

## § 660.112

## 50 CFR Ch. VI (10–1–23 Edition)

registered to a limited entry permit without an MS/CV endorsement if the vessel is authorized to harvest the MS sector's allocation and has a valid declaration for limited entry, midwater trawl, Pacific whiting mothership sector.

*Net ex-vessel value* means, for the purposes of the cost recovery program specified at § 660.115, the ex-vessel value minus the cost recovery fee.

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

*Pacific whiting fishery* refers to the Pacific whiting primary season fisheries described at § 660.131. The Pacific whiting fishery is composed of vessels participating in the C/P Coop Program, the MS Coop Program, or the Pacific whiting IFQ fishery.

*Pacific whiting IFQ fishery* is composed of vessels on Pacific whiting IFQ trips.

*Pacific whiting IFQ trip* means a trip in which a vessel uses midwater groundfish trawl gear during the dates of the Pacific whiting primary season to target Pacific whiting, and Pacific whiting constitutes 50 percent or more of the catch by weight at landing as reported on the state landing receipt. Vessels on Pacific whiting IFQ trips must have a valid declaration for limited entry midwater trawl, Pacific whiting shorebased IFQ.

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

*Quota share (QS)* means the amount of fishing quota for an individual species/species group and area expressed as a percentage of the annual allocation of fish to the Shorebased IFQ Program. The QS is used as the basis for the annual calculation and allocation of a QS permit owner's QP in the Shorebased IFQ Program. Both QS and IBQ may be listed on a QS permit and in the associ-

ated QS account. Species for which QS will be issued for the Shorebased IFQ Program are listed at § 660.140, subpart D.

*Salmon Mitigation Plan (SMP)* means a voluntary agreement amongst a group of at least three vessels in the MS Coop Program, C/P Coop Program, or Pacific whiting IFQ fishery to manage Chinook salmon bycatch, approved by NMFIS under § 660.113(e). Vessels fishing under an approved SMP would have access to the Chinook salmon bycatch reserve as described in § 660.60(i)(2). Routine management measures to minimize Chinook salmon bycatch as described in § 660.60(i) may be implemented for vessels that are parties to an approved SMP.

*Shorebased IFQ Program or Shorebased IFQ sector*, refers to the fishery described at § 660.140, subpart D, and includes all vessels on IFQ trips.

*Stow or stowed*, for the purposes of this subpart, means the subject trawl gear is either stored below deck; or, if the gear cannot readily be moved, must be stowed in a secured and covered manner detached from all towing lines so that it is rendered unusable for fishing; or, if remaining on deck uncovered, must be stowed disconnected from the trawl doors with the trawl doors hung from their stanchions.

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

[75 FR 60897, Oct. 1, 2010, as amended at 75 FR 78383, Dec. 15, 2010; 76 FR 74739, Dec. 1, 2011; 78 FR 68769, Nov. 15, 2013; 78 FR 75278, Dec. 11, 2013; 80 FR 77271, Dec. 14, 2015; 84 FR 63986, Nov. 19, 2019; 84 FR 68806, Dec. 17, 2019; 86 FR 10869, Feb. 23, 2021; 87 FR 77026, Dec. 16, 2022; 87 FR 77005, Dec. 16, 2022]

### § 660.112 Trawl fishery—prohibitions.

In addition to the general prohibitions specified in § 660.12 and § 600.725 of this chapter, it is unlawful for any person or vessel to:

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

## Fishery Conservation and Management

## § 660.112

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

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

(2) *Sorting, retention, and disposition.*

(i) Fail to sort, retain, discard, or dispose of catch consistent with the requirements specified at §§ 660.130(d), 660.140 (b)(2)(iii) and (viii), 660.140(g), and 660.140(j)(2).

(ii) Fail to sort, retain, discard, or dispose of prohibited and protected species from maximized retention landings consistent with the requirements specified at § 660.140(g)(3).

(iii) Retain for personal use or allow to reach commercial markets any part of any prohibited or protected species.

(3) *Recordkeeping and reporting.* (i) Fail to comply with all recordkeeping and reporting requirements at § 660.13, subpart C; including failure to submit information, or submission of inaccurate or false information on any report required at § 660.13(d), subpart C, and § 660.113.

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

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

(4) *Observers.* (i) Fish in the Shorebased IFQ Program, the MS Coop Program, or the C/P Coop Program without observer coverage unless exempt from the observer coverage requirement for gear testing activity and have satisfied the declaration and notification requirements, as described in § 660.140(h), § 660.150(j), or § 660.160(g).

(ii) Fish in the Shorebased IFQ Program, the MS Coop Program, or the C/P Coop Program if the vessel is inadequate or unsafe for observer deployment as described at § 660.12(e).

