. 30, 2010; 76 FR 27546, May 11, 2011; 76 FR 28908, May 19, 2011]

§ 660.150 Mothership (MS) Coop Program.

(a) *General*. The MS Coop Program requirements in this section will be effective beginning January 1, 2011. The MS Coop Program is a general term to describe the limited access program that applies to eligible harvesters and processors in the mothership sector of the Pacific whiting at-sea trawl fishery. Eligible harvesters and processors, including coop and non-coop fishery participants, must meet the requirements set forth in this section of the Pacific Coast groundfish regulations. Each year a vessel registered to an MS/CV-endorsed permit may fish in either the coop or non-coop portion of the MS Coop Program, but not both. In addition to the requirements of this section, the MS Coop Program is subject to the following groundfish regulations of subparts C and D of this part:

(1) Pacific whiting seasons §660.131(b), subpart D.

(2) Area restrictions specified for midwater trawl gear used to harvest Pacific whiting fishery specified at §660.131(c), Subpart D for GCAs, RCAs, Salmon Conservation Zones, BRAs, and EFHCAs.

(3) Regulations set out in the following sections of subpart C: §660.11 Definitions, §660.12 Prohibitions, §660.13 Recordkeeping and reporting, §660.14 VMS requirements, §660.15 Equipment requirements, §660.16 Groundfish Observer Program, §660.20 Vessel and gear identification, §660.25 Permits, §660.55 Allocations, §660.60 Specifications and management measures, §660.65 Groundfish harvest specifications, and §§660.70 through 660.79 Closed areas.

(4) Regulations set out in the following sections of subpart D: §660.111 Trawl fishery definitions, §660.112 Trawl fishery prohibitions, §660.113 Trawl fishery recordkeeping and reporting, §660.120 Trawl fishery crossover provisions, §660.130 Trawl fishery management measures, and §660.131 Pacific whiting fishery management measures.

(5) The MS Coop Program may be restricted or closed as a result of projected overages within the MS Coop Program, the C/P Coop Program, or the Shorebased IFQ Program. As determined necessary by the Regional Administrator, area restrictions, season closures, or other measures will be used to prevent the trawl sectors in aggregate or the individual trawl sector (Shorebased IFQ, MS Coop, or C/P Coop) from exceeding an ACL, ACT, or formal allocation specified in the PCGFMP or regulation at §660.55, subpart C, or §§660.140, 660.150, or 660.160, subpart D.

(b) *Participation requirements and responsibilities* —(1) *Mothership vessels*. (i) *Mothership vessel participation requirements*. A vessel is eligible to receive and process catch as a mothership in the MS Coop Program if:

(A) The vessel is registered to an MS permit;

(B) The vessel is not used to fish as a catcher vessel in the mothership sector of the Pacific whiting fishery in the same calendar year; and

(C) The vessel is not used to fish as a C/P in the Pacific whiting fishery in the same calendar year.

(ii) *Mothership vessel responsibilities*. The owner and operator of a mothership vessel must:

(A) *Recordkeeping and reporting*. Maintain a valid declaration as specified at §660.13(d), subpart C; and, maintain and submit all records and reports specified at §660.113(c) including, economic data, scale tests records, and cease fishing reports.

(B) *Observers*. As specified at paragraph (j) of this section, procure observer services, maintain the appropriate level of coverage, and meet the vessel responsibilities.

(C) *Catch weighing requirements*. The owner and operator of a MS vessel must:

(1) Ensure that all catch is weighed in its round form on a NMFS-approved scale that meets the requirements described in section §660.15(b), subpart C;

(2) Provide a NMFS-approved platform scale, belt scale, and test weights that meet the requirements described in section §660.15(b), subpart C.

(2) *Mothership catcher vessels* —(i) *Mothership catcher vessel participation requirements* —(A) A vessel is eligible to harvest in the MS Coop Program if the following conditions are met:

(1) If the vessel is used to fish as a mothership catcher vessel for a permitted MS coop, the vessel is registered to a limited entry permit with a trawl endorsement and NMFS has been notified that the vessel is authorized to fish for the coop.

(2) If the vessel is used to harvest fish in the non-coop fishery, the vessel is registered to an MS/CV-endorsed limited entry permit.

(3) The vessel is not used to harvest fish or process as a mothership or catcher/processor vessel in the same calendar year.

(4) The vessel does not catch more than 30 percent of the Pacific whiting allocation for the mothership sector.

(B) [Reserved]

(ii) *Mothership catcher vessel responsibilities* —(A) *Observers*. As specified at paragraph (j) of this section, procure observer services, maintain the appropriate level of coverage, and meet the vessel responsibilities.

(B) *Recordkeeping and reporting*. Maintain a valid declaration as specified at §660.13(d), subpart C; and, maintain and submit all records and reports specified at §660.113(c) including, economic data and scale tests records, if applicable.

(3) *MS coops* —(i) *MS coop participation requirements*. For a MS coop to participate in the Pacific whiting mothership sector fishery it must:

- (A) Be issued a MS coop permit;
- (B) Be composed of MS/CV-endorsed limited entry permit owners;
- (C) Be formed voluntarily;
- (D) Be a legally recognized entity that represents its members;
- (E) Designate an individual as a coop manager; and
- (F) Include at least 20 percent of all MS/CV-endorsed permits as members. The coop membership percentage will be interpreted by rounding to the nearest whole permit (i.e. less than 0.5 rounds down and 0.5 and greater rounds up).

(ii) *MS coop responsibilities.* A MS coop is responsible for:

- (A) Applying for and being registered to a MS coop permit;
- (B) Organizing and coordinating harvest activities of vessels authorized to fish for the coop;
- (C) Reassigning catch history assignments for use by coop members;
- (D) Organizing and coordinating the transfer and leasing of catch allocations with other permitted coops through inter-coop agreements;
- (E) Monitoring harvest activities and enforcing the catch limits of coop members;
- (F) Submitting an annual report.
- (G) Having a designated coop manager. The designated coop manager must:
 - (1) Serve as the contact person between NMFS, the Council, and other coops;
 - (2) Be responsible for the annual distribution of catch and bycatch allocations among coop members;
 - (3) Oversee reassignment of catch allocations within the coop;
 - (4) Oversee inter-coop catch allocation reassignments;
 - (5) Prepare and submit an annual report on behalf of the coop;
 - (6) Be authorized to receive or respond to any legal process in which the coop is involved; and
 - (7) Notify NMFS if the coop dissolves.

(iii) *MS coop compliance and joint/several liability.* An MS coop must comply with the provisions of this section. The MS coop, member limited entry permit owners, and owners and operators of vessels registered to member limited entry permits, are jointly and severally responsible for compliance with the provisions of this section. Pursuant to 15 CFR part 904, each MS coop, member permit owner, and owner and operator of a vessel registered to a coop member permit may be charged jointly and severally for violations of the provisions of this section. For purposes of enforcement, an MS coop is a legal entity that can be subject to NOAA enforcement action for violations of the provisions of this section.

(c) *MS Coop Program species and allocations* —(1) *MS Coop Program species*. MS Coop Program species are as follows:

(i) Species with formal allocations to the MS Coop Program are Pacific whiting, canary rockfish, darkblotched rockfish, Pacific Ocean perch, and widow rockfish;

(ii) Species with set-asides for the MS and C/P Coop Programs combined, as described in Tables 1d and 2d, subpart C.

(2) *Annual mothership sector sub-allocations*. Annual allocation amount(s) will be determined using the following procedure:

(i) *MS/CV catch history assignments*. Catch history assignments will be based on catch history using the following methodology:

(A) *Pacific whiting catch history assignment*. For each MS/CV-endorsed limited entry permit, the permit's entire catch history assignment of Pacific whiting will be annually allocated to a single permitted MS coop or to the non-coop fishery. An MS/CV-endorsed permit owner cannot divide the permit's catch history assignment between more than one MS coop or between a coop and the non-coop fishery for that year. Once assigned to a permitted MS coop or to the non-coop fishery, the permit's catch history assignment remains with that permitted MS coop or non-coop fishery for that calendar year. When the mothership sector allocation is established through the final Pacific whiting specifications, the information for the conversion of catch history assignment to pounds will be made available to the public through a Federal Register announcement and/or public notice and/or the NMFS Web site. The amount of whiting from the catch history assignment will be issued to the nearest whole pound using standard rounding rules (i.e. less than 0.5 rounds down and 0.5 and greater rounds up).

(B) *Non-whiting groundfish species catch* —(1) Non-whiting groundfish species with a mothership sector allocation will be divided annually between the permitted coops and the non-coop fishery. The pounds associated with each permitted MS coop will be provided when the coop permit is issued.

(2) Groundfish species with at-sea sector set-asides will be managed on an annual basis unless there is a risk of a harvest specification being exceeded, unforeseen impact on another fisheries, or conservation concerns in which case inseason action may be taken. Set asides may be adjusted through the biennial specifications and management measures process as necessary.

(3) Groundfish species not addressed in paragraph (1) or (2) above, will be managed on an annual basis unless there is a risk of a harvest specification being exceeded, unforeseen impact on another fisheries, or conservation concerns in which case inseason action may be taken.

(4) *Halibut set-asides*. Annually a specified amount of the Pacific halibut will be held in reserve as a shared set-aside for bycatch in the at-sea Pacific whiting fisheries and the shorebased trawl sector south of 40°10' N. lat.

(ii) *Annual coop allocations* —(A) *Pacific whiting*. Each permitted MS coop is authorized to harvest a quantity of Pacific whiting that is based on the sum of the catch history assignments for each member MS/CV-endorsed permit identified in the NMFS-accepted coop agreement for a given calendar year. Other limited entry permits registered to vessels that will fish for the coop do not bring catch allocation to a permitted MS coop.

(B) *Non-whiting groundfish with allocations*. Sub-allocations of non-whiting groundfish species with allocations to permitted MS coops will be in proportion to the Pacific whiting catch history assignments assigned to each permitted MS coop.

(iii) *Annual non-coop allocation* —(A) *Pacific whiting*. The non-coop whiting fishery is authorized to harvest a quantity of Pacific whiting that is remaining in the mothership sector annual allocation after the deduction of all coop allocations.

(B) *Non-whiting groundfish with allocations.* The sub-allocation to the non-coop fishery will be in proportion to the mothership catcher vessel Pacific whiting catch history assignments for the non-coop fishery.

(C) *Announcement of the non-coop fishery allocations.* Information on the amount of Pacific whiting and non-whiting groundfish with allocations that will be made available to the non-coop fishery when the final Pacific whiting specifications for the mothership sector is established and will be announced to the public through a Federal Register announcement and/or public notice and/or the NMFS Web site.

(3) *Reaching an allocation or sub-allocation.* When the mothership sector Pacific whiting allocation, Pacific whiting sub-allocation, or non-whiting groundfish catch allocation is reached or is projected to be reached, the following action may be taken:

(i) Further harvesting, receiving or at-sea processing by a mothership or catcher vessel in the mothership sector is prohibited when the mothership sector Pacific whiting allocation or non-whiting groundfish allocation is projected to be reached. No additional unprocessed groundfish may be brought on board after at-sea processing is prohibited, but a mothership may continue to process catch that was on board before at-sea processing was prohibited. Pacific whiting may not be taken and retained, possessed, or landed by a catcher vessel participating in the mothership sector.

(ii) When a permitted MS coop sub-allocation of Pacific whiting or non-whiting groundfish species is reached, further harvesting or receiving of groundfish by vessels fishing in the permitted MS coop must cease, unless the permitted MS coop is operating under an NMFS-accepted inter-coop agreement.

(iii) When the non-coop fishery sub-allocation of Pacific whiting or non-whiting groundfish species is projected to be reached, further harvesting or receiving of groundfish by vessels fishing in under the non-coop fishery must cease.

(4) *Non-whiting groundfish species reapportionment.* This paragraph (c)(4) describes the process for reapportioning non-whiting groundfish species with allocations between permitted MS coops and the catcher/processor sector. Reapportionment of mothership sector allocations to the catcher/processor will not occur until all permitted MS coops and the non-coop fishery have been closed by NMFS or have informed NMFS that they have ceased operations for the remainder of the calendar year.

(i) *Within the mothership sector.* The Regional Administrator may make available for harvest to permitted coops and the non-coop fishery that have not notified NMFS that they have ceased fishing for the year, the amounts of a permitted MS coop's non-whiting catch allocation remaining when a coop reaches its Pacific whiting allocation or when the designated coop manager notifies NMFS that a permitted coop has ceased fishing for the year. The reapportioned allocations will be in proportion to their original allocations.

(ii) *Between the mothership and catcher/processor sectors.* The Regional Administrator may make available for harvest to the catcher/processor sector of the Pacific whiting fishery, the amounts of the mothership sector's non-whiting catch allocation remaining when the Pacific whiting allocation is reached or participants in the sector do not intend to harvest the remaining allocation. The designated coop manager, or in the case of an inter-coop, all of the designated coop managers must submit a cease fishing report to NMFS indicating that harvesting has concluded for the year. At any time after greater than 80 percent of the Mothership sector Pacific whiting allocation has been harvested, the Regional Administrator may contact designated coop managers to determine whether they intend to continue fishing. When considering redistribution of non-whiting catch allocation, the Regional Administrator will take in to consideration the best available data on total projected fishing impacts. Reapportionment between permitted MS coops and the non-coop fishery within the mothership sector will be in proportion to their original coop allocations for the calendar year.

(iii) *Set-aside species.* No inseason management actions are associated with set asides.

(5) *Announcements.* The Regional Administrator will announce in the Federal Register when the mothership sector or the allocation of Pacific whiting or non-whiting groundfish with an allocation is reached, or is projected to be reached, and specify the appropriate action. In order to prevent exceeding an allocation and to avoid underutilizing the resource, prohibitions against further taking and retaining, receiving, or at-sea processing of Pacific whiting, or reapportionment of non-whiting groundfish with allocations may be made effective immediately by actual notice to fishers and processors, by e-mail, internet (www.nwr.noaa.gov/Groundfish-Halibut/Groundfish-Fishery-

Management/Whiting-Management/index.cfm), phone, fax, letter, press release, and/or USCG Notice to Mariners (monitor channel 16 VHF), followed by publication in the Federal Register, in which instance public comment will be sought for a reasonable period of time thereafter.

(6) *Redistribution of annual allocation* —(i) *Between permitted MS coops (inter-coop)*. (A) Through an inter-coop agreement, the designated coop managers of permitted MS coops may distribute Pacific whiting and non-whiting groundfish allocations among one or more permitted MS coops, provided the processor obligations at paragraph (c)(7) of this section have been met or a mutual agreement exception at paragraph (c)(7)(iv) of this section has been submitted to NMFS.

(B) In the case of a MS coop failure during the Pacific whiting primary season for the mothership sector, unused allocation associated with the catch history will not be available for harvest by the coop that failed, by any former members of the coop that failed, or any other MS coop for the remainder of that calendar year.

(ii) *Between the MS coop and non-coop fisheries*. Pacific whiting may not be redistributed between the coop and non-coop fisheries.

(ii) *Between Pacific whiting sectors*. Pacific whiting may not be redistributed between the mothership sector and catcher/processor sector. Whiting may not be redistributed to the Shorebased IFQ Program.

(7) *Processor obligation and mutual agreement exceptions* —(i) *Processor obligation*. Through the annual MS/CV-endorsed limited entry permit renewal process, the MS/CV-endorsed permit owner must identify to NMFS to which MS permit the MS/CV permit owner intends to obligate the catch history assignment associated with that permit if they are participating in the MS coop fishery. Only one MS permit may be designated (the obligation may not be split among MS permits).

(ii) *Expiration of a processor obligation*. Processor obligations expire at the end of each calendar year when the MS Coop Permit expires.

(iii) *Processor obligation when MS coop allocation is redistributed*. When a permitted MS coop redistributes Pacific whiting allocation within the permitted MS coop or from one permitted MS coop to another permitted MS coop through an inter-coop agreement, such allocations must be delivered to the mothership registered to the MS permit to which the allocation was obligated under the processor obligation submitted to NMFS, unless a mutual agreement exception has been submitted to NMFS.

(iv) *Mutual agreement exception*. An MS/CV-endorsed permit's catch history assignment can be released from a processor obligation through a mutual agreement exception. The MS/CV-endorsed permit owner must submit a copy to NMFS of the written agreement that includes the initial MS permit owner's acknowledgment of the release of the MS/CV-endorsed permit owner's processor obligation and the MS/CV-endorsed permit owner must identify a processor obligation for a new MS permit.

(v) *MS permit withdrawal*. If an MS permit withdraws from the mothership fishery before the resulting amounts of catch history assignment have been announced by NMFS, any MS/CV-endorsed permit obligated to the MS permit may elect to participate in the coop or non-coop fishery. In such an event, the MS permit owner must provide written notification of its withdrawal to NMFS and all MS/CV-endorsed permits that are obligated to the MS permit, and the owner of each MS/CV-endorsed permit obligated to the MS permit must provide written notification to NMFS of their intent to either participate in the non-coop fishery or the coop fishery, and if participating in the coop fishery must identify a processor obligation for a new MS permit.

(vi) *Submission of a mutual agreement exception or MS permit withdrawal*. Written notification of a mutual agreement or MS permit withdrawal must be submitted to NMFS, Northwest Region, Permits Office, Bldg. 1, 7600 Sand Point Way, NE., Seattle, WA 98115.

(d) *MS coop permit and agreement* —(1) *Eligibility and registration*. (i) *Eligibility*. To be an eligible coop entity a group of MS/CV-endorsed permit owners (coop members) must be a recognized entity under the laws of the United States or the laws of a State and represent all of the coop members.

(ii) *Annual registration and deadline.* Each year, a coop entity intending to participate as a coop under the MS Coop Program must submit an application for a MS coop permit between February 1 and March 31 of the year in which it intends to fish. NMFS will not consider any applications received after March 31. A MS coop permit expires on December 31 of the year in which it was issued.

(iii) *Application for MS coop permit.* The designated coop manager, on behalf of the coop entity, must submit a complete application form and include each of the items listed in paragraph (d)(1)(iii)(A) of this section. Only complete applications will be considered for issuance of a MS coop permit. An application will not be considered complete if any required application fees and annual coop reports have not been received by NMFS. NMFS may request additional supplemental documentation as necessary to make a determination of whether to approve or disapprove the application. Application forms and instruction are available on the NMFS NWR Web site (<http://www.nwr.noaa.gov>) or by request from NMFS. The designated coop manager must sign the application acknowledging the responsibilities of a designated coop manager defined in paragraph (b)(3) of this section.

