

# **PACIFIC COAST GROUND FISH FISHERY MANAGEMENT PLAN**

## **FOR THE CALIFORNIA, OREGON, AND WASHINGTON GROUND FISH FISHERY**

**Description of Trawl Rationalization  
(Catch Shares) Program**

### **Appendix E**

**NOVEMBER 2016 – DRAFT UPDATE**

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## Acronyms and Abbreviations

Acronym	Definition
Council	Pacific Fishery Management Council
CP	catcher processor
CV(MS)	mothership-endorsed catcher vessel permit
EIS	environmental impact statement
FMP	fishery management plan
IBQ	individual bycatch quota
IFQ	individual fishing quota
MS	mothership
MSA	Magnuson-Stevens Fishery Conservation and Management Act
NMFS	National Marine Fisheries Service
OY	optimum yield
RCA	Rockfish Conservation Area
QP	quota pound
QS	quota share

This appendix contains a description of the Council's trawl catch share policy (trawl rationalization policy) as originally adopted in conjunction with Amendment 20 and as subsequently modified through regulatory actions. This appendix will be updated from time-to-time to reflect the regulatory amendments recommended by the Council and approved by NMFS, as well as plan amendments as appropriate. Those regulatory amendments will be developed under the regulatory amendment processes specified in the FMP. As identified in the FMP, the update of this appendix does not require an amendment to the FMP.

## **E.1 Overview of Recommendations by Sector**

The Pacific Fishery Management Council's (Council) sector specific policies for rationalizing the trawl fishery are provided here. The policies were originally adopted at the Council's November 2008 meeting and finalized in 2009 for forwarding to National Marine Fisheries (NMFS). The following is the a general outline of the trawl rationalization program:

### **Shoreside Trawl Sector** (nonwhiting groundfish species and whiting):

- Manage with individual fishing quotas (IFQs).

- Provide 90 percent of the initial allocation of nonwhiting IFQ to holders of vessel permits; and

  - set aside 10 percent of the initial allocation for an adaptive management program that may benefit processors and communities, among others.

- Provide 80 percent of the initial allocation of whiting IFQ to holders of vessel permits; and provide 20 percent of the initial allocation of whiting to processors.

- Allocate 100 percent of the Pacific halibut individual bycatch quota (IBQ) to holders of vessel permits.

### **Mothership (MS) Trawl Sector** (whiting and groundfish bycatch species):

- Manage with a harvester co-op system and limited entry for MS processors.

- Require that permit holders declare pre-season the MS processor(s) for which they will fish in a coming year.

### **Catcher Processor (CP) Sector** (whiting and groundfish bycatch species):

- Create a permit endorsement to prevent expansion of the number of participants.

- Allocate whiting and bycatch to the existing voluntary co-op.<sup>1</sup>

- Provide an IFQ program if the voluntary co-op fails (initially allocate IFQ equally among all permit holders).

The amount of allocation available for these sectors will be determined through the intersector allocation process. IFQ for the shoreside fishery may not be delivered to or caught by at-sea processors, nor may quota allocated to the mothership (MS) or CP sectors be delivered shoreside. IFQ for the shoreside fishery may not be processed prior to delivery except as allowed for certain non-whiting vessels delivering fish as part of the shorebased sector or as otherwise specifically allowed.

The following sections provide a general summary of the program for each sector. In general, provisions that apply to QS and QP also pertain to Pacific halibut IBQ-QS and IBQ-QP.

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<sup>1</sup> When the Council took final action, NMFS indicated its preliminary intent to license the voluntary co-op. However, this was not part of the Council's final action.

## **E.2 Shoreside Trawl Sector: IFQ Program (Appendix A of the Environmental Impact Statement [EIS])**

This section details the IFQ program that the Council recommended for the shoreside sector of the groundfish fishery. The first part of the section describes major components of the program. Table E-1, which starts on page 5, presents complete details on elements of the recommended IFQ program.

### **E.2.1 Overview of the IFQ Program Elements**

On initial implementation, the trawl rationalization program left most status quo management tools in place. The main exception was cumulative landing limits for nonwhiting groundfish species covered by the IFQ program. Other regulatory constraints continue to be reduced through trailing actions.

An IFQ grants an entity the privilege to catch a specified portion of the trawl sector's allocation. Within the IFQ program, vessels are allowed to use a variety of directed groundfish commercial gear (including nontrawl gear) to take the shoreside trawl sector allocation, which enables "gear switching." IFQs have been created for most species of groundfish under the Groundfish Fishery Management Plan (FMP) (although some will still be managed collectively at the stock complex level, e.g., remaining minor slope rockfish). Some groundfish species rarely caught by trawl gear and dogfish will be excluded from the IFQ program. To ensure that annual limits for species not covered by IFQ are not exceeded, catch of those species will be monitored and deductions made from ACLs in anticipation of the expected level of shoreside trawl sector catch. For trips targeted on whiting, IFQ will be required for whiting and bycatch species.

Halibut individual bycatch quota (IBQ) will be required to cover the incidental mortality of Pacific halibut in the groundfish trawl shoreside fishery. Under the IBQ provision, retention will not be allowed.

The following sections describe the major provisions of the IFQ program.

#### **E.2.1.1 Initial Allocation**

The program initially allocated IFQ as quota share (QS) to fishery participants based mainly on their historic involvement in the fishery. Each year quota pounds (QP) is allocated to holders of QS in proportion to their QS holdings. QS and QP are collectively referred to as IFQ. Following the initial allocation of QS, transfers (described below) allow others to participate in the fishery as quota holders. The initial allocation occurred in two segments.

First, in developing its recommendation, the Council considered the groups that should be included in the initial allocation and the proportional split of the initial allocation among the groups. The Council recommended that harvesters (those holding limited entry permits for trawl vessels) be given an initial allocation of 90 percent of the nonwhiting QS and 80 percent of the whiting QS. Ten percent of the QS for nonwhiting species was made available for an adaptive management program and processors received 20 percent of the whiting QS. All of the halibut IBQ was allocated to harvesters with no set aside for the adaptive management program.

Second, the Council considered specific allocation formulas to determine the amount of QS each eligible entity would receive. These calculations were based primarily on the delivery history associated with a vessel permit or processing company over a set number of years. For the allocation to permits, the QS associated with the history of permits retired in the buyback program was distributed equally among the remaining qualified permits (about 44 percent of the QS was allocated in this fashion). A special calculation was provided for incidentally caught overfished species. For these species, the allocation was based on the QS recipient's need to cover incidental catch under current fishing practices (as measured by bycatch rates,

individual permit logbooks for recent years, and the amount of target species QS that an entity received). None of the QS for overfished species was allocated equally among harvesters, with the exception of canary rockfish. A similar approach was used for the allocation of halibut IBQ.

#### E.2.1.2 Stock Management Units for IFQs

QS was issued for the species groups and areas for which there were annual catch limits (specified as optimum yields at the time the program was implemented). However, QS was not required for some rarely caught species. Catch of these species is monitored to ensure that it does not exceed any established allocations or annual catch limits. There are provisions that provide for both species group and area subdivision of QS after initial allocation.

#### E.2.1.3 Annual Issuance, Holding Requirements, and Transfer Rules

In designing the management regime for the IFQ program, the Council balanced the benefits of flexibility and individual accountability with program costs and the constraints of the very low allowable catch levels of overfished species. Prior to the start of each fishing year, NMFS issues QP to entities based on the amount of QS they hold and the shoreside trawl sector allocation. The QP must be transferred to a vessel account in order to be used. When a vessel goes fishing under the IFQ program, all catch must be recorded (including discards), and it must be matched by an equal amount of QP from the vessel's QP account. If there is not enough QP to cover the catch from a trip, there is a 30-day grace period during which adequate QP must be transferred into the vessel's account. A vessel's fishing is limited, and its permit cannot be sold, until the overage is covered. After the 30-day grace period, the vessel is considered in violation of the program, unless the overage is within the amount allowed by the carry-over provision. A carryover provision allows for an overage in one year to be covered by up to 10 percent of the following year's QP; likewise, the provision also allows QP that were not used in one year to be carried over into the following year, up to 10 percent.

Bycatch reduction and greater efficiency are expected to occur in the groundfish fishery under the IFQ program because of the transferability of QS and QP. Through the transfer of QS/QP (bought and sold or leased through private contract), it is anticipated that those best able to avoid catching overfished species and those who are most efficient will increase the amount of QS/QP registered to them. Those who consistently have high bycatch rates or operate less efficiently might choose to sell their QS and leave the fishery. Generally, anyone eligible to own a U.S.-documented fishing vessel may also acquire QS and QP, and the QS and QP may be acquired in very small increments.<sup>2</sup> These provisions allow for new entrants into the fishery; for example, a crewmember could purchase quota in small increments. They also allow for ownership of QS by entities that do not otherwise participate in the fishery.

While transferability is an important component, some provisions limit transferability in order to protect against unintended consequences. For example, there are accumulation limits on the amount of QS that can be controlled by an entity and vessel limits for the amount of QP registered to a vessel. The intent of these limits is to prevent excessive control of quota by a participant.

An adaptive management program (AMP) allows the Council to use 10 percent of the trawl allocation to provide incentives, support, or other compensation to offset adverse impacts of the program. This program may benefit communities and processors, among others. Details of the AMP will be the subject of a trailing action. To date, these QP have been passed through to QS holders in proportion to their QS holdings.

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<sup>2</sup> To be eligible to own QS, the person need not actually own a U.S. documented fishing vessel.

#### E.2.1.4 Tracking and Monitoring

A tracking and monitoring program is necessary to ensure that all catch (including discards) is documented and matched against QP. Initially, at-sea observers were required on all vessels, as well as shoreside monitoring during all off-loading (100 percent coverage). The Council has developed a policy to allow cameras to substitute for observers on certain vessels. Compared to status quo monitoring, the trawl rationalization program requirements are a significant increase in at-sea monitoring for a large portion of the trawl fleet, particularly nonwhiting shoreside vessels. In addition to being necessary to insure the effectiveness of incentives based on individual responsibility, more accurate estimates of total mortality benefit stock conservation goals. Discarding is allowed, though all fish discarded must be covered by QP. There is 100 percent shoreside monitoring. Additionally, a program for the mandatory submission of economic data facilitates monitoring program performance.

#### E.2.1.5 Costs and Fee Structure

Program benefits were expected to exceed costs and will be evaluated as part of program performance review. One of the major sources of costs is associated with industry payments for observers and catch monitors. To help mitigate against these costs, at the start of the program NMFS provided a cost reimbursements such that participants were initially responsible for only 10 percent of the cost of hiring observers and catch monitors. The industry proportion of the costs of hiring observers and catch monitors increased over time and cost reimbursements ended in 2015. Program cost recovery fees were implemented starting in 2014.

#### E.2.1.6 Program Monitoring, Review and Future Auction

The Council conducts formal periodic reviews of catch share program performance as required under the Magnuson-Stevens Act. The current policy requires a review five years after implementation and every four years thereafter. The result of these evaluations could include dissolution of the program, revocation of all or part of quota shares, or other fundamental changes to the program. At the time of its first review, the Council will also consider the use of an auction or other non-history-based method when distributing quota share that may become available after the initial allocation.

### E.3 Detailed Specification of IFQ Program Elements and Options

Table E-1 provides a complete description of the IFQ program.

