

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 660**

[Docket No. 130528511–3592–01]

RIN 0648–BD31

**Fisheries off West Coast States; Pacific Coast Groundfish Fishery Management Plan; Commercial, Limited Entry Pacific Coast Groundfish Fishery; Program Improvement and Enhancement**

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** This proposed action would implement revisions to the Pacific coast groundfish trawl rationalization program (program), a catch share program, and includes clarifications of regulations that affect the limited entry trawl and limited entry fixed gear sectors managed under the Pacific Coast Groundfish Fishery Management Plan (FMP). This action proposes to implement trailing actions for the program that either implement original provisions of the program, including quota share (QS) permit application and transfer regulations, increase flexibility or efficiency, or address minor revisions/clarifications.

**DATES:** Submit comments on or before August 19, 2013.

**ADDRESSES:** You may submit comments on this document, identified by NOAA-NMFS-2013-0086, by any of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to [www.regulations.gov/](http://www.regulations.gov/)

- **#!doCKETDetail;D=NOAA-NMFS-2013-0086,** click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.

- **Mail:** Submit written comments to William W. Stelle, Jr., Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE., Seattle, WA 98115–0070; Attn: Ariel Jacobs.

- **Fax:** 206–526–6736; Attn: Ariel Jacobs.

**Instructions:** Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record

and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

Written comments regarding the burden-hour estimates or other aspects of the collection of information requirements contained in this proposed rule may be submitted to William W. Stelle, Jr., Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE., Seattle, WA 98115–0070, and to OMB by email to [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov), or fax to 202–395–7285.

**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**

In January 2011, NMFS implemented the trawl rationalization program for the Pacific coast groundfish fishery’s trawl fleet (*see* 75 FR 78344; Dec. 15, 2010). The program was adopted in 2010 through Amendments 20 and 21 to the FMP and consists of an Individual Fishing Quota (IFQ) program for the shorebased trawl fleet (including whiting and non-whiting fisheries); and cooperative (coop) programs for the at-sea mothership and catcher/processor trawl fleets (whiting only). Since that time, the Pacific Fishery Management Council (Council) and NMFS have been addressing implementation issues as they arise, some of which are the subject of this proposed rule. This proposed action would include the following, by category of (a) implementation of original program, (b) increasing flexibility or efficiency, and (c) minor revisions/clarifications:

**(A) Implementation of Original Program**

1. Establish quota share (QS) permit application and QS transfer regulations,

**(B) Increasing Flexibility or Efficiency**

2. Clarify exceptions for lenders from control rules,

3. Change the opt-out requirement for quota pound (QP) deficits,

4. Eliminate double filing of co-op reports (November and March),

5. Revise first receiver site license requirements (FRSL), including site inspection and expiration date,

6. Remove end of the year ban on QP transfers between vessel accounts,

**(C) Minor Revisions/Clarifications**

7. Remove the term “permit holder” from groundfish regulations and replace with “vessel owner”, “permit owner”, or “owner of a vessel registered to a limited entry permit” as applicable,

8. Revise the process for a permit holder (vessel owner) to change their vessel ownership,

9. Clarify that the processor obligation may be to more than one MS permit,

10. Revise the mothership catcher vessel (MS/CV) endorsement restriction given severability,

11. Clarify sorting requirement for full retention so “predominant species” means only one species,

12. Clarify the accumulation limits calculation for compliance with the annual QP vessel limit in vessel accounts,

13. Add a prohibition against failing to establish a new vessel account, following a change in vessel ownership, prior to fishing in the Shorebased IFQ program, and

14. Add a prohibition against landing fish from an IFQ trip to a first receiver without a valid FRSL.

Each of these items is described in greater detail below, including sector(s) of the fishery impacted by the item, rationale for the proposed change, and a discussion of any relevant Council action pertaining to the item.

**1. Establish QS Permit Application and QS Transfer Regulations**

Proposed implementation of QS transfer regulations would only affect the Shorebased IFQ sector of the Pacific Coast Groundfish fishery. The ability to transfer, after the first two years of the program, QS between participants in the Shorebased IFQ sector was approved under the original provisions of the program (*see* 75 FR 78344), however due to the Reconsideration of the Initial Allocation of Pacific whiting (whiting) to the Shoreside IFQ and Mothership sectors of the fishery, NMFS delayed QS transfer until January 1, 2014 for all species with the exception of widow rockfish (*see* 77 FR 45508 and 78 FR 18879). By implementing QS transfer regulations, including an application process for new entrants intending to purchase QS, this proposed action will increase flexibility and efficiency for members of this sector, and provide a pathway for new entrants to establish QS permits/accounts and purchase QS.

The Council selected a preliminary preferred alternative (PPA) at its March 2012 meeting to delay the implementation of QS transfer and

divestiture of QS held in excess of the accumulation limits in the shoreside IFQ sector, as well as severability and divestiture in the Mothership sector, pending resolution of the whiting reconsideration. At its September 2012 meeting, the Council recommended that the QS transfer and divestiture periods for the shoreside IFQ sector begin on January 1, 2014 with the deadline to divest shares in excess of the accumulation limits extended to December 31, 2015, and that MS/CV severability begin on September 1, 2014, with a delay of the deadline to divest endorsements and catch history assignments in excess of the accumulation limits extended to August 31, 2016. Therefore, this rule proposes to further develop the process for QS transfers and applications.

NMFS proposes to add a QS permit application process at § 660.140(d)(2)(iii) that would allow each unique QS permit applicant to submit a complete application form, including a Trawl Identification of Ownership Interest Form, between January 1 and November 30 of each year. This application period aligns with the proposed QS trading period below. Upon approval of a QS permit application, NMFS would issue a QS permit and associated QS account with a starting QS percentage balance of zero for each IFQ and individual bycatch quota (IBQ) species. If a QS permit application were denied, an initial administrative determination (IAD) would be mailed to the applicant, who could then appeal the IAD as described at § 660.25(g), subpart C.

NMFS also proposes regulations to more clearly define the process for transfers of QS percentages. All QS permit owners with a renewed QS permit would be able to permanently transfer percentages of QS to other QS permit owners through their online QS account between January 1 and November 30 of each year. Like QP transfers, any transfer of QS would need to be both initiated by the transferor and accepted by the transferee to be a complete transaction. QS would be transferred in increments to the thousandth of a percent (0.001 percent). Any transfer of QS would be registered in the QS account in the current year, but would not be effective for the purposes of allocating QP until the start of the following year. For example, if QS Permit Owner A sold 1.000 percent of Pacific whiting to QS Permit Owner B, the sale of QS would be effective at the time the transfer was accepted by QS Permit Owner B, but no QP would be associated with the sale (QP cannot be transferred between QS accounts—only

to vessel accounts). QS Permit Owner A would continue to receive any allocations of Pacific whiting pounds based on the 1.000 percent sold for the remainder of the year. On November 30 of that year (the end of the QS trading period), if QS Permit Owner B still owned the 1.000 percent of Pacific whiting that he purchased from QS Permit Owner A, the QS permit mailed by NMFS would reflect the updated amount of Pacific whiting owned for the following year, and any QP allocated to that 1.000 percent in the following year would be issued to QS Permit Owner B.

Essentially, the QS permit would reflect the amount of QS owned for the purposes of allocating QP in a current year. Regardless of how many QS transfers are made in a given year by the original owner of QS (as given on the QS permit, effective January 1), the original owner will be allocated the QP associated with those percentages. Not until the start of the following year will the new owner(s) of those percentages have the percentages listed on their QS permit and receive the allocation of QP associated with those percentages in their QS account.

Additionally, revisions are proposed for the regulations at § 660.140(d)(3)(i)(C) and (d)(3)(ii)(B)(2) that clarify the renewal of QS permits. Currently, all QS permit owners must renew online through the QS account during the October 1–November 30 renewal period each year. Any QS permit owner who does not renew their permit during the renewal period will have their QS account inactivated, and will not receive any allocations of QP based on their QS percentages. The QS permit owner cannot renew their QS permit until the next October 1–November 30 renewal period. Two changes to these current regulations are proposed: (1) Prohibit the transfer of QS to and from QS permits/accounts that have not been renewed, and (2) implement a paper renewal application process for QS permit owners who did not renew their QS permit online during the October 1–November 30 renewal period. The first proposed change to prohibit the transfer of QS to and from QS permits/accounts that have not been renewed aligns with the current process of inactivating accounts associated with non-renewed QS permits. The second proposed change would allow QS permit owners who did not renew their QS permit online during the previous year's renewal period to submit a paper renewal package (QS permit renewal form and Trawl Identification of Ownership Interest Form) after January 1 of the following year. If the paper QS permit renewal was approved in the

current year, the QS permit owner would be able to transfer percentages of QS from the time they renew until November 30 of that year. NMFS would not allocate any QP to the QS account until the following calendar year provided they renew during the October 1 to November 30 renewal period of the current year.

For example, if QS permit owner A failed to renew online for the 2014 calendar year by November 30, 2013, QS permit owner A would not be allocated any 2014 QP, and could not transfer QS. If QS permit owner A renews via paper renewal on February 1, 2014, and is approved, they could transfer QS from the time of approval until November 30, 2014; QS permit owner A would not be allocated any QP for 2014. If QS permit owner A renews online for the 2015 calendar year by November 30, 2014, QS permit owner A would be allocated 2015 QP, and could transfer QS in 2015.

## 2. Clarify Exceptions for Lenders From Control Rules

This proposed action would only affect the Shorebased IFQ sector of the Pacific Coast Groundfish fishery. This item was addressed by the Council at the March and November 2012 Council meetings. At the March 2012 meeting, the Council recommended language that clarified which entities could qualify for exemption from the control rules in response to questions from fishery participants. Further revisions to the control rules were proposed by the Council at the November 2012 meeting.