(A) *Coop agreement.* Signed copies of the coop agreement must be submitted to NMFS before the coop is authorized to engage in fishing activities. A coop agreement must include all of the information listed in this paragraph to be considered a complete coop agreement. NMFS will only review complete coop agreements. A coop agreement will not be accepted unless it includes all of the required information; the descriptive items listed in this paragraph appear to meet the stated purpose; and information submitted is correct and accurate.

(1) *Coop agreement contents.* Each coop agreement must be signed by all of the coop members (MS/CV-endorsed permit owners) and include the following information:

(i) A list of all vessels, and permit holders participating in the coop and their share of the allocated catch which must match the amount distributed to individual permit owners by NMFS.

(ii) All MS/CV-endorsed limited entry member permits identified by permit number.

(iii) A processor obligation clause indicating that each MS/CV-endorsed permit has notified a specific MS permit by September 1 of the previous year of that MS/CV-endorsed permit's intent to obligate its catch history assignment to that MS permit, except that for the 2011 fishery, such notification must have been made prior to submission of the MS coop permit application.

(iv) A clause indicating that each member MS/CV-endorsed permit's catch history assignment is based on the catch history assignment calculation by NMFS used for distribution to the coop.

(v) A description of the coop's plan to adequately monitor and account for the catch of Pacific whiting and non-whiting groundfish allocations, and to monitor and account for the catch of prohibited species.

(vi) A clause stating that if a permit is transferred during the effective period of the coop agreement, any new owners of that member permit would be coop members required to comply with membership restrictions in the coop agreement.

(vii) A description of the coop's enforcement and penalty provisions adequate to maintain catch of Pacific whiting and non-whiting groundfish within the allocations.

(viii) A description of measures to reduce catch of overfished species.

(ix) A clause describing the co-op manager's responsibility for managing inter-coop reassignments of catch history assignment, should any occur.

(x) A clause describing how the annual report will be produced to document the coop's catch, bycatch data, inseason catch history reassignments and any other significant activities undertaken by the coop during the year, and the submission deadlines for that report.

(xi) Identification of the designated coop manager.

(xii) Provisions that prohibit member permit owners that have incurred legal sanctions that prevent them from fishing groundfish in the Council region from fishing in the coop.

(2) *Inter-coop agreement.* The coop entity must provide, at the time of annual application, copies of any inter-coop agreement(s) into which the coop has entered. Such agreements must incorporate and honor the provisions of the individual coop agreements for each coop that is a party to the inter-coop agreement. Inter-coop agreements are specified at paragraph (e) of this section.

(B) *Acceptance of a coop agreement* —(1) If NMFS does not accept the coop agreement, the coop permit application will be returned to the applicant with a letter stating the reasons the coop agreement was not accepted by NMFS.

(2) Coop agreements that are not accepted may be resubmitted for review by sufficiently addressing the deficiencies identified in the NMFS letter and resubmitting the entire coop permit application by the date specified in the NMFS letter.

(3) An accepted coop agreement that was submitted with the MS coop permit application and for which a MS coop permit was issued will remain in place through the end of the calendar year. The designated coop manager must resubmit a complete coop agreement to NMFS consistent with the coop agreement contents described in paragraph (d)(1)(iii)(A)(1) of this section if there is a material change to the coop agreement.

(4) Within 7 calendar days following a material change, the designated coop manager must notify NMFS of the material change. Within 30 calendar days, the designated coop manager must submit to NMFS the revised coop agreement with a letter that describes such changes. NMFS will review the material changes and provide a letter to the coop manager that either accepts the changes as given or does not accept the revised coop agreement with a letter stating the reasons that it was not accepted by NMFS. The coop may resubmit the coop agreement with further revisions to the material changes responding to NMFS concerns.

(iv) *Effective date of MS coop permit.* A MS coop permit will be effective upon the date approved by NMFS and will allow fishing from the start of the MS sector primary whiting season until the end of the calendar year or until one or more of the following events occur, whichever comes first:

(A) NMFS permanently closes the mothership sector fishing season for the year or a specific MS coop or the designated coop manager notifies NMFS that the coop has completed fishing for the calendar year,

(B) The coop has reached its Pacific whiting allocation,

(C) A material change to the coop agreement has occurred and the designated coop manager failed to notify NMFS within 7 calendar days of the material change and submit to NMFS the revised coop agreement with a letter that describes such changes within 30 calendar days, or

(D) NMFS has determined that a coop failure occurred.

(2) *Initial administrative determination.* For all complete applications, NMFS will issue an IAD that either approves or disapproves the application. If approved, the IAD will include a MS coop permit. If disapproved, the IAD will provide the reasons for this determination.

(3) *Appeals.* An appeal to a MS coop permit action follows the same process as the general permit appeals process defined at §660.25(g), subpart C.

(4) *Fees.* The Regional Administrator is authorized to charge fees for administrative costs associated with the issuance of a MS coop permit consistent with the provisions given at §660.25(f), subpart C.

(5) *Cost recovery.* [Reserved]

(e) *Inter-coop agreements* —(1) *General*. Permitted MS coops may voluntarily enter into inter-coop agreements for the purpose of sharing permitted MS coop allocations of Pacific whiting and allocated non-whiting groundfish. If two or more permitted MS coops enter into an inter-coop agreement, the inter-coop agreement must incorporate and honor the provisions of each permitted MS coop subject to the inter-coop agreement.

(2) *Submission of inter-coop agreements*. Inter-coop agreements must be submitted to NMFS for acceptance.

(3) *Inter-coop agreement review process*. Each designated coop manager must submit a copy of the inter-coop agreement signed by both designated coop managers for review. Complete coop agreements containing all items listed under paragraph (d)(1)(iii)(A)(1) will be reviewed by NMFS.

(f) *Mothership (MS) permit*.

(1) *General*. Any vessel that processes or receives deliveries as a mothership processor in the Pacific whiting fishery mothership sector must be registered to an MS permit. A vessel registered to an MS permit may receive fish from a vessel that fishes in an MS coop and/or may receive fish from a vessel that fishes in the non-coop fishery at the same time or during the same year.

(i) *Vessel size endorsement*. An MS permit does not have a vessel size endorsement. The endorsement provisions at §660.25(b)(3)(iii), subpart C, do not apply to an MS permit.

(ii) *Restriction on C/P vessels operating as motherships*. Restrictions on a vessel registered to a limited entry permit with a C/P endorsement operating as a mothership are specified at §660.160, subpart D.

(2) *Renewal, change of permit ownership, or vessel registration*. [Reserved]

(2) *Renewal, change of permit ownership, or vessel registration* —(i) *Renewal*. An MS permit must be renewed annually consistent with the limited entry permit regulations given at §660.25(b)(4), subpart C. If a vessel registered to the MS permit will operate as a mothership in the year for which the permit is renewed, the permit owner must make a declaration as part of the permit renewal that while participating in the whiting fishery it will operate solely as a mothership during the calendar year to which its limited entry permit applies. Any such declaration is binding on the vessel for the calendar year, even if the permit is transferred during the year, unless it is rescinded in response to a written request from the permit owner. Any request to rescind a declaration must be made by the permit holder and granted in writing by the Regional Administrator before any unprocessed whiting has been taken on board the vessel that calendar year.

(ii) *Change of permit ownership*. An MS permit is subject to the limited entry permit change in permit ownership regulations given at §660.25(b)(4), subpart C.

(iii) *Change of vessel registration*. An MS permit is subject to the limited entry permit change of vessel registration regulations given at §660.25(b)(4), subpart C.

(3) *Accumulation limits* —(i) *MS permit usage limit*. No person who owns an MS permit(s) may register the MS permit(s) to vessels that cumulatively process more than 45 percent of the annual mothership sector Pacific whiting allocation. For purposes of determining accumulation limits, NMFS requires that permit owners submit a complete trawl ownership interest form for the permit owner as part of annual renewal for the MS permit. An ownership interest form will also be required whenever a new permit owner obtains an MS permit as part of a permit transfer request. Accumulation limits will be determined by calculating the percentage of ownership interest a person has in any MS permit. Determination of ownership interest will be subject to the individual and collective rule.

(ii) *Ownership—individual and collective rule*. The ownership that counts toward a person's accumulation limit will include:

(A) Any MS permit owned by that person, and

(B) A portion of any MS permit owned by an entity in which that person has an interest, where the person's share of interest in that entity will determine the portion of that entity's ownership that counts toward the person's limit.

(iii) [Reserved]

(iv) *Trawl identification of ownership interest form.* Any person that is applying for or renewing an MS permit shall document those persons that have an ownership interest in the permit greater than or equal to 2 percent. This ownership interest must be documented with the SFD via the Trawl Identification of Ownership Interest Form. SFD will not issue an MS Permit unless the Trawl Identification of Ownership Interest Form has been completed. NMFS may request additional information of the applicant as necessary to verify compliance with accumulation limits.

(4) *Appeals.* An appeal to an MS permit action follows the same process as the general permit appeals process defined at §660.25(g), subpart C.

(5) *Fees.* The Regional Administrator is authorized to charge fees for administrative costs associated with the issuance of an MS permit consistent with the provisions given at §660.25(f), Subpart C.

(6) *Application requirements and initial issuance for MS permit* —(i) *Eligibility criteria for MS permit.* Only the current owner of a vessel that processed Pacific whiting in the mothership sector in the qualifying years is eligible to receive initial issuance of an MS permit, except that in the case of bareboat charterers, the charterer of the bareboat may receive an MS permit instead of the vessel owner. As used in this section, "bareboat charterer" means a vessel charterer operating under a bareboat charter, defined as a complete transfer of possession, command, and navigation of a vessel from the vessel owner to the charterer for the limited time of the charter agreement.

(ii) *Qualifying criteria for MS permit.* To qualify for initial issuance of an MS permit, a person must own, or operate under a bareboat charter, a vessel on which at least 1,000 mt of Pacific whiting was processed in the mothership sector in each year for at least two years between 1997 and 2003 inclusive.

(iii) *MS permit application.* Persons may apply for initial issuance of an MS permit in one of two ways: complete and submit a prequalified application received from NMFS, or complete and submit an application package. The completed application must be either postmarked or hand-delivered within normal business hours no later than November 1, 2010. If an applicant fails to submit a completed application by the deadline date, they forgo the opportunity to receive consideration for initial issuance of an MS permit.

(A) *Prequalified application.* A "prequalified application" is a partially pre-filled application where NMFS has preliminarily determined the processing history that may qualify the applicant for an initial issuance of an MS permit. NMFS will mail prequalified application packages to the owners or bareboat charterer of vessels which NMFS determines may qualify for an MS permit. NMFS will mail the application by certified mail to the current address of record in the NMFS permit database. The application will contain the basis of NMFS' calculation. The application package will include, but is not limited to: A prequalified application (with processing history), a Trawl Identification of Ownership Interest form, and any other documents NMFS believes are necessary to aid the owners of the vessel or charterer of the bareboat to complete the MS permit application.

(B) *Request for an application.* Any current owner or bareboat charterer of a vessel that the owner or bareboat charterer believes qualifies for initial issuance of an MS permit that does not receive a prequalified application must complete an application package and submit the completed application to NMFS by the application deadline. Application packages are available on NMFS' Web site (<http://www.nwr.noaa.gov/Groundfish-Halibut/Groundfish-Permits/index.cfm>) or by contacting SFD. An application must include valid NORPAC data or other credible information that substantiates the applicant's qualification for initial issuance of an MS permit.

(iv) *Corrections to the application.* If the applicant does not accept NMFS' calculation in the prequalified application either in part or whole, in order for NMFS to reconsider NMFS' calculation, the applicant must identify in writing to NMFS which parts of the prequalified application that the applicant contends to be inaccurate, and must provide specific credible information to substantiate any requested corrections. The completed application and specific credible information must be provided to NMFS in writing by the application deadline. Written communication must be either post-marked or hand-delivered within normal business hours no later than November 1, 2010. Requests for corrections may only be granted for errors in NMFS' use or application of data, including:

(A) Errors in NMFS' use or application of data from NORPAC;

(B) Errors in NMFS' calculations; and

(C) Errors in the vessel registration as listed in the NMFS permit database, or in the identification of the mothership owner or bareboat charterer.

(v) *Submission of the application and application deadline*—(A) *Submission of the Application*. Submission of the complete, certified application includes, but is not limited to, the following:

(1) The applicant is required to sign and date the application and have the document notarized by a licensed Notary Public.

(2) The applicant must certify that they qualify to own an MS permit.

(3) The applicant must indicate they accept NMFS' calculation in the prequalified application, or provide credible information that demonstrates their qualification for an MS permit.

(4) The applicant is required to provide a complete Trawl Identification of Ownership Interest Form as specified at paragraph (f)(3)(iv) of this section.

(5) Business entities may be required to submit a corporate resolution or other credible documentation as proof that the representative of the entity is authorized to act on behalf of the entity;

(6) A bareboat charterer must provide credible evidence that demonstrates it was chartering the mothership vessel under a private contract during the qualifying years; and

(7) NMFS may request additional information of the applicant as necessary to make an IAD on initial issuance of an MS permit.

(B) *Application deadline*. A complete, certified application must be either postmarked or hand-delivered within normal business hours to NMFS, Northwest Region, Permits Office, Bldg. 1, 7600 Sand Point Way, NE., Seattle, WA 98115, no later than November 1, 2010. NMFS will not accept or review any applications received or postmarked after the application deadline. There are no hardship provisions for this deadline.

(vi) *Initial administrative determination (IAD)*. NMFS will issue an IAD for all complete, certified applications received by the application deadline date. If NMFS approves an application for initial issuance of an MS permit, the applicant will receive an MS permit. If NMFS disapproves an application, the IAD will provide the reasons. If the applicant does not appeal the IAD within 60 calendar days of the date on the IAD, the IAD becomes the final decision of the Regional Administrator acting on behalf of the Secretary of Commerce.

(vii) *Appeals*. For MS permits issued under this section, the appeals process and timelines are specified at §660.25(g), subpart C. For the initial issuance of an MS permit, the bases for appeal are described in paragraph (f)(6)(iv) of this section. Items not subject to appeal include, but are not limited to, the accuracy of data in the relevant NORPAC dataset on August 1, 2010.

(g) *Mothership catcher vessel (MS/CV)—endorsed permit*—(1) *General*. Any vessel that delivers whiting to a mothership processor in the Pacific whiting fishery mothership sector must be registered to an MS/CV-endorsed permit, except that a vessel registered to limited entry trawl permit without an MS/CV or C/P endorsement may fish for a coop if authorized by the coop. Within the MS Coop Program, an MS/CV-endorsed permit may participate in an MS coop or in the non-coop fishery. An MS/CV-endorsed permit is a limited entry permit and is subject to the limited entry permit provisions given at §660.25(b), subpart C.

(i) *Catch history assignment*. NMFS will assign a catch history assignment to each MS/CV-endorsed permit. The catch history assignment is based on the catch history in the Pacific whiting mothership sector during the qualifying

years of 1994 through 2003. The catch history assignment is expressed as a percentage of Pacific whiting of the total mothership sector allocation as described at paragraph (d)(2)(i) of this section. Catch history assignments will be issued to the nearest whole pound using standard rounding rules (i.e. decimal amounts from zero up to 0.5 round down and 0.5 up to 1.0 round up).

(ii) *Pacific whiting mothership sector allocation.* The catch history assignment allocation accrues to the coop to which the MS/CV-endorsed permit is tied through private agreement, or will be assigned to the non-coop fishery if the MS/CV-endorsed permit does not participate in the coop fishery.

(iii) *Non-severable.* The MS/CV endorsement and its catch history assignment are not severable from the limited entry trawl permit. An MS/CV endorsement and its catch history assignment are permanently affixed to the original qualifying limited entry permit, and cannot be transferred separately from the original qualifying limited entry permit.

(iv) *Restrictions on processing for MS/CV-endorsed permits.* A vessel registered to an MS/CV-endorsed permit in a given year shall not engage in processing of Pacific whiting during that year.

(2) *Renewal, change of permit owner, vessel registration, or combination* —(i) *Renewal.* An MS/CV-endorsed permit must be renewed annually consistent with the limited entry permit regulations given at §660.25(b)(4), subpart C. During renewal, all MS/CV-endorsed limited entry permit owners must make a preliminary declaration regarding their intent to participate in the coop or non-coop portion of the MS Coop Program for the following year. If the owner of the MS/CV-endorsed permit intends to participate in the coop portion of the MS Coop Program, they must also declare which MS vessel to which they intend to obligate the permit's catch history assignment. MS/CV-endorsed permits not obligated to a permitted MS coop by March 31 of the fishing year will be assigned to the non-coop fishery. For an MS/CV-endorsed permit that is not renewed, the following occurs:

(A) For the first year after the permit is not renewed, the permit will be extinguished, and the catch history assignment from that permit will be assigned to the non-coop fishery.

(B) In the year after the permit is extinguished (the second year after the permit is not renewed), the catch history assignment from that permit will be redistributed proportionally to all valid MS/CV-endorsed permits.

(ii) *Change of permit ownership.* An MS/CV-endorsed permit is subject to the limited entry permit change in permit ownership regulations given at §660.25(b)(4), subpart C.

(iii) *Change of vessel registration.* An MS/CV-endorsed permit is subject to the limited entry permit change of vessel registration regulations given at §660.25(b)(4), subpart C.

(iv) *Combination.* An MS/CV-endorsed permit may be combined with one or more other limited entry trawl permits; the resulting permit will be a single permit with an increased size endorsement. If the MS/CV-endorsed permit is combined with another limited entry trawl-endorsed permit other than a C/P-endorsed permit, the resulting permit will be MS/CV-endorsed. If an MS/CV-endorsed permit is combined with a C/P-endorsed permit, the resulting permit will be exclusively a C/P-endorsed permit, and will not have an MS/CV endorsement. If an MS/CV-endorsed permit is combined with another MS/CV-endorsed permit, the combined catch history assignment of the permit(s) will be added to the active permit (the permit remaining after combination) and the other permit will be retired. NMFS will not approve a permit combination if it results in a person exceeding the accumulation limits specified at paragraph (g)(3) of this section. Any request to combine permits is subject to the provision provided at §660.25(b), including the combination formula for resulting size endorsements.

(3) *Accumulation limits* —(i) *MS/CV-endorsed permit ownership limit.* No person shall own MS/CV-endorsed permits for which the collective Pacific whiting allocation total is greater than 20 percent of the total mothership sector allocation. For purposes of determining accumulation limits, NMFS requires that permit owners submit a complete trawl ownership interest form for the permit owner as part of annual renewal of an MS/CV-endorsed permit. An ownership interest form will also be required whenever a new permit owner obtains an MS/CV-endorsed permit as part of a permit transfer request. Accumulation limits will be determined by calculating the percentage of ownership interest a person has in any MS/CV-endorsed permit and the amount of the Pacific whiting catch history assignment given on the permit. Determination of ownership interest will be subject to the individual and collective rule.

