

40 percent, the OYs could be set equal to the ABCs. For the area north of 46°16'N. lat., the OY of 490 mt is set equal to the ABC. The following tribal harvest guidelines are being set: 30,000 lb (13.6 mt) north of Cape Alava, WA (48°09.50'N. lat.) and 10,000 lb (4.5 mt) between Destruction Island, WA (47°40'N. lat.) and Leadbetter Point, WA (46°38.17'N. lat.) For the area south of 46°16'N. lat., the OY of 1,000 mt is a constant harvest level. The black rockfish OY in the area south of 46°16'N. lat., is subdivided with separate HGs being set for the area north of 42° N. lat. (580 mt/58 percent) and for the area south of 42° N. lat. (420 mt/42 percent).

<sup>dd</sup>Minor rockfish north includes the “remaining rockfish” and “other rockfish” categories in the Vancouver, Columbia, and Eureka areas combined. These species include “remaining rockfish”, which generally includes species that have been assessed by less rigorous methods than stock assessments, and “other rockfish”, which includes species that do not have quantifiable stock assessments. Blue rockfish has been removed from the “other rockfish” and added to the remaining rockfish. The ABC of 3,678 mt is the sum of the individual “remaining rockfish” ABCs plus the “other rockfish” ABCs. The remaining rockfish ABCs continue to be reduced by 25 percent ( $F = 0.75M$ ) as a precautionary adjustment. To obtain the total catch OY of 2,283 mt, the remaining rockfish ABCs were further reduced by 25 percent and other rockfish ABCs were reduced by 50 percent. This was a precautionary measure to address limited stock assessment information.

<sup>ee</sup>Minor rockfish south includes the “remaining rockfish” and “other rockfish” categories in the Monterey and Conception areas combined. These species include “remaining rockfish” which generally includes species that have been assessed by less rigorous methods than stock assessment, and “other rockfish” which includes species that do not have quantifiable stock assessments. Blue rockfish has been removed from the “other rockfish” and added to the remaining rockfish. The ABC of 3,382 mt is the sum of the individual “remaining rockfish” ABCs plus the “other rockfish” ABCs. The remaining rockfish ABCs continue to be reduced by 25 percent ( $F = 0.75M$ ) as a precautionary adjustment. The remaining rockfish ABCs are further reduced by 25 percent, with the exception of blackgill rockfish (see footnote gg). The other rockfish ABCs were reduced by 50 percent. This was a precautionary measure due to limited stock assessment information. The resulting minor rockfish OY is 1,990 mt.

<sup>ff</sup>Bank rockfish—The ABC is 350 mt which is based on a 2000 stock assessment for the Monterey and Conception areas. This stock contributes 263 mt towards the minor rockfish OY in the south.

<sup>gg</sup>Blackgill rockfish in the Monterey and Conception areas was assessed in 2005 and is estimated to be at 49.9 percent of its unfished biomass in 2008. The ABC of 292 mt for the Monterey and Conception areas is based on the 2005 stock assessment with an FMSY proxy of F50% and is the two year average ABC for the 2007 and 2008 periods. This stock contributes 292 mt towards minor rockfish south.

<sup>hh</sup>“Other rockfish” includes rockfish species listed in 50 CFR 660.302. A new stock assessment was conducted for blue rockfish in 2007. As a result of the new stock assessment, the blue rockfish contribution to the other rockfish group, of 30 mt in the north and 232 mt in the south, are removed. A new contribution of 28 mt contribution in the north and 202 mt contribution in the south is added to the remaining rockfish. The ABC for the remaining species is based on historical data from a 1996 review landings and includes an estimate of recreational landings. Most of these species have never been assessed quantitatively.

<sup>ii</sup>Longnose skate was fully assessed in 2006 and an assessment update was completed in 2007. The ABC of 3,428 is based on the 2007 with an FMSY proxy of F45%. Longnose skate was previously managed as part of the Other Fish complex. The 2009 OY of 1,349 mt is a precautionary OY based on historical total catch increased by 50 percent.

<sup>jj</sup>“Other fish” includes sharks, skates, rays, ratfish, morids, grenadiers, kelp greenling, and other groundfish species noted above in footnote d/. The longnose skate contribution is being removed from this complex.

<sup>kk</sup>Sablefish allocation north of 36° N. lat.—The limited entry allocation is further divided with 58 percent allocated to the trawl fishery and 42 percent allocated to the fixed-gear fishery.

<sup>ll</sup>Specific open access/limited entry allocations specified in the FMP have been suspended during the rebuilding period as necessary to meet the overall rebuilding target while allowing harvest of healthy stocks.

## Subpart D—West Coast Groundfish—Limited Entry Trawl Fisheries

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

EFFECTIVE DATE NOTE: At 75 FR 60897, Oct. 1, 2010, subpart D was added, effective Nov. 1, 2010.

### § 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.

**§ 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.

*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.

*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.

*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.

*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 a trip in which a vessel registered to a trawl-endorsed limited entry permit uses legal midwater groundfish trawl gear with a valid declaration for limited entry midwater trawl, Pacific whiting IFQ, as specified at § 660.13(d)(5), subpart C, during the dates what the midwater Pacific whiting season is open.