The current regulations at § 660.140(d)(4)(iii) define control rules for eight categories of participants, with exceptions to three of the categories (§ 660.140(d)(4)(iii)(E–G)) for “banks and other financial institutions that rely on QS or IBQ as collateral for loans”. The Council motion proposes to add language to the control rules specifying that to qualify as a bank or financial institution for purposes of this paragraph the entity must be regularly or primarily engaged in the business of lending and not engaged in or controlled by entities whose primary business is the harvest, processing, or distribution of fish or fish products. Additionally, the proposed language would require that any lender that wishes to qualify for the exception, and is not a state or federally chartered bank or other financial institution, must disclose to NMFS the identity and share of interest of any entity with a two percent or more ownership interest in the lender, in a manner similar to what is required for the Trawl Identification of Ownership Interest Form as described at § 660.140(d)(4)(iv). Additional

revisions were proposed to make it clear that lenders could access available QP during foreclosure, thereby reducing lenders' risk, and making it more likely that there will be adequate access to financing, and to best facilitate lending in the fishery by providing lenders with security so that they will not run afoul of the control rules by using QS as collateral, and that lenders will be able to protect their interest in that collateral by preventing sale, lease, or other disposition of the QS, QP, or IBQ in the event of a foreclosure.

Therefore NMFS proposes, in accordance with the Council recommendation, to add subparagraphs (1) through (3) at § 660.140(d)(4)(iii)(G) that clarify the existing exception for banks and other financial institutions that rely on QS or IBQ as collateral for loans. NMFS proposes that to qualify for this exception, a bank or other financial institution must be regularly or primarily engaged in the business of lending and not engaged in or controlled by entities whose primary business is the harvesting, processing, or distribution of fish or fish products. NMFS further proposes that any entity that is not a state or federally chartered bank or financial institution, must submit a letter requesting the exception, and disclose the identity and interest share of any shareholder with a 2% or more ownership interest in the lender through submission of the Trawl Identification of Ownership Interest Form; NMFS will only accept complete applications. Additionally, NMFS proposes to add the revised exception to paragraph (C) at § 660.140(d)(4)(iii), to remove the existing exception from paragraphs (E) and (F), and to add the clause "with the exception of those activities allowed under paragraphs C

and G" at the end of paragraphs (A), (B), (D), (E), (F), and (H).

### 3. Change the Opt-Out Requirement for QP Deficits

This proposed action would only affect the Shorebased IFQ sector of the Pacific Coast Groundfish fishery. This item was addressed by the Council at the March and April 2012 Council meetings. At its April 2012 meeting, the Council recommended changing the opt-out requirement for QP deficits lasting more than 30 days in order to allow vessels to rejoin the fishery after deficits are cleared. Under existing regulations, any vessel with a documented deficit is prohibited from fishing groundfish and is required to cure the deficit within 30 days. If a vessel carries a deficit for more than 30 days and the amount of the deficit is within the carryover allowance, then the vessel can stay within compliance of the program by opting out of the fishery for the remainder of the year. Vessels that do not opt out, but instead incur a violation, are allowed to rejoin the fishery as soon as the deficit is cured. Deficits greater than the carryover allowance must be brought to within the carryover allowance before the 30-day clock expires, or the vessel will incur a violation.

The 30-day clock with the provision allowing vessels to opt-out for the remainder of the year was originally intended to encourage vessels to cover their overages sooner rather than later. A variety of circumstances may arise under which a vessel incurs a deficit. Current regulations give the vessel two choices, each with potentially substantial adverse consequences: (1) Incur a violation, including the penalty, and preserve the opportunity to participate later in the year, or (2) leave the fishery and forgo all remaining

opportunity for the year (unused QP might be sold off to other vessels). Vessels that have carried a known deficit for more than 30 days may avoid a violation by opting out of the fishery for the remainder of the year (so long as the deficit is less than the carryover allowance).

As described above, this provision creates a situation in which a vessel that incurs a violation is allowed to continue in the fishery while a vessel that stays in compliance must opt out for the remainder of the year. Furthermore, to date there have been three events where a vessel was in deficit and approached the 30-day time period before covering their deficit. However, none of them opted-out of the fishery and all were able to cover their deficits within 30 days. While vessels have not been using the opt-out provision, it is uncertain whether or not they have had to pay higher prices for QP in order to avoid being forced into the opt-out/violation choice. Some view this situation as inequitable. Therefore NMFS proposes to change the regulations at § 660.140(b)(1)(iii) and (e)(5)(ii)(A) such that once a vessel has cured a deficit, it may rejoin the fishery, without incurring a violation. NMFS also proposes to remove the phrase "however, the vessel owner must notify OLE of the owner's intent to invoke the carryover provision to cover the deficit" from the end of paragraph (A). This requirement is no longer necessary because surplus carryover is not credited to vessel accounts until the spring, and therefore vessel owners with a deficit at the end of a calendar year would have no way to cover that deficit with surplus carryover pounds within the 30-day limit. The following table describes the changes proposed by these revisions.

Table 1. Implications of the alternatives for vessels incurring a deficit that is within the carryover allowance.

Situation of Vessels Incurring a Deficit	Status Quo	Alternative
Vessel covers deficit within 30 days	Vessel <u>not in violation</u> . Vessel <u>can re-enter</u> the fishery as soon as deficit is covered.	Vessel <u>not in violation</u> . Vessel <u>can re-enter</u> the fishery as soon as deficit is covered.
Vessel <u>opts out</u> by 30 days and covers deficit later	Vessel <u>not in violation</u> . Vessel <u>must stay out</u> of the fishery the entire year.	Vessel <u>not in violation</u> . Vessel <u>can re-enter</u> the fishery as soon as deficit is covered.
Vessel <u>does not opt out</u> and covers deficit later	Vessel <u>in violation</u> . Vessel <u>can re-enter</u> the fishery as soon as deficit is covered.	Vessel <u>in violation</u> . Vessel <u>can re-enter</u> the fishery as soon as deficit is covered.

Vessels with deficits **greater than the deficit carryover allowance** may not avoid a violation by opting out by 30 days.

#### 4. Eliminate Double Filing of Coop Reports

This proposed action would only affect the Mothership (MS) and Catcher/Processor (C/P) sectors of the Pacific Coast Groundfish fishery. This item was addressed by the Council at the March and April 2012 Council meetings. At its April 2012 meeting, the Council recommended eliminating the required annual filing of a preliminary coop report in November, leaving in place the requirement that a final report be submitted in March of the following year.

Currently both MS and C/P coops are required to submit to the Council a preliminary annual report in November and to NMFS a final annual report by March 31 of the following year. Because the fishery is not completed on time for the November meeting and a subsequent final report must be provided by March 31 of the following year, the preliminary report is not necessary. Therefore, NMFS proposes to revise the regulations at § 660.113(c)(3) and at § 660.113(d)(3) to require that both the MS and C/P coops submit an annual, final report to both NMFS and the Council in March of the following year.

#### 5. Revise FRSL Requirements, Including Site Inspection and Expiration Date

This proposed action would only affect the Shorebased IFQ sector of the Pacific Coast Groundfish fishery. This item was addressed by the Council at the March and April 2012 Council meetings. At its April 2012 meeting, the Council recommended making several changes to the FRSL regulations in order to make the application process more efficient, to reduce costs of the program, and to decrease the burden on applicants.

Therefore, NMFS proposes to make the following revisions at § 660.140(f)(5): (1) All FRSL will be valid from the effective date identified on the license until June 30; (2) each FRSL holder must have a site inspection for the site given on the license at least once every three years (instead of annually, as currently required); (3) NMFS may require a site inspection more frequently than once every three years as it deems necessary; (4) NMFS may require the presence of a FRSL holder representative at a site inspection, and a site inspection may not be conducted if the FRSL holder fails to make available such a requested representative at the time of inspection; and (5) NMFS may require changes to the catch monitor (CM) plan, and may require that the FRSL holder demonstrate such changes have been

implemented at the site prior to acceptance of the FRSL CM plan, which is a requirement for a complete application for a FRSL.

NMFS also proposes further clarifications to the re-registration process at § 660.140(f)(6). First receivers must submit a re-registration application annually, regardless of whether a site inspection is required in that year. For all FRSL holders who submit a complete re-registration application, NMFS will notify those FRSL holders who will be required to have a site inspection during that year. NMFS will mail a FRSL re-registration application to existing license holders on or about February 1 each year. All FRSL will expire on June 30, and those FRSL holders who want to continue to receive IFQ landings without a lapse in their license and have their re-registered license effective beginning on July 1 must submit their complete re-registration application by April 15. For those FRSL holders who submit a re-registration application after April 15 of a given year, NMFS may not be able to issue the license by July 1 of that year, resulting in a lapse of their current FRSL.

#### 6. Remove End of the Year Ban on QP Transfers Between Vessel Accounts

This proposed action would only affect the Shorebased IFQ sector of the Pacific Coast Groundfish fishery. This item was addressed by the Council at the March and April 2012 Council meetings. At its April 2012 meeting, the Council recommended that the December 15–31 prohibition on QP transfers between vessel accounts be removed. Under current regulations at § 660.140(e)(3)(iii)(B), the transfer of QP between vessel accounts was prohibited from December 15–31 in order to allow NMFS to complete any needed end-of-the-year account reconciliation. However, over 2011 and through the PIE 1 rule (effective January 1, 2012), NMFS developed and implemented an end-of-the-year account reconciliation process that doesn't occur during December 15–31, but occurs early the following year once more complete catch data are available. Therefore, NMFS proposes that the regulations at § 660.140(e)(3)(iii)(B) be revised to remove the December 15–31 ban on QP transfers between vessel accounts.

#### 7. Remove the Term “permit holder” and Change to “vessel owner”, “permit owner”, or “owner of a vessel registered to a limited entry permit” as Applicable

This proposed action would affect all members of the commercial, limited entry Pacific Coast Groundfish fishery.