(A) *Ownership—Individual and collective rule.* The Pacific whiting catch history assignment that applies to a person's accumulation limit will include:

(1) The catch history assignment on any MS/CV-endorsed permit owned by that person, and

(2) That portion of the catch history assignment on any MS/CV-endorsed permit owned by an entity in which that person has an economic or financial interest, where the person's share of interest in that entity will determine the portion of that entity's catch history assignment that counts toward the person's limit.

(B) [Reserved]

(C) *Trawl identification of ownership interest form.* Any person that owns a limited entry trawl permit and that is applying for or renewing an MS/CV endorsement shall document those persons that have an ownership interest in the permit greater than or equal to 2 percent. This ownership interest must be documented with the SFD via the Trawl Identification of Ownership Interest Form. SFD will not issue an MS/CV endorsement unless the Trawl Identification of Ownership Interest Form has been completed. NMFS may request additional information of the applicant as necessary to verify compliance with accumulation limits. Further, if SFD discovers through review of the Trawl Identification of Ownership Interest Form that a person owns or controls more than the accumulation limits, the person will be subject to divestiture provisions specified in paragraph (g)(3)(i)(D) of this section.

(D) *Divestiture.* For MS/CV-endorsed permit owners that are found to exceed the accumulation limits during the initial issuance of MS/CV-endorsed permits, an adjustment period will be provided after which they will have to completely divest of ownership in permits that exceed the accumulation limits. Any person that NMFS determines, as a result of the initial issuance of MS/CV-endorsed permits, to own in excess of 20 percent of the total catch history assignment in the MS Coop Program applying the individual and collective rule described at §660.150(g)(3)(i)(A) will be allowed to receive such permit(s), but must divest themselves of the excess ownership during years one and two of the MS Coop Program. Owners of such permit(s) may receive and use the MS/CV-endorsed permit(s), up to the time their divestiture is completed. At the end of year two of the MS Coop Program, any MS/CV-endorsed permits owned by a person (including any person who has ownership interest in the owner named on the permit) in excess of the accumulation limits will not be issued (renewed) until the permit owner complies with the accumulation limits.

(ii) *Catcher vessel usage limit.* No vessel may catch more than 30 percent of the mothership sector's whiting allocation.

(4) *Appeals.* An appeal to an MS/CV-endorsed permit action follows the same process as the general permit appeals process defined at §660.25(g), subpart C.

(5) *Fees.* The Regional Administrator is authorized to charge a fee for administrative costs associated with the issuance of an MS/CV-endorsed permit, as provided at §660.25(f), subpart C.

(6) *Application requirements and initial issuance for MS/CV endorsement —(i) Eligibility criteria for MS/CV endorsement.* Only a current trawl limited entry permit with a qualifying history of Pacific whiting deliveries in the MS Pacific whiting sector is eligible to receive an MS/CV endorsement. Any past catch history associated with the current limited entry trawl permit accrues to the permit. If a trawl limited entry permit is eligible to receive both a C/P endorsement and an MS/CV endorsement, the permit owner must choose which endorsement to apply for (*i.e.*, the owner of such a permit may not receive both a C/P and an MS/CV endorsement). NMFS will not recognize any other person as permit owner other than the person listed as permit owner in NMFS permit database.

(ii) *Qualifying criteria for MS/CV endorsement.* In order to qualify for an MS/CV endorsement, a qualifying trawl-endorsed limited entry permit must have been registered to a vessel or vessels that caught and delivered a cumulative amount of at least 500 mt of Pacific whiting to motherships between 1994 through 2003. The calculation will be based on the following:

(A) To determine a permit's qualifying catch history, NMFS will use documented deliveries to a mothership in Pacific whiting observer data as recorded in the relevant NORPAC dataset on August 1, 2010.

(B) The qualifying catch history will include any deliveries of Pacific whiting to motherships by vessels registered to limited entry trawl-endorsed permits that were subsequently combined to generate the current permit.

(C) If two or more limited entry trawl permits have been simultaneously registered to the same vessel, NMFS will divide the qualifying catch history evenly between all such limited entry trawl-endorsed permits during the time they were simultaneously registered to the vessel.

(D) History of illegal deliveries will not be included in the qualifying catch history.

(E) Deliveries made from Federal limited entry groundfish permits that were retired through the Federal buyback program will not be included in the qualifying catch history.

(F) Deliveries made under provisional "A" permits that did not become "A" permits and "B" permits will not be included in the qualifying catch history.

(iii) *Qualifying criteria for catch history assignment.* A catch history assignment will be specified as a percent on the MS/CV-endorsed permit. The calculation will be based on the following:

(A) For determination of a permit's catch history, NMFS will use documented deliveries to a mothership in Pacific whiting observer data as recorded in the relevant NORPAC dataset on August 1, 2010.

(B) NMFS will use relative history, which means the catch history of a permit for a year divided by the total fleet history for that year, expressed as a percent. NMFS will calculate relative history for each year in the qualifying period from 1994 through 2003 by dividing the total deliveries of Pacific whiting to motherships for the vessel(s) registered to the permit for each year by the sum of the total catch of Pacific whiting delivered to mothership vessel(s) for that year.

(C) NMFS will select the eight years with the highest relative history of Pacific whiting, unless the applicant requests a different set of eight years during the initial issuance and appeals process, and will add the relative histories for these years to generate the permit's total relative history. NMFS will then divide the permit's total relative history by the sum of all qualifying permits' total relative histories to determine the permit's catch history assignment, expressed as a percent.

(D) The total relative history will include any deliveries of Pacific whiting to motherships by vessels registered to limited entry trawl-endorsed permits that were subsequently combined to generate the current permit.

(E) If two or more limited entry trawl permits have been simultaneously registered to the same vessel, NMFS will split the catch history evenly between all such limited entry trawl-endorsed permits during the time they were simultaneously registered to the vessel.

(F) History of illegal deliveries will not be included in the calculation of a permit's catch history assignment or in the calculation of relative history for individual years.

(G) Deliveries made from Federal limited entry groundfish permits that were retired through the Federal buyback program will not be included in the calculation of a permit's catch history assignment other than for the purpose of calculating relative history for individual years.

(H) Deliveries made under provisional "A" permits that did not become "A" permits and "B" permits will not be included in the calculation of a permit's catch history assignment other than for the purpose of calculating relative history for individual years.

(iv) *MS/CV endorsement and catch history assignment application.* Persons may apply for an initial issuance of an MS/CV endorsement on a limited entry trawl permit and its associated catch history assignment in one of two ways: complete and submit a prequalified application received from NMFS, or complete and submit an application package. The completed application must be either postmarked or hand-delivered within normal business hours no later than November 1, 2010. If an applicant fails to submit a completed application by the deadline date, they forgo the

opportunity to receive consideration for an initial issuance of an MS/CV endorsement and associated catch history assignment.

(A) *Prequalified application.* A “prequalified application” is a partially pre-filled application where NMFS has preliminarily determined the catch history that may qualify the applicant for an initial issuance of an MS/CV endorsement and associated catch history assignment. NMFS will mail prequalified application packages to the owners of current limited entry trawl permits, as listed in the NMFS permit database at the time applications are mailed, which NMFS determines may qualify for an MS/CV endorsement and associated catch history assignment. NMFS will mail the application by certified mail to the current address of record in the NMFS permit database. The application will contain the basis of NMFS' calculation. The application package will include, but is not limited to: a prequalified application (with landings history), a Trawl Identification of Ownership Interest form, and any other documents NMFS believes are necessary to aid the limited entry permit owner in completing the application.

(B) *Request for an application.* Any owner of a current limited entry trawl permit that does not receive a prequalified application that believes the permit qualifies for an initial issuance of an MS/CV endorsement and associated catch history assignment must complete an application package and submit the completed application to NMFS by the application deadline. Application packages are available on the NMFS Web site (<http://www.nwr.noaa.gov/Groundfish-Halibut/Groundfish-Permits/index.cfm>) or by contacting SFD. An application must include valid NORPAC data, copies of NMFS observer data forms, or other credible information that substantiates the applicant's qualification for an initial issuance of an MS/CV endorsement and associated catch history assignment.

(v) *Corrections to the application.* If the applicant does not accept NMFS' calculation in the prequalified application either in part or whole, in order for NMFS to reconsider NMFS' calculation, the applicant must identify in writing to NMFS which parts of the application that the applicant contends to be inaccurate, and must provide specific credible information to substantiate any requested corrections. The completed application and specific credible information must be provided to NMFS in writing by the application deadline. Written communication must be either post-marked or hand-delivered within normal business hours no later than November 1, 2010. Requests for corrections may only be granted for changes to the selection of the eight years with the highest relative history of whiting and errors in NMFS' use or application of data, including:

(A) Errors in NMFS' use or application of data from NORPAC;

(B) Errors in NMFS' calculations;

(C) Errors in the identification of the permit owner, permit combinations, or vessel registration as listed in the NMFS permit database; and

(D) Errors in NMFS' use or application of ownership interest information.

(vi) *Submission of the application and application deadline* —(A) *Submission of the application.* Submission of the complete, certified application includes, but is not limited to, the following:

(1) The applicant is required to sign and date the application and have the document notarized by a licensed Notary Public.

(2) The applicant must certify that they qualify to own an MS/CV-endorsed permit and associated catch history assignment.

(3) The applicant must indicate they accept NMFS' calculation of initial issuance of an MS/CV-endorsed permit and associated catch history assignment provided in the prequalified application, or provide credible information that demonstrates their qualification for an MS/CV-endorsed permit and associated catch history assignment.

(4) The applicant is required to provide a complete Trawl Identification of Ownership Interest Form as specified at paragraph (g)(3)(i)(C) of this section.

(5) Business entities may be required to submit a corporate resolution or other credible documentation as proof that the representative of the entity is authorized to act on behalf of the entity; and

(6) NMFS may request additional information of the applicant as necessary to make an IAD on initial issuance of an MS/CV-endorsed permit and associated catch history assignment.

(B) *Application deadline.* A complete, certified application must be either postmarked or hand-delivered within normal business hours to NMFS, Northwest Region, Permits Office, Bldg. 1, 7600 Sand Point Way NE., Seattle, WA 98115, no later than November 1, 2010. NMFS will not accept or review any applications received or postmarked after the application deadline. There are no hardship provisions for this deadline.

(vii) *Permit transfer during application period.* NMFS will not review or approve any request for a change in limited entry trawl permit owner at any time after either November 1, 2010 or the date upon which the application is received by NMFS, whichever occurs first, until a final decision is made by the Regional Administrator on behalf of the Secretary of Commerce on that permit.

(viii) *Initial Administrative Determination (IAD).* NMFS will issue an IAD for all complete, certified applications received by the application deadline date. If NMFS approves an application for initial issuance of an MS/CV-endorsed permit and associated catch history assignment, the applicant will receive an MS/CV endorsement on a limited entry trawl permit specifying the amounts of catch history assignment for which the applicant has qualified. If NMFS disapproves an application, the IAD will provide the reasons. If known at the time of the IAD, NMFS will indicate if the owner of the MS/CV-endorsed permit has ownership interest in catch history assignments that exceed the accumulation limits and are subject to divestiture provisions given at paragraph (g)(3)(i)(D) of this section. If the applicant does not appeal the IAD within 60 calendar days of the date on the IAD, the IAD becomes the final decision of the Regional Administrator acting on behalf of the Secretary of Commerce.

(ix) *Appeals.* For an MS/CV-endorsed permit and associated catch history assignment issued under this section, the appeals process and timelines are specified at §660.25(g), subpart C. For the initial issuance of an MS/CV-endorsed permit and associated catch history assignment, the bases for appeal are described in paragraph (g)(6)(v) of this section. Items not subject to appeal include, but are not limited to, the accuracy of data in the relevant NORPAC dataset on August 1, 2010.

(h) *Non-coop fishery* —(1) *Access to non-coop fishery allocation.* All vessels registered to the MS/CV-endorsed permits assigned to the non-coop fishery will have access to harvest and deliver the aggregate catch history assignment of all MS/CV permits assigned to the non-coop fishery.

(2) *Non-coop fishery closure.* The non-coop fishery will be closed by automatic action as specified at §660.60(d) when the Pacific whiting or non-whiting allocations to the non-coop fishery have been reached or are projected to be reached.

(i) *Retention requirements.* Catcher vessels participating in the MS Coop Program may discard minor operational amounts of catch at sea if the observer has accounted for the discard (i.e., a maximized retention fishery).

(j) *Observer requirements* —(1) *Observer coverage requirements.* (i) *Coverage.* (A) *Motherships.* Any vessel registered to an MS permit 125 ft (38.1 m) LOA or longer must carry two NMFS-certified observers, and any vessel registered to an MS permit shorter than 125 ft (38.1 m) LOA must carry one NMFS-certified observer, each day that the vessel is used to take, retain, receive, land, process, or transport groundfish.

(B) *Catcher vessels.* Any vessel delivering catch to any mothership must carry one NMFS-certified observer each day that the vessel is used to take groundfish.

(ii) *Observer workload* —(A) *Motherships.* The time required for the observer to complete sampling duties must not exceed 12 consecutive hours in each 24-hour period.

(B) *Catcher vessels.* If an observer is unable to perform their duties for any reason, the vessel is required to be in port within 36 hours of the last haul sampled by the observer.

(iii) *Refusal to board.* Any boarding refusal on the part of the observer or vessel must be reported to the observer program and NOAA OLE by the observer provider. The observer must be available for an interview with the observer program or NOAA OLE if necessary.

(2) *Vessel responsibilities.* An operator and/or crew of a vessel required to carry an observer must provide:

(i) *Accommodations and food* —(A) *Motherships.* Provide accommodations and food that are equivalent to those provided for officers, engineers, foremen, deck-bosses or other management level personnel of the vessel.

(B) *Catcher vessels* —(1) Accommodations and food for trips less than 24 hours must be equivalent to those provided for the crew.

(2) Accommodations and food for trips of 24 hours or more must be equivalent to those provided for the crew and must include berthing space, a space that is intended to be used for sleeping and is provided with installed bunks and mattresses. A mattress or futon on the floor or a cot is not acceptable if a regular bunk is provided to any crew member, unless other arrangements are approved in advance by the Regional Administrator or their designee.

(ii) *Safe conditions.* Motherships and Catcher Vessels must:

(A) Maintain safe conditions on the vessel for the protection of observers including adherence to all U.S. Coast Guard and other applicable rules, regulations, or statutes pertaining to safe operation of the vessel including, but not limited to, rules of the road, vessel stability, emergency drills, emergency equipment, vessel maintenance, vessel general condition, and port bar crossings. An observer may refuse boarding or reboarding a vessel and may request a vessel return to port if operated in an unsafe manner or if unsafe conditions are indentified.

(B) Have on board a valid Commercial Fishing Vessel Safety Decal that certifies compliance with regulations found in 33 CFR chapter I and 46 CFR Chapter I, a certificate of compliance issued pursuant to 46 CFR 28.710 or a valid certificate of inspection pursuant to 46 U.S.C. 3311.

(iii) *Computer hardware and software* —(A) Motherships must:

(1) Provide hardware and software pursuant to regulations at §§679.50(g)(1)(iii)(B)(1) through 679.50(g)(1)(iii)(B)(3).

(2) Provide the observer(s) access to a computer required under paragraph (j)(2)(iii)(A) of this section, and that is connected to a communication device that provides a point-to-point connection to the NMFS host computer.

(3) Ensure that the mothership has installed the most recent release of NMFS data entry software provided by the Regional Administrator, or other approved software prior to the vessel receiving, catching or processing IFQ species.

(4) Ensure that the communication equipment required in paragraph (j)(2)(iii) of this section and that is used by observers to enter and transmit data, is fully functional and operational. “Functional” means that all the tasks and components of the NMFS supplied, or other approved, software described at paragraph (j)(2)(iii) of this section and the data transmissions to NMFS can be executed effectively aboard the vessel by the communications equipment.

(B) *Catcher vessels.* [Reserved]

(iv) *Vessel position.* Allow observer(s) access to the vessel's navigation equipment and personnel, on request, to determine the vessel's position.

(v) *Access.* Allow observer(s) free and unobstructed access to the vessel's bridge, trawl or working decks, holding bins, processing areas, freezer spaces, weight scales, cargo holds, and any other space that may be used to hold, process, weigh, or store fish or fish products at any time.

(vi) *Prior notification.* Notify observer(s) at least 15 minutes before fish are brought on board, or fish and fish products are transferred from the vessel, to allow sampling the catch or observing the transfer.

(vii) *Records*. Allow observer(s) to inspect and copy any state or Federal logbook maintained voluntarily or as required by regulation.

(viii) *Assistance*. Provide all other reasonable assistance to enable observer(s) to carry out their duties, including, but not limited to:

(A) Measuring decks, codends, and holding bins.

(B) Providing the observer(s) with a safe work area.

(C) Collecting samples of catch.

(D) Collecting and carrying baskets of fish.

(E) Allowing the observer(s) to collect biological data and samples.

(F) Providing adequate space for storage of biological samples.

(ix) *Sample station and operational requirements*.

(A) *Motherships*. To allow the observer to carry out required duties, the vessel owner must provide an observer sampling station that meets the following requirements:

(1) *Accessibility*. The observer sampling station must be available to the observer at all times.

(2) *Location*. The observer sampling station must be located within 4 m of the location from which the observer samples unsorted catch.

(3) *Access*. Unobstructed passage must be provided between the observer sampling station and the location where the observer collects sample catch.

(4) *Minimum work space*. The observer must have a working area of at least 4.5 square meters, including the observer's sampling table, for sampling and storage of fish to be sampled. The observer must be able to stand upright and have a work area at least 0.9 m deep in the area in front of the table and scale.

(5) *Table*. The observer sampling station must include a table at least 0.6 m deep, 1.2 m wide and 0.9 m high and no more than 1.1 m high. The entire surface area of the table must be available for use by the observer. Any area for the observer sampling scale is in addition to the minimum space requirements for the table. The observer's sampling table must be secured to the floor or wall.

(6) *Diverter board*. The conveyor belt conveying unsorted catch must have a removable board ("diverter board") to allow all fish to be diverted from the belt directly into the observer's sampling baskets. The diverter board must be located downstream of the scale used to weigh total catch. At least 1 m of accessible belt space, located downstream of the scale used to weigh total catch, must be available for the observer's use when sampling.

(7) *Other requirements*. The sampling station must be in a well-drained area that includes floor grating (or other material that prevents slipping), lighting adequate for day or night sampling, and a hose that supplies fresh or sea water to the observer.

(8) *Observer sampling scale*. The observer sample station must include a NMFS-approved platform scale (pursuant to requirements at §679.28(j)(2)) with a capacity of at least 50 kg located within 1 m of the observer's sampling table. The scale must be mounted so that the weighing surface is no more than 0.7 m above the floor.