*Pacific whiting shoreside first receivers* means persons who first receive, purchase, or take custody, control, or possession of Pacific whiting onshore directly from a Pacific whiting shoreside vessel.

*Pacific whiting shoreside or shorebased fishery* means Pacific whiting shoreside vessels and Pacific whiting shoreside first receivers.

*Pacific whiting shoreside vessel* means any vessel that fishes using midwater trawl gear to take, retain, possess and land 4,000-lb (1,814 kg) or more of Pacific whiting per fishing trip from the Pacific whiting shorebased sector allocation for delivery to a Pacific whiting

shoreside first receiver during the 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.

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

**§ 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

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§ 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*. [Reserved]

(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.

(4) *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

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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*. [Reserved]

(c) *MS and C/P Coop Programs*. [Reserved]

(d) *MS Coop Program (coop and non-coop fisheries)*. [Reserved]

(e) *C/P Coop Program*. [Reserved]

(f) *Pacific Whiting Fisheries*—(1) *Pacific whiting vessel license requirements prior to trawl rationalization*. Fish in any of the sectors of the whiting fishery described at § 660.131(a), subpart D, after May 11, 2009 using a vessel that is not registered for use with a sector-appropriate Pacific whiting vessel license under § 660.26, subpart C. After May 11, 2009, vessels are prohibited from fishing, landing, or processing primary season Pacific whiting with a catcher/processor, mothership or mothership catcher vessel that has no history of participation within that specific sector of the whiting fishery during the period from January 1, 1997, through January 1, 2007, or with a shoreside catcher vessels that has no history of participation within the shorebased sector of the whiting fishery during the period from January 1, 1994 through January 1, 2007, as specified in § 660.26(c), subpart C. For the purpose of this paragraph, “historic participation” for a specific sector is the same as the qualifying criteria listed in § 660.26(c), subpart C.

(i) If a Pacific whiting vessel license is registered for use with a vessel, fail to carry that license onboard the vessel registered for use with the license at any time the vessel is licensed. A photocopy of the license may not substitute for the license itself.

(ii) [Reserved]

(2) Process whiting in the fishery management area during times or in areas where at-sea processing is prohibited for the sector in which the vessel participates, 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(j), subpart D; or

(iii) The vessel is completing processing of whiting taken on board during that vessel’s primary season.

(3) During times or in areas where at-sea processing is prohibited, take and retain or receive whiting, except as cargo or fish waste, on a vessel in the fishery management area that already has processed 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.

(4) Fish as a mothership if that vessel operates in the same calendar year as a catcher/processor in the whiting fishery, according to § 660.131, subpart D.

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

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

(7) Sort or discard any portion of the catch taken by a catcher vessel in the mothership sector prior to the catch being received on a mothership, and prior to the observer being provided access to the unsorted catch, with the exception of minor amounts of catch that are lost when the codend is separated from the net and prepared for transfer.

(8) *Pacific whiting shoreside first receivers*. (i) [Reserved]

(ii) Fail to sort fish received from a Pacific whiting shoreside vessel prior to first weighing after offloading as specified at § 660.131(k)(2), subpart D for the Pacific whiting fishery.

(iii) Process, sell, or discard any groundfish received from a Pacific whiting shoreside vessel that has not been weighed on a scale that is in compliance with requirements at § 660.131(k)(1)(i), subpart D, and accounted for on an electronic fish ticket with the identification number for the Pacific

whiting shoreside vessel that delivered the fish.

(iv) Fail to weigh fish landed from a Pacific whiting shoreside vessel prior to transporting any fish from that landing away from the point of landing.

**§ 660.113 Trawl fishery—record-keeping 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) *Shorebased IFQ Program*. [Reserved]

(b) *MS Coop Program (coop and non-coop fisheries)*. [Reserved]

(c) *C/P Coop Program*. [Reserved]

(d) *Participants in the Pacific whiting shoreside fishery prior to trawl rationalization*. Reporting requirements defined in the following section are in addition to reporting requirements under applicable state law and requirements described at § 660.13, subpart C.

(1) *Reporting requirements for any Pacific whiting shoreside first receiver*.

(i) *Responsibility for compliance*. The Pacific whiting shoreside first receiver is responsible for compliance with all reporting requirements described in this paragraph.

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

(iii) *Required information*. All Pacific whiting shoreside first receivers must provide the following types of information: Date of landing, Pacific whiting shoreside vessel that made the delivery, gear type used, first receiver, round weights of species landed listed by species or species group including species with no value, 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.

(iv) *Electronic fish ticket submissions*. The Pacific whiting shoreside first receiver must:

(A) Sort all fish, prior to first weighing, by species or species groups as specified at § 660.131(l)(2)(ii), subpart D.

(B) Include as part of each electronic fish ticket submission, the actual scale weight for each groundfish species as specified by requirements at § 660.131(l)(i), subpart D, and the Pacific whiting shoreside vessel identification number.