**Table E-1.** Full description of the IFQ Program for shoreside trawl deliveries.

	Element	Sub-element	
<b>A. Trawl Sector Management</b>			
A-1.1	Scope for IFQ Management, Including Gear Switching		<p>For trips delivered shoreside, QP is required to cover catch of all groundfish (including all discards) by limited entry (LE) trawl vessels with certain gear and species exceptions.</p> <p>Gear Exception: Vessels with an LE trawl permit using the following gears are not be required to cover their groundfish catch with QP: non-groundfish trawl (pink shrimp, ridgeback prawn, California halibut south of Pt. Arena, and sea cucumbers south of Pt. Arena), <sup>a</sup> gear types defined in the coastal pelagic species FMP, gear types defined in the highly migratory species FMP, salmon troll, crab pot, and LE fixed gear when the vessel also has a LE permit endorsed for fixed-gear (longline or fishpot) AND has declared that it is fishing in the LE fixed-gear fishery. However, open access trip limit regulations for each of these gears apply when a trawl permitted vessel has declared into the related fishery.</p> <p>Species Exception: The following are exceptions from the QP requirement: longspine thornyheads south of 34°27' N latitude, minor nearshore rockfish (north and south), black rockfish (WOC), California scorpionfish, cabezon, kelp greenling, shortbelly rockfish, and the "Other Fish" category of groundfish.</p> <p><i>This definition of the scope allows an LE trawl vessel to switch between trawl and nontrawl groundfish gears, including fixed-gear, for the purpose of catching their QP ("gear switching"). It also allows a nontrawl vessel to acquire a trawl permit, and thereby use trawl QP to catch the LE trawl allocation using nontrawl gear.<sup>b</sup></i></p>
A-1.2	IFQ Management Units, Including Latitudinal Area Management		<p>QS carries designations for the species/species group, area, and trawl sector to which it applies (see A-1.3 for the list of trawl sectors). The QP has the same species/species group, area, and sector designations as the QS on the basis of which the QP was issued. QP may not be used in a trawl sector other than that for which it was issued,<sup>c</sup> and may not be used in a nontrawl sector (i.e., by vessels without trawl permits).<sup>d</sup> QP may not be used in a catch area or for a species/species group other than that for which it is designated.</p> <p>For those species within the scope of the program, the QS/QP species groupings and area subdivisions are those for which ACLs are specified in the acceptable biological catch (ABC)/ACL table that is generated through the groundfish biennial specifications process and those for which there is an area-specific precautionary harvest policy<sup>e</sup></p> <p>Changing the management units. After initial QS allocation the Council may alter the management units by changing the management areas or changing species groupings. Section A-2.1.6 provides methods for reallocating QS when such changes are made after initial implementation of the program.<sup>f</sup> <i>In this document, all references to species include species and species group, unless otherwise indicated.</i></p>

	Element	Sub-element	
A-1.3	General Management and Trawl Sectors		<p>Unless otherwise specified or modified by later regulatory action, status quo regulations, other than trip limits for species within the scope of the IFQ program, remain in place. If individual vessel overages (catch not covered by QP) make it necessary, area restrictions, season closures, or other measures will be used to prevent the trawl sector (in aggregate or the individual trawl sectors listed here) from going over allocations. The IFQ fishery may also be restricted or closed as a result of overages in other sectors. Non-IFQ groundfish species continue to be managed with trip limits and/or set-asides.</p> <p>There are three trawl sectors: shoreside, MS, and CP. However, as per Section A-1.1, IFQ is required only for the shoreside trawl sector. The MS and CP sectors are managed using co-ops, as specified in the co-op section of this appendix. If the industry organized voluntary co-op program for the CP sector collapses, IFQ will be required for the CP sector, as specified in the co-op program described for that sector.</p> <p>Vessels fishing under the IFQ program, with trawl or other gear, may not process fish for delivery shoreside except for vessels that legally engaged in the at-sea processing of non-whiting groundfish prior to July 20, 2010. Vessels less than 75 feet which head, gut, tail, and freeze whiting are not considered to be processing.</p> <p><i>Allocation among trawl sectors have been determined in FMP Amendment 21 except that whiting allocations were established before Amendment 21. Sector allocations not covered in the FMP are addressed in the biannual specifications process.</i></p> <p><i>Trawl vessels fishing IFQ with nontrawl gear are required to comply with the RCA lines applicable for that gear. Such RCA restrictions, as necessary, are determined in a separate process.</i></p>
A-1.4	Management of Nonwhiting Trips		<p>Nonwhiting trips are those with less than 50 percent whiting. No changes to management measures, other than those identified in Section A-1.3, were identified at the time of initial implementation of this program but such changes have been implemented subsequently.</p>
A-1.5	Management of Whiting Trips <sup>g</sup>		<p>Whiting seasons were not changed by the IFQ program but were modified by later action. Spring openings have been maintained to control impacts on ESA-listed salmon that might occur earlier in the year.<sup>h</sup> When the primary whiting season is closed for shoreside deliveries, cumulative whiting catch limits will apply and shoreside QP will be required to cover whiting caught incidentally.</p>
A-1.6	Groundfish Permit Length Endorsements		<p>Length endorsement restrictions on LE permits endorsed for groundfish gear have been retained; however, the provision that requires that the size endorsements on trawl permits transferred to smaller vessels be reduced to the size of that smaller vessel was eliminated (i.e., length endorsements do not change when a trawl-endorsed permit is transferred to a smaller vessel).</p>

	Element	Sub-element	
<b>A-2. IFQ System Details</b>			
A-2.1	Initial Allocation and Direct	Reallocation	
A-2.1.1	Eligible Groups	a Groups and Initial Split of QS	<p><b>Eligible Groups</b> The initial allocation of QS was only to permit owners and processors, as follows.</p> <p>Whiting QS: 80 percent to permits, 20 percent to processors and zero percent for adaptive management.  Nonwhiting QS: 90 percent to permits, zero percent to processors, and 10 percent for adaptive management.</p> <p><i>After initial allocation, trading changed the distribution of shares among permit owners and processors. Additionally, entities that are neither permit owners nor processors may acquire QS (see below: "IFQ/Permit Holding Requirements and IFQ Acquisition").</i></p>
		b Permits	For initial allocation, landing history was considered to accrue to the permit under which the landing was made. The owner of a groundfish LE permit at the time of initial allocation received the QS issued based on the permit. (Also, see Section A-2.1.4 on permit combinations and other exceptional situations.)
		c Processors and Processing Definition	A special definition of "processor" and "processing" was used for initial QS allocation. A main intent of the definition was to specify that only the first processor of the fish be credited for the history of that delivery when the initial allocation formula was applied (see footnote for definition). <sup>i</sup>
		d Attributing and Accruing Processing History	<p>For an allocation for <b>shoreside processors (applies only to whiting)</b>: history was attributed to the receiver reported on the landing receipt (i.e., the entity responsible for filling out the state fishticket), except it was possible to reassign history to an entity not on the landings receipt, if parties agreed or through an agency appeals process. <i>The intent of this option was to provide an opportunity for catch history to be assigned to the entity that actually processed the fish.</i></p> <p>For shoreside processors, allocations went to the processing business and successor-in-interest was recognized. NMFS developed criteria for use in determining the successor in interest with respect to the entities listed on the landings receipts or otherwise eligible for an initial QS allocation based on being the first processor of the fish.<sup>j</sup></p>
A-2.1.2	Recent Participation	a Permits (including CP permits)	Recent participation was not required in order for a permit to qualify for an initial allocation of QS.
		b Processors (shoreside) (originally lettered as paragraph c)	Recent participation was required to qualify for an initial allocation of whiting QS: 1 mt or more of deliveries from whiting trips in each of any two years from 1998-2004.

	Element	Sub-element	
A-2.1.3	Allocation Formula	a Permits with catcher vessel history	<p>QS was issued for all fish management units within the scope of the program (see Section A-1.2) based on equal division and permit history, as follows:<sup>k</sup></p> <p><b>Equal Division:</b> There was an equal division of the buy-back permits' pool of QS among all qualifying permits (<i>except the incidentally caught overfished species other than canary</i>). Qualifying permits included all catcher vessel permits, including those that had been used only in the MS sector. (The QS pool associated with the buyback permits was the buyback permit history as a percent of the total fleet history for the allocation period. The calculation was based on total absolute pounds with no other adjustments and no dropped years.)</p> <p><b>Permit History:</b> The remaining QS (<i>the QS left after setting aside amounts for equal allocation</i>) was allocated based on each permit's history (see following formulas).</p> <p><b>For the portion of the allocation based on each permit's history.</b>  For <b>nonwhiting</b> trips, permit history used for QS allocation was calculated:  <b>For nonoverfished species:</b> using an allocation period of 1994-2003. Within that period use relative history and drop the three worst years.<sup>l</sup>  <b>For overfished species taken incidentally:</b><sup>m</sup> using target species QS as a proxy based on the following approach: Apply fleet average bycatch rates to each permit's depth and latitude distributions and target species QS allocations. Fleet average bycatch rates for latitudinal areas<sup>n</sup> divided shoreward and seaward of the RCA will be developed from West Coast Observer Program data for 2003-06. For the purposes of the allocation, a permit's QS for each target species was distributed shoreward and seaward of the RCA and latitudinally based on the permit's logbook information for 2003-06. If a permit did not have any logbooks for 2003-06, fleetwide averages were used.<sup>o</sup></p> For <b>whiting</b> trips, permit history used for QS allocation was calculated as follows: <b>For whiting</b> , use an allocation period of 1994-2003. Within that period, use relative history and drop the two worst years. <sup>p</sup> <b>For bycatch species</b> (if IFQ is used for bycatch species): use the whiting history as a proxy (i.e., allocation were pro rata based on the whiting allocation). <p><b>Area Assignments:</b> Landings history was assigned to catch areas based on port of landing.<sup>q</sup></p> <p><b>Relative history (percent).</b> For each sector, the permit history for each year was measured as a percent of the sector's total for the year.</p> <p><b>Initial allocations were constrained by accumulation limits</b> for permits that were acquired after the November 8, 2008 control date. See Section A-2.2.3.e for a discussion of the limits and divestiture requirements.</p> <p><b>Reallocation:</b> Reallocate widow rockfish using the same approach that applies for nonoverfished species except use 1994-2002 as the allocation period for non-whiting trips and allocate 9.016 percent for the history of whiting trips and 51.382 percent for the history of nonwhiting trips (the remainder is equally allocated among all permits).<sup>r</sup></p>

	Element	Sub-element	
		b Processors (shoreside) (originally lettered as paragraph d)	<p>For whiting:</p> <ul style="list-style-type: none"> <li>Allocate whiting QS based on the entity's history for the allocation period of 1998 s-2004 (drop two worst years) and use relative history.</li> </ul> <p><b>Initial allocations were not be constrained by accumulation limits,</b> except when the overage was caused by the acquisition of a permit after November 8, 2008. See Section A-2.2.3.e for a discussion of the limits and divestiture requirements.</p>
A-2.1.4	History for Combined Permits and Other Exceptional Situations		<p>Permit history for combined permits included the history for all the permits that had been combined. For history occurring when two or more trawl permits were stacked, the history was split evenly between the stacked permits. History for illegal landings did not count toward an allocation of QS. Landings made under nonwhiting Experimental Fishing Permits (EFPs) that were in excess of the cumulative limits in place for the nonEFP fishery did not count toward an allocation of QS. Compensation fish did not count toward an allocation of QS.</p>
A-2.1.5	Initial Issuance Appeals		<p>There was no Council appeals process on the initial issuance of IFQ. NMFS developed a process for appeals that was approved by the Council through the regulatory deeming process. Any revisions to an entity's fishtickets had to be approved by the state in order to be accepted. The Council recommended that any proposed revisions to fishtickets undergo review by state enforcement personnel prior to finalization of the revisions.</p>
A-2.1.6	Direct Reallocation and Future Allocations After Initial Issuance		<p><b>Reallocation With Change in Overfished Status:</b> When an overfished species is rebuilt or a species becomes overfished there may be a change in the QS allocation within a sector (allocation between sectors is addressed in the intersector allocation process). When a stock becomes rebuilt, the reallocation will be to facilitate the re-establishment of historic target fishing opportunities. That change may be based on a person's holding of QS for target species associated with the rebuilt species or other approaches deemed appropriate by the Council. Now that QS trading has commenced, reallocation to re-establish targeting opportunities for currently overfished species for historic participants may be problematic. When a stock becomes overfished, QS may be reallocated to maintain target fisheries to the degree possible.</p> <p><b>Reallocation With Changes in Area Management</b> (Changes in management lines are expected to be rare; however, when they occur the following provides for the reallocation of QS in a manner that will give individual QS holders with the same amounts of total QP before and after the line changes.)</p> <p><b>Area Subdivision:</b> If at any time after the initial allocation an IFQ management unit is geographically subdivided, those holding QS for the unit being subdivided will receive an amount of QS for each newly created area that is equivalent to the amount they held for the area before it was subdivided.</p> <p><b>Area Recombination:</b> When two areas are combined, the QS held by individuals in each area will be adjusted proportionally such that (1) the total QS for the area sums to 100 percent, and (2) a person holding QS in the newly created area will receive the same amount of total QP as they would if the areas had not been combined.</p>