(iii) Fail to maintain observer coverage in port as specified at § 660.140(h)(1)(i).

(5) *Fishing in conservation areas with trawl gear.* (i) Operate any vessel registered to a limited entry permit with a trawl endorsement in an applicable GCA (defined at §§ 660.11 and 660.130), except for purposes of continuous transiting (defined at § 660.11), unless all groundfish trawl gear on board is stowed (as defined at § 660.111), or unless otherwise authorized at § 660.130.

(ii) Fish with bottom trawl gear (defined at § 660.11) anywhere within EFH seaward of a line approximating the 700-fm (1,280-m) depth contour, as defined in § 660.76. For the purposes of regulation, EFH seaward of 700-fm (1,280-m) within the EEZ is described at § 660.75.

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

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

(v) Fish with bottom trawl gear (defined at § 660.11), within the EEZ in the following EFHCAs areas (defined at §§ 660.77 and 660.78): Olympic 2, Biogenic 1, Biogenic 2, Quinault Canyon, Grays Canyon, Willapa Canyonhead, Willapa Deep, Biogenic 3, Astoria Deep, Astoria Canyon, Nehalem Bank/Shale Pile, Garibaldi Reef North, Garibaldi Reef South, Siletz Deepwater, Daisy Bank/Nelson Island, Newport Rockpile/Stonewall Bank, Hydrate Ridge, Heceta Bank, Deepwater off Coos Bay, Arago Reef, Bandon High Spot, Rogue Canyon, and Rogue River Reef.

(vi) Fish with bottom trawl gear (defined at § 660.11), other than demersal seine, unless otherwise specified in this section or § 660.130, within the EEZ in the following EFHCAs areas (defined at

§ 660.112

50 CFR Ch. VI (10–1–23 Edition)

§ 660.79): Brush Patch, Trinidad Canyon, Mad River Rough Patch, Samoa Deepwater, Eel River Canyon, Blunts Reef, Mendocino Ridge, Delgada Canyon, Tolo Bank, Navarro Canyon, Point Arena North, Point Arena South Biogenic Area, The Football, Gobbler's Knob, Point Reyes Reef, Cordell Bank/Biogenic Area, Rittenburg Bank, Farallon Islands/Fanny Shoal/Cochrane Bank, Farallon Escarpment, Half Moon Bay, Pescadero Reef, Pigeon Point Reef, Ascension Canyonhead, South of Davenport, Monterey Bay/Canyon, West of Sobranes Point, Point Sur Deep, Big Sur Coast/Port San Luis, La Cruz Canyon, West of Piedras Blancas State Marine Conservation Area, East San Lucia Bank, Point Conception, Hidden Reef/Kidney Bank (within Cowcod Conservation Area West), Catalina Island, Potato Bank (within Cowcod Conservation Area West), Cherry Bank (within Cowcod Conservation Area West), Cowcod EFHCA Conservation Area East, and Southern California Bight.

(vii) Fish with bottom contact gear (defined at § 660.11) within specific EFHCAs and the DECA, consistent with the prohibitions at § 660.12(a)(4), (16) through (18).

(6) *Cost recovery program.* (i) Fail to fully pay or collect any fee due under the cost recovery program specified at § 660.115 and/or otherwise avoid, decrease, interfere with, hinder, or delay any such payment or collection.

(ii) Convert, or otherwise use any paid or collected fee for any purpose other than the purposes specified in this subpart.

(iii) For the Shorebased IFQ Program and the MS Coop Program, fail to deposit on time the full amount of all fee revenue collected under the cost recovery program specified at § 660.115 into a deposit account, or fail to timely disburse the full amount of all deposit principal to the Fund.

(iv) Fail to maintain records as required by § 660.113 and/or fail to make reports to NMFS as required under § 660.113.

(v) Fail to advise NMFS of any fish buyer's failure to collect any fee due and payable under the cost recovery program specified at § 660.115.

(vi) Refuse to allow NMFS employees, agents, or contractors to review and audit all records and other information required to be maintained as set forth in § 660.113, and/or § 660.115.

(vii) Make any false statement to NMFS, including any NMFS employee, agent or contractor, concerning a matter related to the cost recovery program described in this subpart.

(viii) Obstruct, prevent, or delay, or attempt to obstruct, prevent, or delay, any audit or investigation NMFS employees, agents, or contractors conduct, or attempt to conduct, in connection with any of the matters in the cost recovery program described in this subpart.

(7) *Gear testing.* (i) Retain fish while gear testing.

(ii) Fish with a closed codend, use terminal gear (*i.e.*, hooks), or fish with open pot gear while gear testing.