(B) *Catcher vessels*. To allow the observer to carry out the required duties, the vessel owner must provide an observer sampling station that is:

(1) *Accessible*. The observer sampling station must be available to the observer at all times.

(2) *Limits hazards*. To the extent possible, the area should be free and clear of hazards including, but not limited to, moving fishing gear, stored fishing gear, inclement weather conditions, and open hatches.

(x) *Transfer at sea*. Observers may be transferred at-sea between motherships, between motherships and catcher-processors, or between a mothership and a catcher vessel. Transfers at-sea between catcher vessels is prohibited. For transfers, both vessels must:

(A) Ensure that transfers of observers at sea via small boat under its own power are carried out during daylight hours, under safe conditions, and with the agreement of observers involved.

(B) Notify observers at least 3 hours before observers are transferred, such that the observers can finish any sampling work, collect personal belongings, equipment, and scientific samples.

(C) Provide a safe pilot ladder and conduct the transfer to ensure the safety of observers during transfers.

(D) Provide an experienced crew member to assist observers in the small boat in which any transfer is made.

(3) *Procurement of observer services* —(i) *Motherships* —(A) Owners of vessels required to carry observers under paragraph (j)(1)(i) of this section must arrange for observer services from a permitted observer provider, except that:

(1) Vessels are required to procure observer services directly from NMFS when NMFS has determined and given notification that the vessel must carry NMFS staff or an individual authorized by NMFS in lieu of an observer provided by a permitted observer provider.

(2) Vessels are required to procure observer services directly from NMFS and a permitted observer provider when NMFS has determined and given notification that the vessel must carry NMFS staff and/or individuals authorized by NMFS, in addition to an observer provided by a permitted observer provider.

(B) [Reserved]

(ii) *Catcher vessels* —(A) Owners of vessels required to carry observers under paragraph (j)(1)(i) of this section must arrange for observer services from a permitted observer provider, except that:

(1) Vessels are required to procure observer services directly from NMFS when NMFS has determined and given notification that the vessel must carry NMFS staff or an individual authorized by NMFS in lieu of an observer provided by a permitted observer provider.

(2) Vessels are required to procure observer services directly from NMFS and a permitted observer provider when NMFS has determined and given notification that the vessel must carry NMFS staff and/or individuals authorized by NMFS, in addition to an observer provided by a permitted observer provider.

(B) [Reserved]

(4) *Application to become an observer provider* —(i) *Motherships*. Any observer provider holding a valid permit issued by the North Pacific Groundfish Observer Program in 2010 can supply observer services and will be issued a West Coast Groundfish Observer Program permit.

(ii) *Catcher vessels*. [Reserved]

(5) *Observer provider responsibilities* —(i) *Provide qualified candidates to serve as observers.* Observer providers must provide qualified candidates to serve as observers. To be qualified, a candidate must have:

(A) A Bachelor's degree or higher from an accredited college or university with a major in one of the natural sciences;

(B) Successfully completed a minimum of 30 semester hours or equivalent in applicable biological sciences with extensive use of dichotomous keys in at least one course;

(C) Successfully completed at least one undergraduate course each in math and statistics with a minimum of 5 semester hours total for both; and

(D) Computer skills that enable the candidate to work competently with standard database software and computer hardware.

(ii) *Hiring an observer candidate* —(A) *Motherships.*

(1) The observer provider must provide the candidate a copy of NMFS-provided pamphlets, information and other literature describing observer duties (*i.e.* The At-Sea Hake Observer Program's Observer Manual) prior to hiring the candidate. Observer job information is available from the Observer Program Office's Web site at <http://www.nwfsc.noaa.gov/research/divisions/fram/observer/atseahake.cfm>.

(2) *Observer contracts.* The observer provider must have a written contract or a written contract addendum that is signed by the observer and observer provider prior to the observer's deployment with the following clauses:

(*i*) That all the observer's in-season messages and catch reports required to be sent while deployed are delivered to the Observer Program Office as specified by written Observer Program instructions;

(*ii*) That the observer inform the observer provider prior to the time of embarkation if he or she is experiencing any new mental illness or physical ailments or injury since submission of the physician's statement as required as a qualified observer candidate that would prevent him or her from performing their assigned duties.

(B) *Catcher vessels* —(1) Provide the candidate a copy of NMFS-provided pamphlets, information and other literature describing observer duties, for example, the West Coast Groundfish Observer Program's sampling manual. Observer job information is available from the Observer Program Office's Web site at <http://www.nwfsc.noaa.gov/research/divisions/fram/observer/index.cfm>.

(2) *Observer contracts.* The observer provider must have a written contract or a written contract addendum that is signed by the observer and observer provider prior to the observer's deployment with the following clauses:

(*i*) That all the observer's in-season messages and catch reports required to be sent while deployed are delivered to the Observer Program Office as specified by written Observer Program instructions;

(*ii*) That the observer inform the observer provider prior to the time of embarkation if he or she is experiencing any new mental illness or physical ailments or injury since submission of the physician's statement as required as a qualified observer candidate that would prevent him or her from performing their assigned duties; and

(*iii*) That the observer completes a basic cardiopulmonary resuscitation/first aid course prior to the end of the NMFS West Coast Groundfish Observer Training class.

(iii) *Ensure that observers complete duties in a timely manner* —(A) *Motherships.* An observer provider must ensure that observers employed by that observer provider do the following in a complete and timely manner:

(1) Submit to NMFS all data, logbooks, and reports as required by the Observer Manual;

(2) Report for his or her scheduled debriefing and complete all debriefing responsibilities;

- (3) Return all sampling and safety gear to the Observer Program Office;
- (4) Submit all biological samples from the observer's deployment by the completion of the electronic vessel and/or processor survey(s); and
- (5) Immediately report to the Observer Program Office and the NOAA OLE any refusal to board an assigned vessel.

(B) *Catcher vessels*. An observer provider must ensure that observers employed by that observer provider do the following in a complete and timely manner:

- (1) Submit to NMFS all data, logbooks, and reports as required by the Observer Manual;
- (2) Report for his or her scheduled debriefing and complete all debriefing responsibilities; and
- (3) Return all sampling and safety gear to the Observer Program Office.
- (4) Immediately report to the Observer Program Office and the NOAA OLE any refusal to board an assigned vessel.

(iv) *Observers provided to vessel* —(A) *Motherships*. Observers provided to mothership vessels:

- (1) Must have a valid North Pacific groundfish observer certification endorsement and an At-Sea Hake Observer Program certification;
- (2) Must not have not informed the provider prior to the time of embarkation that he or she is experiencing a mental illness or a physical ailment or injury developed since submission of the physician's statement that would prevent him or her from performing his or her assigned duties; and
- (3) Must have successfully completed all NMFS required training and briefing before deployment.

(B) *Catcher vessels*. Observers provided to catcher vessels:

- (1) Must have a valid West Coast Groundfish observer certification;
- (2) Must have not informed the provider prior to the time of embarkation that he or she is experiencing a mental illness or a physical ailment or injury developed since submission of the physician's statement, as required in paragraph (j)(5)(x)(B)(2) of this section that would prevent him or her from performing his or her assigned duties; and
- (3) Must have successfully completed all NMFS required training and briefing before deployment.

(v) *Respond to industry requests for observers*. An observer provider must provide an observer for deployment pursuant to the terms of the contractual relationship with the vessel to fulfill vessel requirements for observer coverage specified at paragraph (j)(1)(i) of this section. An alternate observer must be supplied in each case where injury or illness prevents the observer from performing his or her duties or where the observer resigns prior to completion of his or her duties. If the observer provider is unable to respond to an industry request for observer coverage from a vessel for whom the provider is in a contractual relationship due to lack of available observers by the estimated embarking time of the vessel, the provider must report it to the observer program at least 4 hours prior to the vessel's estimated embarking time.

(vi) *Provide observer salaries and benefits*. An observer provider must provide to its observer employees salaries and any other benefits and personnel services in accordance with the terms of each observer's contract.

(vii) *Provide observer deployment logistics* —(A) *Motherships*. An observer provider must provide to each of its observers under contract:

(1) All necessary transportation, including arrangements and logistics, of observers to the initial location of deployment, to all subsequent vessel assignments during that deployment, and to the debriefing location when a deployment ends for any reason; and

(2) Lodging, per diem, and any other services necessary to observers assigned to fishing vessels.

(3) An observer under contract may be housed on a vessel to which he or she is assigned:

(i) Prior to their vessel's initial departure from port;

(ii) For a period not to exceed twenty-four hours following the completion of an offload when the observer has duties and is scheduled to disembark; or

(iii) For a period not to exceed twenty-four hours following the vessel's arrival in port when the observer is scheduled to disembark.

(iv) During all periods an observer is housed on a vessel, the observer provider must ensure that the vessel operator or at least one crew member is aboard.

(v) An observer under contract who is between vessel assignments must be provided with shoreside accommodations pursuant to the terms of the contract between the observer provider and the observers. If the observer provider is responsible for providing accommodations under the contract with the observer, the accommodations must be at a licensed hotel, motel, bed and breakfast, or other shoreside accommodations for the duration of each period between vessel or shoreside assignments. Such accommodations must include an assigned bed for each observer and no other person may be assigned that bed for the duration of that observer's stay. Additionally, no more than four beds may be in any room housing observers at accommodations meeting the requirements of this section.

(B) *Catcher vessels.* An observer provider must ensure each of its observers under contract:

(1) Has an individually assigned mobile or cell phones, in working order, for all necessary communication. An observer provider may alternatively compensate observers for the use of the observer's personal cell phone or pager for communications made in support of, or necessary for, the observer's duties.

(2) Calls into the NMFS deployment hotline upon departing and arriving into port for each trip to leave the following information: Observer name, phone number, vessel departing on, expected trip end date and time.

(3) Remains available to NOAA OLE and the Observer Program until the conclusion of debriefing.

(4) Receives all necessary transportation, including arrangements and logistics, of observers to the initial location of deployment, to all subsequent vessel assignments during that deployment, and to the debriefing location when a deployment ends for any reason; and

(5) Receives lodging, per diem, and any other services necessary to observers assigned to fishing vessels.

(i) An observer under contract may be housed on a vessel to which he or she is assigned: Prior to their vessel's initial departure from port; for a period not to exceed 24 hours following the completion of an offload when the observer has duties and is scheduled to disembark; or for a period not to exceed twenty-four hours following the vessel's arrival in port when the observer is scheduled to disembark.

(ii) During all periods an observer is housed on a vessel, the observer provider must ensure that the vessel operator or at least one crew member is aboard.

(iii) Otherwise, each observer between vessels, while still under contract with a permitted observer provider, shall be provided with accommodations in accordance with the contract between the observer and the observer provider. If

the observer provider is responsible for providing accommodations under the contract with the observer, the accommodations must be at a licensed hotel, motel, bed and breakfast, or other shoreside accommodations that has an assigned bed for each observer that no other person may be assigned to for the duration of that observer's stay. Additionally, no more than four beds may be in any room housing observers at accommodations meeting the requirements of this section.

(viii) *Observer deployment limitations* —(A) *Motherships*. Unless alternative arrangements are approved by the Observer Program Office, an observer provider must not:

(1) Deploy an observer on the same vessel more than 90 days in a 12-month period;

(2) Deploy an observer for more than 90 days in a single deployment;

(3) Include more than four vessels assignments in a single deployment, or

(4) Disembark an observer from a vessel before that observer has completed his or her sampling or data transmission duties.

(B) *Catcher vessels*. Not deploy an observer on the same vessel more than 90 calendar days in a 12-month period.

(ix) *Verify vessel's safety decal*. An observer provider must verify that a vessel has a valid USCG safety decal as required under paragraph (j)(2)(ii)(B) of this section before an observer may get underway aboard the vessel. One of the following acceptable means of verification must be used to verify the decal validity:

(A) The observer provider or employee of the observer provider, including the observer, visually inspects the decal aboard the vessel and confirms that the decal is valid according to the decal date of issuance; or

(B) The observer provider receives a hard copy of the USCG documentation of the decal issuance from the vessel owner or operator.

(x) *Maintain communications with observers*. An observer provider must have an employee responsible for observer activities on call 24 hours a day to handle emergencies involving observers or problems concerning observer logistics, whenever observers are at sea, in transit, or in port awaiting vessel reassignment.

(xi) *Maintain communications with the Observer Program Office*. An observer provider must provide all of the following information by electronic transmission (e-mail), fax, or other method specified by NMFS.

(A) *Motherships* —(1) *Training and briefing registration materials*. The observer provider must submit training and briefing registration materials to the Observer Program Office at least 5 business days prior to the beginning of a scheduled observer at-sea hake training or briefing session.

(i) Registration materials consist of the date of requested training or briefing with a list of observers including each observer's full name (i.e., first, middle and last names).

(ii) *Projected observer assignments*. Prior to the observer's completion of the training or briefing session, the observer provider must submit to the Observer Program Office a statement of projected observer assignments that include the observer's name; vessel, gear type, and vessel/processor code; port of embarkation; and area of fishing.

(2) *Observer debriefing registration*. The observer provider must contact the At-Sea Hake Observer Program within 5 business days after the completion of an observer's deployment to schedule a date, time and location for debriefing. Observer debriefing registration information must be provided at the time of debriefing scheduling and must include the observer's name, cruise number, vessel name(s) and code(s), and requested debriefing date.

(3) *Observer provider contracts*. If requested, observer providers must submit to the Observer Program Office a completed and unaltered copy of each type of signed and valid contract (including all attachments, appendices,

addendums, and exhibits incorporated into the contract) between the observer provider and those entities requiring observer services under paragraph (j)(1)(i) of this section. Observer providers must also submit to the Observer Program Office upon request, a completed and unaltered copy of the current or most recent signed and valid contract (including all attachments, appendices, addendums, and exhibits incorporated into the contract and any agreements or policies with regard to observer compensation or salary levels) between the observer provider and the particular entity identified by the Observer Program or with specific observers. The copies must be submitted to the Observer Program Office via fax or mail within 5 business days of the request. Signed and valid contracts include the contracts an observer provider has with:

(i) Vessels required to have observer coverage as specified at paragraph (j)(1)(i) of this section; and

(ii) Observers.

(4) *Change in observer provider management and contact information.* Observer providers must submit notification of any other change to provider contact information, including but not limited to, changes in contact name, phone number, email address, and address.

(5) *Other reports.* Reports of the following must be submitted in writing to the At-Sea Hake Observer Program Office by the observer provider via fax or email address designated by the Observer Program Office within 24 hours after the observer provider becomes aware of the information:

(i) Any information regarding possible observer harassment;

(ii) Any information regarding any action prohibited under §§660.112 or 600.725(o), (t) and (u);

(iii) Any concerns about vessel safety or marine casualty under 46 CFR 4.05–1(a)(1) through (7);

(iv) Any observer illness or injury that prevents the observer from completing any of his or her duties described in the observer manual; and

(v) Any information, allegations or reports regarding observer conflict of interest or breach of the standards of behavior described in observer provider policy.

(B) *Catcher vessels.* An observer provider must provide all of the following information by electronic transmission (e-mail), fax, or other method specified by NMFS.

(1) *Observer training, briefing, and debriefing registration materials.* This information must be submitted to the Observer Program Office at least 7 business days prior to the beginning of a scheduled West Coast groundfish observer certification training or briefing session.

(i) Training registration materials consist of the following: Date of requested training; a list of observer candidates that includes each candidate's full name (i.e., first, middle and last names), date of birth, and gender; a copy of each candidate's academic transcripts and resume; a statement signed by the candidate under penalty of perjury which discloses the candidate's criminal convictions; projected observer assignments—Prior to the observer's completion of the training or briefing session, the observer provider must submit to the Observer Program Office a statement of projected observer assignments that include that includes each observer's name, current mailing address, e-mail address, phone numbers and port of embarkation ("home port"); and length of observers contract.

(ii) Briefing registration materials consist of the following: Date and type of requested briefing session; list of observers to attend the briefing session, that includes each observer's full name (first, middle, and last names); projected observer assignments—Prior to the observer's completion of the training or briefing session, the observer provider must submit to the Observer Program Office a statement of projected observer assignments that include that includes each observer's name, current mailing address, e-mail address, phone numbers and port of embarkation ("home port"); and length of observer contract.

(iii) *Debriefing.* The West Coast Groundfish Observer Program will notify the observer provider which observers require debriefing and the specific time period the provider has to schedule a date, time, and location for debriefing. The observer provider must contact the West Coast Groundfish Observer program within 5 business days by telephone to schedule debriefings. Observer providers must immediately notify the observer program when observers end their contract earlier than anticipated.

(2) *Physical examination.* A signed and dated statement from a licensed physician that he or she has physically examined an observer or observer candidate. The statement must confirm that, based on that physical examination, the observer or observer candidate does not have any health problems or conditions that would jeopardize that individual's safety or the safety of others while deployed, or prevent the observer or observer candidate from performing his or her duties satisfactorily. The statement must declare that, prior to the examination, the physician was made aware of the duties of the observer and the dangerous, remote, and rigorous nature of the work by reading the NMFS-prepared information. The physician's statement must be submitted to the Observer Program Office prior to certification of an observer. The physical exam must have occurred during the 12 months prior to the observer's or observer candidate's deployment. The physician's statement will expire 12 months after the physical exam occurred. A new physical exam must be performed, and accompanying statement submitted, prior to any deployment occurring after the expiration of the statement.

(3) *Certificates of insurance.* Copies of "certificates of insurance", that names the NMFS Observer Program leader as the "certificate holder", shall be submitted to the Observer Program Office by February 1 of each year. The certificates of insurance shall verify the following coverage provisions and state that the insurance company will notify the certificate holder if insurance coverage is changed or canceled.

(i) Maritime Liability to cover "seamen's" claims under the Merchant Marine Act (Jones Act) and General Maritime Law (\$1 million minimum).

(ii) Coverage under the U.S. Longshore and Harbor Workers' Compensation Act (\$1 million minimum).

(iii) States Worker's Compensation as required.

(iv) Commercial General Liability.

(4) *Observer provider contracts.* If requested, observer providers must submit to the Observer Program Office a completed and unaltered copy of each type of signed and valid contract (including all attachments, appendices, addendums, and exhibits incorporated into the contract) between the observer provider and those entities requiring observer services under paragraph (j)(1)(i) of this section. Observer providers must also submit to the Observer Program Office upon request, a completed and unaltered copy of the current or most recent signed and valid contract (including all attachments, appendices, addendums, and exhibits incorporated into the contract and any agreements or policies with regard to observer compensation or salary levels) between the observer provider and the particular entity identified by the Observer Program or with specific observers. The copies must be submitted to the Observer Program Office via fax or mail within 5 business days of the request. Signed and valid contracts include the contracts an observer provider has with:

(i) Vessels required to have observer coverage as specified at paragraph (j)(1)(i) of this section; and

(ii) Observers.

