

Center frequency (MHz)	Channel Nos. employed	Lower frequency (MHz)	Upper frequency (MHz)
4955 .....	6 to 9 .....	4945	4965
4960 .....	7 to 10 .....	4950	4970
4965 .....	8 to 11 .....	4955	4975
4970 .....	9 to 12 .....	4960	4980
4975 .....	10 to 13 .....	4965	4985
4980 .....	11 to 18* .....	4970	4990

\* Licensees should avoid using these channels in aggregations unless all other channels are blocked.

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 BILLING CODE 6712-01-P

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 660**

[Docket No. 120312181-2279-01]

RIN 0648-BC00

**Fisheries off West Coast States; Pacific Coast Groundfish Fishery Management Plan; Trawl Rationalization Program**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule; emergency action.

**SUMMARY:** This action delays some and revises other portions of the Pacific Coast Groundfish Fishery Trawl Rationalization Program (program) regulations. These changes are necessary to enable the National Marine Fisheries Service (NMFS) to implement new regulations for the program to comply with a court order requiring NMFS to reconsider the initial allocation of Pacific whiting (whiting) to the shorebased Individual Fishing Quota (IFQ) fishery and the at-sea mothership fishery. The rule affects the transfer of Quota Share (QS) and Incidental Bycatch Quota (IBQ) between QS accounts in the shorebased individual IFQ fishery, and severability in the mothership fishery, both of which will be delayed until NMFS can implement any necessary new allocation regulations required by the court's order.

**DATES:** This rule is effective September 1, 2012 through January 28, 2013.

**FOR FURTHER INFORMATION CONTACT:** Ariel Jacobs, 206-526-4491; (fax) 206-526-6736; [Ariel.Jacobs@noaa.gov](mailto:Ariel.Jacobs@noaa.gov).

**SUPPLEMENTARY INFORMATION:**

**Background**

This final rule delays or revises several provisions of the Pacific coast trawl rationalization program, based on decisions issued by the U.S. District Court for the Northern District of California in the case *Pacific Dawn v. Bryson*, No. C10-4829 TEH (2012), requiring NMFS and the Council to reconsider the initial allocation of Pacific whiting. Background on this rule was provided in the proposed rule, published on May 21, 2012 (77 FR 29955), and is not repeated here. This action:

(1) Delays the ability to transfer QS and IBQ between QS accounts in the shorebased IFQ fishery in order to avoid complications that would occur if QS permit owners in the shorebased IFQ fishery were allowed to transfer QS percentages prior to completion of the whiting allocation reconsideration;

(2) Delays the requirement to divest excess quota share amounts for the shorebased IFQ fishery and the at-sea mothership fishery so that QS permit owners will have sufficient time to plan and arrange sales of excess QS, as originally recommended by the Council for this provision of the trawl rationalization program;

(3) Delays the ability to change MS/CV endorsement and catch history assignments from one limited entry trawl permit to another in order to avoid complications if permit owners are allowed to transfer ownership of catch history assignments before completion of the reconsideration takes place; and

(4) Modifies the issuance provisions for quota pounds (QP) for the beginning of fishing year 2013 to preserve NMFS' ability to deposit the appropriate final amounts into IFQ accounts based on any recalculation of QS allocations. In the meantime, NMFS will deposit into accounts an interim amount of QP based on the shorebased trawl allocation, as reduced by the amount of QP for whiting trips for whiting, and for species caught incidentally in the whiting fishery (including lingcod, Pacific cod, canary, bocaccio, cowcod, yelloweye, Pacific ocean perch, widow, English sole, darkblotched, sablefish N.

of 36°N lat., yellowtail N. of 40°10' N. lat., shortspine N. of 34°27' N. lat., minor slope rockfish N. of 40°10' N. lat., minor slope rockfish S. of 40°10' N. lat., minor shelf rockfish N. of 40°10' N. lat., minor shelf rockfish S. of 40°10' N. lat., and other flatfish). The remainder of the interim QP will be deposited in accounts at the start of the whiting primary season.

NMFS is also advising the at-sea mothership fishery that the response to the court order may impact processor obligations and cooperative (coop) formation if whiting catch history assignments are recalculated, and announces further details on the process for the affected public to review and correct, if necessary, their landings and delivery data through 2010, since this data may be used for reallocation.