In regulation, the term “permit holder” is the owner of a vessel registered to a limited entry permit. This item was addressed by the Council at the March and April 2012 Council meetings. At its April 2012 meeting, the Council recommended that due to confusion among the regulated public regarding who is responsible for regulatory compliance, the term “permit holder” should be removed from regulations and replaced by “vessel owner” or “owner of a vessel registered to a limited entry permit.” In some cases, the regulated public has used the term “permit owner” and “permit holder” interchangeably, which is not accurate. According to regulations, the permit owner registers their permit to be fished by a particular vessel, causing the vessel owner to be the holder of the permit. “Permit holder” and “vessel owner” are used interchangeably in regulation while the public uses the term “permit holder” and “permit owner” interchangeably—causing confusion. In an effort to make the regulations more clear, NMFS proposes to remove the definition for “permit holder” at § 660.11, and to replace “permit holder” at § 660.25(b)(3)(ii) with “vessels registered to limited entry permits”; to replace “permit holder” with “vessel owner” in § 660.25(b)(3)(iv)(C)(4), § 660.25(b)(4) introductory text, § 660.25(b)(4)(iv) introductory text, § 660.25(b)(4)(iv)(A) and (C), § 660.25(b)(4)(v)(D), § 660.25(b)(4)(vi)(B), § 660.25(b)(4)(vii)(A) through (C), (g)(1), in § 660.213(d)(2), and in § 660.231(b)(1); to replace “permit holder” with “vessel holding the permit” in § 660.25(b)(4)(iv)(B); and, to replace “permit holder” in § 660.150(d)(1)(iii)(A)(1)(i) with “permit owners”.

#### 8. Revise the Process for a Permit Holder (Vessel Owner) To Change Their Vessel Ownership

This proposed action would affect all members of the commercial, limited entry Pacific Coast Groundfish fishery. This item was addressed by the Council at the March and April 2012 Council meetings. At its April 2012 meeting, the Council recognized that the regulations at § 660.25(b)(4)(iv) do not clearly describe the process for a permit holder (vessel owner) to request a change in vessel ownership. NMFS proposes to revise these regulations to clarify the process for a vessel owner to request a change in vessel ownership through the Fisheries Permits Office (FPO). The request would include a requirement for a copy of the new vessel registration documentation (USCG or state). Based

on this provision and review of the regulations, NMFS proposes to revise and clarify not only the process to change the ownership of a vessel (i.e., change in vessel owner), but also the process to change the permit registered to a vessel and to change the owner of a limited entry permit. NMFS proposes to revise § 660.25(b)(4)(iv), (v), (vii), and (viii) accordingly.

#### *9. Clarify That the Processor Obligation Could Be to More Than One MS Permit*

This proposed action would affect all members of the Mothership sector of the commercial Pacific Coast Groundfish fishery. This item was addressed by the Council at the March and April 2012 Council meetings. At its April 2012 meeting, the Council recommended that the regulations regarding the processor obligation should be clarified such that a permit with multiple MS/CV endorsements may obligate each endorsement and associated catch history assignment (CHA) to an MS permit. For example, a trawl permit with two MS/CV endorsements could obligate each endorsement to a different MS permit. Each distinct MS/CV endorsement and associated CHA may only be obligated to one MS permit.

This clarification is a logical extension of allowing multiple endorsements to be registered to a single permit and of the regulations at § 660.150(c)(2)(i)(A) on annual MS sector sub-allocations and at § 660.150(g)(2)(iv)(D) on multiple MS/CV endorsements that allow a permit with multiple MS/CV endorsements and associated CHAs to be registered to more than one coop or to both the coop and non-coop fishery (76 FR 74725, published on December 1, 2011). Therefore, NMFS proposes to revise regulations at § 660.150(c)(7)(i) in order to clarify that the processor obligation could be to more than one MS permit. Additionally, NMFS proposes to revise regulations at § 660.150(g)(2)(iv)(D) in order to clarify the process for a permit with multiple MS/CV endorsements that intends to participate in the non-coop fishery. NMFS also proposes to revise regulations at § 660.25(b)(3)(vii) to remove MS/CV endorsements from the list of endorsements that cannot be transferred separate from the limited entry permit.

#### *10. Revise MS/CV Endorsement Restriction Given Severability*

This proposed action would affect all members of the Mothership sector of the commercial Pacific Coast Groundfish fishery. This item was not discussed at a Council meeting, but is a minor revision to the regulations proposed by

NMFS. The final Reconsideration of the Allocation of Whiting Rule (78 FR 18879) was effective on April 1, 2013 and allowed limited entry trawl permit holders in the Mothership fishery to request a change (or transfer) of MS/CV endorsement and its CHA beginning September 1, 2014 and required MS/CV-endorsed limited entry trawl permit owners to divest themselves of ownership in permits in excess of the accumulation limits by August 31, 2016. NMFS proposes to revise regulations at § 660.25(b)(3)(vii) to remove MS/CV endorsements from the list of endorsements that cannot be transferred separate from the limited entry permit.

#### *11. Clarify Sorting Requirement for Full Retention so "predominant species" Means Only One Species*

This proposed action would affect the Pacific Coast Groundfish trawl fishery. This item was not discussed at a Council meeting, but is a minor revision to the regulations proposed by NMFS. Currently, the sorting and weighing requirements for full retention fisheries are not clear regarding use of the term "predominant species". Currently the regulations at § 660.112(b)(2)(ii), § 660.130(d)(2)(i), § 660.140(j)(2)(viii), and § 660.140(j)(2)(ix) specify sorting requirements for fish processed by IFQ first receivers. Generally catch must be sorted prior to first weighing, however there is an exception provided to vessels declared into the Shorebased IFQ Program such that they may weigh catch prior to sorting, and then all but the "predominant species" must be reweighed. Use of the term "predominant species" has created confusion because "species" may be interpreted to be singular or plural, however as the term is used in this exception, there can only be a single predominant species identified prior to re-weighing, post-sorting, or it becomes extremely difficult to derive the weight of the predominant species by deducting the combined weight of incidental catch from total catch weight. This exception is also provided to the at-sea sectors of the Pacific whiting fishery at § 660.130(d)(3)(i). For fish processed by Pacific whiting at-sea processing vessels, these regulations specify that catch may be weighed prior to sorting and that then all but the predominant species must then be reweighed. The use of "predominant species" in this section of regulations should also refer to a single predominant species for the reasons described above for the Shorebased IFQ Program.

Therefore, "predominant species" should refer to a single species, for

example in the case of whiting directed trips, it should refer to Pacific whiting. NMFS proposes to revise the regulations at § 660.112(b)(2)(ii), § 660.130(d)(2)(i), § 660.130(d)(3)(i), § 660.140(j)(2)(viii), and § 660.140(j)(2)(ix) to clarify that the term "predominant species" refers to a single species.

In reviewing the associated regulatory paragraphs on sorting requirements, it was discovered that PIE 1 (which revised the sorting/weighing requirement for non-whiting IFQ) failed to revise this paragraph. NMFS also proposes a minor revision at § 660.12(a)(8) to remove the reference to "Pacific whiting sectors" because the exception applies to non-whiting IFQ as well. This is a minor change resulting from an oversight in PIE 1 (see 76 FR 54888). NMFS also proposes to revise § 660.130(d)(2)(ii) for this same reason and remove "Pacific whiting" from before "IFQ trip".

#### *12. Clarify Accumulation Limits Calculation for Compliance With the Annual QP Vessel Limit in Vessel Accounts*

This proposed action would affect the Shorebased IFQ sector of the Pacific Coast Groundfish fishery. This item was not discussed at a Council meeting, but is a minor revision to the regulations proposed by NMFS. The current description of how annual QP vessel limits are tracked is misleading. NMFS proposes to revise regulations at § 660.140(e)(4)(i) to clarify that the QP counted toward the annual allowable vessel limit is calculated as all QP transferred into a vessel account less all QP transferred out of a vessel account; pending transfers are not included in this calculation until the transaction has been finalized. The method for calculating the annual vessel limit must be independent of catch (used QP) because vessel accounts in deficit could potentially exceed the vessel limit. The calculation for daily vessel limits (unused QP vessel limits) remains the same.

#### *13. Add a Prohibition Against Failing To Establish a New Vessel Account Following a Change in Vessel Ownership and Prior to Fishing in the Shorebased IFQ Program*

This proposed action would affect the Shorebased IFQ sector of the Pacific Coast Groundfish fishery. This item was not discussed at a Council meeting, but is a minor revision to the regulations proposed by NMFS. Current regulations at § 660.140(e)(2)(ii) and (e)(3)(ii) state that any change in vessel ownership, including a change in the legal name of the vessel owner(s), will require the new

owner to register with NMFS for a vessel account. When the owner of a vessel changes, the new owner must request a new vessel account in their name and acquire QP, and may not fish against QP in the old owner's vessel account. Consistent with these regulations, NMFS proposes to add a corresponding prohibition at § 660.112(b) against failing to establish a new registered vessel account in the name of the current vessel owner following a change in ownership of a vessel and prior to fishing in the Shorebased IFQ Program with that vessel.

*14. Add a Prohibition on Landing Fish From an IFQ Trip to a First Receiver Without a Valid FRSL*

This proposed action would affect the Shorebased IFQ sector of the Pacific Coast Groundfish fishery. This item was not discussed at a Council meeting, but is a minor revision to the regulations proposed by NMFS. Current regulations at § 660.140(f)(1) state that the FRSL authorizes the holder to "to receive, purchase, or take custody, control, or possession of an IFQ landing." Consistent with this regulation, NMFS proposes to add a corresponding prohibition at § 660.112(b) against landing groundfish taken and retained during an IFQ trip, from the vessel that harvested the fish, to a first receiver that does not hold a valid first receiver site license for the physical location where the IFQ landing occurred.

**Classification**

Pursuant to section 304(b)(1)(A) of the MSA, the NMFS Assistant Administrator has determined that this proposed 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.