	Element	Sub-element	
A-2.1.6	Continued		<p><b>Area Line Movement:</b> When a management boundary line is moved, the QS held by individuals in each area will be adjusted proportionally such that they each maintain their same share of the trawl allocation on a coastwide basis (a fishing area may expand or decrease, but the individual's QP for both areas combined wouldn't change because of the change in areas). In order to achieve this end, the holders of QS in the area being reduced will receive QS for the area being expanded, such that the total QP they would be issued will not be reduced as a result of the area reduction.<sup>1</sup> Those holding QS in the area being expanded will have their QS reduced such that the total QP they receive in the year of the line movement will not increase as a result of the expansion (nor will it be reduced).</p> <p><b>Reallocation With Subdivision of a Species Group:</b> If at any time after the initial allocation an IFQ management unit for a species group is subdivided, those holding QS for the unit being subdivided will receive an amount of QS for each newly created IFQ management units that is equivalent to the amount they held for the species group before it was subdivided. For example, if a person holds one percent of a species group before the subdivision, that person will hold one percent of the QS for each of the groups resulting from the subdivision.</p> <p><b>Future Allocation of Groundfish Outside the Scope of the IFQ Program:</b> For the "Other Fish," category of groundfish, if at some time in the future the Council adds it to the IFQ system, the initial allocation would be determined using the same history criteria as was used for other IFQ species (i.e., 1994-2003 history), unless otherwise specified by a future Council action.</p>
A-2.2	Permit/IFQ Holding Requirements and Acquisition (after initial allocation)		
A-2.2.1	Permit/IFQ Holding Requirement		<ol style="list-style-type: none"> <li>1. Only vessels with LE trawl permits are allowed to fish in the trawl IFQ fishery.</li> <li>2. For a vessel to use QP, the QP must be in the vessel's QP account.</li> <li>3. All catch a vessel takes on a trip must be covered with QP within 30 days of the time that data or documentation from the trip shows there is an overage unless the overage is within the limits of the carryover provision (Section A-2.2.2.b), in which case the vessel has 30 days after the QP for the following year are issued.<sup>u</sup> When a vessel has an overage, the carryover amount will be calculated based on the amount of QP in the vessel's account at the end of the 30-day period.<sup>v</sup></li> <li>4. For any vessel with an overage (catch not covered by QP), fishing that is within the scope of the IFQ program (Section A-1.1) is prohibited until the overage is covered, regardless of the amount of the overage. Vessels which have not adequately covered their overage within the time limits specified in paragraph 3, must still cover the overage before resuming fishing, using QP from the following year(s), if necessary. If a vessel covers its overage, but coverage occurs outside the specified time limit (paragraph 3), the vessel may still be cited for a program violation.</li> <li>5. For vessels with an overage, the LE permit may not be sold or transferred until the deficit is cleared.</li> </ol>

	Element	Sub-element	
A-2.2.2	IFQ Annual Issuance	a Annual Quota Pound Issuance	<p>QP is issued annually to QS holders based on the amount of QS held.<sup>w</sup> However, if the regulations specifying the trawl allocations are not in place by January 1, there will be only a partial issuance of quota pounds on January 1 with complete issuance occurring after the trawl allocations are in regulation.</p> <p><i>As specified above, QS holders must transfer their QP to a vessel account in order for those QP to be used.</i></p>
		b Carryover (Surplus or Deficit)	<p>To the extent allowed by the conservation requirements of the Magnuson-Stevens Fishery Conservation and Management Act (MSA), a carryover allowance allows surplus QP in a vessel's QP account to be carried over from one year to the next or allows a deficit in a vessel's QP account for one year to be carried over and covered with QP from a subsequent year. Surplus QP may not be carried over for more than one year.</p> <p>Subject to what is permissible under the conservation requirements of the MSA, a vessel with a QP <b>surplus</b> at the end of the current year may use that QP in the immediately following year, up to the limit of the carryover allowance (see below). However, if there is a decline in the the applicable ACL/HG/ACT, the amount of QP carried over as a surplus will be reduced in proportion to the reduction in the the applicable ACL/HG/ACT.</p> <p>A vessel with a QP <b>deficit</b> in the current year may cover that deficit with QP from the following year without incurring a violation if</p> <ol style="list-style-type: none"> <li>(1) the amount of QP it needs from the following year is within the carryover allowance (see below), and</li> <li>(2) the QP are acquired within the time limits specified in A-2.2.1.<sup>x</sup></li> </ol> <p>Consideration of whiting surplus carryover has been suspended pending an assessment as part of the five-year review.</p> <p><b>Carryover Allowance:</b> Limit of up to 10 percent carryover for each species. This applies to both nonoverfished species and overfished species. The percentage is calculated based on the total pounds (used and unused) in a vessel's QP account for the current year. The percentage used for the carryover provision may be changed during the biennial specifications process.</p>
		c Entry Level Opportunities (originally lettered as paragraph c)	<p>Under the MSA, the Council is required to consider entry level fishermen, small vessel owners, and crew members, and in particular the possible allocation of a portion of the annual harvest to individuals falling in those categories. No special provisions were included as part of the program. New entry is addressed indirectly by allowing crew, captains and others to acquire QS in small increments.</p>
A-2.2.3	IFQ Transfer Rules	a Eligible to Own or Hold	<p>No person can acquire QS or QP other than 1) a United States citizen, 2) a permanent resident alien, or 3) a corporation, partnership, or other entity established under the laws of the United States or any State, that is eligible to own and control a U.S. fishing vessel with a fishery endorsement pursuant to 46 USC 12113 (general fishery endorsement requirements and 75 percent citizenship requirement for entities). However, there is an exception for any entity that owns a MS that participated in the west coast groundfish fishery during the allocation period and is eligible to own or control that U.S. fishing vessel with a fishery endorsement pursuant to sections 203(g) and 213(g) of the AFA.</p>

	Element	Sub-element	
A-2.2.3	continued	b Transfers and Leasing	<p>QS/QP are transferable and transfers must be registered with NMFS. NMFS does not differentiate between a transfer for a lease and a permanent transfer.<sup>y</sup></p> <p>Each year, all QP must be transferred to a vessel account. A penalty for not meeting this transfer requirement was not recommended; however, this requirement is intended to encourage QP availability for use by the fleet. QP can only be transferred into vessel accounts. Once in a vessel account QP can be transferred from one vessel account to another.</p>
		c Temporary Transfer Prohibition	NMFS may establish temporary prohibitions on the transfer of QS, as necessary to facilitate program administration. <sup>z</sup>
		d Divisibility	QS is highly divisible and the QP is transferrable in whole pound units (i.e., fractions of a pound may not be transferred).
		e Accumulation Limits (Vessel and Control)	<p>Limits<sup>aa</sup> vary by species/species group, areas, and sector. The values for the shoreside sector limits are provided in Table E-2.</p> <p><b>Vessel Use Limit (Vessel Limit):</b> A limit on the total QP that may be registered for a single vessel during the year. This means that a vessel could not have more used and unused quota pounds registered for the vessel than a predetermined percentage of the QP pool. In any given year, the QP equivalent of the vessel use limit percentage may change inseason if there is a rulemaking that changes the shorebased trawl allocation.</p> <p><b>Vessel Unused QP Limit:</b> A limit on the amount of unused QP that may be registered to the vessel at any time. This limit applies only for overfished species and Pacific halibut.</p> <p><b>QS Control Limit:</b> A person, individually or collectively, may not control QS in excess of the specified limit (except during the divestiture period). QS controlled by a person shall include those registered to that person, plus those controlled by other entities in which the person has a direct or indirect ownership interest, as well as shares that the person controls through other means.<sup>bb</sup> However, certain exceptions have been made for entities whose primary business is lending. The calculation of QS controlled by a person follows the “individual and collective” rule.</p> <p>Individual and Collective Rule: The QS that counts toward a person's accumulation limit will include 1) the QS owned by them, and 2) a portion of the QS owned by any entity in which that person has an interest. The person's share of interest in that entity will determine the portion of that entity's QS that counts toward the person's limit.<sup>cc</sup></p>

	Element	Sub-element	
		e Accumulation Limits (Vessel and Control) (continued)	<p><b>Grandfather Clause and Divestiture:</b> There is not a grandfather clause for the QS control limits, however, an adjustment period (divestiture period) has been provided through the following divestiture rules. QS was issued for amounts in excess of aggregate and species control limits only for holders of permits transferred by November 8, 2008, when such transfers had been registered with NMFS by November 30, 2008. The holder of any permit transferred after that time was eligible to receive an initial allocation for that permit of only those QS that were within the aggregate and individual species control limits. Anyone who qualifies for an initial allocation of QS in excess of the control limits was allowed to receive that allocation but required to divest themselves of that excess QS after QS trading commenced (January 1, 2014) and prior to November 30, 2015, with the exception of widow QS, for which divestiture down to the widow rockfish QS control limit will be required by 12 calendar months after the commencement of widow QS trading (the actual time allowed may will be only 11 months since there is no QS trading in December).<sup>dd</sup> Additionally, anyone pushed over the aggregate non-whiting limit by the widow QS reallocation will have the same period of time to divest themselves back down to that limit.</p> <p>Holders of QS in excess of the limits may receive and use the QP associated with that excess, up to the time their divestiture is completed or the divestiture deadline. After the applicable deadline, any QS still held in excess of the species or aggregate limits in place at the time of the initial QS allocation will be revoked and redistributed to the remainder of the QS holders in proportion to their QS holdings. In addition to transferring, QS owners had the option of abandoning QS to NMFS prior to November 15, 2015 in order to meet control limits. If NMFS must impose compliance with the control limits the aggregate non-whiting limits will be applied first and then the individual species limits. No compensation will be due for any revoked shares. Divestiture transfers are allowed in accordance with the provisions established here and the transfer rules and processes implemented by NMFS. Vessel LE permit transfers are not limited or required by the divestiture provision.</p> <p><b>Calculation of Aggregate Nonwhiting QS Holdings:</b> To determining how much aggregate nonwhiting QS an entity holds, an entity's QS for each species is first converted to pounds. This conversion is always conducted using the trawl allocations applied to the 2010 OYs, until such time as the Council recommends otherwise. Specifically, each entity's QS for each species is multiplied by the shoreside trawl allocation for that species. The entity's pounds for all nonwhiting species is then summed and divided by the 2010 shoreside trawl allocation of all nonwhiting species to get the entity's share of the aggregate nonwhiting trawl quota.</p> <p><i>Note: QS that was not allocated because of the accumulation limits was distributed to other eligible recipients in a manner that maintained the distribution among groups specified in A-2.1.1 and based on the allocation formulas specified in A-2.1.3.<sup>ee</sup></i></p>
A-2.3	Program Administration		