*Potential Impact on Processor Obligations and Coop Formation*

NMFS will announce any changes to the amount of catch history assignments associated with MS/CV-endorsed limited entry trawl permits by April 1, 2013. The mothership sector has until March 31, 2013, to submit their coop permit applications to NMFS for that fishing year. The coop permit application includes a list of the catch history amounts associated with specific MS/CV-endorsed limited entry permits and which MS permit those amounts are obligated to. In addition, MS/CV-endorsed permit owners must obligate their associated catch history assignment to an MS permit by September 1 of the prior year. Because both of these requirements may happen before NMFS makes its determination on the 2013 catch history assignments associated with MS/CV-endorsed permits, participants in the mothership fishery should be aware that this proposal may potentially impact their processor obligations, coop formation, and coop permit application. NMFS does not anticipate a need for regulatory changes to address these potential impacts, and will work with any MS coop permit applicants if there are changes in catch history assignments from that noted in the 2013 coop permit

application. For example, in the initial administrative determination for any 2013 MS coop permit application, NMFS will notify the coop manager of any changes in catch history assignments for MS/CV-endorsed permits associated with that coop.

*Process To Review, and If Necessary, Correct Data*

In the proposed rule, NMFS laid out a detailed process for reviewing and correcting landings data. Since publishing the proposed rule, several confidentiality issues have arisen with regard to state landings data. When NMFS resolves these issues, we will notify the public of the process for reviewing and correcting all landings data.

NMFS also considered whether to allow limited entry permit transfers (i.e., changes in permit ownership) for all limited entry trawl endorsed permits, except for those with a catcher/processor endorsement, for a period of time during the reconsideration. This allowance would simplify reissuance of QS permits in the shorebased IFQ fishery, or of catch history assignments on MS/CV-endorsed limited entry trawl permits in the at-sea mothership fishery. After assessing this step, NMFS has determined that it is not necessary because the reallocation rule likely will have no planned application process. The initial allocation had a lengthy application process that necessitated not allowing limited entry permit (LEP) transfers while NMFS reviewed applications. For any revised reallocation, NMFS likely will issue an initial administrative determination (IAD), but not an application; these details will be developed as part of the reallocation rulemaking. Accordingly, there is no need to freeze LEP transfers. If NMFS reissues QS permits and/or catch history assignments on MS/CV-endorsed limited entry trawl permits, NMFS likely will issue those permits or catch history assignments to the QS account owner of record with NMFS at the time of reissuance. However, these details will be developed as part of the reallocation rulemaking.

### Comments and Responses

NMFS solicited public comment on the proposed rule (77 FR 29955, May 21, 2012). The comment period for these notices ended June 29, 2012. NMFS received two letters of comments on the proposed rule, only one of which was substantive. The comment period was open during the June 2012 Council meeting. Comments presented to the Council are part of the record and were considered by the Council during its

deliberation. In reviewing the proposed rule, NMFS considered the record as a whole.

*Comment 1.* NMFS received one comment from the Pacific Fishery Management Council concurring with the primary issues covered in the proposed rule. They also requested that the moratorium on the transfer of widow rockfish QS be extended to December 31, 2014, or the date when the Council completes its consideration (including resolution of appeals) and NMFS implements changes to the widow rockfish QS allocations.

*Response:* NMFS acknowledges this comment; however, NMFS cannot extend the moratorium on the transfer of widow rockfish QS beyond the 365 days allowed by the statute for this emergency action. Extending that moratorium needs to be done in a separate rulemaking.

### Classification

Pursuant to section 305(c)(1) of the MSA, the NMFS Assistant Administrator has determined that this final rule is consistent with the Pacific Coast Groundfish FMP, other provisions of the MSA, and other applicable law, subject to further consideration after public comment. As stated in the proposed rule, NMFS is using its emergency action authority under MSA 305(c)(1) for this rule. NMFS finds that an emergency exists that can only be addressed through this emergency action. Due to the court's order in *Pacific Dawn*, several existing provisions of trawl regulations must be delayed while NMFS and the Council reconsider the initial allocation of Pacific whiting. However, there is insufficient time to go through the standard FMP Council process prior to the required effective date of this rule. If NMFS does not take this action, then NMFS will not be able to implement the following rulemaking (RAW 2) that is required by the court's order. Accordingly, NMFS finds an emergency exists that can only be remedied through this emergency action.