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

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

(E) Submit a completed electronic fish ticket for every landing that includes 4,000-lb (1,814 kg) or more of Pacific whiting (round weight equivalent) no later than 24 hours after the date the fish are received, unless a waiver of this requirement has been granted under provisions specified below at paragraph (d)(1)(vii) of this section.

(v) *Revising a submitted electronic fish ticket 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.

(vi) *Retention of Records*. [Reserved]

(vii) *Waivers for submission of electronic fish tickets upon written request*. 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 Pacific whiting shoreside 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.

(viii) Reporting requirements when a temporary waiver has been granted. Pacific whiting shoreside 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 state landing receipts 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.

(2) [Reserved]

**§ 660.116 Trawl fishery—observer requirements.**

(a) *Observer coverage requirements*—(1) *NMFS-certified observers.*

(i) A catcher/processor or mothership 125-ft (38.1-m) LOA or longer must carry two NMFS-certified observers, and a catcher/processor or mothership 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) A Pacific whiting shoreside vessel that sorts catch at sea must carry one NMFS-certified observer, from the time the vessel leaves port on a trip in which the catch is sorted at sea to the time that all catch from that trip has been offloaded.

(2) *Catcher vessels.* When NMFS notifies the owner, operator, permit holder, or the manager of a catcher vessel, specified at § 660.16(c), Subpart C of any requirement to carry an observer, the catcher vessel may not be used to fish for groundfish without carrying an observer.

(i) *Notice of departure—basic rule.* At least 24 hours (but not more than 36 hours) before departing on a fishing trip, a vessel that has been notified by NMFS that it is required to carry an observer, or that is operating in an active sampling unit, must notify NMFS (or its designated agent) of the vessel's intended time of departure. Notice will be given in a form to be specified by NMFS.

(A) *Optional notice—weather delays.* A vessel that anticipates a delayed departure due to weather or sea conditions may advise NMFS of the anticipated

delay when providing the basic notice described in paragraph (a)(2)(i) of this section. If departure is delayed beyond 36 hours from the time the original notice is given, the vessel must provide an additional notice of departure not less than 4 hours prior to departure, in order to enable NMFS to place an observer.

(B) *Optional notice—back-to-back fishing trips.* A vessel that intends to make back-to-back fishing trips (*i.e.*, trips with less than 24 hours between off-loading from one trip and beginning another), may provide the basic notice described in paragraph (a)(2)(i) of this section for both trips, prior to making the first trip. A vessel that has given such notice is not required to give additional notice of the second trip.

(ii) *Cease fishing report.* Within 24 hours of ceasing the taking and retaining of groundfish, vessel owners, operators, or managers must notify NMFS or its designated agent that fishing has ceased. This requirement applies to any vessel that is required to carry an observer, or that is operating in a segment of the fleet that NMFS has identified as an active sampling unit.

(b) *Waiver.* The Northwest Regional Administrator may provide written notification to the vessel owner stating that a determination has been made to temporarily waive coverage requirements because of circumstances that are deemed to be beyond the vessel's control.

(c) *Procurement of observer services by catcher/processors, motherships, and Pacific whiting shoreside vessels that sort at sea.* Owners of vessels required to carry observers under provisions at paragraph (a)(1)(i) or (ii) of this section must arrange for observer services from an observer provider permitted by the North Pacific Groundfish Observer Program under 50 CFR 679.50(i), 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 or individuals authorized by NMFS, in addition to an observer provided by a permitted observer provider.

(d) *Vessel responsibilities.* An operator of a vessel required to carry one or more observer(s) must provide:

(1) *Accommodations and food.* Provide accommodations and food that are:

(i) *At-sea processors.* Equivalent to those provided for officers, engineers, foremen, deck-bosses or other management level personnel of the vessel.

(ii) *Catcher vessels.* Equivalent to those provided to the crew.

(2) *Safe conditions.* Maintain safe conditions on the vessel for the protection of observer(s) including adherence to all USCG and other applicable rules, regulations, or statutes pertaining to safe operation of the vessel, and provisions at §§ 600.725 and 600.746 of this chapter.

(3) *Observer communications.* Facilitate observer communications by:

(i) *Observer use of equipment.* Allowing observer(s) to use the vessel's communication equipment and personnel, on request, for the entry, transmission, and receipt of work-related messages, at no cost to the observer(s) or the U.S. or designated agent.

(ii) *Functional equipment.* Ensuring that the vessel's communications equipment, used by observers to enter and transmit data, is fully functional and operational.

(iii) *Hardware and software.* Pacific whiting vessels that are required to carry one or more NMFS-certified observers under provisions at paragraphs (a)(1)(i) or (ii) of this section must provide hardware and software pursuant to regulations at 50 CFR 679.50(g)(1)(iii)(B) and 50 CFR 679.50(g)(2)(iii), as follows:

(A) Providing for use by the observer a personal computer in working condition that contains a full Pentium 120 Mhz or greater capacity processing chip, at least 32 megabytes of RAM, at least 75 megabytes of free hard disk storage, a Windows 9x or NT compatible operating system, an operating mouse, and a 3.5-inch (8.9 cm) floppy disk drive. The associated computer monitor must have a viewable screen

size of at least 14.1 inches (35.8 cm) and minimum display settings of 600 x 800 pixels. The computer equipment specified in this paragraph (A) must be connected to a communication device that provides a modem connection to the NMFS host computer and supports one or more of the following protocols: ITU V.22, ITU V.22bis, ITU V.32, ITU V.32bis, or ITU V.34. Processors that use a modem must have at least a 28.8kbs Hayes-compatible modem. The above-specified hardware and software requirements do not apply to processors that do not process groundfish.

