*Contents in this revised document are ***unchanged*** from the previous version.
Page numbers and fonts have been modified to match the version distributed electronically.

Draft Proposed Regulations for Amendments 20 and 21

Disclaimer: These draft regulations will be reorganized and/or revised as it goes through the agency review process. Additional issues may arise as the program is reviewed by NMFS. Amendments 20 & 21 to the Groundfish FMP, have not yet been formally submitted to NMFS or approved or implemented by NMFS. NMFS and the Council staff are currently clarifying issues raised by these amendments.

Note: These draft regulations show new text specific to the trawl rationalization program (*in green, italicized, arial font*) and do not show all of the existing groundfish regulatory text that will get moved in to the new groundfish regulatory structure that will be in the proposed rule. Cross references to other sections within the regulations are highlighted in yellow and have not yet been updated.

For the reasons set out in the preamble, 50 CFR Part 660 is proposed to be amended as follows:
PART 660–-FISHERIES OFF WEST COAST STATES

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

Authority: 16 U.S.C. 1801 et seq.

2. A new Subpart C is added to read as follows:

Subpart C – West Coast Groundfish Fisheries – General

§ 660.10 Purpose and Scope.

(a) *Subparts C through G* implement the Pacific Coast Groundfish Fishery Management Plan (PCGFMP) developed by the Pacific Fishery Management Council. *Subparts C through G* govern fishing vessels of the U.S. in the EEZ off the coasts of Washington, Oregon, and California. All weights are in round weight or round-weight equivalents, unless specified otherwise.

(b) Any person fishing subject to *Subparts C through G* is bound by the international boundaries described in this section, notwithstanding any dispute or negotiation between the U.S. and any neighboring country regarding their respective jurisdictions, until such time as new boundaries are established or recognized by the U.S.

§ 660.11 *General* Definitions.

Active sampling unit means a portion of the groundfish fleet in which an observer coverage plan is being applied.

Address of Record means the business address of a person, partnership, or corporation used by NMFS to provide notice of actions.

Allocation. (See §600.10).

Base permit, with respect to a limited entry permit stacking program, means a limited entry permit described at §660.25 (b)(1), Subpart C registered for use with a vessel that meets the permit length endorsement requirements appropriate to that vessel, as described at §660.25 (b)(2), Subpart C.

Biennial fishing period means a 24–month period beginning at 0001 local time on January 1 and ending at 2400 local time on December 31 of the subsequent year.

B_{MSY} means the biomass level that produces maximum sustainable yield (MSY), as stated in the PCGFMP at Section 4.2.

Calendar year. (see "fishing year")

Catch, take, harvest. (See §600.10).

Catch monitor means an individual that is certified by NMFS, is deployed to a first receiver, and whose primary duties include: monitoring and verification of the catch sorting relative to federal requirements defined in § 660.60 Subpart C; documentation of the weighing of catch relative to the requirements of section §660.13, Subpart C; and verification of first receivers reporting relative to the requirements defined in section§ 660.113, Subpart D.

Change in partnership or corporation means the addition of a new shareholder or partner to the corporate or partnership membership. This definition of a "change" will apply to any person added to the corporate or partnership membership since November 1, 2000, including any family member of an existing shareholder or partner. A change in membership is not considered to have occurred if a member dies or becomes legally incapacitated and a trustee is appointed to act on his behalf, nor if the ownership of shares among existing members changes, nor if a member leaves the corporation or partnership and is not replaced. Changes in the ownership of publicly held stock will not be deemed changes in ownership of the corporation.

Closure or closed means, when referring to closure of a fishery or a closed fishery, that taking and retaining, possessing, or landing the particular species or species group covered by the fishing closure is prohibited. Unless otherwise announced in the Federal Register or authorized in this subpart, offloading must begin before the closure time.

Commercial fishing means:

(1) Fishing by a person who possesses a commercial fishing license or is required by law to possess such license issued by one of the states or the Federal Government as a prerequisite to taking, landing and/or sale; or

(2) Fishing that results in or can be reasonably expected to result in sale, barter, trade or other disposition of fish for other than personal consumption.

Commercial harvest guideline or commercial quota *means the fishery harvest guideline minus the estimated recreational catch.* Limited entry and open access allocations are derived from the commercial harvest guideline or quota.

Conservation area(s) means either a Groundfish Conservation Area (GCA), an Essential Fish Habitat Conservation Area (EFHCA), or both.

(1) Groundfish Conservation Area or GCA means a geographic area defined by coordinates expressed in degrees latitude and longitude, wherein fishing by a particular gear type or types may be prohibited. GCAs are created and enforced for the purpose of contributing to the rebuilding of overfished West Coast groundfish species. Regulations at §§660.70 through 660.XXX, Subpart C define coordinates for these polygonal GCAs: Yelloweye Rockfish Conservation Areas, Cowcod Conservation Areas, waters encircling the Farallon Islands, and waters encircling the Cordell Banks. GCAs also include Rockfish Conservation Areas or RCAs, which are areas closed to fishing by particular gear types, bounded by lines approximating particular depth contours. RCA boundaries may and do change seasonally according to the different conservation needs of the different overfished species. Regulations at §§660.70 through 660.XX, Subpart C define RCA boundary lines with latitude/longitude coordinates; regulations at Tables 3-5 of Part 660 set RCA seasonal boundaries. Fishing prohibitions associated with GCAs are in addition to those associated with EFH Conservation Areas.

(2) Essential Fish Habitat Conservation Area or EFHCA means a geographic area defined by coordinates expressed in degrees latitude and longitude, wherein fishing by a particular gear type or types may be prohibited. EFHCAs are created and enforced for the purpose of contributing to the protection of West Coast groundfish essential fish habitat. Regulations at §§660.70, Subpart C through 660.XXX, Subpart C define EFHCA boundary lines with latitude/longitude coordinates. Fishing prohibitions associated with EFHCAs, which are found at §660.12, Subpart C, are in addition to those associated with GCAs.

Continuous transiting or transit through means that a fishing vessel crosses a groundfish conservation area or EFH conservation area on a constant heading, along a continuous straight line course, while making way by means of a source of power at all times, other than drifting by means of the prevailing water current or weather conditions.

Corporation is a legal, business entity, including incorporated (INC) and limited liability corporations (LLC).

Council means the Pacific Fishery Management Council, including its Groundfish Management Team (GMT), Scientific and Statistical Committee (SSC), Groundfish Advisory Subpanel (GAP), and any other committee established by the Council.

Date of landing means the date on which the transfer of fish or offloading of fish from any vessel to a processor or first receiver begins.

Direct financial interest means any source of income to or capital investment or other interest held by an individual, partnership, or corporation or an individual's spouse, immediate family member or parent that could be influenced by performance or non-performance of observer *or catch monitor* duties.

Electronic fish ticket means a software program or data files meeting data export specifications approved by NMFS that is used to send landing data to the Pacific States Marine Fisheries Commission. Electronic fish tickets are used to collect information similar to the information required in state fish receiving tickets or landing receipts, but do not replace or change any state requirements.

Electronic Monitoring System (EMS) means a data collection tool that uses a software operating system connected to an assortment of electronic components, including video recorders, to create a collection of data on vessel activities.

Endorsement means an additional specification affixed to the limited entry permit that further restricts fishery participation or further specifies a harvest privilege, and is non-severable from a limited entry permit.

Entity (See "Person")

Essential Fish Habitat or EFH. (See §600.10).

First Receiver means a person who receives, purchases, or takes custody, control, or possession of catch onshore directly from a vessel.

Fish. (See §600.10).

Fishery (See §600.10).

Fishery harvest guideline means the harvest guideline or quota after subtracting from the OY any allocation for the Pacific Coast treaty Indian tribes, projected research catch, deductions for fishing mortality in non-groundfish fisheries, as necessary, and set-asides for EFPs.

Fishery management area means the EEZ off the coasts of Washington, Oregon, and California between 3 and 200 nm offshore, and bounded on the north by the Provisional International Boundary between the U.S. and Canada, and bounded on the south by the International Boundary between the U.S. and Mexico. The inner boundary of the fishery management area is a line coterminous with the seaward boundaries of the States of Washington, Oregon, and California (the "3–mile limit"). The outer boundary of the fishery management area is a line drawn in such a manner that each point on it is 200 nm from the baseline from which the territorial sea is measured, or is a provisional or permanent international boundary between the U.S. and Canada or Mexico. All groundfish possessed between 0–200 nm offshore or landed in Washington, Oregon, or California are presumed to have been taken and retained from the EEZ, unless otherwise demonstrated by the person in possession of those fish.

Fishing. (See §600.10).

Fishing gear includes the following types of gear and equipment:

(1) Bottom contact gear. Fishing gear designed or modified to make contact with the bottom. This includes, but is not limited to, beam trawl, bottom trawl, dredge, fixed gear, set net, demersal seine, dinglebar gear, and other gear (including experimental gear) designed or modified to make contact with the bottom. Gear used to harvest bottom dwelling organisms (e.g. by hand, rakes, and knives) are also considered bottom contact gear for purposes of this subpart.

(2) Demersal seine. A net designed to encircle fish on the seabed. The Demersal seine is characterized by having its net bounded by lead-weighted ropes that are not encircled with

bobbins or rollers. Demersal seine gear is fished without the use of steel cables or otter boards (trawl doors). Scottish and Danish Seines are demersal seines. Purse seines, as defined at §600.10, are not demersal seines. Demersal seine gear is included in the definition of bottom trawl gear in (11)(i) of this subsection.

(3) Dredge gear. Dredge gear, with respect to the U.S. West Coast EEZ, refers to a gear consisting of a metal frame attached to a holding bag constructed of metal rings or mesh. As the metal frame is dragged upon or above the seabed, fish are pushed up and over the frame, then into the mouth of the holding bag.

(4) Entangling nets include the following types of net gear:

(i) Gillnet. (See §600.10).

(ii) Set net. A stationary, buoyed, and anchored gillnet or trammel net.

(iii) Trammel net. A gillnet made with two or more walls joined to a common float line.

(5) Fixed gear (anchored nontrawl gear) includes the following gear types: longline, trap or pot, set net, and stationary hook-and-line (including commercial vertical hook-and-line) gears.

(6) Hook-and-line. One or more hooks attached to one or more lines. It may be stationary (commercial vertical hook-and-line) or mobile (troll).