(5) *Change in observer provider management and contact information.* An observer provider must submit to the Observer Program office any change of management or contact information submitted on the provider's permit application under paragraphs (j)(4) of this section within 30 days of the effective date of such change.

(6) *Boarding refusals.* The observer provider must report to NMFS any trip that has been refused by an observer within 24 hours of the refusal.

(7) *Biological samples.* The observer provider must ensure that biological samples are stored/handled properly prior to delivery/transport to NMFS.

(8) *Observer status report.* Each Tuesday, observer providers must provide NMFS with an updated list of contact information for all observers that includes the observer's name, mailing address, e-mail address, phone numbers, port of embarkation ("home port"), fishery deployed the previous week and whether or not the observer is "in service", indicating when the observer has requested leave and/or is not currently working for the provider.

(9) Providers must submit to NMFS, if requested, copies of any information developed and used by the observer providers distributed to vessels, such as informational pamphlets, payment notification, description of observer duties, etc.

(10) *Other reports.* Reports of the following must be submitted in writing to the At-Sea Hake or West Coast Groundfish Observer Program Office by the observer provider via fax or email address designated by the Observer Program Office within 24 hours after the observer provider becomes aware of the information:

(i) Any information regarding possible observer harassment;

(ii) Any information regarding any action prohibited under §§660.112 or 600.725(o), (t) and (u);

(iii) Any concerns about vessel safety or marine casualty under 46 CFR 4.05–1(a)(1) through (7);

(iv) Any observer illness or injury that prevents the observer from completing any of his or her duties described in the observer manual; and

(v) Any information, allegations or reports regarding observer conflict of interest or breach of the standards of behavior described in observer provider policy.

(xii) *Replace lost or damaged gear.* An observer provider must replace all lost or damaged gear and equipment issued by NMFS to an observer under contract to that provider. All replacements must be in accordance with requirements and procedures identified in writing by the Observer Program Office.

(xiii) *Maintain confidentiality of information.* An observer provider must ensure that all records on individual observer performance received from NMFS under the routine use provision of the Privacy Act or as otherwise required by law remain confidential and are not further released to anyone outside the employ of the observer provider company to whom the observer was contracted except with written permission of the observer.

(xiv) *Limitations on conflict of interest.* Observer providers must meet limitations on conflict of interest. Observer providers:

(A) Must not have a direct financial interest, other than the provision of observer services, in the North Pacific or Pacific Coast Groundfish fishery managed under an FMP for the waters off the coasts of Alaska, Washington, Oregon, and California, including, but not limited to,

(1) Any ownership, mortgage holder, or other secured interest in a vessel, or shoreside processor facility involved in the catching, taking, harvesting or processing of fish,

(2) Any business involved with selling supplies or services to any vessel or shoreside processors participating in a fishery managed pursuant to an FMP in the waters off the coasts of Alaska, California, Oregon, and Washington, or

(3) Any business involved with purchasing raw or processed products from any vessel or shoreside processor participating in a fishery managed pursuant to an FMP in the waters off the coasts of Alaska, California, Oregon, and Washington.

(B) Must assign observers without regard to any preference by representatives of vessels other than when an observer will be deployed.

(C) Must not solicit or accept, directly or indirectly, any gratuity, gift, favor, entertainment, loan, or anything of monetary value except for compensation for providing observer services from anyone who conducts fishing or fish processing activities that are regulated by NMFS, or who has interests that may be substantially affected by the performance or nonperformance of the official duties of observer providers.

(xv) *Observer conduct and behavior.* Observer providers must develop and maintain a policy addressing observer conduct and behavior for their employees that serve as observers. The policy shall address the following behavior and conduct regarding:

(A) Observer use of alcohol;

(B) Observer use, possession, or distribution of illegal drugs and;

(C) Sexual contact with personnel of the vessel or processing facility to which the observer is assigned, or with any vessel or processing plant personnel who may be substantially affected by the performance or non-performance of the observer's official duties.

(D) An observer provider shall provide a copy of its conduct and behavior policy by February 1 of each year, to: Observers, observer candidates and; the Observer Program Office.

(xvi) *Refusal to deploy an observer.* Observer providers may refuse to deploy an observer on a requesting vessel if the observer provider has determined that the requesting vessel is inadequate or unsafe pursuant to those regulations described at §600.746 or U.S. Coast Guard and other applicable rules, regulations, statutes, or guidelines pertaining to safe operation of the vessel.

(6) *Observer certification and responsibilities* —(i) *Applicability.* Observer certification authorizes an individual to fulfill duties as specified in writing by the NMFS Observer Program Office while under the employ of a NMFS-permitted observer provider and according to certification endorsements as designated under paragraph (j)(6)(iii) of this section.

(ii) *Observer certification official.* The Regional Administrator will designate a NMFS observer certification official who will make decisions for the Observer Program Office on whether to issue or deny observer certification.

(iii) *Certification requirements* —(A) *Initial certification.* NMFS may certify individuals who, in addition to any other relevant considerations:

(1) Are employed by an observer provider company permitted pursuant to §679.50 at the time of the issuance of the certification;

(2) Have provided, through their observer provider:

(i) Information identified by NMFS at §679.50 regarding an observer candidate's health and physical fitness for the job;

(ii) Meet all observer education and health standards as specified in §679.50 and

(iii) Have successfully completed NMFS-approved training as prescribed by the At-Sea Hake and/or the West Coast Groundfish Observer Program. Successful completion of training by an observer applicant consists of meeting all attendance and conduct standards issued in writing at the start of training; meeting all performance standards issued in writing at the start of training for assignments, tests, and other evaluation tools; and completing all other training requirements established by the Observer Program.

(iv) Have not been decertified under paragraph (j)(6)(ix) of this section, or pursuant to §679.50.

(B) [Reserved]

(iv) *Denial of a certification.* The NMFS observer certification official will issue a written determination denying observer certification if the candidate fails to successfully complete training, or does not meet the qualifications for certification for any other relevant reason.

(v) *Issuance of an observer certification.* An observer certification will be issued upon determination by the observer certification official that the candidate has successfully met all requirements for certification as specified at paragraph (j)(6)(iii) of this section. The following endorsements must be obtained, in addition to observer certification, in order for an observer to deploy.

(A) *Motherships* —(1) *North Pacific Groundfish Observer Program certification training endorsement.* A certification training endorsement signifies the successful completion of the training course required to obtain observer certification. This endorsement expires when the observer has not been deployed and performed sampling duties as required by the Observer Program Office for a period of time, specified by the Observer Program, after his or her most recent debriefing. The observer can renew the endorsement by successfully completing certification training once more.

(2) *North Pacific Groundfish Observer Program annual general endorsements.* Each observer must obtain an annual general endorsement to their certification prior to his or her first deployment within any calendar year subsequent to a year in which a certification training endorsement is obtained. To obtain an annual general endorsement, an observer must successfully complete the annual briefing, as specified by the Observer Program. All briefing attendance, performance, and conduct standards required by the Observer Program must be met.

(3) *North Pacific Groundfish Observer Program deployment endorsements.* Each observer who has completed an initial deployment after certification or annual briefing must receive a deployment endorsement to their certification prior to any subsequent deployments for the remainder of that year. An observer may obtain a deployment endorsement by successfully completing all pre-cruise briefing requirements. The type of briefing the observer must attend and successfully complete will be specified in writing by the Observer Program during the observer's most recent debriefing.

(4) *At-Sea Hake Observer Program endorsements.* A Pacific hake fishery endorsement is required for purposes of performing observer duties aboard vessels that process groundfish at sea in the Pacific whiting fishery. A Pacific whiting fishery endorsement to an observer's certification may be obtained by meeting the following requirements:

(i) Be a prior NMFS-certified observer in the groundfish fisheries off Alaska;

(ii) Receive an evaluation by NMFS for his or her most recent deployment that indicated that the observer's performance met Observer Program expectations for that deployment; successfully complete a NMFS-approved observer training and/or Pacific whiting briefing as prescribed by the Observer Program; and comply with all of the other requirements of this section.

(B) *Catcher vessels.* The following endorsements must be obtained in addition to observer certification, in order for an observer to deploy.

(1) *West Coast Groundfish Observer Program training certification endorsement.* A training certification endorsement signifies the successful completion of the training course required to obtain observer certification. This endorsement expires when the observer has not been deployed and performed sampling duties as required by the observer Program office for a period of time, specified by the Observer Program, after his or her most recent debriefing. The observer can renew the endorsement by successfully completing training once more.

(2) *West Coast Groundfish Observer Program annual general endorsement.* Each observer must obtain an annual general endorsement to their certification prior to his or her first deployment within any calendar year subsequent to a year in which a training certification endorsement is obtained. To obtain an annual general endorsement, an observer must successfully complete the annual briefing, as specified by the Observer Program. All briefing attendance, performance, and conduct standards required by the Observer Program must be met.

(3) *West Coast Groundfish Observer Program deployment endorsement.* Each observer who has completed an initial deployment after their certification or annual briefing must receive a deployment endorsement to their

certification prior to any subsequent deployments for the remainder of that year. An observer may obtain a deployment endorsement by successfully completing all briefing requirements, when applicable. The type of briefing the observer must attend and successfully complete will be specified in writing by the Observer Program during the observer's most recent debriefing.

(vi) *Maintaining the validity of an observer certification.* After initial issuance, an observer must keep their certification valid by meeting all of the following requirements specified below:

(A) *Motherships* —(1) Successfully perform their assigned duties as described in the Observer Manual or other written instructions from the Observer Program Office including calling into the NMFS deployment hotline upon departing and arriving into port each trip to leave the following information: Observer name, phone number, vessel name departing on, date and time of departure and date and time of expected return.

(2) Accurately record their sampling data, write complete reports, and report accurately any observations of suspected violations of regulations relevant to conservation of marine resources or their environment.

(3) Not disclose collected data and observations made on board the vessel or in the processing facility to any person except the owner or operator of the observed vessel or an authorized officer or NMFS.

(4) Successfully complete NMFS-approved annual briefings as prescribed by the At-Sea Hake Observer Program.

(5) Successful completion of briefing by an observer applicant consists of meeting all attendance and conduct standards issued in writing at the start of training; meeting all performance standards issued in writing at the start of training for assignments, tests, and other evaluation tools; and completing all other briefing requirements established by the Observer Program.

(6) Successfully meet all expectations in all debriefings including reporting for assigned debriefings.

(7) Submit all data and information required by the observer program within the program's stated guidelines.

(B) *Catcher vessels.* After initial issuance, an observer must keep their certification valid by meeting all of the following requirements specified below:

(1) Successfully perform their assigned duties as described in the Observer Manual or other written instructions from the Observer Program Office including calling into the NMFS deployment hotline upon departing and arriving into port each trip to leave the following information: Observer name, phone number, vessel name departing on, date and time of departure and date and time of expected return.

(2) Accurately record their sampling data, write complete reports, and report accurately any observations of suspected violations of regulations relevant to conservation of marine resources or their environment.

(3) Not disclose collected data and observations made on board the vessel or in the processing facility to any person except the owner or operator of the observed vessel or an authorized officer or NMFS.

(4) Successfully complete NMFS-approved annual briefings as prescribed by the West Coast Groundfish Observer Program.

(5) Successful completion of briefing by an observer applicant consists of meeting all attendance and conduct standards issued in writing at the start of training; meeting all performance standards issued in writing at the start of training for assignments, tests, and other evaluation tools; and completing all other briefing requirements established by the Observer Program.

(6) Hold current basic cardiopulmonary resuscitation/first aid certification as per American Red Cross Standards.

(7) Successfully meet all expectations in all debriefings including reporting for assigned debriefings.

(8) Submit all data and information required by the observer program within the program's stated guidelines.

(9) Meet the minimum annual deployment period of 3 months at least once every 12 months.

(vii) *Limitations on conflict of interest.* Observers:

(A) Must not have a direct financial interest, other than the provision of observer services, in a fishery managed pursuant to an FMP for the waters off the coast of Alaska, or in a Pacific Coast fishery managed by either the State or Federal Governments in waters off Washington, Oregon, or California, including but not limited to:

(1) Any ownership, mortgage holder, or other secured interest in a vessel, shore-based or floating stationary processor facility involved in the catching, taking, harvesting or processing of fish,

(2) Any business involved with selling supplies or services to any vessel, shore-based or floating stationary processing facility; or

(3) Any business involved with purchasing raw or processed products from any vessel, shore-based or floating stationary processing facilities.

(B) Must not solicit or accept, directly or indirectly, any gratuity, gift, favor, entertainment, loan, or anything of monetary value from anyone who either conducts activities that are regulated by NMFS in the Pacific coast or North Pacific regions or has interests that may be substantially affected by the performance or nonperformance of the observers' official duties.

(C) May not serve as observers on any vessel or at any shore-based owned or operated by a person who employed the observer in the last two years.

(D) May not solicit or accept employment as a crew member or an employee of a vessel or shore-based processor while employed by an observer provider.

(E) Provisions for remuneration of observers under this section do not constitute a conflict of interest.

(viii) *Standards of behavior.* Observers must:

(A) Perform their assigned duties as described in the Observer Manual or other written instructions from the Observer Program Office.

(B) Immediately report to the observer program office and the NMFS OLE any time they refuse to board.

(C) Accurately record their sampling data, write complete reports, and report accurately any observations of suspected violations of regulations relevant to conservation of marine resources or their environment.

(D) Not disclose collected data and observations made on board the vessel to any person except the owner or operator of the observed vessel, an authorized officer, or NMFS.

(ix) *Suspension and decertification* —(A) *Suspension and decertification review official.* The Regional Administrator (or a designee) will designate an observer suspension and decertification review official(s), who will have the authority to review observer certifications and issue initial administrative determinations of observer certification suspension and/or decertification.

(B) *Causes for suspension or decertification.* The suspension/decertification official may initiate suspension or decertification proceedings against an observer:

(1) When it is alleged that the observer has not met applicable standards, including any of the following:

(i) Failed to satisfactorily perform duties of observers as specified in writing by the NMFS Observer Program; or

(ii) Failed to abide by the standards of conduct for observers, including conflicts of interest;

(2) Upon conviction of a crime or upon entry of a civil judgment for:

(i) Commission of fraud or other violation in connection with obtaining or attempting to obtain certification, or in performing the duties as specified in writing by the NMFS Observer Program;

(ii) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(iii) Commission of any other offense indicating a lack of integrity or honesty that seriously and directly affects the fitness of observers.

(C) *Issuance of initial administrative determination.* Upon determination that suspension or decertification is warranted, the suspension/decertification official will issue a written IAD to the observer via certified mail at the observer's most current address provided to NMFS. The IAD will identify whether a certification is suspended or revoked and will identify the specific reasons for the action taken. Decertification is effective 30 calendar days after the date on the IAD, unless there is an appeal.

(D) *Appeals.* A certified observer who receives an IAD that suspends or revokes his or her observer certification may appeal the determination within 30 calendar days after the date on the IAD to the Office of Administrative Appeals pursuant to §679.43.

(k) *MS coop failure* —(1) The Regional Administrator will determine that a permitted MS coop is considered to have failed if:

(i) The coop members dissolve the coop, or

(ii) The coop membership falls below 20 percent of the MS/CV-endorsed limited entry permits, or

(iii) The coop agreement is no longer valid.

(2) If a permitted MS coop dissolves, the designated coop manager must notify NMFS SFD in writing of the dissolution of the coop.

(3) In the event of a NMFS determined coop failure, or reported failure, the designated coop manager will be notified in writing about NMFS' determination. Upon notification of a coop failure, fishing under the MS coop permit will no longer be allowed. Should a coop failure determination be made during the Pacific whiting primary season for the mothership sector, unused allocation associated with the catch history will not be available for harvest by the coop that failed, by any former members of the coop that failed, or any other MS coop for the remainder of that calendar year.

[75 FR 60897, Oct. 1, 2010, as amended at 75 FR 78406, Dec. 15, 2010; 76 FR 27547, May 11, 2011]

§ 660.160 Catcher/processor (C/P) Coop Program.

(a) *General.* The C/P Coop Program requirements in §660.160 will be effective beginning January 1, 2011, except for paragraphs (d)(5) and (d)(7) of this section, which are effective immediately. The C/P Coop Program is a limited access program that applies to vessels in the C/P sector of the Pacific whiting at-sea trawl fishery and is a single voluntary coop. Eligible harvesters and processors must meet the requirements set forth in this section of the Pacific Coast groundfish regulations. In addition to the requirements of this section, the C/P Coop Program is subject to the following groundfish regulations:

(1) Pacific whiting seasons §660.131(b), subpart D.

(2) Area restrictions specified for midwater trawl gear used to harvest Pacific whiting fishery specified at §660.131(c), subpart D for GCAs, RCAs, Salmon Conservation Zones, BRAs, and EFHCAs.

(3) Regulations set out in the following sections of subpart C: §660.11 Definitions, §660.12 Prohibitions, §660.13 Recordkeeping and reporting, §660.14 VMS requirements, §660.15 Equipment requirements, §660.16 Groundfish Observer Program, §660.20 Vessel and gear identification, §660.25 Permits, §660.55 Allocations, §660.60 Specifications and management measures, §660.65 Groundfish harvest specifications, and §§660.70 through 660.79 Closed areas.

(4) Regulations set out in the following sections of subpart D: §660.111 Trawl fishery definitions, §660.112 Trawl fishery prohibitions, §660.113 Trawl fishery recordkeeping and reporting, §660.120 Trawl fishery crossover provisions, §660.130 Trawl fishery management measures, and §660.131 Pacific whiting fishery management measures.

(5) The C/P Coop Program may be restricted or closed as a result of projected overages within the MS Coop Program, the C/P Coop Program, or the Shorebased IFQ Program. As determined necessary by the Regional Administrator, area restrictions, season closures, or other measures will be used to prevent the trawl sectors in aggregate or the individual trawl sector (Shorebased IFQ, MS Coop, or C/P Coop) from exceeding an ACL, ACT, or formal allocation specified in the PCGFMP or regulation at §660.55, subpart C, or §§660.140, 660.150, or 660.160, subpart D.

(b) *Participation requirements and responsibilities* —(1) *C/P vessels* —(i) *C/P vessel participation requirements*. A vessel is eligible to fish as a catcher/processor in the C/P Coop Program if:

(A) The vessel is registered to a C/P-endorsed limited entry trawl permit.

(B) The vessel is not used to harvest fish as a catcher vessel in the mothership coop program in the same calendar year.

(C) The vessel is not used to fish as a mothership in the MS Coop Program in the same calendar year.