(B) NMFS-supplied software. Ensuring that each vessel that is required to carry a NMFS-certified observer obtains the data entry software provided by the NMFS for use by the observer.

(4) *Vessel position.* Allow observer(s) access to, and the use of, the vessel's navigation equipment and personnel, on request, to determine the vessel's position.

(5) *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.

(6) *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, unless the observer specifically requests not to be notified.

(7) *Records.* Allow observer(s) to inspect and copy any state or Federal logbook maintained voluntarily or as required by regulation.

(8) *Assistance.* Provide all other reasonable assistance to enable observer(s) to carry out their duties, including, but not limited to:

(i) Measuring decks, codends, and holding bins.

(ii) Providing the observer(s) with a safe work area.

(iii) Collecting bycatch when requested by the observer(s).

(iv) Collecting and carrying baskets of fish when requested by the observer(s).



(v) Allowing the observer(s) to collect biological data and samples.

(vi) Providing adequate space for storage of biological samples.

(9) *At-sea transfers to or from processing vessels.* Processing vessels must:

(i) Ensure that transfers of observers at sea via small boat or raft are carried out during daylight hours, under safe conditions, and with the agreement of observers involved.

(ii) Notify observers at least 3 hours before observers are transferred, such that the observers can collect personal belongings, equipment, and scientific samples.

(iii) Provide a safe pilot ladder and conduct the transfer to ensure the safety of observers during transfers.

(iv) Provide an experienced crew member to assist observers in the small boat or raft in which any transfer is made.

(e) *Sample station and operational—(1) Observer sampling station.* This paragraph contains the requirements for observer sampling stations. The vessel owner must provide an observer sampling station that complies with this section so that the observer can carry out required duties.

(i) *Accessibility.* The observer sampling station must be available to the observer at all times.

(ii) *Location.* The observer sampling station must be located within 4 m of the location from which the observer samples unsorted catch. Unobstructed passage must be provided between the observer sampling station and the location where the observer collects sample catch.

(iii) *Minimum work space aboard at-sea processing vessels.* The observer must have a working area of 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.

(iv) *Table aboard at-sea processing vessels.* 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.

(v) *Diverter board aboard at-sea processing vessels.* 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.

(vi) *Other requirement for at-sea processing vessels.* 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.

(vii) *Observer sampling scale.* The observer sample station must include a NMFS-approved platform scale (pursuant to requirements at 50 CFR 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.

(2) [Reserved]

**§ 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 include those vessels registered to a limited entry permit with a trawl endorsement. Most species taken in limited entry trawl fisheries will be managed with 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 trip limits that differ by the type of trawl gear on board and the area fished. Cowcod retention is prohibited in all fisheries and 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) *Cumulative trip limits and 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 cumulative and/or 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

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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. (Example: If a vessel harvests 300-lb (136 kg) of chilipepper rockfish with small footrope-gear, it may harvest up to 11,700-lb (5,209 kg) of chilipepper rockfish with large footrope gear during the July and August cumulative period, because the largest cumulative limit for chilipepper rockfish during that period is 12,000-lb (5,443 kg) for large footrope gear.)

(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, 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, 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) *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;

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

(3) *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.

(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 cor-

ridor 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.

**§ 660.131 Pacific whiting fishery management measures.**

(a) *Sectors.* In order for a vessel to fish in a particular whiting fishery sector after May 11, 2009, that vessel must be registered for use with a sector-specific Pacific whiting vessel license under § 660.26, subpart C.

(1) The catcher/processor sector is composed of catcher/processors, which are vessels that harvest and process whiting during a calendar year.

(2) The mothership sector is composed of motherships and catcher vessels that harvest whiting for delivery to motherships. Motherships are vessels that process, but do not harvest, whiting during a calendar year.

(3) The shorebased sector is composed of vessels that harvest whiting for delivery to Pacific whiting shoreside first receivers. Notwithstanding the other provisions of 50 CFR part 660, subpart C or D, a vessel that is 75 feet 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. Such a vessel is considered a participant in the shorebased whiting sector, and is subject to regulations and allocations for that sector.

(b) *Pacific whiting seasons.*

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

(i) For the shorebased sector, the period(s) when the large-scale target fishery is conducted (when trip limits under paragraph (b) of this section are not in effect);

(ii) For catcher/processors, the period(s) when at-sea processing is allowed and the fishery is open for the catcher/processor sector; and

(iii) For vessels delivering to motherships, the period(s) when at-sea processing is allowed and the fishery is open for the mothership sector.

(2) *Before and after the primary seasons.* Before and after the primary seasons, trip landing or frequency limits may be imposed under § 660.60(c). The sectors are defined at § 660.60(a).