(i) Bottom longline. A stationary, buoyed, and anchored groundline with hooks attached, so as to fish along the seabed. It does not include pelagic hook-and-line or troll gear.

(ii) Commercial vertical hook-and-line. Commercial fishing with hook-and-line gear that involves a single line anchored at the bottom and buoyed at the surface so as to fish vertically.

(iii) Dinglebar gear. One or more lines retrieved and set with a troll gurdy or hand troll gurdy, with a terminally attached weight from which one or more leaders with one or more lures or baited hooks are pulled through the water while a vessel is making way.

(iv) Troll gear. A lure or jig towed behind a vessel via a fishing line. Troll gear is used in commercial and recreational fisheries.

(7) Mesh size. The opening between opposing knots. Minimum mesh size means the smallest distance allowed between the inside of one knot to the inside of the opposing knot, regardless of twine size.

(8) Nontrawl gear. All legal commercial groundfish gear other than trawl gear.

(9) Spear. A sharp, pointed, or barbed instrument on a shaft.

(10) Trap or pot. These terms are used as interchangeable synonyms. See §600.10 definition of “trap”.

(11) Trawl gear means a cone or funnel-shaped net that is towed through the water, and can include a pair trawl that is towed simultaneously by two boats. Groundfish trawl is trawl gear that is used under the authority of a valid limited entry permit issued under this subpart endorsed for trawl gear. It does not include any type of trawl gear listed as non-groundfish trawl gear. Non-groundfish trawl gear is any trawl gear other than the Pacific Coast groundfish trawl gear that is authorized for use with a valid groundfish limited entry permit. Non-groundfish trawl gear includes pink shrimp, ridgeback prawn, California halibut south of Pt. Arena, and sea cucumbers south of Pt. Arena.

(i) Bottom trawl. A trawl in which the otter boards or the footrope of the net are in contact with the seabed. It includes demersal seine gear, and pair trawls fished on the bottom. Any trawl not meeting the requirements for a midwater trawl in §660.XXX of Subpart D is a bottom trawl.

(A) Beam trawl gear. A type of trawl gear in which a beam is used to hold the trawl open during fishing. Otter boards or doors are not used.

(B) Large footrope trawl gear. Large footrope gear is bottom trawl gear with a footrope diameter larger than 8 inches (20 cm,) and no larger than 19 inches (48 cm) including any rollers, bobbins, or other material encircling or tied along the length of the footrope.

(C) Small footrope trawl gear. Small footrope trawl gear is bottom trawl gear with a footrope diameter of 8 inches (20 cm) or smaller, including any rollers, bobbins, or other material encircling or tied along the length of the footrope. Selective flatfish trawl gear that meets the gear component requirements in §660.XXX of Subpart D is a type of small footrope trawl gear.

(ii) Midwater (pelagic or off-bottom) trawl. A trawl in which the otter boards and footrope of the net remain above the seabed. It includes pair trawls if fished in midwater. A midwater trawl has no rollers or bobbins on any part of the net or its component wires, ropes, and chains. For additional midwater trawl gear requirements and restrictions, see §660.XXX of Subpart D.

(iii) Trawl gear components.

(A) Breastline. A rope or cable that connects the end of the headrope and the end of the trawl fishing line along the edge of the trawl web closest to the towing point.

(B) Chafing gear. Webbing or other material attached to the codend of a trawl net to protect the codend from wear.

(C) Codend. (See §600.10).

(D) Double-bar mesh. Webbing comprised of two lengths of twine tied into a single knot.

(E) Double-walled codend. A codend constructed of two walls of webbing.

(F) Footrope. A chain, rope, or wire attached to the bottom front end of the trawl webbing forming the leading edge of the bottom panel of the trawl net, and attached to the fishing line.

(G) Headrope. A chain, rope, or wire attached to the trawl webbing forming the leading edge of the top panel of the trawl net.

(H) Rollers or bobbins are devices made of wood, steel, rubber, plastic, or other hard material that encircle the trawl footrope. These devices are commonly used to either bounce or pivot over seabed obstructions, in order to prevent the trawl footrope and net from snagging on the seabed.

(I) Single-walled codend. A codend constructed of a single wall of webbing knitted with single or double-bar mesh.

(J) Trawl fishing line. A length of chain, rope, or wire rope in the bottom front end of a trawl net to which the webbing or lead ropes are attached.

(K) Trawl riblines. Heavy rope or line that runs down the sides, top, or underside of a trawl net from the mouth of the net to the terminal end of the codend to strengthen the net during fishing.

Fishing trip is a period of time between landings when fishing is conducted.

Fishing vessel. (See §600.10).

Fishing *year or Calendar year* is the year beginning at 0001 local time on January 1 and ending at 2400 local time on December 31 of the same year. There are two fishing years in each biennial fishing period.

Grandfathered or first generation, when referring to a limited entry sablefish-endorsed permit owner, means those permit owners who owned a sablefish-endorsed limited entry permit prior to November 1, 2000, and are, therefore, exempt from certain requirements of the sablefish permit stacking program within the parameters of the regulations at §§660.334 through 660.341 and §660.372.

Groundfish means species managed by the PCGFMP, specifically:

(1) Sharks: leopard shark, Triakis semifasciata; soupfin shark, Galeorhinus zyopterus; spiny dogfish, Squalus acanthias.

(2) Skates: big skate, Raja binoculata; California skate, R. inornata; longnose skate, R. rhina.

(3) Ratfish: ratfish, Hydrolagus colliei.

(4) Morids: finescale codling, Antimora microlepis.

(5) Grenadiers: Pacific rattail, Coryphaenoides acrolepis.

(6) Roundfish: cabezon, Scorpaenichthys marmoratus; kelp greenling, Hexagrammos decagrammus; lingcod, Ophiodon elongatus; Pacific cod, Gadus macrocephalus; Pacific whiting, Merluccius productus; sablefish, Anoplopoma fimbria.

(7) Rockfish: In addition to the species below, longspine thornyhead, S. altivelis, and shortspine thornyhead, S. alascanus, “rockfish” managed under the PCGFMP include all genera and species of the family Scorpaenidae that occur off Washington, Oregon, and California, even if not listed below. The Scorpaenidae genera are Sebastes, Scorpaena, Scorpaenodes, and Sebastolobus. Where species below are listed both in a major category (nearshore, shelf, slope) and as an area-specific listing (north or south of 40°10' N. lat.) those species are considered “minor” in the geographic area listed.

(i) Nearshore rockfish includes black rockfish, Sebastes melanops and the following minor nearshore rockfish species:

(A) North of 40°10' N. lat.: black and yellow rockfish, S. chrysomelas; blue rockfish, S. mystinus; brown rockfish, S. auriculatus; calico rockfish, S. dalli; China rockfish, S. nebulosus; copper rockfish, S. caurinus; gopher rockfish, S. carnatus; grass rockfish, S. rastrelliger; kelp rockfish, S. atrovirens; olive rockfish, S. serranoides; quillback rockfish, S. maliger; treefish, S. serriceps.

(B) South of 40°10' N. lat., nearshore rockfish are divided into three management categories:

(1) Shallow nearshore rockfish consists of black and yellow rockfish, S. chrysomelas; China rockfish, S. nebulosus; gopher rockfish, S. carnatus; grass rockfish, S. rastrelliger; kelp rockfish, S. atrovirens.

(2) Deeper nearshore rockfish consists of black rockfish, S. melanops; blue rockfish, S. mystinus; brown rockfish, S. auriculatus; calico rockfish, S. dalli; copper rockfish, S. caurinus; olive rockfish, S. serranoides; quillback rockfish, S. maliger; treefish, S. serriceps.

(3) California scorpionfish, Scorpaena guttata.

(ii) Shelf rockfish includes bocaccio, Sebastes paucispinis; canary rockfish, S. pinniger; chilipepper, S. goodei; cowcod, S. levis; shortbelly rockfish, S. jordani; widow rockfish, S. entomelas; yelloweye rockfish, S. ruberrimus; yellowtail rockfish, S. flavidus and the following minor shelf rockfish species:

(A) North of 40°10' N. lat.: bronzespotted rockfish, S. gilli; bocaccio, S. paucispinis; chameleon rockfish, S. phillipsi; chilipepper, S. goodei; cowcod, S. levis; dusky rockfish, S. ciliatus; dwarf-red, S. rufianus; flag rockfish, S. rubrivinctus; freckled, S. lentiginosus; greenblotched rockfish, S. rosenblatti; greenspotted rockfish, S. chlorostictus; greenstriped rockfish, S. elongatus; halfbanded rockfish, S. semicinctus; harlequin rockfish, S. variegatus; honeycomb rockfish, S. umbrosus; Mexican rockfish, S. macdonaldi; pink rockfish, S. eos; pinkrose rockfish, S. simulator; pygmy rockfish, S. wilsoni; redstripe rockfish, S. proriger; rosethorn rockfish, S. helvomaculatus; rosy rockfish, S. rosaceus; silvergray rockfish, S. brevispinis; speckled rockfish, S. ovalis; squarespot rockfish, S. hopkinsi; starry rockfish, S. constellatus; stripetail rockfish, S. saxicola; swordspine rockfish, S. ensifer; tiger rockfish, S. nigrocinctus; vermilion rockfish, S. miniatus.

(B) South of 40°10' N. lat.: bronzespotted rockfish, S. gilli; chameleon rockfish, S. phillipsi; dusky rockfish, S. ciliatus; dwarf-red rockfish, S. rufianus; flag rockfish, S. rubrivinctus; freckled, S. lentiginosus; greenblotched rockfish, S. rosenblatti; greenspotted rockfish, S. chlorostictus; greenstriped rockfish, S. elongatus; halfbanded rockfish, S. semicinctus; harlequin rockfish, S. variegatus; honeycomb rockfish, S. umbrosus; Mexican rockfish, S. macdonaldi; pink rockfish, S. eos; pinkrose rockfish, S. simulator; pygmy rockfish, S. wilsoni; redstripe rockfish, S. proriger; rosethorn rockfish, S. helvomaculatus; rosy rockfish, S. rosaceus; silvergray rockfish, S. brevispinis; speckled rockfish, S. ovalis; squarespot rockfish, S. hopkinsi; starry rockfish, S. constellatus; stripetail rockfish, S. saxicola; swordspine rockfish, S. ensifer; tiger rockfish, S. nigrocinctus; vermilion rockfish, S. miniatus; yellowtail rockfish, S. flavidus.