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

A Regulatory Impact Review (RIR) was prepared on the action in its entirety and is included as part of the initial regulatory flexibility analysis (IRFA) on the proposed regulatory changes. The IRFA and RIR describe the impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. A copy of the IRFA is available from NMFS (see **ADDRESSES**) and a summary of the IRFA, per the requirements of 5 U.S.C. 603(a), follows:

These regulations are largely administrative in nature and their economic effects are minor in the context of the entire program. In sum, in addition to minor clarifications to terms used within the existing regulations and minor changes in existing application and renewal processes, these proposed regulations: (1) Establish the administrative QS application and trading processes that support the quota share trading regulations that already have been established; (2) reduce the annual reporting burden on the two at-sea coops—instead of providing a preliminary report and final report, the only requirement is to provide a final report; (3) reduce the annual reporting burden on First Receivers as the mandatory scheduling of First Receiver Site License inspection is being shifted from an annual inspection cycle to a triennial cycle unless issues arise; (4) provide an additional two weeks to IFQ fishermen to trade their QPs; (5) increase fishermen's flexibility by allowing fishermen that opt out of the fishery for the year, a chance to return to the fishery in that same year should they resolve their deficits; and, (6) increase the availability of loans to fishermen by providing non-traditional lenders increased opportunity to make additional loans should they be inhibited by the ownership and control limits.

This proposed action includes regulations that implement the original program, increase the flexibility of the program, or make minor revisions/clarifications to the regulations. Relative to the other regulations being proposed, the following will have an impact on the operation of the fishery. The proposed regulations include the administrative processes that implement QS transfer regulations that already have been established. These processes facilitate the trading of QS so that major benefits of the Program can be achieved. (The major economic benefits of this Program are described at 75 FR 78365.) The regulatory reporting burden of existing regulations is being reduced. The mandatory scheduling of First Receiver Site License inspection is being shifted from an annual inspection cycle to a triennial cycle unless issues arise. The annual reports required by each of the two at-sea co-ops reduced from two reports to one per year. Fishermen are being given more time to fish and more options to resolve any deficits they incur. Current rules include a process by which fishermen can opt-out of the fishery for the year when faced with a deficit in their accounts. This process is revised to allow fishermen to re-enter

the fishery within the year if they have resolved their deficit though the transfer of additional QPs into their vessel account. To facilitate NMFS' end of the year reconciliation processes, there was a ban on trading QPs from December 15 to December 31. Because it has confidence in its accounting system, NMFS is now lifting this ban so QPs can be traded all year round. The proposed regulations enhance the ability of non-traditional lenders to provide loans to the industry. To prevent excessive control of quota shares or quota pounds by a participant, NMFS developed various regulations. Within these regulations, exceptions were made for banks or financial institutions that are state or federally chartered as these entities are expected to be regularly or primarily engaged in the business of lending and not engaged in or controlled by entities whose primary business is the harvesting, processing, or distribution of fish or fish products. However, there are non-traditional financial institutions such as non-profit revolving loan programs that are not state or federally chartered. These regulations propose a process where, on a case-by-case basis, these non-traditional lenders can request an exception to the control limits.

While this rule has minor clarifications that affect all limited entry permit holders and vessels, this rule mainly affects the following sectors/programs: Shorebased Individual Fishing Quota (IFQ) Program—Trawl Fishery, Mothership Coop (MS) Program—Whiting At-sea Trawl Fishery, and Catcher-Processor (C/P) Coop Program—Whiting At-sea Trawl Fishery. The Shorebased IFQ fishery is managed with individual fishing quotas for most groundfish species, including whiting. Annually, QP are allocated from the shorebased sector allocation based on the individual QS of each QS owner. (QP is expressed as a weight and QS is expressed as a percent of the shorebased allocation for a given species or species group.) QP may be transferred from a QS account to a vessel account or from one vessel account to another vessel account. Vessel accounts are used to track how QP is harvested since QP is used to cover catch (landings and discards) by limited entry trawl vessels of all IFQ species/species groups. Shorebased IFQ catch must be landed at authorized first receiver sites. The IFQ whiting QS were allocated to a mixture of limited entry permit holders and shorebased processors. One non-profit organization received QS based on the ownership of multiple limited entry permits. The MS coop sector can consist

of one or more coops and a non-coop subsector. For a MS coop to participate in the Pacific whiting fishery, it must be composed of MS catcher-vessel (MS/CV) endorsed limited entry permit owners. Each permitted MS coop is authorized to harvest a quantity of whiting based on the sum of the catch history assignments for each member's MS/CV endorsed permit identified in the NMFS accepted coop agreement for a given calendar year. Each MS/CV endorsed permit has an allocation of whiting catch based on its catch history in the fishery. The catch history assignment (CHA) is expressed as a percentage of whiting of the total MS sector allocation. Currently the MS sector is composed of only a single coop. 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. Unlike the MS coop regulations where multiple coops can be formed around the CHAs of each coop's member's endorsed permit, the single C/P coop receives the total Pacific whiting allocation for the C/P sector. Only C/P endorsed limited entry permits can participate in this coop. The Shorebased IFQ Program is composed of 138 QS permits/accounts, 144 vessel accounts, and 51 first receivers. The MS coop fishery is composed of six mothership processor permits and 35 MS/CV endorsed permits. The C/P coop is composed of 10 catcher-processor permits. In 2012, these fleets generated about \$79 million in ex-vessel revenue: \$11 million by the MS sector, \$16 million by the CP sector, and \$52 million by the Shorebased IFQ Program.

This proposed rule also proposes changes concerning exemptions for lenders from the control rules and revisions to the opt-out provisions. In Amendment 20 to the FMP, limits (by species group and area) on the amount of QS an individual can control (i.e. control limits) and limits on the amount of QPs that may be registered to a vessel for use in a given year (i.e. accumulation limits—sometimes referred to as species caps). The intent of these limits is to prevent excessive control of QS or QP by a participant. The MSA specifically requires the establishment of a maximum share that each limited access privilege holder is permitted to hold, acquire, or use. In defining the term “control” banks and other financial institutions were excluded. Although banks and other financial institutions may rely on QS or IBQ as collateral for loans they are not expected to restrict any activity related to QS, QP, or IBQ in ways that constitute “control.”

However, there is concern about both whether the entities qualifying for this exception are sufficiently defined—especially for non-traditional lenders such as nonprofit revolving loan funds.

Public comment received from the California Fisheries Fund (CFF) illustrates the issue ([http://www.pccouncil.org/wp-content/uploads/E7c\\_PC\\_NOV2011BB.pdf](http://www.pccouncil.org/wp-content/uploads/E7c_PC_NOV2011BB.pdf)). “We have already begun to make loans to participants in the groundfish trawl IFQ fishery for vessel purchase and upgrades and gear upgrades/modifications. Two of our loans (one for vessel upgrades and one for gear purchase) are secured in part by QS. We expect to make further loans for quota leasing/acquisition and to aid young new participants in entering the fishery. Many of these loans will likely be secured (in whole or in part) with quota shares or quota pounds as collateral. Unfortunately, proposed language under consideration by the Council exempts only state- and federally-chartered institutions from the control caps. This language would not allow CFF, RSF Social Finance ([www.rsfsocialfinance.org](http://www.rsfsocialfinance.org)) and perhaps other likely lenders to avail themselves of the safe harbor. We are concerned that our lending would be seriously curtailed by such language. While we are concerned about exceeding the control cap generally, CFF would be even more likely to exceed the control cap on a species-by-species basis. Since not all permits were allocated quota on an equal basis, as few as 2 permits pledged as collateral could push us over those species caps. A good example of this is Yelloweye rockfish—several permits appear to have been allocated more than 1% QS and the control cap is only 2.6%.”

Given the nature and variety of financial institutions, it is difficult to develop an explicit exception that encompasses non-traditional lenders. Therefore, NMFS is proposing an exception process for financial institutions that are not banks. A bank or financial institution is defined as a state or federally chartered entity that must be regularly or primarily engaged in the business of lending and not engaged in or controlled by entities whose primary business is the harvesting, processing, or distribution of fish or fish products. Any non-bank entity that wishes to qualify for this exception must submit a letter requesting the exception and a Trawl Identification of Ownership Interest Form. All shareholders that have a two percent or more ownership interest share in the lender must be identified. The lender must make subsequent

annual submissions of the Trawl Identification of Ownership Interest Form to maintain the exception.

The proposed action to change the opt-out requirement for QP deficits would only affect the Shorebased IFQ sector of the Pacific Coast Groundfish fishery. NMFS is proposing changes to the “opt-out” requirements because inequities between a vessel that incurs a violation and is allowed to continue in the fishery compared to a vessel that stays in compliance and opts-out for the remainder of the year—relying on future carryover pounds to resolve any deficit. The changes to the opt-requirements allow vessels that opt out the ability to return to the fishery if at some time during the year, the vessel resolves its deficit issue. This item was addressed by the Council at the March and April 2012 Council meetings. At its April 2012 meeting, the Council recommended changing the opt-out requirement for QP deficits lasting more than 30 days, in order to allow vessels to rejoin the fishery after deficits are cleared. Under the status quo, any vessel with a documented deficit is prohibited from fishing groundfish and is required to cure the deficit within 30 days. If a vessel carries a deficit for more than 30 days and the amount of the deficit is within the carry-over allowance, then the vessel can stay within compliance of the program by opting out of the fishery for the remainder of the year. Vessels which do not opt out, but instead incur a violation, are allowed to rejoin the fishery as soon as the deficit is cured. Deficits greater than the carryover allowance must be brought within the carryover allowance before the 30-day clock expires, or the vessel will incur a violation.