(3) *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, catcher vessels delivering to shore-

side processors north of 42° N. lat., and catcher vessels delivering to shoreside processors between 42° N. lat. through 40°30' N. lat.

(i) *Procedures.* The primary seasons for the whiting fishery north of 40°30' 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; 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 quota is taken or a bycatch limit is 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 sector

(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.

(4) *Trip limits in the whiting fishery.* The “per trip” limit for whiting before and after 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 before, during, and after the

regular (primary) season 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 end of the primary whiting season.

(5) *Bycatch limits in the whiting fishery.* The bycatch limits for the whiting fishery may be established, adjusted, and used inseason to close a sector or sectors of the whiting fishery to achieve the rebuilding of an overfished or depleted stock. These limits are routine management measures under § 660.60(c), subpart C, and, as such, may be adjusted inseason or may have new species added to the list of those with bycatch limits. Closure of a sector or sectors when a bycatch limit is projected to be reached is an automatic action under § 660.60(d), subpart C.

(i) The whiting fishery bycatch limit is apportioned among the sectors identified in paragraph (a) of this section based on the same percentages used to allocate whiting among the sectors, established in § 660.55(i)(2), subpart C. The sector specific bycatch limits are: For catcher/processors 4.8 mt of canary rockfish, 95 mt of widow rockfish, and 8.5 mt of darkblotched rockfish; for motherships 3.3 mt of canary rockfish, 67 mt of widow rockfish, and 6.0 mt of darkblotched rockfish; and for shorebased 5.9 mt of canary rockfish, 117 mt of widow rockfish, and 10.5 mt of darkblotched rockfish.

(ii) The Regional Administrator may make available for harvest to the other sectors of the whiting fishery identified in § 660.131(a) of this subpart, the amounts of a sector's bycatch limit species remaining when a sector is closed because its whiting allocation or

a bycatch limit has been reached or is projected to be reached. The remaining bycatch limit species shall be redistributed in proportion to each sector's initial whiting allocation. When considering redistribution of bycatch limits between the sectors of the whiting fishery, the Regional Administrator will take into consideration the best available data on total projected fishing impacts on the bycatch limit species, as well as impacts on other groundfish species.

(iii) If a bycatch limit is reached or is projected to be reached, the following action, applicable to the sector may be taken.

(A) Catcher/processor sector. Further taking and retaining, receiving, or at-sea processing of whiting by a catcher/processor is prohibited. No additional unprocessed whiting may be brought on board after at-sea processing is prohibited, but a catcher/processor may continue to process whiting that was on board before at-sea processing was prohibited.

(B) Mothership sector. Further receiving or at-sea processing of whiting by a mothership is prohibited. No additional unprocessed whiting may be brought on board after at-sea processing is prohibited, but a mothership may continue to process whiting that was on board before at-sea processing was prohibited. Whiting may not be taken and retained, possessed, or landed by a catcher vessel participating in the mothership sector.

(C) Shorebased sector. Whiting may not be taken and retained, possessed, or landed by a catcher vessel participating in the shorebased sector except as authorized under a trip limit specified under § 660.60(c), subpart C.

(iv) The Regional Administrator will announce in the FEDERAL REGISTER when a bycatch limit is reached, or is projected to be reached, specifying the action being taken as specified under paragraph (b)(5) of this section. The Regional Administrator will announce in the FEDERAL REGISTER any reapportionment of bycatch limit species. In order to prevent exceeding the bycatch limits or to avoid underutilizing the Pacific whiting resource, prohibitions against further taking and retaining,



receiving, or at-sea processing of whiting, or reapportionment of bycatch limits species 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.

(6) *Pacific whiting allocation attainment and inseason allocation reapportionment.* (i) *Reaching an allocation.* If the whiting harvest guideline, commercial harvest guideline, or a sector's allocation is reached, or is projected to be reached, the following action(s) for the applicable sector(s) may be taken as provided under paragraph (b)(6)(iv) of this section and will remain in effect until additional amounts are made available the next calendar year or under paragraph (b)(6)(ii) of this section.

(A) *Catcher/processor sector.* Further taking and retaining, receiving, or at-sea processing of whiting by a catcher/processor is prohibited. No additional unprocessed whiting may be brought on board after at-sea processing is prohibited, but a catcher/processor may continue to process whiting that was on board before at-sea processing was prohibited.

(B) *Mothership sector.* Further receiving or at-sea processing of whiting by a mothership is prohibited. No additional unprocessed whiting may be brought on board after at-sea processing is prohibited, but a mothership may continue to process whiting that was on board before at-sea processing was prohibited. Whiting may not be taken and retained, possessed, or landed by a catcher vessel participating in the mothership sector.

(C) *Shore-based sector coastwide.* Whiting may not be taken and retained, possessed, or landed by a catcher vessel participating in the shore-based sector except as authorized under a trip limit specified under § 660.60(c).

(D) *Shore-based south of 42° N. lat.* If 5 percent of the shore-based allocation for whiting is taken and retained south of 42° N. lat. before the primary season for the shore-based sector begins north

of 42° N. lat., then a trip limit specified under § 660.60(c) may be implemented south of 42° N. lat. until the northern primary season begins, at which time the southern primary season would resume.