The Council prepared a final environmental impact statement (EIS) for Amendment 20 and Amendment 21 to the Pacific Coast Groundfish FMP; a notice of availability for each of these final EISs was published on June 25, 2010 (75 FR 36386). The Amendment 20 and 21 EISs and the draft EA are available on the Council's Web site at <http://www.pccouncil.org/> or on NMFS' Web site at <http://www.nwr.noaa.gov/Groundfish-Halibut/Groundfish-Fishery-Management/Trawl-Program/index.cfm>. The regulatory changes in this final rule

were categorically excluded from the requirement to prepare a NEPA analysis.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

When an agency proposes regulations, the Regulatory Flexibility Act (RFA) requires the agency to prepare and make available for public comment an Initial Regulatory Flexibility Analysis (IRFA) that describes the impact on small businesses, non-profit enterprises, local governments, and other small entities. The IRFA is to aid the agency in considering all reasonable regulatory alternatives that would minimize the economic impact on affected small entities. After the public comment period, the agency prepares a Final Regulatory Flexibility Analysis (FRFA) that takes into consideration any new information and public comments. This FRFA incorporates the IRFA, a summary of the significant issues raised by the public comments, NMFS' responses to those comments, and a summary of the analyses completed to support the action.

NMFS published the proposed rule on May 21, 2012 (78 FR 2995), with a comment period through June 29, 2012. An IRFA was prepared and summarized in the "Classification" section of the preamble to the proposed rule. Analytical requirements for the FRFA are described in Regulatory Flexibility Act, section 304(a)(1) through (5), and summarized below. The FRFA must contain: (1) A succinct statement of the need for, and objectives of, the rule; (2) a summary of the significant issues raised by the public comments in response to the initial regulatory flexibility analysis, a summary of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments; (3) a description and an estimate of the number of small entities to which the rule will apply, or an explanation of why no such estimate is available; (4) a description of the projected reporting, recordkeeping and other compliance requirements of the rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; and (5) a description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency

which affect the impact on small entities was rejected.

NMFS is postponing the ability of QS permit owners to trade QS, as well as ability of MS/CV to trade their endorsements and catch history assignments separately from their limited entry permits. This postponement of QS trading is necessary because for many affected parties, their QS allocations (especially for bycatch species) are composed of whiting-trip calculations and non-whiting trip calculations, which NMFS and the Council are currently reconsidering. QS and IBQ trading has been prohibited for all species/species categories until January 1, 2013. By postponing these activities while NMFS and the Council reconsider the initial whiting allocations and implement any changes that result, NMFS seeks to minimize confusion and disruption in the fishery from trading quota shares that have not yet been firmly established by regulation. For example, as discussed above, if QS trading is not delayed, QS permit owners would be transferring QS amounts that potentially could change (increase or decrease) after the reconsideration. This situation would undermine business relationships and create confusion among buyers and sellers. As discussed above, RAW 2 will implement any revised allocations of QS and MS/CV history assignments. RAW 2 is expected to be effective by April 1, 2013 in time for the first whiting season opener off California, and before the major June 15 coastwide season opener. Similarly, NMFS is also delaying MS/CV's ability to transfer endorsement and associated catch history assignments from one limited entry trawl permit to another. However, the MS/CVs retain the ability to sell or trade a limited entry permit with the endorsement and catch history. All other MS/CV regulations remain unchanged. NMFS intends to announce any changes to the amount of catch history assignments associated with MS/CV-endorsed limited entry trawl permits by April 1, 2013, prior to the May 15 start date for the whiting mothership fishery.

Note that NMFS is not postponing fishing. To accommodate non-whiting fisheries that begin at the beginning of the year, NMFS will provide QP to QS holders, but hold back sufficient QPs for whiting and all other incidentally caught species from the annual allocation of QPs to QS accounts made on or about January 1, 2013 to allocate the appropriate final amounts based on any recalculation of the whiting QS allocations. The process of "holding" back sufficient QP is similar to the current process of starting the year with

an interim low estimate of the annual whiting trawl allocation and then in the spring of each year adjusting the QP in the QS accounts with any additional QP, based on the final whiting trawl allocation. The final whiting trawl allocation is typically not established until early May, to incorporate the latest stock assessment information, review tribal allocation requests, and receive Council recommendations. In 2012, this process was modified to include the processes of the U.S.-Canada Pacific Whiting Treaty.