	Element	Sub-element	
A-2.3.1	Tracking, Monitoring and Enforcement		<p>It is the Council intent to provide NMFS flexibility sufficient to design and implement a tracking and monitoring program that achieves the goals and objectives of the trawl rationalization program.</p> <p><b>Discarding by Shoreside Sector</b>  Nonwhiting Trips – Discarding of IFQ species allowed after an observer has documented them, discarding of IBQ species required after an observer has documented them, discarding of nongroundfish species allowed.</p> <p>Whiting Trips  Maximized retention vessels:  Discarding of fish covered by IFQ or IBQ, and nongroundfish species prohibited except for minor operational discards. This allows for retention of salmon and other prohibited and protected species.</p> <p>Vessels sorting at-sea:  Same as for nonwhiting.</p> <p>Discarding rules may be adjusted as needed where cameras are substituted for monitoring by at-sea observers.</p> <p><b>At-Sea Catch Monitoring for Shoreside Sector</b>  Nonwhiting Trips – The sorting of catch, the weighing and discarding of any IBQ and IFQ species, and the retention of IFQ species must be monitored by the observer or other at-sea monitoring technologies deemed appropriate for the task by the Council and NMFS. Observer coverage is not required when testing gear.</p> <p>When an observer provides at-sea monitoring, observer coverage must be maintained until the final offload site is reached and either the shoreside catch monitor is present or records have been creating documenting the amount of certain overfished species on board. Vessels may split loads between initial offload sites and the final offload site so long as observer coverage is maintained.</p> <p>When a camera is used for at-sea monitoring camera coverage must be maintained on a continuous basis as deemed adequate by the Council and NMFS for ensuring the integrity of the trawl rationalization program.</p> <p>Whiting Trips  For maximized retention vessels at-sea monitoring of harvest operations by observers or video monitoring deemed adequate by the Council and NMFS is required.</p> <p>For vessels that sort at-sea: The sorting, weighing and discarding of any IFQ or IBQ species must be monitored by an observer or camera system deemed adequate by the Council and NMFS.</p> <p><b>Shoreside Landings Monitoring</b>  The sorting, weighing and reporting of any IFQ or IBQ species must be monitored by a shoreside landings monitor.</p>

	Element	Sub-element	
A-2.3.1	continued		<p align="center"><b>Catch Tracking Mechanisms for Shoreside Sector</b></p> <p><b>Electronic vessel logbook report</b> VMS-based electronic logbooks may be required to be transmitted from the vessel. Such a logbooks system might include at-sea entry by vessel personnel, including catch weight by species and if retained or discarded.</p> <p><b>Electronic ITQ landing report</b> Mandatory reports completed by processors and similar to electronic fishticket report.</p> <p><b>Processor production report</b> Mandatory reports (possible inclusion of proprietary data included to be recommended as option is fleshed out).</p> <p align="center"><b>Cost Control Mechanisms for Shoreside Sector</b></p> <p><b>Shoreside landing hour restrictions</b> Landing hours may be restricted but no such restriction was deemed necessary at the time of initial implementation of the program.</p> <p><b>First Reciever Site Licenses</b> Mandatory license for shoreside delivery sites. License are issued to any site that meets the monitoring requirements (i.e. this is not a limited entry license).</p> <p><b>Vessel Certification</b> Mandatory certification. Certificate can be issued to any vessel that meets the monitoring requirements (e.g. requirements for carrying an observer or using an electronic monitoring system).</p> <p align="center"><b>Program Performance Measures for Shoreside Sector</b></p> <p>The tracking and monitoring program includes the collection of data on cost, earnings and profitability; economic efficiency and stability; capacity measures; net benefits to society; distribution of net benefits; product quality; functioning of quota market; incentives to reduce bycatch; market power; spillover effects into other fisheries; contribution to regional economies (income and employment); distributional effects/community impacts; employment in seafood catching and processing; safety; bycatch and discards; administrative, enforcement, and management costs. (See A-2.3.2)</p>
A-2.3.2	Socio-Economic Data Collection		<p>Submission of economic data by harvesters and processors is mandatory. Random and targeted audits may be used to validate mandatory data submissions. See footnote for a full description<sup>ff</sup> Information on QS transaction prices, will be included in a central QS ownership registry. <i>NOTE: The initial data collection included 2009 and 2010, in order to have a baseline for comparison.</i></p>
A-2.3.3	Program Costs	a Cost Recovery	<p>Fees up to three percent of exvessel value, consistent with 303A(e) of the MSA may be assessed. Cost recovery shall be for costs of management, data collection, analysis, and enforcement activities. Separate cost recovery assessments should be made for each trawl sector. Incremental costs should be recovered, defined as the net costs that would not have been incurred but for the implementation of the Individual Fishing Quota program. Net incremental costs should include an assessment of not only additional costs but cost savings.<sup>gg</sup></p>
		b Fee Structure	<p>The cost recovery fee structure is based on each vessel's exvessel revenue.</p>

	<b>Element</b>	<b>Sub-element</b>	
A-2.3.4	Program Duration and Modification		<p>The Council began its first IFQ program review 5 years after implementation of the program. After the initial review, there will be a review process every four years.</p> <p>A community advisory committee will take part in the review of IFQ program performance.</p> <p>Reviews will evaluate the progress the IFQ program has made in achieving the goal and objectives of Amendment 20.</p> <p>The result of the reviews could include dissolution of the program, revocation of all or part of quota shares, or other fundamental changes to the program. Holders of quota shares should remain cognizant of this fact when making decisions regarding their quota shares, including buying, selling, and leasing of these shares.</p> <p>During the first program review, the Council shall consider the use of an auction or other nonhistory based methods when distributing quota share that may become available after initial allocation. This may include quota created when a stock transitions from overfished to nonoverfished status, quota not used by the adaptive management program, quota forfeited to “use it or lose it” provisions, and any quota that becomes available as a result of the initial or subsequent reviews of the program.</p> <p>The specific form of the auction or other method of distribution shall be designed to achieve the goals of Amendment 20, specifically including minimizing the adverse effects from an IFQ program on fishing communities to the extent practical.</p>

	Element	Sub-element	
A-3	<b>Adaptive Management</b>		<p>Ten percent of the nonwhiting QS has been reserved to facilitate adaptive management in the shoreside nonwhiting sector. Therefore, each year 10 percent of the shoreside trawl sector nonwhiting QP is potentially available for use in adaptive management (adaptive management QP). The set aside is to be used to address the following objectives.</p> <ul style="list-style-type: none"> <li>○ Community stability</li> <li>○ Processor stability</li> <li>○ Conservation</li> <li>○ Unintended/Unforeseen consequences of IFQ management.</li> <li>○ Facilitating new entrants.</li> </ul> <p>During the first years of the IFQ program, AMP QP has been passed thru to QS owners in proportion to their QS holdings. This pass-thru will continue until the first regulatory actions are implemented pursuant to the 5 year review. When an alternative method for distributing QP is developed, considerations will include.</p> <ul style="list-style-type: none"> <li>○ The decision making and organization structure to be used in distributing the QP set aside<sup>hh</sup></li> <li>○ The formula for determining community and processor eligibility, as well as methods for allocation, consistent with additional goals.</li> <li>○ The division of QP among the states.</li> <li>○ Whether to allow the multi-year commitment of QP to a particular project.</li> </ul> <p>AMP QP will be distributed through the organizational structure, decision process, formulas and criteria developed and implemented through subsequent Council recommendation and NMFS rule making processes. Consideration will be given to the multiyear commitment of QP to particular projects (three year commitments). There is no AMP set-aside for IBQ.</p> <p><b>Review and Duration.</b> The set aside of QP for the identified objectives will be reviewed as part of the year five comprehensive review and a range of sunset dates will be considered, including 10, 15, 20 year and no sunset date options.</p>
A-4	<b>Pacific Halibut IBQ—nonretention</b>		<p>IBQ-QS and IBQ-QP for Pacific halibut bycatch mortality in the trawl fishery have been established. Rules governing IBQ-QS and IBQ-QP are the same as for those for QS and QP, unless specified otherwise. Each year, holders of IBQ-QS will be allocated IBQ-QP. Vessels are required to cover with IBQ-QP the round weight equivalent of their legal and sublegal sized Pacific halibut bycatch mortality in the area north of 40°10 N latitude. Halibut mortality is estimated on an individual vessel basis. IBQ-QS was issued on the basis of a bycatch rate applied to the target species QS an entity received in a manner similar to that described in Section A-2.1.3.a for overfished species caught incidentally. Area-specific bycatch rates were used for allocation but halibut IBQ-QS was not geographically subdivided.</p>

- <sup>a</sup> California halibut gear covered as non-groundfish trawl is of a minimum mesh size of 7.5” and used in state waters.
- <sup>b</sup> Mandatory gear conversion (the permanent switching from trawl to some other gear) was considered but not included as a provision of this program.
- <sup>c</sup> Since the shoreside trawl sector covers all shoreside deliveries, this implies that IFQ issued for the shoreside trawl sector may not be used for at-sea deliveries (i.e., may not be used to cover deliveries made to motherships or catch by catcher-processors).
- <sup>d</sup> Notwithstanding this provision, a vessel with a LE trawl permit may catch the trawl QP with a nontrawl gear, as per Section A-1.1.
- <sup>e</sup> At present there are no groundfish species for which there are area specific limits for the trawl fishery that are not reflected in the ABC/ACL table. An example of an area specific precautionary policy from outside trawl fishery management was the geographic differential recommended by the Scientific and Statistical Committee for lingcod, prior to the north/south division of the lingcod management unit. Before this geographic division was created lingcod was monitored and managed differently in different geographic areas though there is a single coastwide ABC for lingcod.
- <sup>f</sup> Such changes in latitudinal area management may occur as a result of changes in the management areas for species/species complexes in the ABC/ACL table or as a result of separate Council action to change the trawl QS by area. In either case, specific Council action will be required to change the management areas and such action will be accompanied by appropriate supporting analysis and public comment opportunity.
- <sup>g</sup> A whiting QP rollover provision was considered but rejected from further analysis. This provision would have allowed unused QP to be reclassified so that they could be used in any whiting sector.
- <sup>h</sup> The process for changing the whiting fishery opening dates involves a regulatory amendment developed under the FMP through a framework process. Implementation of the IFQ program did not change this process.
- <sup>i</sup> For purposes of initial allocation “**Processors**” were defined as follows:  
**An at-sea processor** is a vessel that operates as a mothership in the at-sea whiting fishery or a permitted vessel operating as a catcher-processor in the at-sea whiting fishery.  
**A shoreside processor** is an operation, working on US soil, that takes delivery of trawl-caught groundfish that has not been “processed at-sea” and that has not been “processed shoreside”; and that thereafter engages that particular fish in “shoreside processing.” Entities that received fish that have not undergone “at-sea processing” or “shoreside processing” (as defined in this paragraph) and sell that fish directly to consumers shall not be considered a “processor” for purposes of QS allocations.
- For purposes of initial allocation “**Shoreside Processing**” was defined as either of the following:
1. Any activity that takes place shoreside; and that involves: cutting groundfish into smaller portions; OR freezing, cooking, smoking, drying groundfish; OR packaging that groundfish for resale into 100 pound units or smaller for sale or distribution into a wholesale or retail market.
- OR
2. The purchase and redistribution into a wholesale or retail market of live groundfish from a harvesting vessel.
- <sup>j</sup> It was the Council intent that transfer of physical assets alone not be considered a basis for successor in interest. Business relationships such as transfer of the company name and customer base might be reasonable evidence of successor in interest.
- <sup>k</sup>
- <sup>l</sup> State landings receipts (fishtickets) were used to assess landings history for shoreside deliveries. In some cases, fishticket records did not identify species to the same level of detail used for the IFQ management units (e.g., reports “unspecified rockfish”). Under such circumstances standard species composition routines usually used at the port level were applied to vessel level data to estimate the species composition of such landings. In some instances, even after applying species composition information there were some fishticket records with a species groundfish categorization that did not match with one of the IFQ management units. Under such circumstances, when the

initial allocations were made, it was permissible to use other information on the landings records and in logbooks to assign the landing to its most probable species category.