(iii) Slope rockfish includes darkblotched rockfish, S. crameri; Pacific ocean perch, S. alutus; splitnose rockfish, S. diploproa; and the following minor slope rockfish species:

(A) North of 40°10' N. lat.: aurora rockfish, Sebastes aurora; bank rockfish, S. rufus; blackgill rockfish, S. melanostomus; redbanded rockfish, S. babcocki; rougheye rockfish, S. aleutianus; sharpchin rockfish, S. zacentrus; shortraker rockfish, S. borealis; splitnose rockfish, S. diploproa; yellowmouth rockfish, S. reedi.

(B) South of 40°10' N. lat.: aurora rockfish, Sebastes aurora; bank rockfish, S. rufus; blackgill rockfish, S. melanostomus; Pacific ocean perch, S. alutus; redbanded rockfish, S. babcocki; rougheye rockfish, S. aleutianus; sharpchin rockfish, S. zacentrus; shortraker rockfish, S. borealis; yellowmouth rockfish, S. reedi.

(8) Flatfish: arrowtooth flounder (arrowtooth turbot), Atheresthes stomias; butter sole, Isopsetta isolepis; curlfin sole, Pleuronichthys decurrens; Dover sole, Microstomus pacificus; English sole, Parophrys vetulus; flathead sole, Hippoglossoides elassodon; Pacific sanddab, Citharichthys sordidus; petrale sole, Eopsetta jordani; rex sole, Glyptocephalus zachirus; rock sole, Lepidopsetta bilineata; sand sole, Psettichthys melanostictus; starry flounder, Platichthys stellatus. Where regulations of this subpart refer to landings limits for "other flatfish," those limits apply to all flatfish cumulatively taken except for those flatfish species specifically listed in Tables 1–2 of this subpart. (i.e., "other flatfish" includes butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.)

(9) "Other fish": Where regulations of this subpart refer to landings limits for "other fish," those limits apply to all groundfish listed here in paragraphs (1)–(8) of this definition except for the following: those groundfish species specifically listed in Tables 1–2 of this subpart with an ABC for that area (generally north and/or south of 40°10' N. lat.); and Pacific cod and spiny dogfish coastwide. (i.e., "other fish" may include all sharks (except spiny dogfish), skates, ratfish, morids, grenadiers, and kelp greenling listed in this section, as well as cabezon in the north.)

Groundfish trawl means trawl gear that is used under the authority of a valid limited entry permit issued under Subparts C and D endorsed for trawl gear. It does not include any type of trawl gear listed as "exempted gear."

Harvest guideline means a specified numerical harvest objective that is not a quota. Attainment of a harvest guideline does not require closure of a fishery.

IAD means Initial *Administrative Determination.*

Incidental catch or incidental species means groundfish species caught while fishing for the primary purpose of catching a different species.

Land or landing means to begin transfer of fish, offloading fish, or to offload fish from any vessel. Once transfer of fish begins, all fish aboard the vessel are counted as part of the landing.

Legal fish means fish legally taken and retained, possessed, or landed in accordance with the provisions of 50 CFR part 660, Subparts C through G, the Magnuson-Stevens Act, any document issued under part 660, and any other regulation promulgated or permit issued under the Magnuson-Stevens Act.

Length overall (LOA) (with respect to a vessel) means the length overall set forth in the Certificate of Documentation (CG–1270) issued by the USCG for a documented vessel, or in a registration certificate issued by a state or the USCG for an undocumented vessel; for vessels that do not have the LOA stated in an official document, the LOA is the LOA as determined by the USCG or by a marine surveyor in accordance with the USCG method for measuring LOA.

License owner means a person who owns (legally controls) a first receiver site license issued under Subparts C through D and is the person of record with the SFD, Permits Office.

Limited entry fishery means the fishery composed of vessels registered for use with limited entry permits.

Limited entry gear means longline, trap (or pot), or groundfish trawl gear used under the authority of a valid limited entry permit affixed with an endorsement for that gear.

Limited entry permit means:

(1) The Federal permit required to participate in the limited entry *"A" endorsed* fishery, and includes any gear, size, or species endorsements affixed to the permit, or

(2) The Federal permit required to participate as a mothership processor.

Maximum Sustainable Yield or MSY. (See §600.310).

Mobile transceiver unit means a vessel monitoring system or VMS device, as set forth at §660.14, Subpart C installed on board a vessel that is used for vessel monitoring and transmitting the vessel's position as required by Subpart C.

Nontrawl fishery means

(1) For the purpose of allocations at §660.55, Subpart C, nontrawl fishery means the limited entry fixed gear fishery, the open access fishery, and the recreational fishery.

(2) For the purposes of all other management measures in Subparts C through G, nontrawl fishery means any legal groundfish gear other than trawl gear (groundfish trawl gear and exempted trawl gear).

North-South management area means the management areas defined in paragraph (1) of this definition, or defined and bounded by one or more or the commonly used geographic coordinates set out in paragraph (2) of this definition for the purposes of implementing different management measures in separate geographic areas of the U.S. West Coast.

(1) Management areas —

(i) Vancouver.

(A) The northeastern boundary is that part of a line connecting the light on Tatoosh Island, WA, with the light on Bonilla Point on Vancouver Island, British Columbia (at 48°35.73' N. lat., 124°43.00' W. long.) south of the International Boundary between the U.S. and Canada (at 48°29.62' N. lat., 124°43.55' W. long.), and north of the point where that line intersects with the boundary of the U.S. territorial sea.

(B) The northern and northwestern boundary is a line connecting the following coordinates in the order listed, which is the provisional international boundary of the EEZ as shown on NOAA/NOS Charts 18480 and 18007:

Point	N. Lat.	W. Long.
1	48°29.62'	124°43.55'
2	48°30.18'	124°47.22'

3	48°30.37'	124°50.35'
4	48°30.23'	124°54.87'
5	48°29.95'	124°59.23'
6	48°29.73'	125°00.10'
7	48°28.15'	125°05.78'
8	48°27.17'	125°08.42'
9	48°26.78'	125°09.20'
10	48°20.27'	125°22.80'
11	48°18.37'	125°29.97'
12	48°11.08'	125°53.80'
13	47°49.25'	126°40.95'
14	47°36.78'	127°11.97'
15	47°22.00'	127°41.38'
16	46°42.08'	128°51.93'
17	46°31.78'	129°07.65'

(C) The southern limit is 47°30' N. lat.

(ii) Columbia.

(A) The northern limit is 47°30' N. lat.

(B) The southern limit is 43°00' N. lat.

(iii) Eureka.

(A) The northern limit is 43°00' N. lat.

(B) The southern limit is 40°30' N. lat.

(iv) Monterey.

(A) The northern limit is 40°30' N. lat.

(B) The southern limit is 36°00' N. lat.

(v) Conception.

(A) The northern limit is 36°00' N. lat.

(B) The southern limit is the U.S.-Mexico International Boundary, which is a line connecting the following coordinates in the order listed:

Point	N. Lat.	W. Long.
1	32°35.37'	117°27.82'
2	32°37.62'	117°49.52'
3	31°07.97'	118°36.30'

4	30°32.52'	121°51.97'

(2) Commonly used geographic coordinates.
(i) Cape Alava, WA—48°10.00' N. lat.
(ii) Queets River, WA—47°31.70' N. lat.
(iii) Pt. Chehalis, WA—46°53.30' N. lat.
(iv) Leadbetter Point, WA—46°38.17' N. lat.
(v) Washington/Oregon border—46°16.00' N. lat.
(vi) Cape Falcon, OR—45°46.00' N. lat.
(vii) Cape Lookout, OR—45°20.25' N. lat.
(viii) Cascade Head, OR—45°03.83' N. lat.
(ix) Heceta Head, OR—44°08.30' N. lat.
(x) Cape Arago, OR—43°20.83' N. lat.
(xi) Cape Blanco, OR—42°50.00' N. lat.
(xii) Humbug Mountain—42°40.50' N. lat.
(xiii) Marck Arch, OR—42°13.67' N. lat.
(xiv) Oregon/California border—42°00.00' N. lat.
(xv) Cape Mendocino, CA—40°30.00' N. lat.
(xvi) North/South management line—40°10.00' N. lat.
(xvii) Point Arena, CA—38°57.50' N. lat.
(xviii) Point San Pedro, CA—37°35.67' N. lat.
(xix) Pigeon Point, CA—37°11.00' N. lat.
(xx) Ano Nuevo, CA—37°07.00' N. lat.
(xxi) Point Lopez, CA—36°00.00' N. lat.
(xxii) Point Conception, CA—34°27.00' N. lat. [Note: Regulations that apply to waters north of 34°27.00' N. lat. are applicable only west of 120°28.00' W. long.; regulations that apply to waters south of 34°27.00' N. lat. also apply to all waters both east of 120°28.00' W. long. and north of 34°27.00' N. lat.]

Observer. (See §600.10 - U.S. Observer or Observer)

Observer Program or Observer Program Office means the West Coast Groundfish Observer Program (WCGOP) Office of the Northwest Fishery Science Center, National Marine Fisheries Service, Seattle, Washington.

Office of Law Enforcement (OLE) refers to the National Marine Fisheries Service, Office of Law Enforcement, Northwest Division.

Open access fishery means the fishery composed of commercial vessels using open access gear fished pursuant to the harvest guidelines, quotas, and other management measures governing the harvest of open access allocations (detailed in §660.55 and Tables 1–2 of Subpart C) or governing the fishing activities of open access vessels (detailed in Subpart.F) Any

commercial vessel that is not registered to a limited entry permit and which takes and retains, possesses or lands groundfish is a participant in the open access groundfish fishery.

Open access gear means all types of fishing gear except:

(1) Longline or trap (or pot) gear fished by a vessel that has a limited entry permit affixed with a gear endorsement for that gear.

(2) Groundfish trawl.

Optimum yield (OY) means the amount of fish that will provide the greatest overall benefit to the Nation, particularly with respect to food production and recreational opportunities, and, taking into account the protection of marine ecosystems, is prescribed as such on the basis of the MSY from the fishery, as reduced by any relevant economic, social, or ecological factor; and, in the case of an overfished fishery, provides for rebuilding to a level consistent with producing the MSY in such fishery. OY may be expressed numerically (as a harvest guideline, quota, or other specification) or non-numerically.

Operate means any use of a vessel, including, but not limited to, fishing, transiting, or drifting by means of the prevailing water current or weather conditions.