(ii) *C/P vessel responsibilities*. The owner and operator of a catcher/processor vessel must:

(A) *Recordkeeping and reporting*. Maintain a valid declaration as specified at §660.13(d), subpart C; and maintain and submit all records and reports specified at §660.113(d) including, economic data, scale tests records, and cease fishing reports.

(B) *Observers*. As specified at paragraph (g) of this section, procure observer services, maintain the appropriate level of coverage, and meet the vessel responsibilities.

(C) *Catch weighing requirements*. The owner and operator of a C/P vessel must:

(1) Ensure that all catch is weighed in its round form on a NMFS-approved scale that meets the requirements described in §660.15(b), subpart C;

(2) Provide a NMFS-approved platform scale, belt scale, and test weights that meet the requirements described in §660.15(b), subpart C.

(2) *C/P coops* —(i) *C/P coop participation requirements*. For a C/P coop to participate in the catcher/processor sector of the Pacific whiting fishery, the C/P coop must:

(A) Be issued a C/P coop permit;

(B) Be composed of all C/P-endorsed limited entry permits and their owners;

(C) Be formed voluntarily;

(D) Be a legally recognized entity that represents its members; and

(E) Designate an individual as a coop manager.

(ii) *C/P coop responsibilities*. A C/P coop is responsible for:

(A) Applying for and being registered to a C/P coop permit;

(B) Organizing and coordinating harvest activities of vessels that fish for the coop;

(C) Allocating catch for use by specific coop members;

(D) Monitoring harvest activities and enforcing the catch limits of coop members;

(E) Submitting an annual report.

(F) Having a designated coop manager. The designated coop manager must:

(1) Serve as the contact person with NMFS and the Council;

(2) Be responsible for the annual distribution of catch and bycatch allocations among coop members;

(3) Prepare and submit an annual report on behalf of the coop; and

(4) Be authorized to receive or respond to any legal process in which the coop is involved; and

(5) Notify NMFS if the coop dissolves.

(iii) *C/P coop compliance and joint/several liability*. A C/P coop must comply with the provisions of this section. The C/P coop, member limited entry permit owners, and owners and operators of vessels registered to member limited entry permits, are jointly and severally responsible for compliance with the provisions of this section. Pursuant to 15 CFR part 904, each C/P coop, member permit owner, and owner and operator of a vessel registered to a coop member permit may be charged jointly and severally for violations of the provisions of this section. For purposes of enforcement, a C/P coop is a legal entity that can be subject to NOAA enforcement action for violations of the provisions of this section.

(c) *C/P Coop Program species and allocations* —(1) *C/P Coop Program species*. C/P Coop Program species are as follows:

(i) Species with formal allocations to the C/P Coop Program are Pacific whiting, canary rockfish, darkblotched rockfish, Pacific Ocean perch, widow rockfish;

(ii) Species with set-asides for the MS and C/P Programs combined, as described in Table 1d and 2d, subpart C.

(2) *C/P Coop Program annual allocations*. The C/P Coop Program allocation of Pacific whiting is equal to the catcher/processor sector allocation. Only a single coop may be formed in the catcher/processor sector with the one permitted coop receiving the catcher/processor sector allocation.

(3) *Non-whiting groundfish species* —(i) Non-whiting groundfish species with a catcher/processor sector allocation are established in accordance with regulation at §660.55(i). The pounds associated with each species will be provided when the coop permit is issued.

(ii) Groundfish species with at-sea sector set-asides will be managed on an annual basis unless there is a risk of a harvest specification being exceeded, unforeseen impact on another fisheries, or conservation concerns in which case inseason action may be taken. Set asides may be adjusted through the biennial specifications and management measures process as necessary.

(iii) Groundfish species not addressed under paragraph (i) or (ii) above, will be managed on an annual basis unless there is a risk of a harvest specification being exceeded, unforeseen impact on another fisheries, or conservation concerns in which case inseason action may be taken.

(4) *Halibut set-asides*. Annually a specified amount of the Pacific halibut will be held in reserve as a shared set-aside for bycatch in the at-sea Pacific whiting fisheries and the shorebased trawl sector south of 40°10' N lat.

(5) *Non-whiting groundfish species reapportionment*. The Regional Administrator may make available for harvest to the mothership sector of the Pacific whiting fishery, the amounts of the catcher/processor sector's non-whiting catch allocation remaining when the catcher/processor sector reaches its Pacific whiting allocation or participants in the catcher/processor sector do not intend to harvest the remaining sector allocation. The designated coop manager must submit a cease fishing report to NMFS indicating that harvesting has concluded for the year. At any time after greater than 80 percent of the catcher/processor sector Pacific whiting allocation has been harvested, the Regional Administrator may contact the designated coop manager to determine whether they intend to continue fishing. When considering redistribution of non-whiting catch allocation, the Regional Administrator will take into consideration the best available data on total projected fishing impacts.

(6) *Reaching the catcher/processor sector allocation*. When the catcher/processor sector allocation of Pacific whiting or non-whiting groundfish catch allocation is reached or is projected to be reached, further taking and retaining, receiving, or at-sea processing by a catcher/processor is prohibited. No additional unprocessed groundfish may be brought on board after at-sea processing is prohibited, but a catcher/processor may continue to process catch that was on board before at-sea processing was prohibited. The catcher/processor sector will close when the allocation of any one species is reached or projected to be reached.

(7) *Announcements*. The Regional Administrator will announce in the Federal Register when the catcher/processor sector allocation of Pacific whiting or non-whiting groundfish with an allocation is reached, or is projected to be reached, and specify the appropriate action. In order to prevent exceeding an allocation and to avoid underutilizing the resource, prohibitions against further taking and retaining, receiving, or at-sea processing of Pacific whiting, or reapportionment of non-whiting groundfish with allocations may be made effective immediately by actual notice to fishers and processors, by e-mail, Internet (<http://www.nwr.noaa.gov/Groundfish-Halibut/Groundfish-Fishery-Management/Whiting-Management/index.cfm>), phone, fax, letter, press release, and/or USCG Notice to Mariners (monitor channel 16 VHF), followed by publication in the Federal Register, in which instance public comment will be sought for a reasonable period of time thereafter.

(d) *C/P coop permit and agreement* —(1) *Eligibility and registration* —(i) *Eligibility*. To be an eligible coop entity a group of C/P-endorsed permit owners (coop members) must be a recognized entity under the laws of the United States or the laws of a State and that represents all of the coop members.

(ii) *Annual registration and deadline*. Each year, the coop entity must submit a complete application to NMFS for a C/P coop permit. The application must be submitted to NMFS by between February 1 and March 31 of the year in which it intends to participate. NMFS will not consider any applications received after March 31. A C/P coop permit expires on December 31 of the year in which it was issued.

(iii) *Application for a C/P coop permit*. The designated coop manager, on behalf of the coop entity, must submit a complete application form and include each of the items listed in paragraph (d)(1)(iii)(A) of this section. Only complete applications will be considered for issuance of a C/P coop permit. An application will not be considered complete if any required application fees and annual coop reports have not been received by NMFS. NMFS may request additional supplemental documentation as necessary to make a determination of whether to approve or disapprove the application. Application forms and instruction are available on the NMFS NWR Web site (

<http://www.nwr.noaa.gov>) or by request from NMFS. The designated coop manager must sign the application acknowledging the responsibilities of a designated coop manager defined in paragraph (b)(2) of this section.

(A) *Coop agreement.* Signed copies of the coop agreement must be submitted to NMFS before the coop is authorized to engage in fishing activities. A coop agreement must include all of the information listed in this paragraph to be considered a complete coop agreement. NMFS will only review complete coop agreements. A coop agreement will not be accepted unless it includes all of the required information; the descriptive items listed in this paragraph appear to meet the stated purpose; and information submitted is correct and accurate.

(1) *Coop agreement contents.* The coop agreement must be signed by the coop members (C/P-endorsed permit owners) and include the following information:

(i) A list of all vessels registered to C/P-endorsed permits that the member permit owners intend to use for fishing under the C/P coop permit.

(ii) All C/P-endorsed limited entry member permits identified by permit number.

(iii) A description of the coop's plan to adequately monitor and account for the catch of Pacific whiting and non-whiting groundfish allocations, and to monitor and account for the catch of prohibited species.

(iv) A clause stating that if a permit is transferred during the effective period of the co-op agreement, any new owners of that member permit would be coop members and are required to comply with membership restrictions in the coop agreement.

(v) A description of the coop's enforcement and penalty provisions adequate to maintain catch of Pacific whiting and non-whiting groundfish within the allocations.

(vi) A description of measures to reduce catch of overfished species.

(vii) A clause describing how the annual report will be produced to document the coop's catch, bycatch data, and any other significant activities undertaken by the coop during the year, and the submission deadlines for that report.

(viii) Identification of the designated coop manager.

(2) [Reserved]

(B) *Acceptance of a coop agreement* —(1) If NMFS does not accept the coop agreement, the coop permit application will be returned to the applicant with a letter stating the reasons the coop agreement was not accepted by NMFS.

(2) Coop agreements that are not accepted may be resubmitted for review by sufficiently addressing the deficiencies identified in the NMFS letter and resubmitting the entire coop permit application by the date specified in the NMFS letter.

(3) An accepted coop agreement that was submitted with the C/P coop permit application and for which a C/P coop permit was issued will remain in place through the end of the calendar year. The designated coop manager must resubmit a complete coop agreement to NMFS consistent with the coop agreement contents described in this paragraph if there is a material change to the coop agreement.

(4) Within 7 calendar days following a material change, the designated coop manager must notify NMFS of the material change. Within 30 calendar days, the designated coop manager must submit to NMFS the revised coop agreement with a letter that describes such changes. NMFS will review the material changes and provide a letter to the coop manager that either accepts the changes as given or does not accept the revised coop agreement with a letter stating the reasons that it was not accepted by NMFS. The coop may resubmit the coop agreement with further revisions to the material changes responding to NMFS concerns.

(iv) *Effective date of C/P coop permit.* A C/P coop permit will be effective on the date approved by NMFS and will allow fishing from the start of the C/P sector primary whiting season until the end of the calendar year or until one or more of the following events occur, whichever comes first:

(A) NMFS closes the C/P sector fishing season for the year or the designated coop manager notifies NMFS that the coop has completed fishing for the calendar year,

(B) The C/P coop has reached its Pacific whiting allocation,

(C) A material change to the coop agreement has occurred and the designated coop manager failed to notify NMFS within 7 calendar days of the material change and submit to NMFS the revised coop agreement with a letter that describes such changes within 30 calendar days, or

(D) NMFS has determined that a coop failure occurred.

(2) *Initial administrative determination.* For all complete applications, NMFS will issue an IAD that either approves or disapproves the application. If approved, the IAD will include a C/P coop permit. If disapproved, the IAD will provide the reasons for this determination.

(3) *Appeals.* An appeal to a C/P coop permit action follows the same process as the general permit appeals process defined at §660.25(g), subpart C.

(4) *Fees.* The Regional Administrator is authorized to charge fees for administrative costs associated with the issuance of a C/P coop permit consistent with the provisions given at §660.25(f), subpart C.

(5) *Cost recovery.* [Reserved]

(e) *C/P-endorsed permit* —(1) *General.* Any vessel participating in the C/P sector of the non-tribal primary Pacific whiting fishery during the season described at §660.131(b) of this subpart must be registered to a valid limited entry permit with a C/P endorsement. A C/P-endorsed permit is a limited entry permit and is subject to the limited entry permit provisions given at §660.25(b), subpart C.

(e) *C/P-endorsed permit* —(1) *General.* Any vessel participating in the C/P sector of the non-tribal primary Pacific whiting fishery during the season described at §660.131(b) of this subpart must be registered to a valid limited entry permit with a C/P endorsement.

(i) *Non-severable.* A C/P endorsement is not severable from the limited entry trawl permit, and therefore, the endorsement may not be transferred separately from the limited entry trawl permit.

(ii) *Restriction on C/P vessel operating as a catcher vessel in the mothership sector.* A vessel registered to a C/P-endorsed permit cannot operate as a catcher vessel delivering unprocessed Pacific whiting to a mothership processor during the same calendar year it participates in the C/P sector.

(iii) *Restriction on C/P vessel operating as mothership.* A vessel registered to a C/P-endorsed permit cannot operate as a mothership during the same calendar year it participates in the C/P sector.

(2) *Renewal, change in permit ownership, vessel registration, or combination.*

(i) *Renewal.* A C/P-endorsed permit must be renewed annually consistent with the limited entry permit regulations given at §660.25(b)(4), subpart C. If a vessel registered to the C/P-endorsed permit will operate as a mothership in the year for which the permit is renewed, the permit owner must make a declaration as part of the permit renewal that while participating in the whiting fishery they will operate solely as a mothership during the calendar year to which its limited entry permit applies. Any such declaration is binding on the vessel for the calendar year, even if the permit is transferred during the year, unless it is rescinded in response to a written request from the permit owner. Any request

to rescind a declaration must be made by the permit holder and granted in writing by the Regional Administrator before any unprocessed whiting has been taken on board the vessel that calendar year.

(ii) *Change of permit ownership.* A C/P-endorsed permit is subject to the limited entry permit change in permit ownership regulations given at §660.25(b)(4), subpart C.

(iii) *Change of vessel registration.* A C/P-endorsed permit is subject to the limited entry permit change of vessel registration regulations given at §660.25(b)(4), subpart C.

(iv) *Combination.* If two or more permits are combined, the resulting permit is one permit with an increased size endorsement. A C/P-endorsed permit that is combined with another limited entry trawl-endorsed permit that does not have a C/P endorsement will result in a single trawl limited entry permit with a C/P endorsement with a larger size endorsement. Any request to combine permits is subject to the provisions provided at §660.25(b), including the combination formula for resulting size endorsements.

(3) *Appeals.* An appeal to a C/P-endorsed permit action follows the same process as the general permit appeals process defined at §660.25(g), subpart C.

(4) *Fees.* The Regional Administrator is authorized to charge fees for the administrative costs associated with review and issuance of a C/P endorsement consistent with the provisions at §660.25(f), subpart C.

(5) [Reserved]

(6) *Application requirements and initial issuance for C/P endorsement —(i) Eligibility criteria for C/P endorsement.* Only current owners of a current limited entry trawl permit that has been registered to a vessel that participated in the C/P fishery during the qualifying period are eligible to receive a C/P endorsement. Any past catch history associated with the current limited entry trawl permit accrues to the current permit owner. NMFS will not recognize any other person as the limited entry permit owner other than the person listed as the limited entry permit owner in the NMFS permit database.

(ii) *Qualifying criteria for C/P endorsement.* In order to qualify for a C/P endorsement, a vessel registered to a valid trawl-endorsed limited entry permit must have caught and processed any amount of Pacific whiting during a primary catcher/processor season between 1997 through 2003. The calculation will be based on the following:

(A) Pacific Whiting Observer data recorded in the relevant NORPAC dataset on August 1, 2010, and NMFS permit data on limited entry trawl-endorsed permits will be used to determine whether a permit meets the qualifying criteria for a C/P endorsement.

(B) Only Pacific whiting regulated by this subpart that was taken with midwater (or pelagic) trawl gear will be considered for the C/P endorsement.

(C) Permit catch and processing history includes only the catch/processing history of Pacific whiting for a vessel when it was registered to that particular permit during the qualifying years.

(D) History of illegal landings will not count.

(E) Landings history from Federal limited entry groundfish permits that were retired through the Federal buyback program will not count.

(F) Landings under provisional "A" permits that did not become "A" permits and "B" permits will not count.

(iii) *C/P endorsement application.* Persons may apply for an initial issuance of a C/P endorsement in one of two ways: complete and submit a prequalified application received from NMFS, or complete and submit an application package. The completed application must be either postmarked or hand-delivered within normal business hours no later than

November 1, 2010. If an applicant fails to submit a completed application by the deadline date, they forgo the opportunity to receive consideration for initial issuance of a C/P endorsement.

(A) *Prequalified application.* A “prequalified application” is a partially pre-filled application where NMFS has preliminarily determined the catch history that may qualify the applicant for an initial issuance of a C/P endorsement. NMFS will mail a prequalified application to all owners of current trawl limited entry permits, as listed in NMFS permit database at the time applications are mailed, which NMFS determines may qualify for a C/P endorsement. NMFS will mail the application by certified mail to the current address of record in the NMFS permit database. The application will contain the basis of NMFS' calculation. The application package will include, but is not limited to: a prequalified application (with catch history) and any other documents NMFS believes are necessary to aid the limited entry permit owner in completing the application.

(B) *Request for an application.* Any owner of a current limited entry trawl permit that does not receive a prequalified application that believes the permit qualifies for an initial issuance of a C/P endorsement must complete an application package and submit the completed application to NMFS by the application deadline. Application packages are available on the NMFS Web site (<http://www.nwr.noaa.gov/Groundfish-Halibut/Groundfish-Permits/index.cfm>) or by contacting SFD. An application must include valid NORPAC data, copies of NMFS observer data forms, or other credible information that substantiates the applicant's qualification for initial issuance of a C/P endorsement.

(iv) *Corrections to the application.* If the applicant does not accept NMFS' calculation in the prequalified application either in part or whole, in order for NMFS to reconsider NMFS' calculation, the applicant must identify in writing to NMFS which parts of the application the applicant contends to be inaccurate, and must provide specific credible information to substantiate any requested corrections. The completed application and specific credible information must be provided to NMFS in writing by the application deadline. Written communication must be either post-marked or hand-delivered within normal business hours no later than November 1, 2010. Requests for corrections may only be granted for errors in NMFS' use or application of data, including:

(A) Errors in NMFS' use or application of data from NORPAC;

(B) Errors in NMFS' calculations; and

(C) Errors in the identification of the permit owner, permit combinations, or vessel registration as listed in the NMFS permit database.

(v) *Submission of the application and application deadline* —(A) *Submission of the Application.* Submission of the complete, certified application includes, but is not limited to, the following:

(1) The applicant is required to sign and date the application and have the document notarized by a licensed Notary Public.

(2) The applicant must certify that they qualify to own a C/P-endorsed permit.

(3) The applicant must indicate they accept NMFS' calculation of initial issuance of C/P endorsement provided in the prequalified application, or provide credible information that demonstrates their qualification for a C/P endorsement.

(4) Business entities may be required to submit a corporate resolution or other credible documentation as proof that the representative of the entity is authorized to act on behalf of the entity; and

(5) NMFS may request additional information of the applicant as necessary to make an IAD on initial issuance of a C/P endorsement.

(B) *Application deadline.* A complete, certified application must be either postmarked or hand-delivered within normal business hours to NMFS, Northwest Region, Permits Office, Bldg. 1, 7600 Sand Point Way NE., Seattle, WA 98115, no later than November 1, 2010. NMFS will not accept or review any applications received or postmarked after the application deadline. There are no hardship provisions for this deadline.