A variety of circumstances may arise under which a vessel incurs a deficit. When a deficit is incurred early in the year, it may not be possible to acquire QP for certain species at a reasonable price because of uncertainties about bycatch rates and tight QP markets for constraining species. Later in the year, QP could become more readily available. However, current regulations give the vessel two choices, each with potentially substantial adverse consequences: (1) Incur a violation, including the penalty and subsequent consequences of a violation record, and preserve the opportunity to participate later in the year, or (2) leave the fishery and forgo all remaining opportunity for the year (unused QP might be sold off to other vessels). Vessels that have carried a known deficit for more than 30 days may avoid a violation by opting out of the fishery for the remainder of

the year (so long as the deficit is less than the carryover allowance). The 30-day clock with the provision allowing vessels to opt-out for the remainder of the year was originally intended to encourage vessels to cover their overages sooner rather than later.

However, as described above, this provision creates a situation in which a vessel that incurs a violation is allowed to continue in the fishery while a vessel that stays in compliance must opt out for the remainder of the year.

Furthermore, to date there have been three events where a vessel was in deficit and approached the 30-day time period before covering their deficit. In two of these cases the deficit involved target species, and the vessel did not cover the deficit because it was participating in another fishery and chose to wait until the end of the 30-day period before covering their deficit. In the third situation, the deficit involved a large quantity of an overfished species. In all three situations the deficits were larger than the carryover amount (10 percent) and the vessels were not eligible to opt out. While vessels have not been using the opt-out provision, it is uncertain whether or not they have had to pay higher prices for QP in order to avoid being forced into the opt-out/violation choice. Some view this situation as inequitable. In order to correct this perceived inequity, NMFS proposes to change the regulations at § 660.140(e)(5)(ii)(A) so that once a vessel has cured a deficit, it may rejoin the fishery without incurring a violation.

The Small Business Administration has established size criteria for all major industry sectors in the US, including fish harvesting and fish processing businesses. A business involved in fish harvesting is a small business 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 business 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 business if it meets the \$4.0 million criterion for fish harvesting operations. A wholesale business servicing the fishing industry is a small business 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 business is one with annual receipts not in excess of \$7.0 million. These regulations also affect a class of financial institutions. NMFS believes that the following standard applies for All Other Non-depository Credit Intermediaries—\$6 million in average annual receipts as the maximum annual receipts for small entities.

As part of the permit application processes for the non-tribal fisheries, based on a review of the SBA size criteria, applicants are asked if they considered themselves a “small” business and to provide detailed ownership information. Many companies participate in two or more of these sectors. All MS/CV participants are involved in the shorebased IFQ sector while two of the three CP companies also participate in both the shorebased IFQ sector and in the MS sector. Many companies own several QS accounts or own vessel accounts. Taking into account cross participation, multiple accounts, and affiliation between entities, NMFS estimates that there are 143 fishery related entities directly affected by these proposed regulations, 99 of which are considered to be “small” businesses.

NMFS is not familiar with the financial industry; the following is a tentative projection of the potential number of small lenders affected by this rule. Public comment received by the PFMC indicates that there are possibly two lenders that are the most likely lenders to apply for the lender’s exception. Based on SBA criteria and review of information associated with these lenders, both these lenders can be considered “large” entities based on either the amount of their business activities or by their affiliation with large entities. However, there are a number of small lenders that may qualify for the “exception.” A review of the North American Industry Classification System used by the U.S. Census Bureau suggests that the likely entities that may seek an exception fall into the “NAICS 522298-All Other Non-depository Credit Intermediation” category. This category includes lenders that, for example, provide short-term inventory, credit, agricultural lending, and consumer cash lending secured by personal property. U.S. Census data indicates that in 2011, there were 730 entities within the NAICS 522298 classification operating in the states of Washington, Oregon, and California—the states most likely to have lenders that will work with the West Coast industry. In assessing various lenders that participate in SBA programs that fall within the NAICS 522298

classification, SBA estimated that over 95 percent of these participants did not exceed the applicable small business size standard and are, therefore to be considered small entities (73 FR 75507; December 11, 2008). Applying this percentage suggests that there are approximately 695 small lenders in the states of Washington, Oregon, and California that are potential beneficiaries of this rule.

As this proposed rule is primarily administrative in nature, NMFS does not believe that the proposed changes would have a significant impact on small entities; these changes were recommended by the industry to increase flexibility or efficiency. As such, NMFS has not identified significant alternatives. Through the rulemaking process associated with this action, we are requesting comments on this conclusion.

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**).

This proposed rule contains a collection-of-information requirement subject to review and approval by OMB under the Paperwork Reduction Act (PRA). This requirement has been submitted to OMB for approval. Public reporting burden for the QS permit/account application form is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Public reporting burden for the online QS transfer form is estimated to average 10 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Public reporting burden for the online QP transfer form (from a QS account to a vessel account, or vessel account to another vessel account) is estimated to average 8 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Public reporting burden for the trawl identification of ownership interest form for new entrants, including lenders, is estimated to average 45 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data



needed, and completing and reviewing the collection of information. Public reporting burden for the first receiver site license application form for re-registering applicants is estimated to average 110 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Public reporting burden for the mothership cooperative permit application form is estimated to average 4 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Public reporting burden for the catcher/processor cooperative permit application form is estimated to average 2 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Public comment is sought regarding: whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to NMFS, Northwest Region at the **ADDRESSES** above, and email to [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov), or fax to 202-395-7285.

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

This proposed rule was developed after meaningful consultation and collaboration, through the Council process, with the tribal representative on the Council. The proposed regulations have no direct effect on the tribes.

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

Fisheries, Fishing, and Indian fisheries.

Dated: July 11, 2013.

#### Samuel D. Rauch III,

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

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

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

- 1. The authority citation for part 660 is revised 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.*

##### § 660.11 [Amended]

- 2. In § 660.11, remove the definition for “Permit holder”.
- 3. In § 660.12, revise paragraph (a)(8) to read as follows:

##### § 660.12 General groundfish prohibitions.

\* \* \* \* \*

(a) \* \* \*

(8) 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, ACT, ACL 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, ACT, ACL or OY applied; except as specified at § 660.130(d).

\* \* \* \* \*

- 4. In § 660.25 revise paragraphs (b)(3)(ii), (b)(3)(iv)(C)(4), (b)(3)(vii), (b)(4) introductory text, add paragraph (b)(4)(i)(G), revise paragraphs (b)(4)(iv) introductory text, (b)(4)(iv)(A) through (C), (b)(4)(v)(B) and (D), (b)(4)(vi)(B), (b)(4)(vii) introductory text, (b)(4)(vii)(A) through (C), (b)(4)(viii), and (g)(1) to read as follows:

##### § 660.25 Permits.

\* \* \* \* \*

(b) \* \* \*

(3) \* \* \*

(ii) *Gear endorsement.* There are three types of gear endorsements: Trawl, longline and pot (trap). When limited entry “A”-endorsed permits were first issued, some vessel owners qualified for more than one type of gear endorsement based on the landings history of their vessels. Each limited entry “A”-endorsed permit has one or more gear endorsement(s). Gear endorsement(s) assigned to the permit at the time of issuance will be permanent and shall not be modified. While participating in the limited entry fishery, the vessel

registered to the limited entry “A”-endorsed permit is authorized to fish the gear(s) endorsed on the permit. While participating in the limited entry, fixed gear primary fishery for sablefish described at § 660.231, a vessel registered to more than one limited entry permit is authorized to fish with any gear, except trawl gear, endorsed on at least one of the permits registered for use with that vessel. Vessels registered to limited entry permits may be used to fish with open access gear, subject to the crossover provisions at § 660.60 (h)(7)(ii), except that vessels registered to sablefish-endorsed permits fishing in the sablefish primary season described at § 660.231, may not fish with open access gear against those limits. An MS permit does not have a gear endorsement.

\* \* \* \* \*

(iv) \* \* \*

(C) \* \* \*

(4) Any partnership or corporation with any ownership interest in a limited entry permit with a sablefish endorsement or in the vessel registered to the permit shall document the extent of that ownership interest with NMFS via the Identification of Ownership Interest Form sent to the permit owner through the annual permit renewal process and whenever a change in permit owner, vessel owner, and/or vessel registration occurs as described at paragraph (b)(4)(iv) and (v) of this section. NMFS will not renew a sablefish-endorsed limited entry permit through the annual renewal process described at paragraph (b)(4)(i) of this section, or approve a change in permit owner, vessel owner, and/or vessel registration unless the Identification of Ownership Interest Form has been completed. Further, if NMFS discovers through review of the Identification of Ownership Interest Form that an individual person, partnership, or corporation owns or holds more than 3 permits and is not authorized to do so under paragraph (b)(3)(iv)(C)(2) of this section, the individual person, partnership or corporation will be notified and the permits owned or held by that individual person, partnership, or corporation will be void and reissued with the vessel status as “unidentified” until the permit owner owns and/or holds a quantity of permits appropriate to the restrictions and requirements described in paragraph (b)(3)(iv)(C)(2) of this section. If NMFS discovers through review of the Identification of Ownership Interest Form that a partnership or corporation has had a change in membership since November 1, 2000, as described in paragraph

(b)(3)(iv)(C)(3) of this section, the partnership or corporation will be notified, NMFS will void any existing permits, and reissue any permits owned and/or held by that partnership or corporation in "unidentified" status with respect to vessel registration until the partnership or corporation is able to register ownership of those permits to persons authorized under this section to own sablefish-endorsed limited entry permits.

\* \* \* \* \*

(vii) *Endorsement and exemption restrictions.* "A" endorsements, gear endorsements, sablefish endorsements and sablefish tier assignments, and C/P endorsements may not be registered to another permit owner (i.e., change in permit ownership or ownership interest) or to another vessel (i.e., change in vessel registration) separately from the limited entry permit. At-sea processing exemptions, specified at paragraph (b)(6) of this section, are associated with the vessel and not with the limited entry permit and may not be registered to another permit owner or to another vessel without losing the exemption.