The Small Business Administration has established size criteria to define small entities under the RFA for all major industry sectors in the US, including fish harvesting and fish processing businesses. Under these criteria, a business involved in fish harvesting is a small entity if it is independently owned and operated and not dominant in its field of operation (including its affiliates), and if it has combined annual receipts not in excess of \$4.0 million for all its affiliated operations worldwide. A seafood processor is a small entity if it is independently owned and operated, not dominant in its field of operation, and employs 500 or fewer persons on a full time, part time, temporary, or other basis, at all its affiliated operations worldwide. A business involved in both the harvesting and processing of seafood products is a small entity if it meets the \$4.0 million criterion for fish harvesting operations. A wholesale business servicing the fishing industry is a small entity if it employs 100 or fewer persons on a full time, part time, temporary, or other basis, at all its affiliated operations worldwide. For marinas and charter/party boats, a small entity is one with annual receipts not in excess of \$7.0 million.

These regulations directly affect holders of QS and CHA, which include both large and small entities. Quota shares were initially allocated to 166 limited entry trawl permit holders (permits held by catcher processors did not receive QS, while one limited entry trawl permit did not apply to receive QS) and to 10 whiting processors. Thirty-six limited entry permits also have MS/CV endorsements and catch history assignments. Because many of these permits were owned by the same entity, these initial allocations were consolidated into 138 quota share permits/accounts. Of the 166 limited entry permits, 25 limited entry trawl permits are either owned or closely associated with a "large" shorebased processing company or with a non-profit organization who considers itself a "large" organization. Nine other

permit owners indicated that they were "large" companies. Almost all of these large companies are associated with the shorebased and mothership whiting fisheries. The remaining 133 limited entry trawl permits are likely held by "small" companies. Of the 10 shorebased processing companies (whiting first receivers/processors) that received whiting QS, three are "small" entities. NMFS does not expect this rule to have any significant impacts on large or small entities.

There were no significant issues raised by the public comments in response to the IRFA.

There are no reporting or recordkeeping requirements with this final rule, but as described above, there is a process for fishermen and processors to review, and if necessary, correct the data that is used for future allocations of Pacific whiting.

There are no significant alternatives to this final rule that accomplish the stated objectives of applicable statutes and that minimize any of the significant economic impact of the proposed rule on small entities. These delays will be temporary in nature and will benefit both small and large entities. These delays will help smooth the transition to any changes in Pacific whiting allocations, and to reduce uncertainty for existing and potential new holders of these allocations.

No Federal rules have been identified that duplicate, overlap, or conflict with the alternatives. Public comment is hereby solicited, identifying such rules. A copy of this analysis is available from NMFS (see **ADDRESSES**).

NMFS issued Biological Opinions under the Endangered Species Act (ESA) on August 10, 1990, November 26, 1991, August 28, 1992, September 27, 1993, May 14, 1996, and December 15, 1999, pertaining to the effects of the Pacific Coast groundfish FMP fisheries on Chinook salmon (Puget Sound, Snake River spring/summer, Snake River fall, upper Columbia River spring, lower Columbia River, upper Willamette River, Sacramento River winter, Central Valley spring, California coastal), coho salmon (Central California coastal, southern Oregon/northern California coastal), chum salmon (Hood Canal summer, Columbia River), sockeye salmon (Snake River, Ozette Lake), and steelhead (upper, middle and lower Columbia River, Snake River Basin, upper Willamette River, central California coast, California Central Valley, south/central California, northern California, southern California). These biological opinions have concluded that implementing the FMP for the Pacific Coast groundfish

fishery is not expected to jeopardize the continued existence of any endangered or threatened species under the jurisdiction of NMFS, or result in the destruction or adverse modification of critical habitat.