- <sup>m</sup> The intent was to provide an allocation method for QS for overfished species which addressed the vessel's need to have the QS to cover incidental catch in fisheries that target healthy stocks. The method attempted to allocate the species to those who received QS for related target species. By allocating overfished species QS to those most in need of it, such an allocation was expected to reduce transition costs. At the time of initial allocation the following overfished species fell into this category: canary rockfish, darkblotched rockfish, Pacific Ocean perch, widow rockfish, and yelloweye rockfish. If a major target species had become overfished, it was intended that such a species would not be allocated via an alternative method (for example species such as Dover sole, sablefish, or Pacific whiting).
- <sup>n</sup> The four areas were as follows: (1) north of 47°40 N latitude; (2) between 47°40 N latitude and 43°55 N latitude; (3) between 43°55 N latitude and 40°10 N latitude; and (4) south of 40°10 N latitude.
- <sup>o</sup> In order to determine an amount of aggregate target species to which bycatch rates were applied, each vessel's QS was multiplied by the trawl allocation at the time of implementation.
- <sup>p</sup> State landings receipts (fishtickets) were used to assess landings history for shoreside deliveries.
- <sup>q</sup> Catch area data on fishtickets was not considered appropriate for this purpose. The catch area field is often filled out by fish receivers that do not know the area in which the vessel fished. Additionally catch area is often left unspecified. Therefore, it was assumed that all catch comes from ocean areas near the port of landing.
- <sup>r</sup> See the Council's April 2015 action for additional detail on this allocation formula.
- <sup>s</sup> March 2010. Changed from 1994-2004 to 1998-2003 to reflect Council action of November 2008.
- <sup>t</sup> Unless there is a change in the total applicable ACL/HG/ACT or other factors affecting trawl allocation for the areas involved, in which case their change in QP would be proportional to the change in the trawl allocation.
- <sup>u</sup> QP from a subsequent year may not be accessed until such QP have been issued by NMFS.
- <sup>v</sup> In the case of a deficit, all QP in the vessel account would be used QP, with respect to the deficit species.
- <sup>w</sup> Including QS that an entity received in excess of accumulation limits in place at the time of initial allocation (see Section A-2.2.3.e).
- <sup>x</sup> Carryover of deficits provides some flexibility to use pounds from a year to cover a deficit from a previous year. Without a carryover provision, a vessel would still need to use pounds in a subsequent year to cover an overage but would incur a violation.
- <sup>y</sup> QS may be transferred on a temporary basis through private contract (leased) but NMFS will not track lease transfers differently than any other transfer.
- <sup>z</sup> Initially there was a prohibition on the transfer of QS for the first two years of the program. For all species except widow rockfish, this prohibition was continued through December 31, 2013 due to allow time for the resolution of law suits. For widow rockfish, the prohibition was continued through the completion of a reallocation undertaken in consideration of the stock having been rebuilt (as per Section A-2.1.6).
- <sup>aa</sup> The "vessel" accumulation limit was originally termed a "permit" limit. The term "permit" was changed to "vessel" to be consistent with Section A-2.1.3, which indicates that QP go into vessel accounts, not permit accounts. The term "own or control" was shortened to "control" for simplicity. "Control" is inclusive of "ownership."
- <sup>bb</sup> It is the Council intent that control limits should not constrain the formation of risk pools to help the fishermen deal with overfished species constraints, so long as the pools do not undermine the effectiveness of the accumulation limits. A risk pool is formed when two or more people enter into an agreement whereby if one person does not have the QP the others would agree to provide the QP, if they have them. Whether these kinds of agreements are informal or formal, as other considerations and conditions are added to the agreements they may begin to constitute control. It is the Council intent to allow for these pooling agreements, so long as they do not become control.
- <sup>cc</sup> For example, if a person has a 50 percent ownership interest in that entity, then 50 percent of the QS owned by that entity will count against the individual's accumulation limit unless it is otherwise determined to have effective control of a greater or lesser amount.

<sup>dd</sup> Originally, there was to be a trading moratorium for the first two years of the program and then those controlling QS were to be given two years to divest. Due to law suits related to the initial allocation, the trading moratorium was extended, as well as the period for divestiture.

<sup>ee</sup> The original Council policy specified that QS that was not allocated because of the accumulation limits would be distributed to other eligible recipients in a manner that maintained the distribution among groups specified in A-2.1.1 and based on the allocation formulas specified in A-2.1.3. This situation would only have arisen with respect to individuals that would have otherwise received excess shares through the acquisition of permits after November 8, 2008.

<sup>ff</sup> **Expanded data collection** includes:

- mandatory submission of economic data for LE trawl industry (harvesters and processors),
- voluntary submission of economic data for other sectors of the fishing industry,
- transaction value information in a centralized registry of ownership, and
- formal monitoring of government costs.

**Mandatory Provisions:** The Pacific Fishery Management Council and NMFS have the authority to implement a data collection program for cost, revenue, ownership, and employment data, compliance with which is mandatory for members of the west coast groundfish industry harvesting or processing fish under the Council's authority. Data collected under this authority is treated as confidential in accordance with Section 402 of the MSA.

A mandatory data collection program was developed and implemented as part of the groundfish trawl rationalization program and will be continued through the life of the program. Cost, revenue, ownership, employment and other information will be collected on a periodic basis (based on scientific requirements) to provide the information necessary to study the impacts of the program, including achievement of goals and objectives associated with the rationalization program. These data may also be used to analyze the economic and social impacts of future FMP amendments on industry, regions, and localities. The program may include targeted and random audits as necessary to verify and validate data submissions. Additional funding (as compared to status quo) is required to support the collection of these data. The data collected includes data needed to meet MSA requirements (including antitrust).

The program includes comprehensive consideration of the enforcement of such a program, including discussion of the type of enforcement actions that will be taken if inaccuracies are found in mandatory data submissions. The intent of this action is to ensure that accurate data are collected without being overly burdensome on industry in the event of unintended errors.

**Voluntary Provisions:** A voluntary data collection program will be used to collect information needed to assess spillover impacts on nontrawl fisheries.

**Central Registry:** Information on transaction prices is included in the IFQ data system. Such information will also be included for LE permit owners/lessees.

**Government Costs:** Data is collected and maintained on the monitoring, administration, and enforcement costs related to governance of the trawl rationalization program.

<sup>gg</sup> For further details on the Council's cost recovery policy see Council recommendations from the September 2011 Council meeting.

<sup>hh</sup> The following are three options for the sequences of agency involvement in the application of the criteria developed for the distribution of adaptive management QP.

1. NMFS
2. State → Council → NMFS
3. Council → NMFS

**Table E-2.** Control and vessel limit options.

Species Category	Vessel Limit (Applies to all QP in a Vessel Account, Used and Unused)	Vessel Unused QP Limit	QS Control Lim
Nonwhiting Groundfish Species	3.2%		2.7%
Lingcod – N. of 40°10 N. lat	5.3%		2.5%
Lingcod - S. of 40°10 N. lat	13.3%		2.5%
Pacific Cod	20.0%		12.0%
Pacific whiting (shoreside)	15.0%		10.0%
Sablefish			
N. of 36° (Monterey north)	4.5%		3.0%
S. of 36° (Conception area)	15.0%		10.0%
PACIFIC OCEAN PERCH	6.0%	4.0%	4.0%
Widow Rockfish *	8.5%	5.1%	5.1%
Canary Rockfish	10.0%	4.4%	4.4%
Blackgill Rockfish N. of 40°10'N. Lat	9.0%		6.0%
Chilipepper Rockfish S. of 40°10 N. lat	15.0%		10.0%
BOCACCIO S. of 40°10 N. lat	15.4%	13.2%	13.2%
Splitnose Rockfish	15.0%		10.0%
Yellowtail Rockfish	7.5%		5.0%
Shortspine Thornyhead			
N. of 34°27'	9.0%		6.0%
S. of 34°27'	9.0%		6.0%
Longspine Thornyhead			
N. of 34°27'	9.0%		6.0%
COWCOD S. of 40°10 N. lat	17.7%	17.7%	17.7%
DARKBLOTCHED	6.8%	4.5%	4.5%
YELLOWEYE	11.4%	5.7%	5.7%
Minor Rockfish North			
Shelf Species	7.5%		5.0%
Slope Species	7.5%		5.0%
Minor Rockfish South			
Shelf Species	13.5%		9.0%
Slope Species*	9.0%		6.0%
Dover sole	3.9%		2.6%
English Sole	7.5%		5.0%
Petrale Sole	4.5%		3.0%
Arrowtooth Flounder	20.0%		10.0%
Starry Flounder	20.0%		10.0%
Other Flatfish	15.0%		10.0%
Pacific Halibut	14.4%	5.4%	5.4%

## **E.4 Whiting At-sea Trawl Sector: Cooperative Program (Appendix B of the EIS)**

The at-sea whiting sector co-op program is described generally below. Table E-3 provides an outline of the sections of the program. A full description of the co-op programs follows Table E-3, beginning with a section on management of the whiting fishery and followed by sections on the MS and CP sectors of the whiting fishery (the “at-sea” sectors).

The Council considered but did not adopt a co-op program for the shoreside whiting fishery. Instead, the shoreside whiting sector was merged with the nonwhiting sector, both to be managed with IFQs. However, section placeholders for the shoreside whiting co-op program are maintained in this document so that the numbering system will correspond to the numbering of the alternatives and sections of the analysis as they are laid out in the EIS and other historic documents.

## **E.5 Overview of Co-op Program Elements**

### ***E.5.1 At-sea Whiting Sector Management under Co-ops***

While co-ops are used to control the harvest within the at-sea whiting sectors, a number of management measures are still be required to control competition between the whiting sectors. This section covers those measures along with other measures that apply to all sectors managed under co-ops, such as at-sea monitoring requirements and mandatory submission of economic data. The description of the co-op management program for each at-sea whiting sector starts in Section E.5.2.

The existing allocation of whiting between the shoreside, MS, and CP sectors is not changed by the rationalization program (42, 24, and 34 percent, respectively).

Provisions also address bycatch in the at-sea whiting fishery (particularly that of certain overfished species). The Council recommended incidental groundfish species caps for each of the whiting sectors, for the co-op and non-co-op fisheries within the MS sector, and for the co-ops within the MS sector. Within sectors, bycatch allocations are pro rata, based on the amount of whiting allocated to that sector, co-op or non-co-op fishery, and individual co-ops.

Area closures may be used to control the pace of the fishery. For the MS sector, the fishery is divided into a co-op fishery and a non-co-op fishery (for those who do not desire to take part in a co-op). Participants in the non-co-op fishery do not have a claim to a particular amount of the fish allocated to that fishery; therefore the vessels participating in the non-co-op fishery might race to harvest the available allocation.