(ii) *Reapportionments.* That portion of a sector's allocation that the Regional Administrator determines will not be used by the end of the fishing year shall be made available for harvest by the other sectors, if needed, in proportion to their initial allocations, on September 15 or as soon as practicable thereafter. NMFS may release whiting again at a later date to ensure full utilization of the resource. Whiting not needed in the fishery authorized under § 660.50 may also be made available.

(iii) *Estimates.* Estimates of the amount of whiting harvested will be based on actual amounts harvested, projections of amounts that will be harvested, or a combination of the two. Estimates of the amount of Pacific whiting that will be used by shore-based processors by the end of the calendar year will be based on the best information available to the Regional Administrator from state catch and landings data, the testimony received at Council meetings, and/or other relevant information.

(iv) *Announcements.* The Regional Administrator will announce in the FEDERAL REGISTER when a harvest guideline, commercial harvest guideline, or an allocation of whiting is reached, or is projected to be reached, specifying the appropriate action being taken under paragraph (b)(6)(i) of this section. The Regional Administrator will announce in the FEDERAL REGISTER any reapportionment of surplus whiting to other sectors on September 15, or as soon as practicable thereafter. In order to prevent exceeding the limits or to avoid underutilizing the resource, prohibitions against further taking and retaining, receiving, or at-sea processing of whiting, or reapportionment of surplus whiting 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.

(c) *Closed areas.* Pacific whiting may not be taken and retained 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 (i) of this section.

(f) *Time of day.* Pacific whiting may not be taken and retained by any vessel 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) *Additional restrictions on catcher/processors.* (1) A catcher/processor may receive fish from a catcher vessel, but that catch is counted against the catcher/processor allocation unless the catcher/processor has been declared as a mothership under paragraph (g)(3) of this section.

(2) A catcher/processor may not also act as a catcher vessel delivering unprocessed whiting to another processor in the same calendar year.

(3) When renewing its limited entry permit each year under § 660.25, subpart C, the owner of a catcher/processor used to take and retain whiting must declare if the vessel will operate solely as a mothership in the whiting fishery 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 holder. 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.

(h) *Pacific whiting first receivers.* (1) Pacific whiting shoreside first receivers and processors may receive groundfish species, other than Pacific Whiting, that is in excess of trip limits from a Pacific whiting shoreside vessel that is fishing under an EFP that authorizes the vessel to possess the catch.

(i) *Bycatch reduction and full utilization program for at-sea processors (optional).* If a catcher/processor or mothership in the whiting fishery carries more than one NMFS-approved observer for at least 90 percent of the fishing days during a cumulative trip limit period, then groundfish trip limits may be exceeded without penalty for that cumulative trip limit period, if the conditions in paragraph (h)(2) of this section are met. For purposes of this program, “fishing day” means a 24-hour period, from 0001 hours through 2400 hours, local time, in which fishing gear is retrieved or catch is received by the vessel, and will be determined from the vessel’s observer data, if available. Changes to the number of observers required for a vessel to fish under in the bycatch reduction program will be announced prior to the start of the fishery, generally concurrent with the harvest specifications and management measures. Groundfish consumed on board the vessel must be within any applicable trip limit and recorded as retained catch in any applicable logbook or report. [NOTE: For a mothership, non-whiting groundfish landings are limited by the cumulative

landings limits of the catcher vessels delivering to that mothership.]

(ii) [Reserved]

(2) *Conditions.* Conditions for participating in the voluntary full utilization program are as follows:

(i) All catch must be made available to the observers for sampling before it is sorted by the crew.

(ii) Any retained catch in excess of cumulative trip limits must either be: Converted to meal, mince, or oil products, which may then be sold; or donated to a bona fide tax-exempt hunger relief organization (including food banks, food bank networks or food bank distributors), and the vessel operator must be able to provide a receipt for the donation of groundfish landed under this program from a tax-exempt hunger relief organization immediately upon the request of an authorized officer.

(iii) No processor or catcher vessel may receive compensation or otherwise benefit from any amount in excess of a cumulative trip limit unless the overage is converted to meal, mince, or oil products. Amounts of fish in excess of cumulative trip limits may only be sold as meal, mince, or oil products.

(iv) The vessel operator must contact the NMFS enforcement office nearest to the place of landing at least 24 hours before landing groundfish in excess of cumulative trip limits for distribution to a hunger relief agency. Cumulative trip limits and a list of NMFS enforcement offices are found on the NMFS, Northwest Region homepage at <http://www.nwr.noaa.gov>.

(v) If the meal plant on board the whiting processing vessel breaks down, then no further overages may be retained for the rest of the cumulative trip limit period unless the overage is donated to a hunger relief organization.

(vi) Prohibited species may not be retained.