NMFS issued a Supplemental Biological Opinion on March 11, 2006, concluding that neither the higher observed bycatch of Chinook in the 2005 whiting fishery nor new data regarding salmon bycatch in the groundfish bottom trawl fishery required a reconsideration of its prior "no jeopardy" conclusion. NMFS also reaffirmed its prior determination that implementation of the Pacific Coast Groundfish Fishery Management Plan (PCGFMP) is not likely to jeopardize the continued existence of any of the affected ESUs. Lower Columbia River coho (70 FR 37160, June 28, 2005) and Oregon Coastal coho (73 FR 7816, February 11, 2008) were recently relisted as threatened under the ESA. The 1999 biological opinion concluded that the bycatch of salmonids in the Pacific whiting fishery were almost entirely Chinook salmon, with little or no bycatch of coho, chum, sockeye, and steelhead.

On February 9, 2012, NMFS' Protected Resources Division issued a Biological Opinion (BO) pursuant to section 7(a)(2) of the Endangered Species Act (ESA) on the effects of the operation of the Pacific coast groundfish fishery in 2012. In this Opinion, NMFS concluded that the operation of the groundfish fishery is not likely to jeopardize the continued existence of green sturgeon (*Acipenser medirostris*), eulachon (*Thaleichthys pacificus*), humpback whales (*Megaptera novaeangliae*), Steller sea lions (*Eumetopias jubatus*), and leatherback sea turtles (*Dennochelys coriacea*). NMFS also concluded that the operation of the groundfish fishery is not likely to destroy or adversely modify designated critical habitat of green sturgeon or leatherback sea turtles. Furthermore, NMFS concluded that the operation of the groundfish fishery may affect, but is not likely to adversely affect the following species and designated critical habitat: Sei whales (*Balaenoptera borealis*); North Pacific Right whales (*Eubalaena japonica*); Blue whales (*Balaenoptera musculus*); Fin whales (*Balaenoptera physalus*); Sperm whales (*Physeter macrocephalus*); Southern Resident killer whales (*Orcinus orca*); Guadalupe fur seals (*Arctocephalus townsendi*); Green sea turtles (*Chelonia mydas*); Olive ridley sea turtles (*Lepidochelys olivacea*); Loggerhead sea turtles (*Carretta carretta*); critical habitat of Southern

Resident killer whales; and critical habitat of Steller sea lions. This rule does not modify any activities that would affect listed species; and thus the February 9, 2012, BO conclusions are applicable.

On August 25, 2011, NMFS' Sustainable Fisheries Division initiated consultation with U.S. Fish and Wildlife Service (USFWS) pursuant to section 7(a)(2) of the Endangered Species Act (ESA) on the effects of the operation of the Pacific coast groundfish fishery. The Biological Assessment (BA) on the effects of the groundfish fishery on endangered species was revised and re-submitted to USFWS on January 17, 2012. The BA concludes that the continued operation of the Pacific Coast Groundfish Fishery is likely to adversely affect short-tailed albatross; however, the level of take is not expected to reduce appreciably the likelihood of survival or significantly affect recovery of the species. The BA preliminarily concludes that continued operation of the Pacific Coast Groundfish Fishery is not likely to adversely affect California least terns, marbled murrelets, bull trout, and Northern or Southern sea otters. USFWS formally responded with a letter dated March 29, 2012 and advised NMFS that formal consultation has been initiated. Marine Mammal Protection Act (MMPA) impacts resulting from fishing activities in this final rule are discussed in the FEIS for the 2011–12 groundfish fishery specifications and management measures. As discussed above, NMFS issued a BO addressing impacts to ESA listed marine mammals. NMFS is currently working on the process leading to any necessary authorization of incidental taking under MMPA section 101(a)(5)(E).

#### List of Subjects in 50 CFR Part 660

Fisheries, Fishing, and Indian fisheries.

Dated: July 27, 2012.