(4) *Limited entry permit actions—renewal, combination, stacking, change of permit owner or vessel owner, and change in vessel registration*

\* \* \* \* \*

(j) \* \* \*

(G) At the time of renewal, NMFS will notify owners of limited entry permits and vessel owners if vessel ownership information for a vessel registered to the permit is not current. NMFS will not renew a limited entry permit registered to a vessel for which vessel ownership information is not current.

\* \* \* \* \*

(iv) *Changes in permit owner and/or vessel owner—*

(A) *General.* Change in permit owner and/or vessel owner applications must be submitted to NMFS with the appropriate documentation described at paragraphs (b)(4)(vii) and (viii) of this section. The permit owner may convey the limited entry permit to a different person. The new permit owner will not be authorized to use the permit until the change in permit owner has been registered with and approved by NMFS. NMFS will not approve a change in permit owner for a limited entry permit with a sablefish endorsement that does not meet the ownership requirements for such permit described at paragraph (b)(3)(iv)(C) of this section. NMFS will not approve a change in permit owner for a limited entry permit with an MS/CV endorsement or an MS permit that does not meet the ownership requirements for such permit described

at § 660.150(g)(3), and § 660.150(f)(3), respectively. NMFS considers the following as a change in permit owner that would require registering with and approval by NMFS, including but not limited to: Selling the permit to another individual or entity; adding an individual or entity to the legal name on the permit; or removing an individual or entity from the legal name on the permit. A change in vessel owner includes any changes to the name(s) of any or all vessel owners, as registered with USCG or a state. The new owner(s) of a vessel registered to a limited entry permit must report any change in vessel ownership to NMFS within 30 calendar days after such change has been registered with the USCG or a state licensing agency.

(B) *Effective date.* The change in permit ownership or change in the vessel holding the permit will be effective on the day the change is approved by NMFS, unless there is a concurrent change in the vessel registered to the permit. Requirements for changing the vessel registered to the permit are described at paragraph (b)(4)(v) of this section.

(C) *Sablefish-endorsed permits.* If a permit owner submits an application to register a sablefish-endorsed limited entry permit to a new permit owner or vessel owner during the primary sablefish season described at § 660.231 (generally April 1 through October 31), the initial permit owner must certify on the application form the cumulative quantity, in round weight, of primary season sablefish landed against that permit as of the application signature date for the then current primary season. The new permit owner or vessel owner must sign the application form acknowledging the amount of landings to date given by the initial permit owner. This certified amount should match the total amount of primary season sablefish landings reported on state landing receipts. As required at § 660.12(b), any person landing sablefish must retain on board the vessel from which sablefish is landed, and provide to an authorized officer upon request, copies of any and all reports of sablefish landings from the primary season containing all data, and in the exact manner, required by the applicable state law throughout the primary sablefish season during which a landing occurred and for 15 days thereafter.

\* \* \* \* \*

(v) \* \* \*

(B) *Application.* Change in vessel registration applications must be submitted to NMFS with the

appropriate documentation described at paragraphs (b)(4)(vii) and (viii) of this section. At a minimum, a permit owner seeking to change vessel registration of a limited entry permit shall submit to NMFS a signed application form and his/her current limited entry permit before the first day of the cumulative limit period in which they wish to fish. If a permit owner provides a signed application and current limited entry permit after the first day of a cumulative limit period, the permit will not be effective until the succeeding cumulative limit period. NMFS will not approve a change in vessel registration until it receives a complete application, the existing permit, a current copy of the USCG 1270, and other required documentation.

\* \* \* \* \*

(D) *Sablefish-endorsed permits.* If a permit owner submits an application to register a sablefish-endorsed limited entry permit to a new vessel during the primary sablefish season described at § 660.231 (generally April 1 through October 31), the initial permit owner must certify on the application form the cumulative quantity, in round weight, of primary season sablefish landed against that permit as of the application signature date for the then current primary season. The new permit owner or vessel owner associated with the new vessel must sign the application form acknowledging the amount of landings to date given by the initial permit owner. This certified amount should match the total amount of primary season sablefish landings reported on state landing receipts. As required at § 660.12(b), any person landing sablefish must retain on board the vessel from which sablefish is landed, and provide to an authorized officer upon request, copies of any and all reports of sablefish landings from the primary season containing all data, and in the exact manner, required by the applicable state law throughout the primary sablefish season during which a landing occurred and for 15 days thereafter.

\* \* \* \* \*

(vi) \* \* \*

(B) *Limited entry fixed gear and trawl-endorsed permits (without MS/CV or C/P endorsements).* Limited entry fixed gear and trawl-endorsed permits (without MS/CV or C/P endorsements) may not be registered for use with a different vessel more than once per calendar year, except in cases of death of a vessel owner or if the vessel registered to the permit is totally lost as defined in § 660.11. The exception for death of a vessel owner applies for a

vessel owned by a partnership or a corporation if the person or persons with at least 50 percent of the ownership interest in the entity dies.

\* \* \* \* \*

(vii) *Application and supplemental documentation.* Permit owners may request a change in vessel registration and/or change in permit owner or vessel owner by submitting a complete application form. In addition, a permit owner applying for a change in vessel registration and/or change in permit owner of a limited entry permit has the burden to submit evidence to prove that qualification requirements are met. If a change in vessel owner occurs, the new vessel owner has the burden to submit evidence to prove that qualification requirements are met. The following evidentiary standards apply:

(A) For a request to change a vessel registration and/or change a permit owner or vessel owner, the permit owner must provide NMFS with a current copy of the USCG Form 1270 for vessels of 5 net tons or greater, or a current copy of a state registration form for vessels under 5 net tons.

(B) For a request to change a vessel registration and/or change a permit owner or vessel owner for sablefish-endorsed permits with a tier assignment for which a corporation or partnership is listed as permit owner and/or vessel owner, an Identification of Ownership Interest Form must be completed and included with the application form.

(C) For a request to change a permit owner for an MS permit or for a request to change a vessel registration and/or change a permit owner or vessel owner for an MS/CV-endorsed limited entry trawl permit, an Identification of Ownership Interest Form must be completed and included with the application form.

\* \* \* \* \*

(viii) *Application forms available.* Application forms for a change in vessel registration, permit owner, or vessel owner are available at: NMFS Northwest Region, Sustainable Fisheries Division, ATTN: Fisheries Permit Office, 7600 Sand Point Way, NE., Seattle, WA 98115; or [http://www.nwr.noaa.gov/fisheries/management/groundfish\\_permits/limited\\_entry\\_permits.html](http://www.nwr.noaa.gov/fisheries/management/groundfish_permits/limited_entry_permits.html). Contents of the application, and required supporting documentation, are also specified in the application form. Only complete applications will be processed.

\* \* \* \* \*

(g) \* \* \*

(1) *General.* For permit actions, including issuance, renewal, change in vessel registration and/or change in

permit owner or vessel owner, and endorsement upgrade, the Assistant Regional Administrator for Sustainable Fisheries will make an IAD on the action. In cases where the applicant disagrees with the IAD, the applicant may appeal that decision. Final decisions on appeals of IADs regarding issuance, renewal, change in vessel registration and/or change in permit owner or vessel owner, and endorsement upgrade, will be made in writing by the Regional Administrator acting on behalf of the Secretary of Commerce and will state the reasons therefore. This section describes the procedures for appealing the IAD on permit actions made in this title under subparts C through G of part 660. Additional information regarding appeals of an IAD related to the trawl rationalization program is contained in the specific program sections under subpart D of part 660.

\* \* \* \* \*

■ 5. In § 660.111, under the definition of “Accumulation limits”, revise paragraph (1)(ii) for the definition for “Vessel limits” to read as follows:

**§ 660.111 Trawl fishery—definitions.**

\* \* \* \* \*

(1) \* \* \*

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

\* \* \* \* \*

■ 6. In § 660.112, add paragraphs (b)(1)(xvi) and (b)(1)(xvii), and revise paragraph (b)(2)(ii) to read as follows:

**§ 660.112 Trawl fishery—prohibitions.**

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(xvi) Fail to establish a new registered vessel account in the name of the current vessel owner, following a change in ownership of a vessel, prior to fishing in the Shorebased IFQ Program with that vessel.

(xvii) Land groundfish taken and retained during an IFQ trip, from the vessel that harvested the fish, to a first receiver that does not hold a valid first receiver site license for the physical

location where the IFQ landing occurred.

\* \* \* \* \*

(2) \* \* \*

(ii) Fail to sort fish received from a IFQ landing prior to first weighing after offloading as specified at § 660.130(d)(2) for the Shorebased IFQ Program, with the following exception. Vessels with a valid Shorebased IFQ Program declaration as specified at § 660.13(d)(5)(iv)(A) making an IFQ landing, may weigh catch on a bulk scale or automatic hopper scale before sorting as described at § 660.140(j)(2)(viii), for Pacific whiting taken with midwater trawl gear, and at § 660.140(j)(2)(ix)(A), for all other IFQ landings. For this exception, all catch in the landing other than the single predominant species must then be reweighed. The weight of a single predominant species is determined by deducting the weight of all other species from the total weight of the landing.

\* \* \* \* \*

■ 7. In § 660.113, revise paragraphs (c)(3) and (d)(3) to read as follows:

**§ 660.113 Trawl fishery—recordkeeping and reporting.**

\* \* \* \* \*

(c) \* \* \*

(3) *Annual coop report.* The designated coop manager for the mothership coop must submit an annual report to NMFS and the Council by March 31 each year, before a coop permit is issued for that year. The annual coop report will contain information about the previous year’s fishery, including:

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

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

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

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

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

\* \* \* \* \*

(d) \* \* \*

(3) *Annual coop report.* The designated coop manager for the C/P

coop must submit an annual report to NMFS and the Council by March 31 each year, before a coop permit is issued for that year. The annual coop report will contain information about the previous year's fishery, including:

- (i) The C/P sector's annual allocation of Pacific whiting;
- (ii) The C/P coop's actual retained and discarded catch of Pacific whiting, salmon, Pacific halibut, rockfish, groundfish, and other species on a vessel-by-vessel basis;
- (iii) A description of the method used by the C/P coop to monitor performance of cooperative vessels that participated in the fishery;
- (iv) A description of any actions taken by the C/P coop in response to any vessels that exceed their allowed catch and bycatch; and
- (v) Plans for the current year's C/P coop fishery, including the companies participating in the cooperative, the harvest agreement, and catch monitoring and reporting requirements.