(vi) *Permit transfer during application period.* NMFS will not review or approve any request for a change in limited entry trawl permit owner at any time after either November 1, 2010 or the date upon which the application is received by NMFS, whichever occurs first, until a final decision is made by the Regional Administrator on behalf of the Secretary of Commerce.

(vii) *Initial Administrative Determination (IAD).* NMFS will issue an IAD for all complete, certified applications received by the application deadline date. If NMFS approves an application, the applicant will receive a C/P endorsement on a limited entry trawl permit. If NMFS disapproves an application, the IAD will provide the reasons. If the applicant does not appeal the IAD within 60 calendar days of the date on the IAD, the IAD becomes the final decision of the Regional Administrator acting on behalf of the Secretary of Commerce.

(viii) *Appeal.* For a C/P-endorsed permit issued under this section, the appeals process and timelines are specified at §660.25(g), subpart C. For the initial issuance of a C/P-endorsed permit, the bases for appeal are described in paragraph (d)(7)(iv) of this section. Items not subject to appeal include, but are not limited to, the accuracy of data in the relevant NORPAC dataset on August 1, 2010.

(f) *Retention requirements.* [Reserved]

(g) *Observer requirements* —(1) *Observer coverage requirements* —(i) *Coverage.* Any vessel registered to a C/P-endorsed limited entry trawl permit that is 125 ft (38.1 m) LOA or longer must carry two NMFS-certified observers, and any vessel registered to a C/P-endorsed limited entry trawl permit that is shorter than 125 ft (38.1 m) LOA must carry one NMFS-certified observer, each day that the vessel is used to take, retain, receive, land, process, or transport groundfish.

(ii) *Observer workload.* The time required for the observer to complete sampling duties must not exceed 12 consecutive hours in each 24-hour period.

(iii) *Refusal to board.* Any boarding refusal on the part of the observer or vessel must be reported to the observer program and NOAA OLE by the observer provider. The observer must be available for an interview with the observer program or NOAA OLE if necessary.

(2) *Vessel responsibilities.* An operator and/or crew of a vessel required to carry an observer must provide:

(i) *Accommodations and food.* Provide accommodations and food that are equivalent to those provided for officers, engineers, foremen, deck-bosses or other management level personnel of the vessel.

(ii) *Safe conditions* —(A) Maintain safe conditions on the vessel for the protection of observers including adherence to all U.S. Coast Guard and other applicable rules, regulations, or statutes pertaining to safe operation of the vessel, including but not limited to, rules of the road, vessel stability, emergency drills, emergency equipment, vessel maintenance, vessel general condition, and port bar crossings. An observer may refuse boarding or reboarding a vessel and may request a vessel to return to port if operated in an unsafe manner or if unsafe conditions are identified.

(B) Have on board a valid Commercial Fishing Vessel Safety Decal that certifies compliance with regulations found in 33 CFR chapter I and 46 CFR chapter I, a certificate of compliance issued pursuant to 46 CFR 28.710 or a valid certificate of inspection pursuant to 46 U.S.C. 3311.

(iii) *Computer hardware and software.* Catcher/processor vessels must:

(A) Provide hardware and software pursuant to regulations at §§679.50(g)(1)(iii)(B)(1) through 679.50(g)(1)(iii)(B)(3).

(B) Provide the observer(s) access to a computer required under paragraph (g)(2)(iii) of this section that is connected to a communication device that provides a point-to-point connection to the NMFS host computer.

(C) Ensure that the catcher/processor has installed the most recent release of NMFS data entry software provided by the Regional Administrator, or other approved software prior to the vessel receiving, catching or processing IFQ species.

(D) Ensure that the communication equipment required in paragraph (g)(2)(iii) of this section and used by observers to enter and transmit data, is fully functional and operational. "Functional" means that all the tasks and components of the NMFS supplied, or other approved, software described at paragraph (g)(2)(iii) of this section and the data transmissions to NMFS can be executed effectively aboard the vessel by the communications equipment.

(iv) *Vessel position.* Allow observer(s) access to, the vessel's navigation equipment and personnel, on request, to determine the vessel's position.

(v) *Access.* Allow observer(s) free and unobstructed access to the vessel's bridge, trawl or working decks, holding bins, processing areas, freezer spaces, weight scales, cargo holds, and any other space that may be used to hold, process, weigh, or store fish or fish products at any time.

(vi) *Prior notification.* Notify observer(s) at least 15 minutes before fish are brought on board, or fish and fish products are transferred from the vessel, to allow sampling the catch or observing the transfer.

(vii) *Records.* Allow observer(s) to inspect and copy any State or Federal logbook maintained voluntarily or as required by regulation.

(viii) *Assistance.* Provide all other reasonable assistance to enable observer(s) to carry out their duties, including, but not limited to:

(A) Measuring decks, codends, and holding bins.

(B) Providing the observer(s) with a safe work area.

(C) Collecting samples of catch.

(D) Collecting and carrying baskets of fish.

(E) Allowing the observer(s) to collect biological data and samples.

(F) Providing adequate space for storage of biological samples.

(ix) *Sampling station and operational requirements for catcher/processor vessels.* This paragraph contains the requirements for observer sampling stations. To allow the observer to carry out the required duties, the vessel owner must provide an observer sampling station that meets the following requirements:

(A) *Accessibility.* The observer sampling station must be available to the observer at all times.

(B) *Location.* The observer sampling station must be located within 4 m of the location from which the observer samples unsorted catch.

(C) *Access.* Unobstructed passage must be provided between the observer sampling station and the location where the observer collects sample catch.

(D) *Minimum work space.* The observer must have a working area of at least 4.5 square meters, including the observer's sampling table, for sampling and storage of fish to be sampled. The observer must be able to stand upright and have a work area at least 0.9 m deep in the area in front of the table and scale.

(E) *Table*. The observer sampling station must include a table at least 0.6 m deep, 1.2 m wide and 0.9 m high and no more than 1.1 m high. The entire surface area of the table must be available for use by the observer. Any area for the observer sampling scale is in addition to the minimum space requirements for the table. The observer's sampling table must be secured to the floor or wall.

(F) *Diverter board*. The conveyor belt conveying unsorted catch must have a removable board ("diverter board") to allow all fish to be diverted from the belt directly into the observer's sampling baskets. The diverter board must be located downstream of the scale used to weigh total catch. At least 1 m of accessible belt space, located downstream of the scale used to weigh total catch, must be available for the observer's use when sampling.

(G) *Other requirements*. The sampling station must be in a well-drained area that includes floor grating (or other material that prevents slipping), lighting adequate for day or night sampling, and a hose that supplies fresh or sea water to the observer.

(H) *Observer sampling scale*. The observer sample station must include a NMFS-approved platform scale (pursuant to requirements at §679.28(d)(5)) with a capacity of at least 50 kg located within 1 m of the observer's sampling table. The scale must be mounted so that the weighing surface is no more than 0.7 m above the floor.

(x) *Transfer at sea*. Observers may be transferred at-sea between catcher-processors, between catcher-processors and motherships, or between a catcher-processor and a catcher vessel. Transfers at-sea between catcher vessels is prohibited. For transfers, both vessels must:

(A) Ensure that transfers of observers at sea via small boat under its own power are carried out during daylight hours, under safe conditions, and with the agreement of observers involved.

(B) Notify observers at least 3 hours before observers are transferred, such that the observers can finish any sampling work, collect personal belongings, equipment, and scientific samples.

(C) Provide a safe pilot ladder and conduct the transfer to ensure the safety of observers during transfers.

(D) Provide an experienced crew member to assist observers in the small boat in which any transfer is made.

(3) *Procurement of observer services* —(i) Owners of vessels required to carry observers under paragraph (g)(1) of this section must arrange for observer services from a permitted observer provider, except that:

(A) Vessels are required to procure observer services directly from NMFS when NMFS has determined and given notification that the vessel must carry NMFS staff or an individual authorized by NMFS in lieu of an observer provided by a permitted observer provider.

(B) Vessels are required to procure observer services directly from NMFS and a permitted observer provider when NMFS has determined and given notification that the vessel must carry NMFS staff and/or individuals authorized by NMFS, in addition to an observer provided by a permitted observer provider.

(ii) [Reserved]

(4) *Application to become an observer provider*. Any observer provider holding a valid permit issued by the North Pacific Groundfish Observer Program in 2010 can supply observer services and will be issued a West Coast Groundfish Observer Program permit.

(5) *Observer provider responsibilities* —(i) *Provide qualified candidates to serve as observers*. Observer providers must provide qualified candidates to serve as observers. To be qualified, a candidate must have:

(A) A Bachelor's degree or higher from an accredited college or university with a major in one of the natural sciences;

(B) Successfully completed a minimum of 30 semester hours or equivalent in applicable biological sciences with extensive use of dichotomous keys in at least one course;

(C) Successfully completed at least one undergraduate course each in math and statistics with a minimum of 5 semester hours total for both; and

(D) Computer skills that enable the candidate to work competently with standard database software and computer hardware.

(ii) *Hiring an observer candidate* —(A) The observer provider must provide the candidate a copy of NMFS-provided pamphlets, information and other literature describing observer duties (*i.e.* The At-Sea Hake Observer Program's Observer Manual) prior to hiring an observer candidate. Observer job information is available from the Observer Program Office's Web site at www.nwfsc.noaa.gov/research/divisions/fram/observer/atseahake.cfm.

(B) *Observer contracts.* The observer provider must have a written contract or a written contract addendum that is signed by the observer and observer provider prior to the observer's deployment with the following clauses:

(1) That all the observer's in-season messages and catch reports required to be sent while deployed are delivered to the Observer Program Office as specified by written Observer Program instructions;

(2) That the observer inform the observer provider prior to the time of embarkation if he or she is experiencing any new mental illness or physical ailments or injury since submission of the physician's statement as required as a qualified observer candidate that would prevent him or her from performing their assigned duties.

(iii) *Ensure that observers complete duties in a timely manner.* An observer provider must ensure that observers employed by that observer provider do the following in a complete and timely manner:

(A) Submit to NMFS all data, logbooks and reports as required by the Observer Manual;

(B) Report for his or her scheduled debriefing and complete all debriefing responsibilities;

(C) Return all sampling and safety gear to the Observer Program Office;

(D) Submit all biological samples from the observer's deployment by the completion of the electronic vessel and/or processor survey(s); and

(E) Immediately report to the Observer Program Office and the NOAA OLE any refusal to board an assigned vessel.

(iv) *Observers provided to vessel.* Observers provided to catcher processors:

(A) Must have a valid North Pacific groundfish observer certification endorsements and an At-Sea Hake Observer Program certification;

(B) Must not have informed the provider prior to the time of embarkation that he or she is experiencing a mental illness or a physical ailment or injury developed since submission of the physician's statement that would prevent him or her from performing his or her assigned duties; and

(C) Must have successfully completed all NMFS required training and briefing before deployment.

(v) *Respond to industry requests for observers.* An observer provider must provide an observer for deployment as requested pursuant to the contractual relationship with the vessel to fulfill vessel requirements for observer coverage specified under paragraph (g)(1) of this section. An alternate observer must be supplied in each case where injury or illness prevents the observer from performing his or her duties or where the observer resigns prior to completion of his or her duties. If the observer provider is unable to respond to an industry request for observer coverage from a vessel for whom the provider is in a contractual relationship due to lack of available observers by the estimated

embarking time of the vessel, the provider must report it to the observer program at least 4 hours prior to the vessel's estimated embarking time.

(vi) *Provide observer salaries and benefits.* An observer provider must provide to its observer employees salaries and any other benefits and personnel services in accordance with the terms of each observer's contract.

(vii) *Provide observer deployment logistics.* An observer provider must provide to each of its observers under contract:

(A) All necessary transportation, including arrangements and logistics, of observers to the initial location of deployment, to all subsequent vessel assignments during that deployment, and to the debriefing location when a deployment ends for any reason; and

(B) Lodging, per diem, and any other services necessary to observers assigned to fishing vessels.

(1) An observer under contract may be housed on a vessel to which he or she is assigned:

(i) Prior to their vessel's initial departure from port;

(ii) For a period not to exceed 24 hours following the completion of an offload when the observer has duties and is scheduled to disembark; or

(iii) For a period not to exceed twenty-four hours following the vessel's arrival in port when the observer is scheduled to disembark.

(2) [Reserved]

(C) During all periods an observer is housed on a vessel, the observer provider must ensure that the vessel operator or at least one crew member is aboard.

(D) An observer under contract who is between vessel assignments must be provided with shoreside accommodations in accordance with the contract between the observer and the observer provider. If the provider is providing accommodations, it must be at a licensed hotel, motel, bed and breakfast, or other shoreside accommodations for the duration of each period between vessel or shoreside assignments. Such accommodations must include an assigned bed for each observer and no other person may be assigned that bed for the duration of that observer's stay. Additionally, no more than four beds may be in any room housing observers at accommodations meeting the requirements of this section.

(viii) *Observer deployment limitations.* An observer provider must not exceed observer deployment limitations specified in this paragraph unless alternative arrangements are approved by the Observer Program Office. An observer provider must not:

(A) Deploy an observer on the same vessel for more than 90 days in a 12-month period;

(B) Deploy an observer for more than 90 days in a single deployment;

(C) Include more than four vessel assignments in a single deployment, or

(D) Disembark an observer from a vessel before that observer has completed his or her sampling or data transmission duties.

(ix) *Verify vessel's safety decal.* An observer provider must verify that a vessel has a valid USCG safety decal as required under paragraph (g)(2)(ii)(B) of this section before an observer may get underway aboard the vessel. One of the following acceptable means of verification must be used to verify the decal validity:

(A) The observer provider or employee of the observer provider, including the observer, visually inspects the decal aboard the vessel and confirms that the decal is valid according to the decal date of issuance; or

(B) The observer provider receives a hard copy of the USCG documentation of the decal issuance from the vessel owner or operator.

(x) *Maintain communications with observers.* An observer provider must have an employee responsible for observer activities on call 24 hours a day to handle emergencies involving observers or problems concerning observer logistics, whenever observers are at sea, in transit, or in port awaiting vessel reassignment.

(xi) *Maintain communications with the Observer Program Office.* An observer provider must provide all of the following information by electronic transmission (e-mail), fax, or other method specified by NMFS.

(A) *Observer training and briefing.* Observer training and briefing registration materials must be submitted to the Observer Program Office at least 5 business days prior to the beginning of a scheduled observer at-sea hake training or briefing session. Registration materials consist of the following: The date of requested training or briefing with a list of observers including each observer's full name (i.e., first, middle and last names).

(B) *Projected observer assignments.* Prior to the observer's completion of the training or briefing session, the observer provider must submit to the Observer Program Office a statement of projected observer assignments that include the observer's name; vessel, gear type, and vessel/processor code; port of embarkation; and area of fishing.

(C) *Observer debriefing registration.* The observer provider must contact the At-Sea Hake Observer Program within 5 business days after the completion of an observer's deployment to schedule a date, time and location for debriefing. Observer debriefing registration information must be provided at the time of debriefing scheduling and must include the observer's name, cruise number, vessel name(s) and code(s), and requested debriefing date.

(D) *Observer provider contracts.* If requested, observer providers must submit to the Observer Program Office a completed and unaltered copy of each type of signed and valid contract (including all attachments, appendices, addendums, and exhibits incorporated into the contract) between the observer provider and those entities requiring observer services under paragraph (g)(1) of this section. Observer providers must also submit to the Observer Program Office upon request, a completed and unaltered copy of the current or most recent signed and valid contract (including all attachments, appendices, addendums, and exhibits incorporated into the contract and any agreements or policies with regard to observer compensation or salary levels) between the observer provider and the particular entity identified by the Observer Program or with specific observers. The copies must be submitted to the Observer Program Office via fax or mail within 5 business days of the request. Signed and valid contracts include the contracts an observer provider has with:

(1) Vessels required to have observer coverage as specified at paragraph (g)(1) of this section; and

(2) Observers.

(E) *Change in observer provider management and contact information.* Observer providers must submit notification of any other change to provider contact information, including but not limited to, changes in contact name, phone number, e-mail address, and address.

(F) *Other reports.* Reports of the following must be submitted in writing to the At-Sea Hake Observer Program Office by the observer provider via fax or e-mail address designated by the Observer Program Office within 24 hours after the observer provider becomes aware of the information:

(1) Any information regarding possible observer harassment;

(2) Any information regarding any action prohibited under §§660.112 or 600.725(o), (t) and (u);

(3) Any concerns about vessel safety or marine casualty under 46 CFR 4.05–1(a)(1) through (7);

(4) Any observer illness or injury that prevents the observer from completing any of his or her duties described in the observer manual; and

(5) Any information, allegations or reports regarding observer conflict of interest or breach of the standards of behavior described in observer provider policy.

(xii) *Replace lost or damaged gear.* An observer provider must replace all lost or damaged gear and equipment issued by NMFS to an observer under contract to that provider. All replacements must be in accordance with requirements and procedures identified in writing by the Observer Program Office.

(xiii) *Maintain confidentiality of information.* An observer provider must ensure that all records on individual observer performance received from NMFS under the routine use provision of the Privacy Act or other applicable law remain confidential and are not further released to anyone outside the employ of the observer provider company to whom the observer was contracted except with written permission of the observer.

(xiv) *Limitations on conflict of interest.* An observer provider must meet limitations on conflict of interest. Observer providers:

(A) Must not have a direct financial interest, other than the provision of observer services, in a fishery managed under an FMP for the waters off the coasts of Alaska, Washington, Oregon, and California, including, but not limited to:

(1) Any ownership, mortgage holder, or other secured interest in a vessel or shoreside processor facility involved in the catching, taking, harvesting or processing of fish,

(2) Any business involved with selling supplies or services to any vessel or shoreside processors participating in a fishery managed pursuant to an FMP in the waters off the coasts of Alaska, California, Oregon, and Washington, or

(3) Any business involved with purchasing raw or processed products from any vessel or shoreside processor participating in a fishery managed pursuant to an FMP in the waters off the coasts of Alaska, California, Oregon, and Washington.

(B) Must assign observers without regard to any preference by representatives of vessels other than when an observer will be deployed.

(C) Must not solicit or accept, directly or indirectly, any gratuity, gift, favor, entertainment, loan, or anything of monetary value except for compensation for providing observer services from anyone who conducts fishing or fish processing activities that are regulated by NMFS in the Pacific coast or North Pacific regions, or who has interests that may be substantially affected by the performance or nonperformance of the official duties of observer providers.