Operator. (See §600.10).

Overage means the amount of fish harvested by a vessel in excess of the applicable trip limit.

Owner of a vessel or vessel owner, as used in Subparts C through G, means a person identified as the current owner in the Certificate of Documentation (CG–1270) issued by the USCG for a documented vessel, or in a registration certificate issued by a state or the USCG for an undocumented vessel.

Ownership *interest means participation in ownership of a corporation, partnership, or other entity:*

(1) For sablefish-endorsed permits, ownership interest means participation in ownership of a corporation, partnership, or other entity that owns a sablefish endorsed permit. Participation in ownership does not mean owning stock in a publicly owned corporation.

(2) For the limited entry trawl fishery in Subpart D, ownership interest means ownership interest means participation in ownership of a corporation, partnership, or other entity that owns a QS permit, mothership permit, and a MS/CV endorsed limited entry permit.

Pacific Coast Groundfish Fishery Management Plan (PCGFMP) means the Fishery Management Plan for the Washington, Oregon, and California Groundfish Fishery developed by the Pacific Fishery Management Council and approved by the Secretary on January 4, 1982, and as it may be subsequently amended.

Partnership is two or more individuals, partnerships, or corporations, or combinations thereof, who have ownership interest in a permit, including married couples and legally recognized trusts and partnerships, such as limited partnerships (LP), general partnerships (GP), and limited liability partnerships (LLP).

Permit holder means a vessel owner as identified on the USCG form 1270 or state motor vehicle licensing document *and as registered on a limited entry permit issued under Subparts C through E.*

Permit owner means a person who owns *(legally controls) a permit issued under Subparts C through E, including the person of record with the SFD, Permits Office and any associated persons with an ownership interest in the permit. For first receiver site licenses, see definition "license owner."*

Person, as it applies to limited entry and open access fisheries conducted under § 660 Subparts C through G, means any individual, corporation, partnership, association or other entity (whether or not organized or existing under the laws of any state), and any Federal, state, or local government, or any entity of any such government that is eligible to own a documented vessel under the terms of 46 U.S.C. 12102(a).

Processing or to process means the preparation or packaging of groundfish to render it suitable for human consumption, retail sale, industrial uses or long-term storage, including, but not limited to, cooking, canning, smoking, salting, drying, filleting, freezing, or rendering into meal or oil, but does not mean heading and gutting unless additional preparation is done. (Also see an exception to certain requirements at §660.XXX, Subpart D pertaining to Pacific whiting shoreside vessels 75-ft (23-m) or less LOA that, in addition to heading and gutting, remove the tails and freeze catch at sea.)

(1) At-sea processing means processing that takes place on a vessel or other platform that floats and is capable of being moved from one location to another, whether shore-based or on the water.

(2) Shore-based processing or processing means processing that takes place at a facility that is permanently fixed to land. *(Also see the definition for shoreside processing at §660.XXX, Subpart D which defines shoreside processing for the purposes of qualifying for a QS permit.)*

Processor means person, vessel, or facility that engages in processing; or receives live groundfish directly from a fishing vessel for retail sale without further processing. *(Also see the definition for processors at §660.XXX, Subpart D which defines processor for the purposes of qualifying for a QS permit.)*

Prohibited species means those species and species groups whose retention is prohibited unless authorized by provisions of this section or other applicable law. The following are prohibited species: Any species of salmonid, Pacific halibut, Dungeness crab caught seaward of Washington or Oregon, and groundfish species or species groups under the PCGFMP for which quotas have been achieved and/or the fishery closed.

Quota means a specified numerical harvest objective, the attainment (or expected attainment) of which causes closure of the fishery for that species or species group.

.

Recreational fishing means fishing with authorized recreational fishing gear for personal use only, and not for sale or barter.

Regional Administrator means the Administrator, Northwest Region, NMFS.

Reserve means a portion of the harvest guideline or quota set aside at the beginning of the fishing year or biennial fishing period to allow for uncertainties in preseason estimates.

Round weight. (See §600.10). Round weight does not include ice, water, or slime.

Scientific research activity. (See §600.10).

Secretary. (See §600.10).

Sectors means a group in the fishery and is defined in groundfish regulations as follows:

(1) For the purpose of allocations at §660.55, Subpart C, the fishery may be divided in to the trawl (limited entry trawl) and nontrawl (limited entry fixed gear, open access, recreational) fishery or sectors.

(2) The fisheries or sectors under the PCGFMP are divided in to the limited entry fishery, the open access fishery, and the recreational fishery.

(3) The limited entry fishery or sector is further divided in to the limited entry trawl fishery and limited entry fixed gear fishery.

(4) For the limited entry trawl fisheries in Subpart D, the trawl sectors are the shorebased IFQ fishery, the Mothership Coop fishery, and the C/P Coop fishery.

Sell or sale. (See §600.10).

Specification is a numerical or descriptive designation of a management objective, including but not limited to: ABC; optimum yield; harvest guideline; quota; limited entry or open access allocation; a setaside or allocation for a recreational or treaty Indian fishery; an apportionment of the above to an area, gear, season, fishery, or other subdivision.

Spouse means a person who is legally married to another person as recognized by state law (i.e., one's wife or husband).

Stacking is the practice of registering more than one limited entry permit for use with a single vessel (See §660.335(c)).

Sustainable Fisheries Division (SFD) means the Chief, Sustainable Fisheries Division, Northwest Regional Office, NMFS, or a designee.

Target fishing means fishing for the primary purpose of catching a particular species or species group (the target species).

Tax-exempt organization means an organization that received a determination letter from the Internal Revenue Service recognizing tax exemption under 26 CFR part 1(§§1.501 to 1.640).

Totally lost means the vessel being replaced no longer exists in specie, or is absolutely and irretrievably sunk or otherwise beyond the possible control of the owner, or the costs of repair (including recovery) would exceed the value of the vessel after repairs.

Trip. (See §600.10).

Trip limits. Trip limits are used in the commercial fishery to specify the maximum amount of a fish species or species group that may legally be taken and retained, possessed, or landed, per vessel, per fishing trip, or cumulatively per unit of time, or the number of landings that may be made from a vessel in a given period of time, as follows:

(1) A per trip limit is the total allowable amount of a groundfish species or species group, by weight, or by percentage of weight of legal fish on board, that may be taken and retained, possessed, or landed per vessel from a single fishing trip.

(2) A daily trip limit is the maximum amount of a groundfish species or species group that may be taken and retained, possessed, or landed per vessel in 24 consecutive hours, starting at 0001 hours local time (l.t.) Only one landing of groundfish may be made in that 24-hour period. Daily trip limits may not be accumulated during multiple day trips.

(3) A weekly trip limit is the maximum amount of a groundfish species or species group that may be taken and retained, possessed, or landed per vessel in 7 consecutive days, starting at 0001 hours l.t. on Sunday and ending at 2400 hours l.t. on Saturday. Weekly trip limits may not be accumulated during multiple week trips. If a calendar week falls within two different months or two different cumulative limit periods, a vessel is not entitled to two separate weekly limits during that week.

(4) A cumulative trip limit is the maximum amount of a groundfish species or species group that may be taken and retained, possessed, or landed per vessel in a specified period of time without a limit on the number of landings or trips, unless otherwise specified. The cumulative trip limit periods for limited entry and open access fisheries, which start at 0001 hours l.t. and end at 2400 hours l.t., are as follows, unless otherwise specified:

(i) The 2-month or "major" cumulative limit periods are: January 1–February 28/29, March 1–April 30, May 1–June 30, July 1–August 31, September 1–October 31, and, November 1–December 31.

(ii) One month means the first day through the last day of the calendar month.

(iii) One week means 7 consecutive days, Sunday through Saturday.

Vessel manager means a person or group of persons whom the vessel owner has given authority to oversee all or a portion of groundfish fishing activities aboard the vessel.

Vessel monitoring system or VMS means a vessel monitoring system or mobile transceiver unit as set forth in §660.14 and approved by NMFS for use on vessels that take (directly or incidentally) species managed under the PCGFMP, as required by this subpart.

Vessel of the United States or U.S. vessel. (See §600.10).

§ 660.12 General Groundfish Prohibitions.

§ 660.13 Recordkeeping and reporting.

§ 660.14 Vessel Monitoring System (VMS) requirements.

§ 660.15 Equipment requirements.

§ 660.16 Groundfish observer program.

§ 660.17 Catch monitors and catch monitor service providers. [Reserved]

§ 660.18 Certification and decertification procedures for observers, catch monitors, catch monitor providers and observer providers.

§ 660.20 Vessel and Gear Identification.

§ 660.24 Limited entry and open access fisheries.

§ 660.25 Permits.

(a) General. Each if the permits or licenses in this section, have different conditions or privileges as part of the permit or license. The permits or licenses in this section confer a conditional privilege of participating in the Pacific coast groundfish fishery, in accordance with Federal regulations in 50 CFR part 660.

(b) Limited entry permit.

(1) Eligibility and registration.

(i) General. In order for a vessel to participate in the limited entry fishery, the vessel owner must hold a limited entry permit and, through SFD, must register that vessel for use with a limited entry permit. When participating in the limited entry fishery, a vessel is authorized to fish with the gear type endorsed on the limited entry permit registered for use with that vessel, except that the MS permit does not have a gear endorsement. There are three types of gear endorsements: trawl, longline, and pot (or trap). All limited entry permits, except the MS permit, have size endorsements and a vessel registered for use with a limited entry permit must comply with the vessel size requirements of this subpart. A sablefish endorsement is also required for a vessel to participate in the primary season for the limited entry fixed gear sablefish fishery, north of 36° N. lat. Certain limited entry permits will also have endorsements to participate in a specific fishery, such as the MS/CV endorsement and the C/P endorsement. After May 11, 2009, a catcher vessel participating in either the whiting shore-based or mothership sector must, in addition to being registered for use with a limited entry permit, be registered for use with a sector-appropriate Pacific whiting vessel license under §660.336. After May 11, 2009, a vessel participating in the whiting catcher/processor sector must, in addition to being registered for use with a limited entry permit, be registered for use with a sector-appropriate Pacific whiting vessel license under §660.336. After April 9, 2009, although a mothership vessel participating in the whiting mothership sector is not required to be registered for use with a limited entry permit, such vessel must be registered for use with a sector-appropriate Pacific whiting vessel license under §660.336.