\* \* \* \* \*  
■ 8. In § 660.130, revise paragraphs (d)(2)(i), (d)(2)(ii) and (d)(3)(i) to read as follows:

**§ 660.130 Trawl fishery—management measures.**

\* \* \* \* \*  
(d) \* \* \*  
(2) \* \* \*

(i) *First receivers.* Fish landed at IFQ first receivers (including shoreside processing facilities and buying stations that intend to transport catch for processing elsewhere) must be sorted, prior to first weighing after offloading from the vessel and prior to transport away from the point of landing, with the following exception. Vessels with a valid Shorebased IFQ Program declaration as specified at § 660.13(d)(5)(iv)(A) making an IFQ landing, may weigh catch on a bulk scale or automatic hopper scale before sorting as described at § 660.140(j)(2)(viii), for Pacific whiting taken with midwater trawl gear, and at § 660.140(j)(2)(ix)(A), for all other IFQ landings. For this exception, all catch in the landing other than the single predominant species must then be reweighed. The weight of a single predominant species is determined by deducting the weight of all other species from the total weight of landing.

(ii) *Catcher vessels.* All catch must be sorted to the species groups specified in paragraph (d)(1) of this section for vessels with limited entry permits, except those retaining all catch during a IFQ trip. The catch must not be discarded from the vessel and the vessel must not mix catch from hauls until the

observer has sampled the catch. Prohibited species must be sorted according to the following species groups: Dungeness crab, Pacific halibut, Chinook salmon, other salmon. Non-groundfish species must be sorted as required by the state of landing.

\* \* \* \* \*

(3) \* \* \*  
(i) Pacific whiting at-sea processing vessels may use an accurate in-line conveyor or hopper type scale to derive an accurate total catch weight prior to sorting. Immediately following weighing of the total catch, the catch must be sorted to the species groups specified in paragraph (d)(1) of this section and all incidental catch (groundfish and non-groundfish species) must be accurately accounted for and the weight of incidental catch deducted from the total catch weight to derive the weight of a single predominant species.

\* \* \* \* \*

- 9. In § 660.140,
- a. Revise paragraph (b)(1)(iii);
- b. Add paragraph (d)(2)(iii), revise paragraphs (d)(3)(i)(A) and (C), (d)(3)(ii)(B)(2) and (3)(ii), delete paragraph (d)(3)(ii)(B)(3)(iii), and revise paragraph (d)(4)(iii);
- c. Revise paragraphs (e)(3)(iii)(B), (e)(4)(i), and (e)(5)(ii)(A);
- d. Revise paragraphs (f)(2)(ii), (f)(3) introductory text, (f)(3)(i) and (ii), (f)(3)(iii)(A) and (B), add paragraph (f)(3)(iii)(C)(12), and revise paragraph (f)(3)(iii)(D);
- e. Revise paragraphs (f)(5) and (f)(6), and
- f. Revise paragraphs (j)(2)(viii) and (j)(2)(ix)(B), to read as follows:

**§ 660.140 Shorebased IFQ Program.**

\* \* \* \* \*

(b) \* \* \*  
(1) \* \* \*  
(iii) All IFQ species/species group catch (landings and discards) must be covered by QP or IBQ pounds. Any deficit (negative balance in a vessel account) must be cured within 30 calendar days from the date the deficit from that trip is documented in the vessel account, unless the deficit is within the limits of the carryover provision at paragraph (e)(5) of this section, in which case the vessel account owner must declare out of the Shorebased IFQ Program, and must eliminate the deficit prior to re-entry into the fishery in the current year, or within 30 days after the issuance of QP or IBQ pounds for the following year.

\* \* \* \* \*  
(d) \* \* \*  
(2) \* \* \*

(iii) *QS permit application process.* NMFS will accept a QS permit

application from January 1 to November 30 of each calendar year. QS permit applications received between December 1 and December 31 will be processed by NMFS in the following calendar year. NMFS will issue only one QS permit to each unique person, as defined at § 660.11 subject to the eligibility requirements at § 660.140(d)(2)(i). Each applicant must submit a complete application. A complete application includes a QS permit application form, payment of required fees, complete documentation of QS permit ownership on the Trawl Identification of Ownership Interest Form as required under paragraph (d)(4)(iv) of this section, and a complete economic data collection form if required under § 660.114. NMFS may require additional documentation as it deems necessary to make a determination on the application. The QS permit application will be considered incomplete until the required information is submitted.

(A) *Initial administrative determination.* For all complete applications, NMFS will issue an IAD that either approves or disapproves the application. If approved, the QS permit serves as the IAD. If disapproved, the IAD will provide the reasons for this determination. If the applicant does not appeal the IAD within 30 calendar days, the IAD becomes the final decision of the Regional Administrator acting on behalf of the Secretary of Commerce.

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

(C) *Appeals.* If NMFS does not accept the QS permit application, the applicant may appeal the IAD consistent with the general permit appeals process defined at § 660.25(g).

(3) \* \* \*  
(i) \* \* \*

(A) QS permits expire at the end of each calendar year, and must be renewed between October 1 and November 30 of each year in order to remain in effect the following year. A complete QS permit renewal package must be received by NMFS no later than November 30 to be accepted by NMFS. A QS permit owner may submit a paper renewal package after January 1 of the following year as described in paragraph (d)(3)(i)(C) of this section.

\* \* \* \* \*

(C) A complete QS permit renewal package must be received by November 30 of each calendar year. If a complete QS permit renewal package is not received by November 30, NMFS will not renew the QS permit, the associated

QS account will not be activated in the following calendar year, and QS may not be transferred. NMFS will not issue QP or IBQ pounds associated with the non-renewed QS permit for that year. Any QP or IBQ pounds derived from the QS or IBQ in the inactive QS account will be distributed to the active QS accounts in proportion to the QS or IBQ for each IFQ species given on the renewed QS permit. If a QS permit is not renewed during the October 1 through November 30 renewal period, the QS permit owner may renew after January 1 in the following year by submission of a paper renewal application, or may renew the QS permit during the next October 1 through November 30 renewal period. For renewals submitted after January 1, QPs allocated as specified at paragraph (d)(1) of this section will not be allocated to the QS account in that year. The QS permit owner will be able to transfer QS percentages from the time the QS account is activated until November 30 of that calendar year.

\* \* \* \* \*

(3) \* \* \*

(ii) \* \* \*

(B) \* \* \*

(2) *Transfer of QS or IBQ between QS accounts.* Beginning January 1, 2014, QS permit owners may transfer QS (except for widow rockfish QS) or IBQ to another owner of a QS permit, subject to accumulation limits and approval by NMFS. The prohibition on transferability of widow rockfish QS is extended indefinitely pending final action on reallocation of widow rockfish QS, or a NMFS determination that no such reallocation will occur, except under U.S. court order or authorization and as approved by NMFS. QS or IBQ is transferred as a percent, divisible to one-thousandth of a percent (i.e., greater than or equal to 0.001%). QS or IBQ cannot be transferred to a vessel account. Owners of non-renewed QS permits may not transfer QS. QP in QS accounts cannot be transferred between QS accounts. NMFS will allocate QP based on the QS percentages as listed on a QS permit that was renewed during the previous October 1 through November 30 renewal period. QS transfers will be recorded in the QS account but will not become effective for purposes of allocating QPs until the following year. QS or IBQ may not be transferred between December 1 through December 31 each year. Any QS transaction that is pending as of December 1 will be administratively retracted. NMFS will allocate QP for the following year based on the QS

percentages as of December 1 of each year.

\* \* \* \* \*

(3) \* \* \*

(ii) The QS account transfer function will be reactivated by NMFS from the date that QS accounts are credited with additional QP to allow QS permit owners to transfer QP to vessel accounts only for those IFQ species with additional QP.

(4) \* \* \*

(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, with the exception of those activities allowed under paragraphs C and G;

(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, with the exception of those activities allowed under paragraphs C and G;

(C) The person, excluding banks and other financial institutions that rely on QS or IBQ as collateral for loans as described under paragraph (G) below, 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, with the exception of those activities allowed under paragraphs C and G;

(E) The person, 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, with the exception of those activities allowed under paragraphs C and G;

(F) The person 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, with the exception of those activities allowed under paragraphs C and G;

(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

(1) To qualify for this exception, a bank or other financial institution must be regularly or primarily engaged in the business of lending and not engaged in or controlled by entities whose primary business is the harvesting, processing, or distribution of fish or fish products.

(2) Any state or federally chartered bank or financial institution that meets the requirement of paragraph (1) does not need to submit additional information to NMFS.

(3) Any entity that is not a state or federally chartered bank or financial institution, must submit a letter requesting the exception and disclose the identity and interest share of any shareholder with a 2% or more ownership interest in the lender through submission of the Trawl Identification of Ownership Interest Form (see § 660.140(d)(4)(iv)). The lender must make subsequent annual submissions of the letter and Trawl Identification of Ownership Interest Form to maintain the exception. Letters requesting the exception and complete Trawl Identification of Ownership Interest Forms may be submitted to NMFS, Northwest Region, Permits Office, ATTN: Fisheries Permit Office, Bldg. 1, 7600 Sand Point Way NE., Seattle, WA 98115. NMFS will only accept complete applications.

(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, with the exception of those activities allowed under paragraphs C and G.