(vii) Donation of fish to a hunger relief organization must be noted in the transfer log (Product Transfer/Offloading Log (PTOL)), in the column for total value, by entering a value of “0” or “donation,” followed by the name of the hunger relief organization receiving the fish. Any fish or fish product that is retained in excess of trip limits

under this rule, whether donated to a hunger relief organization or converted to meal, must be entered separately on the PTOL so that it is distinguishable from fish or fish products that are retained under trip limits. The information on the Mate's Receipt for any fish or fish product in excess of trip limits must be consistent with the information on the PTOL. The Mate's Receipt is an official document that states who takes possession of offloaded fish, and may be a Bill of Lading, Warehouse Receipt, or other official document that tracks the transfer of offloaded fish or fish product. The Mate's Receipt and PTOL must be made available for inspection upon request of an authorized officer throughout the cumulative limit period during which such landings occurred and for 15 days thereafter.

(j) *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.

(k) *Additional requirements for participants in the Pacific whiting shoreside fishery—*(1) *Pacific whiting shoreside first receiver responsibilities—*(i) *Weights and measures.* All groundfish weights reported on electronic fish tickets must be recorded from scales with appropriate weighing capacity that ensures accuracy for the amount of fish being weighed. For example: amounts of fish less than 1,000-lb (454 kg) should not be weighed on scales that have an accuracy range of 1,000-lb to 7,000-lb (454–3,175 kg) and are therefore not capable of accurately weighing amounts less than 1,000-lb (454 kg).

(ii) [Reserved]

(2) *Sorting requirements for the Pacific whiting shoreside fishery.* Fish delivered to Pacific whiting shoreside 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, to the species groups specified in § 660.60(h)(6), subpart C, for vessels with limited entry permits. 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.

#### § 660.140 Shorebased IFQ Program.

(a) *General.* The Shorebased IFQ Program requirements in § 660.140 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. The IFQ Program is subject to area restrictions (GCAs, RCAs, and EFHCAs) listed at §§ 660.70 through 660.79, subpart C. The

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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 OY, 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.* [Reserved]

(1) *QS permit owners.* [Reserved]

(2) *IFQ vessels.* [Reserved]

(c) *IFQ species 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. QS and IBQ will specify designations for the species/species groups and area to which it applies. QS and QP species groupings and area subdivisions will be those for which OYs are specified in the Tables 1a through 2d, subpart C, and those for which there is an area-specific precautionary harvest policy. QS for remaining minor rockfish will be aggregated for the shelf and slope depth strata (nearshore species are excluded). The following are the IFQ species:

### IFQ SPECIES

Roundfish
Lingcod. Pacific cod. Pacific whiting. Sablefish north of 36° N. lat. Sablefish south of 36° N. lat.
Flatfish
Dover sole. English sole. Petrale sole. Arrowtooth flounder. Starry flounder. Other Flatfish stock complex. Pacific halibut (IBQ) north of 40°10'.
Rockfish
Pacific ocean perch.

### IFQ SPECIES—Continued

Widow rockfish.  
Canary rockfish.  
Chilipepper rockfish.  
Bocaccio.  
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.  
Cowcod.  
Darkblotched.  
Yelloweye.  
Minor Rockfish North slope species complex.  
Minor Rockfish North shelf species complex.  
Minor Rockfish South slope species complex.  
Minor Rockfish South shelf species complex.

(2) *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) Annual sub-allocations of IFQ species to individual QS permits and QS accounts are based on the percent of QS or IBQ registered to the account

and the amount of fish or bycatch mortality allocated to the Shorebased IFQ Program.

(d) *QS permits and QS accounts*—(1) *General.* In order to obtain QS or IBQ, a person must apply for a QS permit. NMFS will determine if the applicant is eligible to acquire QS or IBQ in compliance with the accumulation limits found at paragraph (d)(4) of this section. For those persons that are found to be eligible for a QS permit, NMFS will issue QS or IBQ and establish a QS account. QP or IBQ pounds will be issued annually at the start of the calendar year to a QS account based on the percent of QS or IBQ registered to the account and the amount of fish or bycatch mortality allocated to the Shorebased IFQ Program. QP or IBQ pounds 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), except that issuance of QP for overfished species greater than zero but less than one pound will be rounded up to one pound in the first year of the Shorebased IFQ Program. QS or IBQ owners must transfer their QP or IBQ pounds from their QS account to a vessel account in order for those QP or IBQ pounds to be fished. QP or IBQ pounds must be transferred in whole pounds (i.e. no fraction of a QP or IBQ pound can be transferred). All QP or IBQ pounds in a QS account must be transferred to a vessel account by September 1 of each year.