(ii) Eligibility. Only a person eligible to own a documented vessel under the terms of 46 U.S.C. 12113 (a) may be issued or may hold a limited entry permit.

(iii) Registration. Limited entry permits will normally be registered for use with a particular vessel at the time the permit is issued, renewed, transferred, or replaced. If the permit will be used with a vessel other than the one registered on the permit, the permit owner must register that permit for use with the new vessel through the SFD. The reissued permit must be placed on board the new vessel in order for the vessel to participate in the limited entry fishery.

(A) Registration of a permit to be used with a new vessel will take effect no earlier than the first day of the next major limited entry cumulative limit period following the date SFD receives the transfer form and the original permit.

(B) The major limited entry cumulative limit periods will be announced in the Federal Register with the harvest specifications and management measures, and with routine management measures when the cumulative limit periods are changed.

(iv) Limited entry permits indivisible. Limited entry permits may not be divided for use by more than one vessel.

(v) Initial *Administrative Determination*. SFD will make an IAD regarding permit endorsements, renewal, replacement, and change in vessel registration. SFD will notify the permit holder in writing with an explanation of any determination to deny a permit endorsement, renewal, replacement, or change in vessel registration. The SFD will decline to act on an application for permit endorsement, renewal, transfer, replacement, or registration of a limited entry permit if the permit is subject to sanction provisions of the Magnuson-Stevens Act at 16 U.S.C. 1858 (a) and implementing regulations at 15 CFR part 904, subpart D, apply.

(2) Mothership (MS) permit. The MS permit conveys a conditional privilege to the owner of a vessel registered to it, or as appropriate, the charter of a bareboat, to participate in the MS fishery and to receive and process deliveries of groundfish. A MS permit is a type of limited entry permit and may not be transferred separately from the limited entry permit. A MS permit does not have any endorsements affixed to the permit, as listed in paragraph (b)(3). The provisions for the MS permit, including eligibility, renewal, change of permit ownership, vessel registration, fees, and appeals are described at §660.150, subpart D, paragraph ().

(3) Endorsements.

(i) "A" endorsement. A limited entry permit with an "A" endorsement entitles the holder to participate in the limited entry fishery for all groundfish species with the type(s) of limited entry gear specified in the endorsement, except for sablefish harvested north of 36° N. lat. during times and with gears for which a sablefish endorsement is required. See §660.334 (d) for provisions on sablefish endorsement requirements. An "A" endorsement is transferable with the limited entry permit to another person, or to a different vessel under the same ownership under §660.335. An "A" endorsement expires on failure to renew the limited entry permit to which it is affixed. *A MS permit does not have a gear endorsement and is not considered a limited entry "A" endorsed permit.*

(ii) Gear endorsement. There are three types of gear endorsements: trawl, longline and pot (trap). When limited entry *"A" endorsed* permits were first issued, some vessel owners qualified for more than one type of gear endorsement based on the landings history of their vessels. Each limited entry *"A" endorsed* permit has one or more gear endorsement(s). Gear endorsement(s) assigned to the permit at the time of issuance will be permanent and shall not be modified. While participating in the limited entry fishery, the vessel registered to the limited entry *"A" endorsed* permit is authorized to fish the gear(s) endorsed on the permit. While participating in the limited entry, primary fixed gear fishery for sablefish described at §660.372, a vessel registered to more than one limited entry permit is authorized to fish with any gear, except trawl gear, endorsed on at least one of the permits registered for use with that vessel. During the limited entry fishery, permit holders may also fish with open access gear; except that vessels fishing against primary sablefish season cumulative limits described at §660.372(b)(3) may not fish with open access gear against those limits.

(iii) Vessel size endorsements.

(A) General. Each limited entry *"A" endorsed* permit will be endorsed with the LOA for the size of the vessel that initially qualified for the permit, except:

(1) If the permit is registered for use with a trawl vessel that is more than 5 ft (1.52 m) shorter than the size for which the permit is endorsed, it will be endorsed for the size of the smaller vessel. This requirement does not apply to a permit with a sablefish endorsement that is endorsed for both trawl and either longline or pot gear and which is registered for use with a longline or pot gear vessel for purposes of participating in the limited entry primary fixed gear sablefish fishery described at §660.372.

(2) When permits are combined into one permit to be registered for use with a vessel requiring a larger size endorsement, the new permit will be endorsed for the size that results from the combination of the permits as described in paragraph XXX of this section.

(B) Limitations of size endorsements —

(1) A limited entry permit endorsed only for gear other than trawl gear may be registered for use with a vessel up to 5 ft (1.52 m) longer than, the same length as, or any length shorter than, the size endorsed on the existing permit without requiring a combination of permits under §660.335 (b) or a change in the size endorsement.

(2) A limited entry permit endorsed for trawl gear may be registered for use with a vessel between 5 ft (1.52 m) shorter and 5 ft (1.52 m) longer than the size endorsed on the existing permit without requiring a combination of permits under §660.335 (b) or a change in the size endorsement under paragraph XXX of this section.

(3) The vessel harvest capacity rating for each of the permits being combined is that indicated in Table 2 of this part for the LOA (in feet)

endorsed on the respective limited entry permit. Harvest capacity ratings for fractions of a foot in vessel length will be determined by multiplying the fraction of a foot in vessel length by the difference in the two ratings assigned to the nearest integers of vessel length. The length rating for the combined permit is that indicated for the sum of the vessel harvest capacity ratings for each permit being combined. If that sum falls between the sums for two adjacent lengths on Table 2 of this part, the length rating shall be the higher length.

(C) Size endorsement requirements for sablefish-endorsed permits. Notwithstanding paragraphs (A) and (B) of this section, when multiple permits are "stacked" on a vessel, as described in §660.335(c), at least one of the permits must meet the size requirements of those sections. The permit that meets the size requirements of those sections is considered the vessel's "base" permit, as defined in §660.302. If more than one permit registered for use with the vessel has an appropriate length endorsement for that vessel, NMFS SFD will designate a base permit by selecting the permit that has been registered to the vessel for the longest time. If the permit owner objects to NMFS's selection of the base permit, the permit owner may send a letter to NMFS SFD requesting the change and the reasons for the request. If the permit requested to be changed to the base permit is appropriate for the length of the vessel as provided for in paragraph (c)(2)(i) of this section, NMFS SFD will reissue the permit with the new base permit. Any additional permits that are stacked for use with a vessel participating in the limited entry primary fixed gear sablefish fishery may be registered for use with a vessel even if the vessel is more than 5 ft (1.5 m) longer or shorter than the size endorsed on the permit.

(iv) Sablefish endorsement and tier assignment.

(A) General. Participation in the limited entry fixed gear sablefish fishery during the primary season described in §660.372 north of 36° N. lat., requires that an owner of a vessel hold (by ownership or lease) a limited entry permit, registered for use with that vessel, with a longline or trap (or pot) endorsement and a sablefish endorsement. Up to three permits with sablefish endorsements may be registered for use with a single vessel. Limited entry permits with sablefish endorsements are assigned to one of three different cumulative trip limit tiers, based on the qualifying catch history of the permit.

(1) A sablefish endorsement with a tier assignment will be affixed to the permit and will remain valid when the permit is transferred.

(2) A sablefish endorsement and its associated tier assignment are not separable from the limited entry permit, and therefore may not be transferred separately from the limited entry permit.

(B) Issuance process for sablefish endorsements and tier assignments. No new applications for sablefish endorsements will be accepted after November 30, 1998. All tier assignments and subsequent appeals processes were completed by September 1998.

(C) Ownership requirements and limitations.

(1) No partnership or corporation may own a limited entry permit with a sablefish endorsement unless that partnership or corporation owned a limited entry permit with a sablefish endorsement on November 1, 2000. Otherwise, only individual human persons may own limited entry permits with sablefish endorsements.

(2) No individual person, partnership, or corporation in combination may have ownership interest in or hold more than 3 permits with sablefish endorsements either simultaneously or cumulatively over the primary season, except for an individual person, or partnerships or corporations that had ownership interest in more than 3 permits with sablefish endorsements as of November 1, 2000. The exemption from the maximum ownership level of 3 permits only applies to ownership of the particular permits that were owned on November 1, 2000. An individual person, or partnerships or corporations that had ownership interest in 3 or more permits with sablefish endorsements as of November 1, 2000, may not acquire additional permits beyond those particular permits owned on November 1, 2000. If, at some future time, an individual person, partnership, or corporation that owned more than 3 permits as of November 1, 2000, sells or otherwise permanently transfers (not holding through a lease arrangement) some of its originally owned permits, such that they then own fewer than 3 permits, they may then acquire additional permits, but may not have ownership interest in or hold more than 3 permits.

(3) A partnership or corporation will lose the exemptions provided in paragraphs (d)(4)(i) and (ii) of this section on the effective date of any change in the corporation or partnership from that which existed on November 1, 2000. A "change" in the partnership or corporation is defined at §660.302. A change in the partnership or corporation must be reported to SFD within 15 calendar days of the addition of a new shareholder or partner.

(4) Any partnership or corporation with any ownership interest in or that holds a limited entry permit with a sablefish endorsement shall document the extent of that ownership interest or the individuals that hold the permit with the SFD via the Identification of Ownership Interest Form sent to the permit owner through the annual permit renewal process defined at §660.335(a) and whenever a change in permit owner, permit holder, and/or vessel registration occurs as defined at §660.335(d) and (e). SFD will not renew a sablefish-endorsed limited entry permit through the annual renewal process described at §660.335(a) or approve a change in permit owner, permit holder, and/or vessel registration unless the Identification of Ownership Interest Form has been completed. Further, if SFD discovers through review of the Identification of Ownership Interest Form that an individual person, partnership, or corporation owns or holds more than 3 permits and is not authorized to do so under paragraph (d)(4)(ii) of this section,

the individual person, partnership or corporation will be notified and the permits owned or held by that individual person, partnership, or corporation will be void and reissued with the vessel status as "unidentified" until the permit owner owns and/or holds a quantity of permits appropriate to the restrictions and requirements described in paragraph (d)(4)(ii) of this section. If SFD discovers through review of the Identification of Ownership Interest Form that a partnership or corporation has had a change in membership since November 1, 2000, as described in paragraph (d)(4)(iii) of this section, the partnership or corporation will be notified, SFD will void any existing permits, and reissue any permits owned and/or held by that partnership or corporation in "unidentified" status with respect to vessel registration until the partnership or corporation is able to transfer those permits to persons authorized under this section to own sablefish-endorsed limited entry permits.