\* \* \* \* \*

(e) \* \* \*

(3) \* \* \*

(iii) \* \* \*

(B) *Transfer procedures.* QP or IBQ pound transfers from one vessel account to another vessel account must be accomplished via the online vessel account. To make a transfer, a vessel account owner must initiate a transfer request by logging onto the online vessel account. Following the instructions provided on the Web site, the vessel account owner must enter pertinent information regarding the transfer request including, but not limited to: IFQ species, amount of QP or IBQ pounds to be transferred for each IFQ species (in whole pound increments); name and any other identifier of the eligible transferee (e.g., USCG documentation number or state registration number, as applicable) of

the eligible vessel account receiving the transfer; and the value of the transferred QP or IBQ pounds. The online system will verify whether all information has been entered and whether the transfer complies with vessel limits, as applicable. If the information is not accepted, an electronic message will record as much in the transferor's vessel account explaining the reason(s). If the information is accepted, the online system will record the pending transfer in both the transferor's and the transferee's vessel accounts. The transferee must approve the transfer by electronic signature. If the transferee accepts the transfer, the online system will record the transfer and confirm the transaction in both accounts through a transaction confirmation notice. Once the transferee accepts the transaction, the transaction is final and permanent. QP or IBQ pounds may be transferred between vessel accounts at any time during January 1 through December 31 each year unless otherwise notified by NMFS.

\* \* \* \* \*  
(4) \* \* \*

(i) *Vessel limits.* For each IFQ species or species group specified in this paragraph, vessel accounts may not have QP or IBQ pounds in excess of the QP vessel limit (annual limit) in any year, and, for species covered by unused QP vessel limits (daily limit), may not have QP or IBQ pounds in excess of the unused QP vessel limit at any time. The QP vessel limit (annual limit) is calculated as all QPs transferred in minus all QPs transferred out of the vessel account. The unused QP vessel limits (daily limit) is calculated as unused available QPs plus any pending outgoing transfer of QPs.

\* \* \* \* \*  
(5) \* \* \*  
(ii) \* \* \*

(A) The vessel account owner declares out of the Shorebased IFQ Program for the year in which the deficit occurred. The vessel account owner must submit a signed, dated, and notarized letter to OLE, declaring out of the Shorebased IFQ Program for the remainder of the year and invoking the carryover provision to cover the deficit. Signed, dated, and notarized letters may be submitted to NMFS, Northwest Region, Office of Law Enforcement, ATTN VMS, Bldg. 1, 7600 Sand Point Way NE., Seattle, WA 98115. If the vessel account owner covers the deficit later within the same calendar year, the vessel may re-enter the Shorebased IFQ Program. If the deficit occurs less than 30 days before the end of the calendar year, exiting out

of the Shorebased IFQ Program for the remainder of the year is not required.

\* \* \* \* \*  
(f) \* \* \*  
(2) \* \* \*  
(ii) An IFQ first receiver must have a separate first receiver site license for each unique physical location where the IFQ first receiver will receive, purchase or take custody, control, or take possession of an IFQ landing from a vessel.

\* \* \* \* \*  
(3) *Application process.* Persons interested in being licensed as an IFQ first receiver for a specific physical location must submit a complete application for a first receiver site license to NMFS, Northwest Region, ATTN: Fisheries Permit Office, Bldg. 1, 7600 Sand Point Way NE., Seattle, WA 98115. NMFS will only consider complete applications for approval. A complete application includes:

(i) *State license.* The license owner must provide a copy of a valid license issued by the state in which they operate that allows the person to receive fish from a catcher vessel.  
(ii) *Application form.* A completed IFQ first receiver application form provided by NMFS, signed and dated by an authorized representative of the first receiver. To be considered complete, the form must also be notarized.

\* \* \* \* \*  
(iii) \* \* \*

(A) *Catch monitoring plan review process.* NMFS will accept a catch monitoring plan if it includes all the required elements specified in paragraph (f)(3)(iii)(C) of this section and conforms with the actual operations and layout at the site. A site inspection is required for new first receiver site licenses. For re-registration of an existing first receiver site license, the site must be inspected at least once every three years or more frequently, as deemed necessary by NMFS, or by a NMFS designated representative. If NMFS does not accept a catch monitoring plan for any reason, a new or revised catch monitoring plan may be required of the first receiver.

(B) *Arranging a site inspection.* After receiving a complete application for a first receiver site license, if a site inspection is required, NMFS will contact the applicant to schedule a site inspection. A complete application for a first receiver site license must include the proposed catch monitoring plan. NMFS may request a representative of the first receiver to be at the site at the time of inspection. If the requested representative of the first receiver is not made available for the inspection, the

site inspection may be postponed until the requested representative of the first receiver is made available.

\* \* \* \* \*  
(C) \* \* \*

(12) *Applicant contact.* Print the name of the first receiver, physical location of the first receiver, name and phone number of the applicant, and the date of the application. The applicant must sign the catch monitoring plan.

\* \* \* \* \*

(D) *Catch monitoring plan acceptance period and changes.* NMFS will accept a catch monitoring plan if it includes the required elements specified in paragraph (f)(3)(iii)(C) of this section and conforms with the actual operations and layout at the site. For the first receiver site license to remain in effect, the owner or manager must notify NMFS in writing of any and all changes made in IFQ first receiver operations or layout that do not conform to the catch monitoring plan.

\* \* \* \* \*

(5) *Effective dates.* The first receiver site license is valid from the effective date identified on the license until June 30, or until the state license required by paragraph (f)(2)(i) of this section is no longer effective, whichever occurs first. A first receiver site license may not be valid for more than 365 days.

(6) *Re-registration of FRSL in subsequent years.* Existing first receiver site license holders must reapply annually by following the application process specified in paragraph (f)(3) of this section. If the existing license holder fails to reapply, the first receiver site license will expire as specified in paragraph (f)(5) of this section. For existing first receiver site license holders to continue to receive IFQ landings without a lapse in the effectiveness of their first receiver site license, the following re-registration deadlines apply:

(i) NMFS will mail a first receiver site license application to existing license holders on or about February 1 each year.

(ii) Applicants who want to have their new license effective for July 1 must submit their complete re-registration application to NMFS by April 15. For those first receiver site license holders who do not submit a complete re-registration application by April 15, NMFS may not be able to issue the new license by July 1 of that calendar year, and will issue the new license as soon as practicable.

\* \* \* \* \*  
(j) \* \* \*  
(2) \* \* \*

(viii) *Pacific whiting*. For Pacific Whiting taken with midwater trawl gear, IFQ first receivers may use an in-line conveyor or hopper type scale to derive an accurate total catch weight prior to sorting. Immediately following weighing of the total catch and prior to processing or transport away from the point of landing, the catch must be sorted to the species groups specified at § 660.130(d) and all incidental catch (groundfish and non groundfish species) must be accurately weighed and the weight of incidental catch deducted from the total catch weight to derive the weight of a single predominant species.

(ix) \* \* \*

(B) An in-line conveyor or automatic hopper scale may be used to weigh the single predominant species after catch has been sorted. Other species must be weighed in a manner that facilitates tracking of the weights of those species.

\* \* \* \* \*

■ 10. In § 660.150, revise paragraphs (c)(7)(i), (d)(1)(iii)(A)(1)(i), and (g)(2)(iv)(D) to read as follows:

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

\* \* \* \* \*

(c) \* \* \*  
(7) \* \* \*

(i) *Processor obligation*. Through the annual MS/CV-endorsed limited entry permit renewal process, the MS/CV-endorsed permit owner must identify to NMFS to which MS permit the MS/CV permit owner intends to obligate the catch history assignment associated with that permit if they are participating in the MS coop fishery. Only one MS permit may be designated for each MS/CV endorsement and associated catch history assignment.

\* \* \* \* \*

(d) \* \* \*  
(1) \* \* \*  
(iii) \* \* \*

(A) \* \* \*

(1) \* \* \*

(i) A list of all vessels and permit owners participating in the coop and their share of the allocated catch history assignments which must match the amount distributed to individual permit owners by NMFS.

\* \* \* \* \*

(g) \* \* \*

(2) \* \* \*

(iv) \* \* \*

(D) A limited entry trawl permit owner with multiple MS/CV-endorsements and associated CHA on a single permit may assign each distinct MS/CV endorsement and catch history assignment separately to coop(s) or the non-coop fishery. In such cases, as part of the coop permit application process, specified at paragraph (d)(1)(iii) of this section, the permit owner must specify on the coop permit application form which MS/CV endorsement and associated CHA is specifically registered to a particular coop.

\* \* \* \* \*

■ 11. In § 660.213, revise paragraph (d)(2) to read as follows:

**§ 660.213 Fixed gear fishery—recordkeeping and reporting.**

\* \* \* \* \*

(d) \* \* \*

(2) For participants in the sablefish primary season, the cumulative limit period to which this requirement applies is April 1 through October 31 or, for an individual vessel owner, when the tier limit for the permit(s) registered to the vessel has been reached, whichever is earlier.

■ 12. In § 660.216, revise paragraph (a)(1) to read as follows:

**§ 660.216 Fixed gear fishery—observer requirements.**

(a) \* \* \*

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

\* \* \* \* \*

■ 13. In § 660.231, revise paragraph (b)(1) to read as follows:

**§ 660.231 Limited entry fixed gear sablefish primary fishery.**

\* \* \* \* \*

(b) \* \* \*

(1) *Season dates*. North of 36° N. lat., the sablefish primary season for the limited entry, fixed gear, sablefish-endorsed vessels begins at 12 noon local time on April 1 and closes at 12 noon local time on October 31, or closes for an individual vessel owner when the tier limit for the permit(s) registered to the vessel has been reached, whichever is earlier, unless otherwise announced by the Regional Administrator through the routine management measures process described at § 660.60(c).

\* \* \* \* \*

■ 14. In § 660.316, revise paragraph (a)(1) to read as follows:

**§ 660.316 Open access fishery—observer requirements.**

(a) \* \* \*

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

\* \* \* \* \*

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