NMFS will close the whiting fishery, a particular sector, or the co-op or non-co-op fishery within a sector (not including individual co-ops), as appropriate, when it is projected that a whiting catch or bycatch limit will be reached. With respect to co-ops, inseason monitoring and closure is needed only at the highest level of aggregation of the co-ops. For example, if individual co-ops join together to form an inter-co-op that covers the entirety of one of the whiting sectors, then NMFS does not need to anticipate quota attainment and close at the sector level for species managed by that co-op, since this is a co-op responsibility. Nevertheless, vessel level monitoring is still be required to ensure that catch is accurately recorded.

Given the high level of monitoring already in place in the whiting fishery, only moderate changes in monitoring were needed to implement this program for the at-sea whiting fishery. For the at-sea segment of the fishery, 100 percent coverage aboard MS processors and CPs has been continued. A program for the mandatory submission of economic data is also included to facilitate monitoring program performance.

### ***E.5.2 Co-ops for Catcher Vessels Delivering to Motherships***

Under this program, those who hold whiting-endorsed permits for catcher vessels in the MS sector choose each year whether to be part of a co-op or to register to fish in the non-co-op portion of the fishery. The holders of catcher vessel permits with mothership whiting endorsements form the co-ops. Based on its catch history, each permit that qualifies for a mothership whiting endorsement is capped at a portion of the history (endorsement share or catch history assignment, CHA) of the MS sector allocation of whiting and bycatch species. The CHA for each permit is permanently linked to the whiting endorsement for the permit and the whiting endorsement together with the associated CHA may be transferred to other LE trawl permits. Multiple endorsements may be accumulated on a single LE trawl permit, subject to accumulation limits. Each year, NMFS distributes a catch allocation to each catcher vessel co-op based on the sum of the CHAs for the permits registered to that co-op. NMFS also distributes a catch allocation each year to the non-co-op portion of the fishery, based on the collective CHAs of the permits opting to participate in the non-co-op fishery (if any).

The co-op organization coordinates harvest by its members. Although co-op agreements include a mandatory clause that the catch allocation made to a member must equal the amount that the member brings into the co-op, co-op members may transfer catch allocations among themselves. Similarly, if multiple co-ops join to form an inter-co-op, one co-op may transfer catch allocation to another co-op within that inter-co-op. NMFS does not necessarily have to track transfers among co-op members or within an inter-co-op.

The maximum number mothership processor participants has been limited by creating a LE permit for mothership vessels. There are restrictions limiting a vessel's ability to both catch and operate as a mothership in the whiting fishery in the same year. This limits the ability of processing vessels to move between the CP and MS sectors.

Prior to the start of each season, each catcher vessel permit desiring to participate in the co-op fishery obligates its CHAs to a particular MS or MSs (a single CHAs may not be split between motherships). The obligation to a particular co-op or MS does not carry over from one year to the next; it may be changed at the catcher vessel permit owner's discretion based on its preseason declaration. While catch may be transferred among participants in a co-op or inter-co-op, such transfers do not change the MS to which the catch is obligated, unless a mutual agreement is reached.

Similar to the IFQ program, accumulation limits prevent excessive concentration of CHAs. The accumulation limits cap the proportion of whiting that an individual or entity can process, the proportion of whiting an individual or entity can accumulate via ownership of whiting endorsements and the linked CHAs, and the amount that can be landed by any catcher vessel.

### ***E.5.3 Co-op for Catcher-Processors***

Under the CP co-op program, as was the case prior to the trawl rationalization program, a voluntary CP co-op may continue to be formed by CP permit holders. This system will continue as long the existing co-op system continues to operate successfully, or until the FMP is otherwise amended. If the voluntary co-op system fails, it will be replaced with an IFQ system. The CP co-op operates under a private contract that includes division of the harvest among participants according to an agreed schedule. If the co-op system fails, IFQ will be allocated equally to each CP permit (equally divided among all CP endorsed permits).

Under the CP co-op program, the main Council recommendation was the creation of a CP endorsement to close the CP fishery to new entrants and the assignment of an allocation to the voluntary CP co-op. The endorsement was granted to LE permits registered to CP vessels that met specified qualification criteria. Only vessels with a CP LE permit are allowed to harvest fish from the CP sector's allocation. LE permits

with CP endorsements continue to be transferable. NMFS will not establish an allocation of catch or catch history among CP permits unless the co-op fails. NMFS specifies the assignment of the CP sector allocation to the CP sector co-op in regulation. Individual co-ops are responsible for staying within their own allocations. If necessary, a closure can be used to keep the entire trawl fishery from exceeding its allocation of whiting and bycatch species or the entire groundfish fishery from exceeding the applicable ACL/HG/ACT.

## E.6 Detailed Specification of Co-op Program Elements

**Table E-3 Overview of the co-op program.**

<b>B.1</b>	<b><i>Whiting Sector Management Under Co-ops</i></b>
B-1.1	Whiting Management
B-1.2	Annual Whiting Rollovers
B-1.3	Bycatch Species Management
B-1.4	At-sea Observers/Monitoring
B-1.5	Mandatory Data Collection
B-1.6	Adaptive Management—Not included in recommendation. <i>(This section header is being maintained as a place holder so that numbering will correspond to that of the alternatives and analysis in the EIS).</i>
B-1.7	Length Endorsement
<b>B-2</b>	<b><i>Whiting Mothership Sector Co-op Program</i></b>
B-2.1	Participation in the MS Sector
B-2.2	Permits/Endorsement Qualification and Characteristics
B-2.3	Co-op Formation and Operation Rules
B-2.4	Obligations to Processors
B-2.5	NMFS Role
<b>B-3</b>	<b><i>Whiting Shoreside Sector Co-op Program</i></b>
	Not included in recommendation. <i>(This section header is kept to maintain numbering consistent with historic documents).</i>
<b>B-4</b>	<b><i>Catcher-Processors Co-op Program</i></b>
B-4.1	Participation in the Catcher-Processor Sector and Endorsement Qualification
B-4.2	Co-op Formation and Operation Rules
B-4.3	NMFS Role

## **B-1 Whiting Sector Management Under Co-ops**

### **B-1.1 Whiting Management**

Under the co-op program, catcher vessel permits for the MS sector are endorsed for deliveries to motherships. At the start of the program amounts of catch history were assigned to each catcher vessel permit based on past mothership sector whiting harvest of that permit. The allocations provided for each permit (catch history assignments or CHAs) are permanently linked to the whiting endorsement for each permit. Catcher-processor permits are endorsed for participation in the CP sector.

Each CHA [CV(MS)] is assigned to the pool for the CV(MS) co-op to which the permit with the CHA has committed the CHA, or to a pool for the mothership non-co-op fishery. NMFS makes an allocation assignment to the CP sector co-op based on the allocation to the CP sector. Co-ops are responsible for monitoring and enforcing the catch limits of co-op members.

NMFS monitors the catch in the mothership non-co-op fishery, the mothership co-op fishery, the CP fishery, and the overall whiting catch of all at-sea sectors. NMFS will close each segment of the fishery (not including individual co-ops) based on projected attainment of whiting catch. Additionally, all at-sea sectors are subject to closure based on attainment of the overall trawl whiting allocation.

### **B-1.2 Annual Whiting Rollovers**

Unused whiting may not be rolled over from one sector to another.

### **B-1.3 Bycatch Species Management**

For the near future, the whiting fishery will be managed under bycatch limits (hard caps) for widow, canary, darkblotched rockfish, and Pacific ocean perch. The catch of all groundfish will be accounted for and tracked against the applicable ACL/HG/ACT.

ESA-listed salmon bycatch management measures —11,000 Chinook threshold, 0.05 rate threshold, and triggered 100 fathom closure as of the original implementation of catch share program—continue to be in place but may be revised under future biological opinions.

The goal of bycatch management is to control the rate and amounts of rockfish and salmon bycatch to ensure that each sector is provided an opportunity to harvest its whiting allocation.

There is a set aside of Pacific halibut for the at-sea whiting fishery, as specified in the intersector allocation process (Amendment 21).

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#### ***B-1.3.1 Bycatch Allocation Subdivision***

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Subdivide bycatch species managed with hard caps (initially, widow, canary, darkblotched rockfish, and Pacific Ocean perch) among each of the whiting sectors; within the mothership sector subdivide between the co-op fishery and non-co-op fishery; and subdivide among co-ops.

Only those species with hard caps are subdivided for bycatch management, and bycatch is allocated to the each co-op pro rata in proportion to the CHA assigned to the co-op. As needed, the MS sector's bycatch allocation is divided between its co-op and non-co-op fishery, based on the allocations made to the permits participating in each portion of the fishery.

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### **B-1.3.2 Bycatch Management**

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All at-sea sectors close based on projected attainment of the at-sea whiting fishery bycatch cap for any one species. The mothership co-op fishery, non-co-op fishery, and CP fishery will each be closed based on projected attainment of their individual allocation (not including individual co-ops). Each co-op will cease fishing when its bycatch allocation is reached.

The Council may also use area closures (seasonal or year-round) to manage overfished stocks in the co-op and non-co-op fisheries. The area closures may be the same or different for different species. Area closures may be year-round, seasonal, or triggered automatically by the attainment of certain levels of catch.

Unused bycatch may be rolled over from one sector to another if the sector's full allocation of whiting has been harvested or participants in the sector do not intend to harvest the remaining sector allocation.

Unused bycatch may be rolled over from an MS co-op to other MS co-ops if the MS co-op's full allocation of whiting has been harvested or participants in the co-op do not intend to harvest the remaining co-op allocation. (Additionally, bycatch may be voluntarily moved between mothership co-ops through an approved inter-co-op agreement, as specified in Section B-2.2.3-b).

### **B-1.4 At-sea Observers/ Monitoring**

**At-sea Whiting Fishery:** 100 percent observer coverage aboard MS processors and CPs will continue. 100 percent at-sea monitoring is required on catcher vessels. Cameras may be used in place of observers through monitoring provisions recommended by the Council and implemented by NMFS. It is the Council's intent to provide NMFS flexibility sufficient to design and implement a tracking and monitoring program that will achieve the goals and objectives of the trawl rationalization program.

### **B-1.5 Mandatory Data Collection**

The following are the central elements of the data collection program implemented as part of the co-op program.

- Mandatory submission of economic data for LE trawl industry (harvesters and processors).
- Voluntary submission of economic data for other sectors of the fishing industry.
- Include transaction value information in a centralized registry of ownership.
- Formal monitoring of government costs.

**Mandatory Provisions.** The Council and NMFS have the authority to implement a data collection program for cost, revenue, ownership, and employment data, compliance with which is mandatory for members of the west coast groundfish industry harvesting or processing fish under the Council's authority. Data collected under this authority is treated as confidential in accordance with Section 402 of the MSA.

A mandatory data collection program was developed and implemented as part of the groundfish trawl rationalization program and will be continued through the life of the program. Cost, revenue, ownership,

employment and other information is collected on a periodic basis (based on scientific requirements) to provide the information necessary to study the impacts of the program, including achievement of goals and objectives associated with the rationalization program. These data may also be used to analyze the economic and social impacts of future FMP amendments on industry, regions, and localities. The program may include targeted and random audits as necessary to verify and validate data submissions. Additional funding (as compared to status quo) is required to support the collection of these data. The data collected includes data needed to meet MSA requirements (including antitrust).

The program includes comprehensive consideration of the enforcement of such a program, including discussion of the type of enforcement actions that will be taken if inaccuracies are found in mandatory data submissions. The intent of this action is to ensure that accurate data are collected without being overly burdensome to industry in the event of unintended errors. Annual reports will be provided to the Council.