(5) A person, partnership, or corporation that is exempt from the owner-on-board requirement may sell all of their permits, buy another sablefish-endorsed permit within up to a year from the date the last permit was approved for transfer, and retain their exemption from the owner-on-board requirements. An individual person, partnership or corporation could only obtain a permit if it has not added or changed individuals since November 1, 2000, excluding individuals that have left the partnership or corporation or that have died.

(D) Sablefish at-sea processing prohibition and exemption. Beginning January 1, 2007, vessels are prohibited from processing sablefish at sea that were caught in the primary sablefish fishery without sablefish at-sea processing exemptions at §660.306(e)(3). The sablefish at-sea processing exemption has been issued to a particular vessel and that permit and vessel owner who requested the exemption. The exemption is not part of the limited entry permit. The exemption is not transferable to any other vessel, vessel owner, or permit owner for any reason. The sablefish at-sea processing exemption will expire upon transfer of the vessel to a new owner or if the vessel is totally lost, as defined at §660.302.

(v) MS/CV endorsement. A limited entry permit with a MS/CV endorsement is a conditional privilege that allows a vessel registered to it to participate in either the coop or noncoop fishery in the Mothership Program described at XXXXXX. The provisions for the MS/CV endorsed limited entry permit, including eligibility, renewal, change of permit ownership, vessel registration, combinations, accumulation limits, fees, and appeals are described at §660.150, subpart D, paragraph ().

(vi) C/P endorsement. A limited entry permit with a C/P endorsement is a conditional privilege that allows a vessel registered to it to participate in the C/P Program described at XXXXXX. The provisions for the C/P endorsed limited entry permit, including eligibility, renewal, change of permit ownership, vessel registration, combinations, fees, and appeals are described at §660.160, subpart D, paragraph ().

(vii) Endorsement and exemption restrictions. "A" endorsements, gear endorsements, sablefish endorsements and sablefish tier assignments, *MS/CV endorsements, and C/P endorsements* may not be transferred separately from the limited entry permit. Sablefish at-sea processing exemptions are associated with the vessel and not with the limited entry permit and may not be transferred at all.

(4) Limited entry permit actions- renewal, combination, stacking, change of permit ownership or permit holdership, and transfer.

(i) Renewal of limited entry permits and gear endorsements —

(A) Limited entry permits expire at the end of each calendar year, and must be renewed between October 1 and November 30 of each year in order to remain in force the following year.

(B) Notification to renew limited entry permits will be issued by SFD prior to September 15 each year to the most recent address of the permit owner. The permit owner shall provide SFD with notice of any address change within 15 days of the change.

(C) Limited entry permit renewal requests received in SFD between November 30 and December 31 will be effective on the date that the renewal is approved. A limited entry permit that is allowed to expire will not be renewed unless the permit owner requests reissuance by March 31 of the following year and the SFD determines that failure to renew was proximately caused by illness, injury, or death of the permit owner.

(D) Limited entry permits with sablefish endorsements, as described at §660.334(d), will not be renewed until SFD has received complete documentation of permit ownership as required under §660.334(d)(4)(iv).

(ii) Combining limited entry permits. Two or more limited entry permits with "A" gear endorsements for the same type of limited entry gear may be combined and reissued as a single permit with a larger size endorsement as described in paragraph §660.334 (c)(2)(iii). With respect to permits endorsed for nontrawl limited entry gear, a sablefish endorsement will be issued for the new permit only if all of the permits being combined have sablefish endorsements. If two or more permits with sablefish endorsements are combined, the new permit will receive the same tier assignment as the tier with the largest cumulative landings limit of the permits being combined.

(iii) Stacking limited entry permits. "Stacking" limited entry permits, as defined at §660.302, refers to the practice of registering more than one permit for use with a single vessel. Only limited entry permits with sablefish endorsements may be stacked. Up to 3 limited entry permits with sablefish endorsements may be registered for use with a single vessel during the primary sablefish season described at §660.372. Privileges, responsibilities, and restrictions associated with stacking permits to participate in the primary sablefish fishery are described at §660.372 and at §660.334(d).

(iv) Changes in permit ownership and permit holder —

(A) General. The permit owner may convey the limited entry permit to a different person. The new permit owner will not be authorized to use the permit until the change in permit ownership has been registered with and approved by the SFD. The SFD will not approve a change in permit ownership for limited entry permits with sablefish endorsements that does not meet the ownership requirements for those permits described at §660.334 (d)(4). Change in permit owner and/or permit holder applications must be submitted to SFD with the appropriate documentation described at §660.335(g).

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

(C) Sablefish-endorsed permits. If a permit owner submits an application to transfer a sablefish-endorsed limited entry permit to a new permit owner or holder (transferee) during the primary sablefish season described at §660.372(b) (generally April 1 through October 31), the initial permit owner (transferor) must certify on the application form the cumulative quantity, in round weight, of primary season sablefish landed against that permit as of the application signature date for the then current primary season. The transferee must sign the application form acknowledging the amount of landings to date given by the transferor. This certified amount should match the total amount of primary season sablefish landings reported on state fish tickets. As required at §660.303(c), any person landing sablefish must retain on board the vessel from which sablefish is landed, and provide to an authorized officer upon request, copies of any and all reports of sablefish landings from the primary season containing all data, and in the exact manner, required by the applicable state law throughout the primary sablefish season during which a landing occurred and for 15 days thereafter.

(v) <u>Changes in vessel registration-transfer of limited entry permits and gear endorsements</u> —

(A) General. A permit may not be used with any vessel other than the vessel registered to that permit. For purposes of this section, a permit transfer occurs when, through SFD, a permit owner registers a limited entry permit for use with a new vessel. Permit transfer applications must be submitted to SFD with the appropriate documentation described at §660.335(g). Upon receipt of a complete application, and following review and approval of the application, the SFD will reissue the permit registered to the new vessel. Applications to transfer limited entry permits with sablefish endorsements, as described at §660.334(d), will not be approved until SFD has received complete documentation of permit ownership as required under §660.334(d)(4)(iv).

(B) Application. A complete application must be submitted to SFD in order for SFD to review and approve a change in vessel registration. At a minimum, a permit owner seeking to transfer a limited entry permit shall submit to SFD a signed application form and his/her current limited entry permit before the first day of the cumulative limit period in which they wish to participate. If a permit owner provides a signed application and current limited entry permit after the first day of a cumulative limit period, the permit will not be effective until the succeeding cumulative limit period. SFD will not approve a change in vessel registration (transfer) until it receives a complete application, the existing permit, a current copy of the USCG 1270, and other required documentation.

(C) Effective date. Changes in vessel registration on permits will take effect no sooner than the first day of the next major limited entry cumulative limit period following the date that SFD receives the signed permit transfer form and the original limited entry permit. No transfer is effective until the limited entry permit has been reissued as registered with the new vessel.

(D) Sablefish-endorsed permits. If a permit owner submits an application to register a sablefish-endorsed limited entry permit to a new vessel during the primary sablefish season described at §660.372(b) (generally April 1 through October 31), the initial permit owner (transferor) must certify on the application form the cumulative quantity, in round weight, of primary season sablefish landed against that permit as of the application signature date for the then current primary season. The new permit owner or holder (transferee) associated with the new vessel must sign the application form acknowledging the amount of landings to date given by the transferor. This certified amount should match the total amount of primary season sablefish landings reported on state fish tickets. As required at §660.303(c)), any person landing sablefish must retain on board the vessel from which sablefish is landed, and provide to an authorized officer upon request, copies of any and all reports of sablefish landings from the primary season containing all data, and in the exact manner, required by the applicable state law throughout the primary sablefish season during which a landing occurred and for 15 days thereafter.

(vi) Restriction on frequency of transfers. Limited entry permits may not be registered for use with a different vessel (transfer) more than once per calendar year, except in cases of death of a permit holder or if the permitted vessel is totally lost as defined in §660.302. The exception for death of a permit holder applies for a permit held by a partnership or a corporation if the person or persons holding at least 50 percent of the ownership interest in the entity dies.

(A) A permit owner may designate the vessel registration for a permit as "unidentified," meaning that no vessel has been identified as registered for use with that permit. No vessel is authorize to use a permit with the vessel registration

designated as “unidentified.” A vessel owner who removes a permit from his vessel and registers that permit as “unidentified” is not exempt from VMS requirements at §660.312 unless specifically authorized by that section.

(B) When a permit owner requests that the permit's vessel registration be designated as “unidentified,” the transaction is not considered a “transfer” for purposes of this section. Any subsequent request by a permit owner to change from the “unidentified” status of the permit in order to register the permit with a specific vessel will be considered a change in vessel registration (transfer) and subject to the restriction on frequency and timing of changes in vessel registration (transfer).

(vii) Application and supplemental documentation. Permit holders may request a transfer (change in vessel registration) and/or change in permit ownership or permit holder by submitting a complete application form. In addition, a permit owner applying for renewal, replacement, transfer, or change of ownership or change of permit holder of a limited entry permit has the burden to submit evidence to prove that qualification requirements are met. The owner of a permit endorsed for longline or trap (or pot) gear applying for a tier assignment under §660.334 (d) has the burden to submit evidence to prove that certain qualification requirements are met. The following evidentiary standards apply:

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

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

(C) For a request to change the vessel registration to a permit, the permit holder must submit to SFD a current marine survey conducted by a certified marine surveyor in accordance with USCG regulations to authenticate the length overall of the vessel being newly registered with the permit. Marine surveys older than 3 years at the time of the request for change in vessel registration will not be considered “current” marine surveys for purposes of this requirement.

(D) For a request to change a permit's ownership where the current permit owner is a corporation, partnership or other business entity, the applicant must provide to SFD a corporate resolution that authorizes the conveyance of the permit to a new owner and which authorizes the individual applicant to request the conveyance on behalf of the corporation, partnership, other business entity.

(E) For a request to change a permit's ownership that is necessitated by the death of the permit owner(s), the individual(s) requesting conveyance of the permit to a new owner must provide SFD with a death certificate of the permit owner(s) and appropriate legal documentation that either: specifically transfers the permit to a designated individual(s); or, provides legal authority to the transferor to convey the permit ownership.

(F) For a request to change a permit's ownership that is necessitated by divorce, the individual requesting the change in permit ownership must submit an executed divorce decree that awards the permit to a designated individual(s).