(iii) Test gear in groundfish conservation areas described in § 660.70, or EFHCAs described in §§ 660.76 through 660.79.

(iv) Test experimental gear, or any other gear not currently approved for groundfish fishing.

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

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

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

(iv) Register the limited entry trawl endorsed permit to another vessel or sell the limited entry trawl endorsed permit to another owner if the vessel registered to the permit has a deficit (negative balance) in their vessel account, until the deficit is covered, regardless of the amount of the deficit.

## Fishery Conservation and Management

## § 660.112

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

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

(vii) For vessels fishing with multiple trawl gear types on a single trip, fail to keep catch from different trawl gears separate and land the catch separately by gear type.

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

(ix) Fish on a Pacific whiting IFQ trip without a valid declaration for limited entry midwater trawl, Pacific whiting shorebased IFQ.

(x) Use midwater groundfish trawl gear outside the Pacific whiting IFQ fishery primary season dates as specified at §660.131(b).

(xi) Mix catch from different hauls before all sampling and monitoring requirements for the hauls have been met.

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

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

(B) A vessel that has a non-whiting at-sea processing exemption, described at §660.25(b)(6)(ii) may process non-whiting groundfish at sea.

(xiii) Discard or attempt to discard IFQ species/species group at sea unless the observer has documented or estimated the discards.

(xiv) Begin a new fishing trip until all fish from an IFQ landing have been offloaded from the vessel, consistent with §660.12(a)(11).

(xv) 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.

(xvi) 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.

(xvii) When declared into the limited entry groundfish non-trawl Shorebased IFQ fishery, retain fish caught with fixed gear in more than one IFQ management area, specified at §660.140(c)(1), on the same trip.

(2) *IFQ first receivers.* (i) Receive, purchase, or take custody, control, or possession of an IFQ landing from a vessel that harvested the catch while fishing under the Shorebased IFQ Program without a valid first receiver site license.

(ii) Fail to sort or dispose of catch received from an IFQ trip in accordance with the requirements of §§660.130(d) and 660.140(g)(3).

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

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

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

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

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

§ 660.112

50 CFR Ch. VI (10–1–23 Edition)

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

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

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

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

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

(ii) The fish are processed by a waste-processing vessel according to § 660.131(g); or

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

(2) During times or in areas where at-sea processing is prohibited, take and retain or receive Pacific whiting, except as cargo or fish waste, on a vessel in the fishery management area that already has processed Pacific whiting on board. An exception to this prohibition is provided if the fish are received within the tribal U&A fishing area, described at § 660.4, subpart A, from a member of a Pacific Coast treaty Indian tribe fishing under § 660.50, subpart C.

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

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

(5) Fail to weigh all fish taken and retained aboard the vessel on a scale that meets the performance and technical requirements specified at § 660.15(b).

(6) Weigh fish taken and retained aboard the vessel without operating and maintaining a video monitoring system that meets the performance and technical requirements specified at § 660.15(e).

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

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

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

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

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

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

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

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

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

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

## Fishery Conservation and Management

## § 660.113

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

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

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

(14) Retain and process more than 1 mt of Shared EC Species other than squid species in any calendar year; or, retain and process more than 40 mt of any Shared EC squid species in any calendar year.

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

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

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

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

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

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

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

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

(9) Retain and process more than 1 mt of Shared EC Species other than squid species in any calendar year; or, retain and process more than 40 mt of

any Shared EC squid species in any calendar year.

[75 FR 60897, Oct. 1, 2010, as amended at 75 FR 78384, Dec. 15, 2010; 76 FR 53837, Aug. 30, 2011; 76 FR 74739, Dec. 1, 2011; 77 FR 55155, Sept. 7, 2012; 78 FR 629, Jan. 3, 2013; 78 FR 68769, Nov. 15, 2013; 78 FR 75279, Dec. 11, 2013; 80 FR 22285, Apr. 21, 2015; 80 FR 77272, Dec. 14, 2015; 81 FR 19058, Apr. 4, 2016; 81 FR 27010, May 5, 2016; 81 FR 36808, June 8, 2016; 81 FR 84429, Nov. 23, 2016; 83 FR 62276, Dec. 3, 2018; 84 FR 63986, Nov. 19, 2019; 85 FR 37029, June 19, 2020; 85 FR 35601, June 11, 2020; 86 FR 26442, May 14, 2021; 86 FR 58813, Oct. 25, 2021; 87 FR 11599, Mar. 2, 2022; 87 FR 77005, Dec. 16, 2022]

### § 660.113 Trawl fishery—record-keeping and reporting.

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

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

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