**Voluntary Provisions:** A voluntary data collection program is used to collect information needed to assess spillover impacts on nontrawl fisheries.

**Central Registry:** Information on transaction prices is included in a central data system of whiting endorsed permit and MS permit owner information. Such information should also be included for sales and lessees.

**Government Costs:** Data is collected and maintained on the monitoring, administration, and enforcement costs related to governance of the rationalization program.

## **B-1.6 Adaptive Management**

There is not an adaptive management set aside for the at-sea whiting fisheries. *(This section is being maintained as a placeholder so that numbering will correspond to that used in the alternatives and analysis of the EIS and historic documents.)*

## **B-1.7 Length Endorsement**

Length endorsement restrictions on LE permits endorsed for groundfish gear have been retained; however, the provision that requires that the size endorsements on trawl permits transferred to smaller vessels be reduced to the size of that smaller vessel has been eliminated (i.e., length endorsements do not change when a trawl endorsed permit is transferred to a smaller vessel).

## **B-2 Whiting Mothership Sector Co-Op Program**

**Overview.** Qualified permits were endorsed for MS co-op participation. The endorsements and the CHA linked to them are transferable between LE trawl permits. Each year the holders of endorsed permits will choose whether their vessels will fish in the co-op fishery, in which individual co-ops direct harvest, or fish in a non-co-op fishery that is managed by NMFS as an Olympic style fishery. The co-op is obligated to deliver its fish to specific MS processors based on the obligations of each permit in the co-op determined, based on preseason declarations for each CHA. Mothership LE permits were issued for motherships and required for a mothership to receive whiting from catcher vessels.

## **B-2.1 Participation in the Mothership Sector**

### **a. Catcher Vessels**

Vessels with trawl LE permits that have catcher vessel (mothership) (CV[MS]) endorsements may participate in either the co-op or non-co-op portion of the mothership fishery. They choose annually which fishery they will participate in for the coming year. Additionally, any groundfish LE trawl permitted vessel (including vessels without CV[MS] whiting endorsements) may participate in the co-op portion of the fishery if they join a co-op (as described in Section B-2.3.3).<sup>3</sup> No other catcher vessels may participate in the mothership fishery. Catcher vessels that participate in the MS fishery (either with or without CV(MS) whiting endorsed permits) can also use shorebased QP to participate in the shorebased IFQ fishery.

A vessel may not engage in the processing of whiting during any year in which a CV(MS) endorsed permit is registered for use with the vessel.

### **b. Processors**

Only motherships with a mothership LE permit (MS Permit) may receive deliveries from catcher vessels participating in the co-op or non-co-op portions of the MS sector whiting fishery. [Note: motherships may acquire such permits by transfer; see Section B-2.2.2.]

### **c. Vessels Excluded<sup>4</sup>**

A vessel with an MS permit can also be registered to a CP permit at the same time but cannot operate as a mothership during the same year it participates in the CP fishery

## **B-2.2 Permits/Endorsement Qualification and Characteristics**

### **B-2.2.1 Catcher Vessel Mothership (CV[MS] Whiting Endorsement)**

#### **a. Endorsement Qualification and History Assignment**

Permits that had a qualifying history were designated as CV(MS) permits through the addition of a CV(MS) whiting endorsement to their LE groundfish permit. At the time of endorsement qualification, each permit was also allocated a catch history assignment (CHA) that determines the share of the mothership whiting allocation associated with the whiting endorsement for that permit. The CV(MS) whiting endorsement and the CHA are permanently linked.

**Qualifying for a CV(MS) Whiting Endorsement.** A LE permit qualified for a CV(MS) whiting endorsement if it had a total of more than 500 mt of whiting deliveries to motherships from 1994 through 2003.

<sup>3</sup> When such permits participate in a co-op, the co-op will not be allocated any additional fish based on participation by such a vessel.

<sup>4</sup> A vessel that has been under foreign registry after the date of the AFA and that has participated in fisheries in the territorial waters or exclusive economic zones of other countries is not eligible to participate as a mothership in the mothership sector of the Pacific whiting fishery, as per the AFA's modification of Section 12102(c)(6) of the USC. Section 12102(c)(6) of the USC has since been renumbered.

**Catch History Assignment (Identification of Endorsement Related Catch History).** The initial catch history calculation for the CHAs linked to CV(MS) whiting endorsements was based on whiting history of the permit for 1994 through 2003, dropping two years. A permit's history for each year was measured as a share of the fleet history for that year (i.e., "relative pounds" were used). The CHAs are used by NMFS to assign both whiting and bycatch species allocations to the co-ops and non-co-op fishery pools, as per section B.1.3.2.

For the purpose of the endorsement and initial calculation, catch history associated with the permit included that of permits that were combined to generate the permit receiving the CHA.

#### **b. Whiting Permit and Endorsement Transferability and Endorsement Severability**

Starting September 1, 2014, the CV(MS) whiting endorsement (together with the CHA) *may be* severed from the groundfish LE trawl permit. Catch history associated with the CV(MS) whiting endorsement may not be subdivided or separated from the CV(MS) whiting endorsement (i.e. both must be transferred together). More than one CV(MS) whiting endorsement and its associated CHA may be associated with a single permits. A CV(MS) permit is a limited entry trawl permit to which a CV(MS) whiting endorsement has been registered. CV(MS) permits may be transferred two times during the fishing year, provided that the second transfer is back to the original catcher vessel (i.e., only one transfer per year to a different catcher vessel). Additionally, if there is a second transfer the vessel to which the permit is transferred may not participate in a groundfish limited entry fishery other than the mothership whiting fishery through the end of the year.

#### **c. Accumulation Limit**

**CV(MS) Permit Ownership:** No individual or entity may own CV(MS) permits for which the CHAs represent more than 20 percent of the sector allocation. The same individual and collective rule used for evaluating control of QS is used to evaluate ownership of allocation associated with CV(MS) permits. Any individual receiving an initial allocation greater than the accumulation limit was required to divest themselves of that allocation by August 31, 2016.

**Catcher Vessel Usage Limit:** No vessel may catch more than 30 percent of the MS sector's whiting allocation.

#### **d. Combination**

**CV(MS) Permit Combination to Achieve a Larger Size Endorsement.** When a CV(MS) permit is combined with another permit (including unendorsed permits), the resulting permit will be reissued with all the CV(MS) whiting endorsements on the combined permits, unless one of the permits is a CP permit, in which case the CV(MS) whiting endorsements will not be reissued to that permit.<sup>5</sup>

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### **B-2.2.2 Mothership Processor Permit**

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<sup>5</sup> Specifically, if a CV(MS)-endorsed permit is combined with a LE trawl permit for a catcher vessel the resulting permit will be reissued with all of the CV(MS) endorsements associated with the original CV(MS) endorsed permits (endorsements will not be combined). If a CV(MS) permit is combined with a CP permit, the CV(MS) endorsement and history will not be reissued on the combined permit (which will have a CP endorsement) but may be transferred to a non-CP trawl permit. The size endorsement resulting from permit combinations will be determined based on the existing permit combination formula.

### a. Qualifying Entities

The owners of qualifying motherships were issued MS permits. In the case of bareboat charters, the charterer of the bareboat was issued the permit.

### b. Qualification Requirements

A qualifying mothership was one which processed at least 1,000 mt of whiting in each of any two years from 1997 through 2003.

### c. Transferability

1. MS permits are transferable.
2. MS permits may be transferred to a vessel of any size (there is no size endorsements associated with the permit). MS permits **may not** be transferred to a vessel engaged in the *harvest* of whiting in the year of the transfer.
3. Limit on the Frequency of Transfers: MS permits may be transferred two times during the fishing year provided that the second transfer is back to the original mothership (i.e., only one transfer per year to a different mothership).<sup>6</sup>

### d. Usage Limit

No individual or entity owning a MS permit(s) may process more than 45 percent of the total MS sector whiting allocation.

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## **B-2.3 Co-op Formation and Operation Rules.**

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### **B-2.3.1 Who and Number of Co-ops**

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Co-ops are not required but may be voluntarily formed among CV(MS) permit owners. The number of co-ops is indirectly limited by the limit on the minimum number of vessels able to form a co-op (see Section 2.3.3-b).

### **B-2.3.2 When**

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Each year at a date certain prior to the start of the fishery, MS and CV(MS) permit holders planning to participate in the MS sector must register with NMFS. At that time CV(MS) permit holders must identify which co-op they will participate in or if they plan to participate in the non-co-op fishery.

### **B-2.3.3 Co-op Agreement Standards**

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#### **a. Submissions to NMFS and the Council**

**Co-op permit and agreement.** Federal co-op permits are issued for co-op agreements approved by NMFS. Signed copies of the cooperative contracts must be filed with NMFS.

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<sup>6</sup> The original vessel means either the vessel registered to the permit as of January 1 or, if no vessel is registered to the permit as of January 1, the original mothership is the first vessel to which it is registered after January 1.

## **b. Number of Participants in Each Co-op (Including Inter-co-ops)**

CV permits may join together in separate harvester co-ops. A minimum of 20 percent of the CV(MS) permit holders are required to form a co-op.<sup>7</sup> Co-ops may form co-ops with other co-ops. These co-ops may be formed to manage directed catch and/or bycatch. Whiting and bycatch allocations may be transferred among co-ops through inter-co-op agreements.

## **c. Catch History Distributions among Permits**

Co-op agreements must stipulate that catch allocations to members of the co-op be based on their CHAs.

## **d. Participation by Non-CV (MS) Endorsed Permits**

Through temporary arrangements a co-op allocation may be harvested by any catcher vessel holding a valid LE trawl permit which has joined the co-op (including one that does not have a CV(MS) endorsement).<sup>8</sup>

## **e. Other Required Co-op Agreement Provisions**

The Council intended that MS sector participants work with NMFS to develop and describe a process and co-op agreement requirements to include in implementing regulations for this action. Those regulations were developed and deemed by the Council as part of the implementation process.

A co-op agreement must include (but is not limited to):

1. A list of all vessels, and permit owners participating in the co-op and their share of the allocated CHAs which must match the amount distributed to individual permit holders by NMFS.
2. Signature of all permit holders participating in the co-op.
3. A plan to adequately monitor catch and bycatch.
4. Adequate enforcement and penalty provisions to ensure that catch and bycatch overages do not occur.
5. Measures designed to reduce bycatch of overfished species.
6. An obligation to manage inseason transfers of catch history.
7. An obligation to produce a final annual report to NMFS by March 31 documenting the co-op's catch and bycatch data and inseason transfers (the report is to be available for review by the public). The same annual report must be submitted to the Council each year prior to its April briefing book deadline (but no earlier than March 10).
8. Identification of a co-op manager who will:
  - a. serve as the contact person with NMFS, the Council and other co-ops,
  - b. be responsible for the annual distribution of catch and bycatch,
  - c. oversee transfers,
  - d. prepare annual reports, and
  - e. be authorized to receive or respond to any legal process against the co-op.
9. Provisions that prohibit co-op membership by permit holders that have incurred legal sanctions that prevent them from fishing groundfish in the Council region.
10. A provision that requires new owners to comply with membership restrictions in the co-op agreements.

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<sup>7</sup> The minimum threshold number of participants required to form a co-op balances the potential advantages for multiple co-ops while limiting implementation and management costs and administrative requirements for managing this sector.

<sup>8</sup> As a member of the co-op, such a vessel is subject to Section B-2.4 and the indicated processor obligations.