(G) Such other relevant, credible documentation as the applicant may submit, or the SFD or Regional Administrator may request or acquire, may also be considered.

(viii) Application forms available. Application forms for the change in vessel registration (transfer) and change of permit ownership or permit holder of limited entry permits are available from the SFD (see part 600 for address of the Regional Administrator). Contents of the application, and required supporting documentation, are specified in the application form.

(ix) Records maintenance. The SFD will maintain records of all limited entry permits that have been issued, renewed, transferred, registered, or replaced.

(5) Small fleet.

(i) Small limited entry fisheries fleets that are controlled by a local government, are in existence as of July 11, 1991, and have negligible impacts on the groundfish resource, may be certified as consistent with the goals and objectives of the limited entry program and incorporated into the limited entry fishery. Permits issued under this subsection will be issued in accordance with the standards and procedures set out in the PCGFMP and will carry the rights explained therein.

(ii) A permit issued under this section may be registered only to another vessel that will continue to operate in the same certified small fleet, provided that the total number of vessels in the fleet does not increase. A vessel may not use a small fleet limited entry permit for participation in the limited entry fishery outside of authorized activities of the small fleet for which that permit and vessel have been designated.

(c) QS permit. A quota share (QS) permit is a conditional privilege that allows a person to control quota share for designated species and species groups in the shoreside IFQ Program described at XXXXXX. A QS permit is not a limited entry permit. The provisions for the QS permit, including eligibility, renewal, change of permit ownership, accumulation limits, fees, and appeals are described at §660.140, subpart D, paragraph ().

(d) First Receiver Site License. The first receiver site license is a conditional privilege that allows a first receiver to receive, purchase, or take custody, control or possession of IFQ species/species groups onshore directly from a vessel fishing in the IFQ fishery. The first receiver site license is issued for a person and a unique physical site consistent with the terms

and conditions required to account and weigh the landed species. A first receiver site license is not a limited entry permit. The provisions for the First Receiver Site License, including eligibility, registration, change of ownership, fees, and appeals are described at §660.140, subpart D, paragraph ().

(e) Coop permit [Reserved]

(1) MS coop permit [Reserved]

(2) C/P coop permit [Reserved]

(f) Permit fees. The Regional Administrator is authorized to charge fees to cover administrative expenses related to issuance of permits including initial issuance, renewal, transfer, vessel registration, replacement, and appeals. The appropriate fee must accompany each application.

(g) permit appeals *process*.

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

(2) Who may appeal. Any person who receives an IAD that denies any part of their application may file a written appeal. For purposes of this section, such person will be referred to as the "applicant."

(3) Submission of appeals.

(i) The appeal must be in writing, must allege *credible* facts or circumstances to show why the criteria in this subpart have been met, *and must include any relevant information or documentation to support the appeal.*

(ii) Appeals must be mailed or faxed to: National Marine Fisheries Service, Northwest Region, Sustainable Fisheries Division, ATTN: Appeals, 7600 Sand Point Way NE, Seattle, WA, 98115; Fax: 206-526-6426; or delivered to National Marine Fisheries Service at the same address.

(4) Timing of appeals.

(i) If an applicant appeals an IAD, the appeal must be postmarked, faxed, or hand delivered to NMFS no later than 30 calendar days after the date on the IAD. If the applicant does not appeal the IAD within 30 calendar days, the IAD becomes the final decision of the Regional Administrator acting on behalf of the Secretary of Commerce.

(ii) The time period to submit an appeal begins with the date on the IAD. If the last day of the time period is a Saturday, Sunday, or Federal holiday, the time period will extend to the close of business on the next business day.

(5) Address of record. For purposes of the appeals process, NMFS will establish as the address of record, the address used by the applicant in initial correspondence to NMFS. Notifications of all actions affecting the applicant after establishing an address of record will be mailed to that address, unless the applicant provides NMFS, in writing, with any changes to that address. NMFS bears no responsibility if a notification is sent to the address of record and is not received because the applicant's actual address has changed without notification to NMFS.

(6) Decisions on appeals.

(i) For the appeal of an IAD related to the application and initial issuance process for the trawl rationalization program listed in subpart D of part 660, the RA shall appoint an appeals officer. After determining there is sufficient information and that all procedural requirements have been met, the appeals officer will review the record and issue a recommendation on the appeal to the RA, which shall be advisory only. The recommendation must be based solely on the record. Upon receiving the findings and recommendation, the RA shall issue a final decision on the appeal in accordance with paragraph (g)(6)(ii).

(ii) Final decision on appeal. The RA will issue a written decision on the appeal which is the final *decision* of the *Secretary* of Commerce.

(7) Status of permits pending appeal

(i) For all permits actions, except those actions related to the application and initial issuance process for the trawl rationalization program listed in subpart D of part 660, the permit registration remains as it was prior to the request until the final decision has been made.

(ii) For permit actions related to the application and initial issuance process for the trawl rationalization program listed in subpart D of part 660, the status of permits pending appeal is as follows:

(A) For permit and endorsement qualifications and eligibility appeals (i.e., QS permit, Mothership permit, MS/CV endorsement, C/P endorsement) and not QS amounts or whiting catch history assignment amounts, any permit or endorsement under appeal after December 31, 2010, may not participate in the Pacific Coast groundfish fishery until a final decision on the appeal has been made. If the permit or endorsement will be issued, the permit or endorsement will be effective upon approval, except for QS permits, which will be effective at the start of the next fishing year.

(B) For a QS amount for specific IFQ management unit species under appeal after December 31, 2010, the QS amount for the IFQ species under appeal will remain as that previously assigned to the associated QS permit before the appeals process. The QS permit may participate in the Pacific Coast groundfish fishery with the QS amounts

assigned to the QS permit before the appeal. Once a final decision on the appeal has been made and if a revised QS amount for a specific IFQ species will be assigned to the QS permit, the QS amount associated with the QS permit will be effective at the start of the next calendar year.

(C) For a whiting catch history assignment associated with a MS/CV endorsement under appeal after December 31, 2010, the catch history assignment will remain as that previously assigned to the associated MS/CV endorsed limited entry permit before the appeals process. The MS/CV endorsed limited entry permit may participate in the Pacific Coast groundfish fishery with the catch history assigned to the MS/CV endorsed permit before the appeal. Once a final decision on the appeal has been made and if a revised catch history assignment will be issued, the whiting catch history assignment associated with the MS/CV endorsement will be effective at the start of the next calendar year.

(h) Permit sanctions.

(1) *All* permits *and licenses* issued or applied for under *Subparts C through G* are subject to sanctions pursuant to the Magnuson Act at 16 U.S.C. 1858(g) and 15 CFR part 904, subpart D.

(2) All shorebased IFQ fishery permits (QS permit, first receiver site license), QS accounts, vessel accounts, and Coop fishery permits (MS permit, MS/CV endorsed permit, C/P endorsed permit, coop permit) issued under Subpart D:

(i) are considered permits for the purposes of 16 U.S.C. 1857, 1858, and 1859;

(ii) may be revoked, limited, or modified at any time in accordance with the Magnuson Act, including revocation if the system is found to have jeopardized the sustainability of the stocks or the safety of fishermen;

(iii) shall not confer any right of compensation to the holder of such permits, licenses, and accounts if it is revoked, limited, or modified;

(iv) shall not create, or be construed to create, any right, title, or interest in or to any fish before the fish is harvested by the holder; and

(v) shall be considered a grant of permission to the holder of the permit, license, or account to engage in activities permitted by such permit, license, or account.

§ 660.26 Pacific whiting vessel licenses.

§ 660.30 Compensation with fish for collecting resource information – EFPs.

§ 660.40 Overfished species rebuilding plans.

§ 660.50 Pacific Coast Treaty Indian fisheries.

§ 660.5 Washington coastal tribal fisheries management measures.

§ 660.55 Allocations.

(a) General. *An allocation is the apportionment of a harvest privilege for a specific purpose, to a particular person or group of persons. The opportunity to harvest Pacific Coast groundfish is allocated among participants in the fishery when the OYs for a given year are established in the biennial harvest specifications. For certain species, primarily trawl-dominant species, separate allocations for the trawl fishery and nontrawl fishery (which for this purpose includes limited entry fixed gear, open access, and recreational fisheries) will be established biennially or annually using the procedures described in Section 11 of the PCGFMP. Section 11 of the PCGFMP provides the allocation structure and percentages for species allocated between the trawl and nontrawl fisheries.* For *most* species and/or areas, separate allocations for the limited entry and open access fisheries will be established biennially or annually using the procedures described in this subpart or the PCGFMP. *Allocation of Sablefish north of 36° N. lat. is described in paragraph XXXX and in the PCGFMP. Allocation of Pacific whiting is described in paragraph XXXX and in the PCGFMP. Allocation of black rockfish is described in paragraph XXXX. Allocation of Pacific halibut bycatch is described in paragraph XXXX. Allocations not described in the PCGFMP are specified in regulation through the biennial harvest specifications and are described in Tables 1 a through c and Tables 2 a through c.*

(b) Trawl / Nontrawl Allocations. Amendment 21 to the PCGFMP established allocations between the trawl and nontrawl (limited entry fixed gear, open access, and recreational) fisheries. Amendment 21 species are listed in Table 11-1 in the PGCFMP. Under this allocation structure, the OY is reduced by estimates for Pacific Coast treaty Indian tribal catch; projected research catch, estimates of fishing mortality in non-groundfish fisheries, as necessary, and set-asides for EFPs. The remaining OY after these deductions is the fishery harvest guideline or quota, which is divided into trawl and nontrawl (limited entry fixed gear, open access, and recreational) fisheries.

(i) Trawl Allocation. The allocation for the limited entry trawl fishery is derived by applying the trawl allocation percentage or amount by species specified in the PCGFMP to the fishery harvest guideline.

(ii) Nontrawl Allocation. The allocation for the nontrawl fishery is the fishery harvest guideline minus the allocation to the trawl fishery. These amounts will equal the nontrawl allocation percentage or amount by species specified in the PCGFMP. The nontrawl allocation will be further divided between the limited entry fixed gear, open access, and recreational fisheries.

(c) Limited Entry / Open Access Allocations. Amendment 6 to the PCGFMP established a limited entry system and allocations between the limited entry and open access fisheries. If a species is declared overfished, the open access/limited entry allocation may be suspended for the duration of the rebuilding plan.