#### Alan D. Risenhoover,

*Director, Office of Sustainable Fisheries, performing the functions and duties of the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

For the reasons stated in the preamble, 50 CFR part 660 is amended as follows:

#### PART 660—FISHERIES OFF WEST COAST STATES

■ 1. The authority citation for part 660 continues to read as follows:

**Authority:** 16 U.S.C. 1801 *et seq.*, 16 U.S.C. 773 *et seq.*, and 16 U.S.C. 7001 *et seq.*

■ 2. In § 660.140, revise paragraphs (d)(1)(ii)(A)(1) and (2), (d)(1)(ii)(B)(1) and (2), (d)(3)(ii)(B)(2) and (d)(4)(v) to read as follows:

#### § 660.140 Shorebased IFQ Program.

\* \* \* \* \*

(d) \* \* \*

(1) \* \* \*

(ii) \* \* \*

(A) \* \* \*

(1) In years where the groundfish harvest specifications are known by January 1, deposits to QS accounts for IFQ species will be made on or about January 1. For 2013, NMFS will issue QP in two parts. On or about January 1, 2013, NMFS will deposit QP based on the shorebased trawl allocation as reduced by the amount of QP for whiting trips as specified at paragraph (d)(8)(iv)(A)(10) of this section for the initial issuance allocations of QS between whiting and non-whiting trips. In the spring of 2013, after NMFS has made a determination on the QS for QS permit owners, NMFS will deposit additional QP to the QS account, as appropriate.

(2) In years where the groundfish harvest specifications are not known by January 1, NMFS will issue QP in two parts. On or about January 1, NMFS will deposit QP based on the shorebased trawl allocation multiplied by the lower end of the range of potential harvest specifications for that year. For 2013, that amount will be further reduced by the amount of QP for whiting trips as specified at paragraph (d)(8)(iv)(A)(10) of this section for the initial issuance allocations of QS between whiting and non-whiting trips. After the final harvest specifications are established later in the year, NMFS will deposit additional QP to the QS account. For 2013, this will occur in the spring after NMFS has made a determination on the QS for QS permit owners.

(B) \* \* \*

(1) In years where the Pacific whiting harvest specification is known by January 1, deposits to QS accounts for Pacific whiting will be made on or about January 1. For 2013, NMFS will issue QP in two parts. On or about January 1, 2013, NMFS will deposit QP based on the shorebased trawl allocation as reduced by the amount of QP for whiting trips as specified at paragraph (d)(8)(iv)(A)(10) of this section for the initial issuance allocations of QS between whiting and non-whiting trips. In the spring of 2013, after NMFS has made a determination on the QS for QS permit owners, NMFS will deposit additional QP to the QS account, as appropriate.

(2) In years where the Pacific whiting harvest specification is not known by January 1, NMFS will issue Pacific whiting QP in two parts. On or about January 1, NMFS will deposit Pacific whiting QP based on the shorebased trawl allocation multiplied by the lower end of the range of potential harvest specifications for Pacific whiting for that year. For 2013, that amount will be further reduced by the amount of QP for whiting trips as specified at paragraph (d)(8)(iv)(A)(10) of this section for the initial issuance allocations of QS between whiting and non-whiting trips. After the final Pacific whiting harvest specifications are established later in the year, NMFS will deposit additional QP to QS accounts. For 2013, this will occur in the spring after NMFS has made a determination on the QS for QS permit owners.

\* \* \* \* \*

- (3) \* \* \*
- (ii) \* \* \*
- (B) \* \* \*

(2) *Transfer of QS or IBQ between QS accounts.* QS or IBQ cannot be transferred to another QS permit owner, except under U.S. court order or authorization and as approved by NMFS. QS or IBQ may not be transferred to a vessel account.

\* \* \* \* \*

- (4) \* \* \*

(v) *Divestiture.* Accumulation limits will be calculated by first calculating

the aggregate non-whiting 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 their 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 as of November 8, 2008, if such ownership has been registered with NMFS by November 30, 2008. The owner of any permit acquired after November 8, 2008, or if acquired 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 the first two years once QS transfers are allowed (the divestiture

period). 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. Once the divestiture period is completed, 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 QS or IBQ owners in proportion to the QS or IBQ holdings in the immediately following year. No compensation will be due for any revoked shares.

\* \* \* \* \*

- 3. In § 660.150,
- a. Revise paragraph (g)(2)(iv)(B); and
- b. Remove and reserve paragraph (g)(2)(iv)(C) to read as follows:

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

\* \* \* \* \*

- (g) \* \* \*
- (2) \* \* \*
- (iv) \* \* \*

(B) *Application.* NMFS is not accepting applications for a change in MS/CV endorsement registration at this time.

(C) *[Reserved]*

\* \* \* \* \*

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