#### **f. Additional Provisions for Inter-co-op Agreements**

1. In the case of two or more cooperatives entering into an inter-cooperative agreement, the inter-co-op agreement must incorporate and honor the provisions of the individual co-op agreements unless all such agreements (or modifications thereof) are resubmitted for approval.
2. The requirements of Sections 2.3.3.a-2.3.3.e apply to the inter-co-op agreement.

#### **g. Co-op Dissolution or Failure**

Co-op member may dissolve a co-op in season or NMFS may make a determination that the co-op has failed in season if the co-op agreement is no longer valid (e.g. co-op membership falls below 20 percent of the CV(MS)-endorsed limited entry permits).

#### **B-2.3.4 Annual Allocation Transferability**

- a. The annual allocations received by a co-op based on the CHAs obligated to the co-op by its members may be transferred among co-op members and from one co-op to another so long as obligations to processors are met (as per Section B-2.4). Additionally, in order to transfer annual allocation from one co-op to another there must be a NMFS approved inter-co-op agreement.
- b. Allocations may not be transferred from the MS sector to another sector.

### **B-2.4 Obligations to Processors (Processor Ties)**

Each year, LE permits participating in the co-op fishery must obligate to processors the catch for a coming year associated with the CHAs obligated to the co-op fishery.

#### **B-2.4.1 Formation and Modification of Processor Tie Obligations**

Processor tie obligations do not carry from one year to the next. Once obligated a CV(MS) whiting endorsement and its linked CHA are obligated to a single MS permit for an entire year but may change to a different MS permit in a following year through a preseason declaration of intent. Permits with multiple CV(MS) whiting endorsements and linked CHAs may obligate each of its CHAs to a different MS permit.

Between September 1 and December 31 of each year each CV(MS) permit is required to contact NMFS and indicate whether CV(MS) permit will be participating in the co-op or non-co-op fishery in the following year. If participating in the co-op fishery, then the CV(MS) permit must also provide the name of the MS permit(s) that the CV(MS) permit's CHA(s) will be obligated to in the following year (i.e., annual catcher vessel/mothership obligations that may be changed each year). By September 1 of each year, if the CV permit will be participating in the co-op fishery in the following year, then the CV permit must notify the MS permit of its intent to obligate CHA to that MS permit in the following year.

**Mothership Permit Transfer.** If a mothership transfers its MS permit to a different mothership or different owner, the CV(MS) permit's CHA obligations for that year remains in place and transfers with the MS permit to the replacement mothership unless the obligation is changed by mutual agreement. The obligation does not extend beyond the fishing year.

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**B-2.4.2 Flexibility in Meeting Obligations to Processors**

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**a. Temporary Transfer of the Annual Allocation Within the Co-op or from One Co-op to Another**

When CV(MS) permit owners transfer co-op allocations from one co-op member to another within the co-op or from one co-op to another within an inter-co-op such allocations must be delivered to the mothership to which the allocation is obligated through the preseason declaration, unless released by mutual agreement.

**b. Mutual Agreement Exception**

By mutual agreement of the CV(MS) permit owner and MS permit to which the permit has obligated its CHA, a permit may deliver to a licensed mothership other than that to which the CHA is obligated.

**B-2.4.3 Mothership Processor Withdrawal**

If a mothership withdraws subsequent to quota assignment, then the CV(MS) permit is free to use the CHA that was previously obligated to that vessel in the co-op or non-co-op fishery. The MS permit shall notify NMFS and obligated CV(MS) permits of its withdrawal, and CV(MS) permits shall notify NMFS of their intent to participate in the co-op or non-co-op fishery thereafter. If continuing in co-op fishery, then the CV(MS) permit shall provide NMFS with the name of the new MS permit to which its CHA will be obligated for that season.

<b>B-2.5 NMFS Role</b>
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**B-2.5.1 Permit and Endorsement Issuance**

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NMFS issues all necessary permits and endorsements under the rules specified under this program. Appeals processes are provided as appropriate and necessary.

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**B-2.5.2 Fishery Registration and Co-op Approval**

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NMFS asset March 31 as the deadline by which all co-op agreements must be submitted for the coming year. NMFS reviews and approves or rejects co-op agreements based on standards provided here and other standards that it has deemed necessary to achieve the policy intent of the Council's actions.

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**B-2.5.3 Annual Allocation to Co-ops and the Non-co-op Fishery**

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**a. Co-op Allocation**

Each year NMFS determines the percent of the mothership sector's harvest allocation to be given to each co-op based on the CHAs of the CV(MS) permits registered to the co-op that year. NMFS does not allocate to the individual permit holder; rather, NMFS allocates an aggregate amount of harvest tonnage annually to the co-op based on the CHAs associated with the CM(MS) permits of members of the co-ops.

**b. Non-co-op Allocation**

Each year NMFS determines the distribution to be given to the non-co-op fishery based on the CHAs that CV(MS) permit holders registered to participate in that fishery. Additionally, allocations for permits not renewed or not declared into the co-op fishery are assigned to the non-co-op fishery.

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#### **B-2.5.4 Fishery Management and Co-op Monitoring**

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1. NMFS tracks all permit transfers and the invocation of mutual agreement exceptions. Permit transfers are not be valid until registered and acknowledged by NMFS.
2. NMFS monitors catch and closes segments of the fishery as necessary to ensure catch limits are not exceeded for:
  - a. the whiting mothership co-op fishery
  - b. the whiting mothership non-co-op fishery
  - c. the mothership whiting sector as a whole
3. NMFS does not necessarily monitor, but will investigate and enforce as it deems necessary, the permit and co-op obligations to motherships.
4. NMFS does not necessarily monitor or enforce (except as it deems necessary):
  - a. an individual permit's progress towards its catch allocations (permit level catch control is at the co-op level and enforced through execution of the private contract)
  - b. a co-op's progress toward its catch allocation<sup>9</sup>
  - c. actual performance of the co-op agreement (the parties to the contract will resolve through private contract and remedies any deviation from provisions such as that requiring that a vessel have the opportunity to harvest the catch allocated to the co-op based on that vessel's permit, Section B-2.3.3.c)
5. NMFS monitors other program provisions as needed. In some situations, there may need to be a declaration procedure to determine where a permit is delivering its obligated catch, for example, if a mothership withdraws without transferring its permit or reaching a mutual agreement for the transfer of obligated deliveries to a different mothership.

### **B-3 Whiting Shoreside Sector Co-Op Program (placeholder, not recommended)**

**The shoreside whiting sector will be managed with an IFQ program. This section header is being maintained so that section numbering here will correspond to section numbering in the alternatives and analysis in the EIS and other historic documents.**

### **B-4 Catcher-Processors Co-op Program**

Catch by the CP sector is controlled primarily by closing the fishery when a constraining allocation is reached.<sup>10</sup> Prior to the trawl rationalization program, CP vessels formed a co-op to achieve benefits that result from a slower-paced, more controlled harvest. The Council's rationalization policy created a limited number of CP endorsements, the requirement that a CP co-op qualify for a Federal co-op permit, and the

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<sup>9</sup> This assumes that there is an inter-co-op agreement in place that covers the entire co-op fishery. If such an agreement is not in place covering both catch and bycatch, NMFS may have to monitor catch by each individual co-op (but not by the individual vessels in the co-op).

<sup>10</sup> All references to catcher-processors in this section references to vessels operating in the catcher-processor sector. Vessels under 75' which which head, gut, tail, and freeze whiting or qualified for the processing exception as part of the shoreside sector (see Section A-1.3) are not covered here.

specification in regulation of the amounts that will be available for harvest by the voluntary co-op. Under this policy, a new entrant must acquire a permit with a CP endorsement in order to enter the fishery. If the co-op system fails, it will be replaced by an IFQ program and the initial issuance of IFQ will be allocated equally among the permits (equally divided among all CP endorsed permits).

#### **B-4.1 Participation in the Catcher-Processor Sector , Endorsement Qualification and Permit Transferability.**

**Catcher-processor (CP) Endorsement.** The class of CP endorsed permits (CP permits) is limited by an endorsement placed on a LE permit. LE permits registered to qualified CP vessels were endorsed as CP permits. A qualified permit was one that harvested and processed in the CP sector of the Pacific whiting fishery at any time from 1997 through 2003. Only CP vessels with a CP endorsed LE permit are allowed to process whiting at-sea as part of the CP sector. LE permits with CP endorsements continue to be transferable.

**Participation as Mothership.** A vessel with a CP permit can also be registered to an MS permit at the same time but cannot operate as a mothership during the same year it participates in the CP fishery

**CP Permit Combination to Achieve a Larger Size Endorsement.** A CP permit that is combined with a LE trawl permit that is not CP endorsed will result in a single CP permit with a larger size endorsement. (A CV(MS) whiting endorsement on one of the permits being combined will not be reissued on the resulting permit.) The resulting size endorsement will be determined based on the existing permit combination formula.

**CP Permit Transfers to Smaller Vessels.** Length endorsement restrictions on LE permits endorsed for groundfish gear have been retained, however, the provision that requires that the size endorsements on trawl permits transferred to smaller vessels be reduced to the size of that smaller vessel was eliminated (i.e., length endorsements do not change when a trawl endorsed permit is transferred to a smaller vessel).

**Number of Transfers Per Year.** CP permits may be transferred two times during the fishing year, provided that the second transfer is back to the original CP (i.e., only one transfer per year to a different CP).

#### **B-4.2 Co-op Formation and Operation Rules**

**Annual registration.** Catcher-processors form a co-op among themselves through a private agreement. Participation in the co-op is at the discretion of the holders of CP permit. If eligible participants choose to form a co-op, the CP sector will be managed as a private voluntary cooperative and governed by a private contract that specifies, among other things, allocation of whiting among CP permits, catch/bycatch management, and enforcement and compliance provisions. The co-op must submit an application to NMFS for a Federal co-op permit. NMFS will not establish an allocation of catch or catch history among permits unless the CP co-op system fails: the sector fails to organize itself under a single co-op agreement that qualifies for a Federal co-op permit and includes all CP permit holders for the duration of the entire year, or fails to meet its deemed responsibilities, or the co-op declares its own failure. If the co-op system fails, it will be replaced by an IFQ program and the initial issuance of IFQ will be divided equally among all CP endorsed permits.

**Annual Reporting Requirements.** The CP cooperative must submit a final annual report to the Council prior to its April briefing book deadline (but no earlier than March 10). The report must contain information about the current year's CP fishery, including the CP sector's annual allocation of Pacific whiting; the CP

cooperative's actual retained and discarded catch of Pacific whiting, salmon, rockfish, groundfish, and other species on a vessel-by-vessel basis; a description of the method used by the CP cooperative to monitor performance of cooperative vessels that participated in the CP sector of the fishery; and a description of any actions taken by the CP cooperative in response to any vessels that exceed their allowed catch or bycatch. The report must also identify plans for the next year's CP fishery, including the companies participating in the cooperative, the harvest agreement, and catch monitoring and reporting requirements.

### **B-4.3 NMFS Role**

#### ***B-4.3.1 Permit and Endorsement Issuance***

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NMFS issues all necessary permits and endorsements under the rules specified under this program. Appeals processes are provided as appropriate and necessary.

#### ***B-4.3.2 Annual Allocation***

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Harvest amounts for the co-op are specified in regulation. If the co-op fails, IFQ will be issued and divided equally among the 10 permits.

The CP sector allocation may be divided among eligible CP vessels (i.e., those CP vessels for which a CP permit is held) according to an agreed CP cooperative harvest schedule as specified by private contract.

#### ***B-4.3.3 Fishery and Co-op Monitoring***

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1. NMFS tracks all permit transfers. Permit transfers are not be valid until registered and acknowledged by NMFS.
2. NMFS monitors catch and closes the CP sector fishery as necessary to ensure catch limits are not exceeded.