(2) *Eligibility and registration.* [Reserved]

(3) *Renewal, change of permit ownership, and transfer.* [Reserved]

(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 non-whiting 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 non-whiting species to calculate the person's share of the aggregate non-whiting 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 control limit (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 .....	4.0
WIDOW ROCKFISH .....	5.1
CANARY ROCKFISH .....	4.4
Chilipepper Rockfish .....	10.0
BOCACCIO .....	13.2
Splittnose Rockfish .....	10.0
Yellowtail Rockfish .....	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 .....	17.7
DARKBLOTCHED .....	4.5

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Species category	QS control limit (percent)
YELLOWEYE .....	5.7
Minor Rockfish North:	
Shelf Species .....	5.0
Slope Species .....	5.0
Minor Rockfish South:	
Shelf Species .....	9.0
Slope Species .....	6.0
Dover sole .....	2.6
English Sole .....	5.0
Petrale Sole .....	3.0
Arrowtooth Flounder .....	10.0
Starry Flounder .....	10.0
Other Flatfish .....	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 is applying for 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 SFD via the Trawl Identification of Ownership Interest Form. 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*. [Reserved]

(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 per-

cent 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-entitled 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 non-whiting 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 area 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

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species (observed Group 2 species catch/total target species catch) by area. The WCGOP average bycatch ratios are as follows:

Area	Shoreward	Seaward
<b>Bocaccio</b>		
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
<b>Cowcod</b>		
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
<b>Darkblotched</b>		
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
<b>Pacific ocean perch</b>		
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. ....	.....	.....
<b>Widow</b>		
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
<b>Yelloweye</b>		
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:

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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.

(I) 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 land-

ing 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.

(I) *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.

(I) 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 applica-

tion 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

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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 30 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 land-

ings data in the relevant PacFIN dataset on July 1, 2010.

- (e) *Vessel accounts*. [Reserved]
- (f) *First receiver site license*. [Reserved]
- (g) *Retention requirements (whiting and non-whiting vessels)*. [Reserved]
- (h) *Observer requirements*. [Reserved]
- (i) [Reserved]
- (j) *Shoreside catch monitor requirements for IFQ first receivers*. [Reserved]
- (k) *Catch weighing requirements*. [Reserved]
- (l) *Gear switching*. [Reserved]
- (m) *Adaptive management program*. [Reserved]

### § 660.150 Mothership (MS) Coop Program.

(a) *General*. The MS Coop Program requirements in this section will be effective beginning January 1, 2011, except for paragraphs (f)(3), (f)(5), (f)(6), (g)(3), (g)(5), and (g)(6) which are effective immediately. The MS Coop Program is a 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. In addition to the requirements of this section, the MS Coop Program is subject to the following groundfish regulations of subparts C and D:

(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, § 660.26 Pacific whiting vessel licenses, § 660.55 Allocations, § 660.60 Specifications and management measures, § 660.65 Groundfish harvest specifications, and §§ 660.70 through 660.79 Closed areas.

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(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, § 660.116 Trawl fishery observer requirements, § 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 OY, 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.* [Reserved]

(1) *Mothership vessels.* [Reserved]

(2) *Mothership catcher vessels.* [Reserved]

(3) *MS Coop formation and failure.* [Reserved]

(c) *Inter-coop agreement.* [Reserved]

(d) *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.* [Reserved]

(i) *Mothership catcher vessel catch history assignments.* [Reserved]

(ii) *Annual coop allocations.* [Reserved]

(iii) *Annual non-coop allocation.* [Reserved]

(3) *Reaching an allocation or sub-allocation.* [Reserved]

(4) *Non-whiting groundfish species reapportionment.* [Reserved]

(5) *Announcements.* [Reserved]

(6) *Redistribution of annual allocation.* [Reserved]

(7) *Processor obligation.* [Reserved]

(8) *Allocation accumulation limits.* [Reserved]

(e) *MS coop permit and agreement.* [Reserved]

(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]

(3) *Accumulation limits.*

(i) *MS permit usage limit.* [Reserved]

(ii) *Ownership—individual and collective rule.* The ownership that counts towards a person's accumulation limit will include:

(A) Any MS permit owned by that person, and

(B) That portion of any MS 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 ownership that counts toward the person's limit.

(iii) [Reserved]

(iv) *Trawl identification of ownership interest form.* Any person that is applying for an MS permit shall document those persons that have an ownership interest in the MS permit greater than or equal to 2 percent. This ownership interest must be documented with 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.* [Reserved]

(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 30 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 with permission from the coop. Within the MS Coop Program, an MS/CV-endorsed permit may participate in a coop or in the non-coop fishery.

(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) *Renewal.* [Reserved]

(v) *Restrictions on processing by vessels registered to 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) *Change of permit owner, vessel registration, vessel owner, or combination.* [Reserved]

(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 is applying for 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 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) [Reserved]

(4) *Appeals*. [Reserved]

(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 30 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*. [Reserved]

(i) *Retention requirements*. [Reserved]

(j) *Observer requirements*. [Reserved]

(k) *Catch weighing requirements*. [Reserved]

(l) [Reserved]

**§ 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, § 660.26 Pacific whiting vessel licenses, § 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, § 660.116 Trawl fishery observer requirements, § 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 OY, 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) *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) [Reserved]

(c) *C/P coop permit and agreement.* [Reserved]

(d) *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) *Eligibility and renewal for C/P-endorsed permit.* [Reserved.]

(3) *Change in permit ownership, vessel registration, vessel owner, transfer or combination.* [Reserved]

(4) *Appeals.* [Reserved]

(5) *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.

(6) [Reserved]

(7) *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 30 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.

(e) *Retention requirements*. [Reserved]

(f) *Observer requirements*. [Reserved]

(g) [Reserved]

(h) *Catch weighting requirements*. [Reserved]