(xv) *Observer conduct and behavior.* An observer provider must develop and maintain a policy addressing observer conduct and behavior for their employees that serve as observers. The policy shall address the following behavior and conduct:

(A) Observer use of alcohol;

(B) Observer use, possession, or distribution of illegal drugs; and

(C) Sexual contact with personnel of the vessel or processing facility to which the observer is assigned, or with any vessel or processing plant personnel who may be substantially affected by the performance or non-performance of the observer's official duties.

(D) An observer provider shall provide a copy of its conduct and behavior policy by February 1 of each year, to observers, observer candidates, and the Observer Program Office.

(xvi) *Refusal to deploy an observer.* Observer providers may refuse to deploy an observer on a requesting vessel if the observer provider has determined that the requesting vessel is inadequate or unsafe pursuant to those regulations described at §600.746 or U.S. Coast Guard and other applicable rules, regulations, statutes, or guidelines pertaining to safe operation of the vessel.

(6) *Observer certification and responsibilities* —(i) *Applicability.* Observer certification authorizes an individual to fulfill duties as specified in writing by the NMFS Observer Program Office while under the employ of a NMFS-permitted observer provider and according to certification endorsements as designated under paragraph (g)(6)(iii) of this section.

(ii) *Observer certification official.* The Regional Administrator will designate a NMFS observer certification official who will make decisions for the Observer Program Office on whether to issue or deny observer certification.

(iii) *Certification requirements* —(A) *Initial certification.* NMFS may certify individuals who, in addition to any other relevant considerations:

(1) Are employed by an observer provider company holding a valid North Pacific Groundfish Observer Program permit at the time of the issuance of the certification to the observer;

(2) Have provided, through their observer provider:

(i) Information set forth at §679.50 regarding an observer candidate's health and physical fitness for the job;

(ii) Meet all observer education and health standards as specified in §679.50; and

(iii) Have successfully completed NMFS-approved training as prescribed by the At-Sea Hake Observer Program and/or the West Coast Groundfish Observer Program. Successful completion of training by an observer applicant consists of meeting all attendance and conduct standards issued in writing at the start of training; meeting all performance standards issued in writing at the start of training for assignments, tests, and other evaluation tools; and completing all other training requirements established by the Observer Program.

(iv) Have not been decertified under paragraph (g)(6)(ix) of this section, or pursuant to §679.50.

(B) [Reserved]

(iv) *Denial of a certification.* The NMFS observer certification official will issue a written determination denying observer certification if the candidate fails to successfully complete training, or does not meet the qualifications for certification for any other relevant reason.

(v) *Issuance of an observer certification.* An observer certification may be issued upon determination by the observer certification official that the candidate has successfully met all requirements for certification as specified in paragraph (g)(6)(iii) of this section. The following endorsements must be obtained, in addition to observer certification, in order for an observer to deploy.

(A) *North Pacific Groundfish Observer Program certification training endorsement.* A certification training endorsement signifies the successful completion of the training course required to obtain observer certification. This endorsement expires when the observer has not been deployed and performed sampling duties as required by the Observer Program Office for a period of time, specified by the Observer Program, after his or her most recent debriefing. The observer can renew the endorsement by successfully completing certification training once more.

(B) *North Pacific Groundfish Observer Program annual general endorsements.* Each observer must obtain an annual general endorsement to their certification prior to his or her first deployment within any calendar year subsequent to a year in which a certification training endorsement is obtained. To obtain an annual general endorsement, an observer must successfully complete the annual briefing, as specified by the Observer Program. All briefing attendance, performance, and conduct standards required by the Observer Program must be met.

(C) *North Pacific Groundfish Observer Program deployment endorsements.* Each observer who has completed an initial deployment after certification or annual briefing must receive a deployment endorsement to their certification prior to any subsequent deployments for the remainder of that year. An observer may obtain a deployment endorsement by successfully completing all pre-cruise briefing requirements. The type of briefing the observer must attend and successfully complete will be specified in writing by the Observer Program during the observer's most recent debriefing.

(D) *At-Sea Hake Observer Program endorsements.* A Pacific hake fishery endorsement is required for purposes of performing observer duties aboard vessels that process groundfish at sea in the Pacific whiting fishery. A Pacific whiting fishery endorsement to an observer's certification may be obtained by meeting the following requirements:

(1) Be a prior NMFS-certified observer in the groundfish fisheries off Alaska, unless an individual with this qualification is not available;

(2) Receive an evaluation by NMFS for his or her most recent deployment that indicated that the observer's performance met Observer Program expectations for that deployment;

(3) Successfully complete a NMFS-approved observer training and/or Pacific whiting briefing as prescribed by the Observer Program; and

(4) Comply with all of the other requirements of this section.

(vi) *Maintaining the validity of an observer certification.* After initial issuance, an observer must keep their certification valid by meeting all of the following requirements specified below:

(A) Successfully perform their assigned duties as described in the Observer Manual or other written instructions from the Observer Program Office including calling into the NMFS deployment hotline upon departing and arriving into port each trip to leave the following information: Observer name, phone number, vessel name departing on, date and time of departure and date and time of expected return.

(B) Accurately record their sampling data, write complete reports, and report accurately any observations of suspected violations of regulations relevant to conservation of marine resources or their environment.

(C) Not disclose collected data and observations made on board the vessel or in the processing facility to any person except the owner or operator of the observed vessel or an authorized officer or NMFS.

(D) Successfully complete NMFS-approved annual briefings as prescribed by the At-Sea Hake Observer Program.

(E) Successful completion of briefing by an observer applicant consists of meeting all attendance and conduct standards issued in writing at the start of training; meeting all performance standards issued in writing at the start of training for assignments, tests, and other evaluation tools; and completing all other briefing requirements established by the Observer Program.

(F) Successfully meet all expectations in all debriefings including reporting for assigned debriefings.

(G) Submit all data and information required by the observer program within the program's stated guidelines.

(vii) *Limitations on conflict of interest.* Observers:

(A) Must not have a direct financial interest, other than the provision of observer services, in a fishery managed pursuant to an FMP for the waters off the coast of Alaska, or in a Pacific Coast fishery managed by either the state or Federal Governments in waters off Washington, Oregon, or California, including but not limited to:

(1) Any ownership, mortgage holder, or other secured interest in a vessel, shore-based or floating stationary processor facility involved in the catching, taking, harvesting or processing of fish,

(2) Any business involved with selling supplies or services to any vessel, shore-based or floating stationary processing facility; or

(3) Any business involved with purchasing raw or processed products from any vessel, shore-based or floating stationary processing facilities.

(B) Must not solicit or accept, directly or indirectly, any gratuity, gift, favor, entertainment, loan, or anything of monetary value from anyone who either conducts activities that are regulated by NMFS in the Pacific coast or North Pacific regions or has interests that may be substantially affected by the performance or nonperformance of the observers' official duties.

(C) May not serve as observers on any vessel or at any shore-based owned or operated by a person who employed the observer in the last two years.

(D) May not solicit or accept employment as a crew member or an employee of a vessel or shore-based processor while employed by an observer provider.

(E) Provisions for remuneration of observers under this section do not constitute a conflict of interest.

(viii) *Standards of behavior.* Observers must:

(A) Perform their assigned duties as described in the Observer Manual or other written instructions from the Observer Program Office.

(B) Immediately report to the observer program office and the NOAA Office of Law Enforcement any time they refuse to board a vessel.

(C) Accurately record their sampling data, write complete reports, and report accurately any observations of suspected violations of regulations relevant to conservation of marine resources or their environment.

(D) Not disclose collected data and observations made on board the vessel to any person except the owner or operator of the observed vessel, an authorized officer, or NMFS.

(ix) *Suspension and decertification* —(A) *Suspension and decertification review official.* The Regional Administrator (or a designee) will designate an observer suspension and decertification review official(s), who will have the authority to review observer certifications and issue initial administrative determinations of observer certification suspension and/or decertification.

(B) *Causes for suspension or decertification.* The suspension/decertification official may initiate suspension or decertification proceedings against an observer:

(1) When it is alleged that the observer has committed any acts or omissions of any of the following: Failed to satisfactorily perform the duties of observers as specified in writing by the NMFS Observer Program; or failed to abide by the standards of conduct for observers (including conflicts of interest);

(2) Upon conviction of a crime or upon entry of a civil judgment for: Commission of fraud or other violation in connection with obtaining or attempting to obtain certification, or in performing the duties as specified in writing by the NMFS Observer Program; commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; or commission of any other offense indicating a lack of integrity or honesty that seriously and directly affects the fitness of observers.

(C) *Issuance of initial administrative determination.* Upon determination that suspension or decertification is warranted, the suspension/decertification official will issue a written IAD to the observer via certified mail at the observer's most current address provided to NMFS. The IAD will identify whether a certification is suspended or

revoked and will identify the specific reasons for the action taken. Decertification is effective 30 calendar days after the date on the IAD, unless there is an appeal.

(D) *Appeals*. A certified observer who receives an IAD that suspends or revokes the observer certification may appeal the determination within 30 calendar days after the date on the IAD to the Office of Administrative Appeals pursuant to §679.43.

(h) *C/P coop failure* —(1) The Regional Administrator will determine that a permitted C/P coop is considered to have failed if any one of the following occurs:

(i) Any current C/P-endorsed limited entry trawl permit is not identified as a C/P coop member in the coop agreement submitted to NMFS during the C/P coop permit application process;

(ii) Any current C/P-endorsed permit withdraws from the C/P coop agreement;

(iii) The coop members voluntarily dissolve the coop; or

(iv) The coop agreement is no longer valid.

(2) If the permitted C/P coop dissolves, the designated coop manager must notify NMFS SFD in writing of the dissolution of the coop.

(3) The Regional Administrator may make an independent determination of a coop failure based on factual information collected by or provided to NMFS.

(4) In the event of a NMFS-determined coop failure, or reported failure, the designated coop manager will be notified in writing about NMFS' determination.

(i) Upon notification of a coop failure, the C/P coop permit will no longer be in effect.

(ii) The C/P sector will convert to an IFQ-based fishery beginning the following calendar year after a coop failure, or as soon as practicable thereafter. NMFS will develop additional regulations, as necessary to implement an IFQ fishery for the C/P sector. Each C/P-endorsed permit would receive an equal distribution of QS from the total IFQ for the catcher/processor sector allocation.

[75 FR 60897, Oct. 1, 2010, as amended at 75 FR 78419, Dec. 15, 2010; 76 FR 27547, May 11, 2011]

Table 1 (North) to Part 660, Subpart D—Limited Entry Trawl Rockfish Conservation Areas and Landing Allowances for non-IFQ Species and Pacific Whiting North of 40°10' N. Lat.

Table 1 (North) to Part 660, Subpart D -- Limited Entry Trawl Rockfish Conservation Areas and Landing Allowances for non-IFQ Species and Pacific Whiting North of 40°10' N. Lat.

This table describes Rockfish Conservation Areas for vessels using groundfish trawl gear. This table describes incidental landing allowances for vessels registered to a Federal limited entry trawl permit and using groundfish trawl or groundfish non-trawl gears to harvest individual fishing quota (IFQ) species.

Other Limits and Requirements Apply -- Read § 660.10 - § 660.399 before using this table

07012011

	JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
Rockfish Conservation Area (RCA)^{1/}						
1 North of 46°10' N. lat.	shore - modified ^{2/} 200 fm line ^{1/}	shore - 200 fm line ^{1/}	shore - 150 fm line ^{1/}		shore - 200 fm line ^{1/}	shore - modified ^{2/} 200 fm line ^{1/}
2 48°10' N. lat. - 46°46' N. lat.	75 fm line ^{1/} - modified ^{2/} 200 fm line ^{1/}	75 fm line ^{1/} - 200 fm line ^{1/}	75 fm line ^{1/} - 150 fm line ^{1/}	100 fm line ^{1/} - 150 fm line ^{1/}	75 fm line ^{1/} - 150 fm line ^{1/}	
3 45°46' N. lat. - 40°10' N. lat.			75 fm line ^{1/} - 200 fm line ^{1/}	100 fm line ^{1/} - 200 fm line ^{1/}	75 fm line ^{1/} - 200 fm line ^{1/}	75 fm line ^{1/} - modified ^{2/} 200
<p>Selective flatfish trawl gear is required shoreward of the RCA; all bottom trawl gear (large footrope, selective flatfish trawl, and small footrope trawl gear) is permitted seaward of the RCA. Large footrope and small footrope trawl gears (except for selective flatfish trawl gear) are prohibited shoreward of the RCA. Midwater trawl gear is permitted only for vessels participating in the primary whiting season. Vessels fishing groundfish trawl quota pounds with groundfish non-trawl gears, under gear switching provisions at § 660.140, are subject to the limited entry groundfish trawl fishery landing allowances in this table, regardless of the type of fishing gear used. Vessels fishing groundfish trawl quota pounds with groundfish non-trawl gears, under gear switching provisions at § 660.140, are subject to the limited entry fixed gear non-trawl RCA, as described in Tables 1 (North) and 1 (South) to Part 660, Subpart E.</p> <p>See § 660.60, § 660.130, and § 660.140 for Additional Gear, Trip Limit, and Conservation Area Requirements and Restrictions. See §§ 660.70-660.74 and §§ 660.76-660.79 for Conservation Area Descriptions and Coordinates (including RCAs, YRCA, CCAs, Farallon Islands, Cordell Banks, and EFHCAs).</p> <p>State trip limits and seasons may be more restrictive than federal trip limits, particularly in waters off Oregon and California.</p>						
4 Minor nearshore rockfish & Black rockfish	300 lb/ month					
5 Whiting	Before the primary whiting season: CLOSED. -- During the primary season: mid-water trawl permitted in the RCA. See §660.131 for season and trip limit details. -- After the primary whiting season: CLOSED.					
6 midwater trawl	Before the primary whiting season: 20,000 lb/trip. -- During the primary season: 10,000 lb/trip. -- After the primary whiting season: 10,000 lb/trip.					
7 large & small footrope gear	Before the primary whiting season: 20,000 lb/trip. -- During the primary season: 10,000 lb/trip. -- After the primary whiting season: 10,000 lb/trip.					
8 Cabezon	Unlimited					
9 North of 46°16' N. lat.	Unlimited					
10 46°16' N. lat. - 40°10' N. lat.	50 lb/ month					
11 Shortbelly	Unlimited					
12 Spiny dogfish	60,000 lb/ month					
13 Longnose skate	Unlimited					
14 Other Fish ^{3/}	Unlimited					

TABLE 1 (North)

1/ The Rockfish Conservation Area is an area closed to fishing by particular gear types, bounded by lines specifically defined by latitude and longitude coordinates set out at §§ 660.71-660.74. This RCA is not defined by depth contours, and the boundary lines that define the RCA may close areas that are deeper or shallower than the depth contour. Vessels that are subject to the RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose other than transiting.

2/ The "modified" fathom lines are modified to exclude certain petrale sole areas from the RCA.

3/ "Other fish" are defined at § 660.11 and include sharks (except spiny dogfish), skates (except longnose skate), ratfish, morids, grenadiers, and kelp greening.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

[76 FR 38317, June 30, 2011]

Table 1 (South) to Part 660, Subpart D—Limited Entry Trawl Rockfish Conservation Areas and Landing Allowances for non-IFQ Species and Pacific Whiting South of 40°10' N. Lat.

Table 1 (South) to Part 660, Subpart D -- Limited Entry Trawl Rockfish Conservation Areas and Landing Allowances for non-IFQ Species and Pacific Whiting South of 40°10' N. Lat.

This table describes Rockfish Conservation Areas for vessels using groundfish trawl gear. This table describes incidental landing allowances for vessels registered to a Federal limited entry trawl permit and using groundfish trawl or groundfish non-trawl gears to harvest individual fishing quotas (IFQ) species.

Other Limits and Requirements Apply -- Read § 660.10 - § 660.399 before using this table

04/20/11

	JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
Rockfish Conservation Area (RCA)^{1/}	100 fm line ^{2/} - 150 fm line ^{2/2/}					
South of 40°10' N. lat.						
Small footrope trawl gear is required shoreward of the RCA; all trawl gear (large footrope, selective flatfish trawl, midwater trawl, and small footrope trawl gear) is permitted seaward of the RCA. Large footrope trawl gear and midwater trawl gear are prohibited shoreward of the RCA. Vessels fishing groundfish trawl quota pounds with groundfish non-trawl gears, under gear switching provisions at § 660.146, are subject to the limited entry groundfish trawl fishery landing allowances in this table, regardless of the type of fishing gear used. Vessels fishing groundfish trawl quota pounds with groundfish non-trawl gears, under gear switching provisions at § 660.146, are subject to the limited entry fixed gear non-trawl RCA, as described in Tables 1 (North) and 1 (South) to Part 660, Subpart E.						
See § 660.60, § 660.130, and § 660.140 for Additional Gear, Trip Limit, and Conservation Area Requirements and Restrictions. See §§ 660.70-660.74 and §§ 660.76-660.79 for Conservation Area Descriptions and Coordinates (including RCAs, YRCA, CCAs, Farallon Islands, Cordell Banks, and EFHCAs).						
State trip limits and seasons may be more restrictive than federal trip limits, particularly in waters off Oregon and California.						
2 Longspine thornyhead						
3 South of 34°27' N. lat.	24,000 lb/ 2 months					
4 Minor nearshore rockfish & Black rockfish	300 lb/ month					
5 Whiting	Before the primary whiting season: CLOSED. -- During the primary season: mid-water trawl permitted in the RCA. See §660.131 for season and trip limit details. -- After the primary whiting season: CLOSED.					
6 midwater trawl						
7 large & small footrope gear	Before the primary whiting season: 20,000 lb/trip. -- During the primary season: 10,000 lb/trip. -- After the primary whiting season: 10,000 lb/trip.					
8 Cabezon	50 lb/ month					
9 Shortbelly	Unlimited					
10 Spiny dogfish	80,000 lb/ month					
11 Longnose skate	Unlimited					
12 California scorpionfish	Unlimited					
13 Other Fish^{3/}	Unlimited					

TABLE 1 (South)

1/ The Rockfish Conservation Area is an area closed to fishing by particular gear types, bounded by lines specifically defined by latitude and longitude coordinates set out at §§ 660.71-660.74. This RCA is not defined by depth contours, and the boundary lines that define the RCA may close areas that are deeper or shallower than the depth contour. Vessels that are subject to the RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose other than transiting.

2/ South of 34°27' N. lat., the RCA is 100 fm line - 150 fm line along the mainland coast; shoreline - 150 fm line around islands.

3/ "Other fish" are defined at § 660.11 and include sharks (except spiny dogfish), skates (excluding longnose skate), ratfish, morids, grenadiers, and kelp greenling.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

[76 FR 27547, May 11, 2011]

Figure 1 to Part 660, Subpart D—Diagram of Selective Flatfish Trawl