(i) Limited entry allocation. The allocation for the limited entry fishery is the commercial harvest guideline minus any allocation to the open access fishery.

(ii) Open access allocation. The allocation for the open access fishery is derived by applying the open access allocation percentage to the annual commercial harvest guideline or quota. For management areas or stocks for which quotas or harvest guidelines for a stock are not fully utilized, no separate allocation will be established for the open access fishery until it is projected that the allowable catch for a species will be reached.

(A) Open access allocation percentage. For each species with a harvest guideline or quota, the initial open access allocation percentage is calculated by:

(1) Computing the total catch for that species during the window period *for the limited entry program* by any vessel that *did* not initially receive a limited entry permit.

(2) Dividing that amount by the total catch during the window period by all gear.

(3) The guidelines in this paragraph apply to recalculation of the open access allocation percentage. Any recalculated allocation percentage will be used in calculating the following biennial fishing period's open access allocation.

(B) [Reserved.]

(d) Catch accounting between the limited entry and open access fisheries. Any groundfish caught by a vessel with a limited entry permit will be counted against the limited entry allocation while the limited entry fishery for that vessel's limited entry gear is open. When the fishery for a vessel's limited entry gear has closed, groundfish caught by that vessel with open access gear will be counted against the open access allocation. All groundfish caught by vessels without limited entry permits will be counted against the open access allocation.

(e) Treaty Indian fisheries. Certain amounts of groundfish *will* be set aside biennially or annually for tribal fisheries prior to dividing the balance of the allowable catch between the *non-tribal* fisheries. Tribal fisheries conducted under a set-aside are not subject to the regulations governing limited entry and open access fisheries.

(f) Recreational fisheries. Recreational fishing for groundfish is outside the scope of, and not affected by, the regulations governing limited entry and open access fisheries. Certain amounts of groundfish *will be set aside for* the recreational fishery *during the biennial specifications process.* These amounts will be estimated prior to dividing the commercial harvest guideline between the limited entry and open access fisheries.

(g) Sablefish allocations *(north of of 36° N. lat.)*

(1) Tribal-nontribal allocation. The sablefish allocation to Pacific coast treaty Indian tribes identified at §660.324(b) is 10 percent of the sablefish total catch OY for the area north of 36° N. lat. This allocation represents the total amount available to the treaty Indian fisheries before deductions for discard mortality. The annual tribal sablefish allocations are provided in §660.385(a).

(2) Between the limited entry and open access fisheries. Sablefish is allocated between the limited entry and open access fisheries according to the procedure described in *paragraph (c) and in Section 11 of the PCGFMP*.

(3) Between the limited entry trawl and limited entry fixed gear fisheries. The limited entry sablefish allocation is further allocated 58 percent to the trawl fishery and 42 percent to the limited entry fixed gear (longline and pot/trap) fishery.

(4) Between the limited entry fixed gear primary season and daily trip limit fisheries. Within the limited entry nontrawl sector allocation, 85 percent is reserved for the primary season described in §660.372(b), leaving 15 percent for the limited entry daily trip limit fishery described in §660.372(c).

(5) Ratios between tiers for sablefish-endorsed limited entry permits. The Regional Administrator will biennially or annually calculate the size of the cumulative trip limit for each of the three tiers associated with the sablefish endorsement such that the ratio of limits between the tiers is approximately 1:1.75:3.85 for Tier 3:Tier 2:Tier 1, respectively. The size of the cumulative trip limits will vary depending on the amount of sablefish available for the primary fishery and on estimated discard mortality rates within the fishery. The size of the cumulative trip limits for the three tiers in the primary fishery will be announced in §660.372.

(h) Pacific whiting Allocation. The allocation structure and percentages for Pacific whiting are described in the PCGFMP.

(1) Annual treaty tribal whiting allocations are provided in §660.385(e).

(2) The non-tribal commercial harvest guideline allocations for specific whiting sectors (shoreside, mothership, C/P) in a given calendar year are found in tables 1a and 2a of this subpart.

(i) At-sea Whiting Trawl Fishery Set-Asides. Set-asides are not formal allocations; they are projections of incidental catch by a fishery. For the at-sea whiting fishery (MS and C/P), set-asides will be deducted from the limited entry trawl fishery allocation. Set-aside amounts are specified in regulation at XXXX and may be adjusted through the biennial harvest specifications and management measures process.

(j) Black rockfish harvest guideline. The commercial tribal harvest guideline for black rockfish off Washington State is specified at § 660.XXX, Subpart C.

(k) Pacific halibut Bycatch Allocation. The Pacific halibut fishery off Washington, Oregon and California (Area 2A in the halibut regulations) is managed under regulations at XXXXXX. The PCGFMP sets a trawl mortality bycatch limit for legal and sublegal halibut at 15% of the Area 2A constant exploitation yield (CEY) for legal size halibut, not to exceed 130,000 pounds for the first four years of trawl rationalization and not to exceed 100,000 pounds starting in the fifth year. This total bycatch limit may be adjusted downward or upward through the biennial specifications and management measures process. Part of the overall total catch limit is a set-aside of 10 mt of Pacific halibut, 5 mt to accommodate bycatch in the at-sea whiting fishery and 5 mt to accommodate shoreside trawl bycatch south of 40°10' N lat.

§ 660.60 Specifications and management measures.

§ 660.65 Groundfish harvest specifications.

§ 660.70-99 Closed Area - GCA's and EFH

* ABC/OY Tables –Tables (1a), OY tables (1b), Allocation tables (1c), Tables 2a, 2b, and 2c
* Vessel Capacity Rating Table - Table 2 to Part 660

3. A new Subpart D is added to read as follows:

Subpart D – West Coast Groundfish – Trawl Fisheries

§ 660.100 Purpose and Scope.

In addition to the purpose and scope listed at § 660.10, subpart C, this subpart covers the Pacific Coast Groundfish limited entry trawl fishery. Under the trawl rationalization program, the limited entry trawl fishery consists of the shorebased IFQ Program, the Mothership Coop Program, and the C/P Coop Program.

§ 660.111 Trawl Fishery Definitions.

These definitions are specific to the limited entry trawl fisheries. General groundfish definitions are defined at § 660.11, Subpart C.

Catch history assignment means a percentage of the mothership sector allocation of Pacific whiting based on a vessel's catch history and which is specified on the MS/CV endorsed limited entry permit.

Catcher/processor coop means a harvester group that includes all eligible catcher/processor at-sea whiting endorsed permit owners who voluntarily form a coop and who manage the catcher/processor-specified allocations through private agreements and contracts.

Coop agreement means a private agreement between a group of MS/CV endorsed limited entry permit owners or C/P whiting endorsed permit owners that contains all information specified at §§ 660.XXX and 660.XXX, Subpart D.

Coop Member means all permit owners of MS/CV endorsed permits for the Mothership Program or C/P endorsed permits for the C/P Program that are legally obligated to the coop.

Coop permit means the Federal permit required to participate as a Pacific whiting coop in the catcher/processor or mothership sectors.

Designated coop manager means an individual appointed by a permitted coop who is identified in the coop agreement and is responsible for actions described at 660.XMPX and 660.XCPX.

Individual Fishing Quota (IFQ) means a quantity of fish, expressed as a percentage of the total allowable catch of a fishery that may be received or held for exclusive use by a person. IFQ is a harvest privilege that may be revoked at any time. IFQ species for the shorebased IFQ fishery are listed at 660.XXX.

IFQ first receivers mean persons who receive, purchase, or take custody, control, or possession of catch onshore directly from a vessel that harvested the catch while fishing under the Shorebased IFQ Program described at § 660.140.

IFQ landing means an offload of fish harvested under the Shorebased IFQ Program described at § 660.140, Subpart D.

IFQ Program means the Shorebased IFQ Program described at § 660.140, Subpart D.

Inter-coop means two or more permitted coops that have submitted an accepted inter-coop agreement to NMFS that specifies a coordinated strategy for harvesting pooled allocations of Pacific whiting and non-whiting groundfish.

Inter-coop agreement means a written agreement between two or more permitted mothership coops and which contains private contractual arrangements for sharing catch with one another.

Material change means, for the purposes of a coop agreement, a change to any of the components of the coop agreement which was submitted to NMFS during the application process for the coop permit and is further defined at § 660.XXX, Subpart D.

Mothership coop means a group of MS/CV endorsed limited entry permit owners that are authorized by means of a coop permit to jointly harvest and process from a single coop allocation.

Mutual agreement exception means, for the purpose of § 660.XXX, Subpart D, an agreement that allows the owner of a MS/CV endorsed limited entry permit to withdraw the catcher vessel's obligation to a permitted mothership processor and to deliver to a different permitted mothership processor.

Pacific halibut set aside means an amount of Pacific halibut annually allocated to a permitted coop or the non-coop fishery and which is based on the allocation of Pacific whiting.

Pacific whiting shoreside or shore-based fishery means Pacific whiting shoreside vessels and Pacific whiting shoreside first receivers.

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

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

Processor obligation means an annual requirement for a MS/CV endorsed limited entry permit limited entry permit to deliver its catch to a particular mothership processor permit.

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

Quota pounds means the round weight of fish that must be used to cover total catch (landings and discards) in the shorebased IFQ Program. QP are issued annually to QS permit owners based on the amount of QS they own and the amount of fish allocated to the IFQ

fishery. QP have the same species/species group, area, and sector designations as the QS from which it was issued.

Quota share (QS) means a permit, the face amount of which is used as the basis for the annual calculation and allocation of a person's IFQ. QS is expressed as a percentage and is designated for the species/species group, area, and trawl sector to which it applies. Species for which QS will be issued for the Shorebased IFQ Program are listed at 660.XXX, Subpart D.

Vessel limits means the amount of quota pounds a vessel can hold, acquire, or use.

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

§ 660.112 Limited entry trawl fishery prohibitions.

§ 660.113 Recordkeeping and reporting.

§ 660.116 Trawl Fishery Observer requirements.

§ 660.120 Crossover provisions – Areas, Gears, Trawl Fisheries. [Reserved]

§ 660.130 Limited entry trawl fishery management measures.

§ 660.131 Pacific Whiting Fishery Management Measures.

§ 660.140 Shorebased IFQ Program.

(a) General. The IFQ Program applies to qualified participants in the Pacific Coast Groundfish fishery and includes a system of transferable QS for most groundfish species or species groups and trip limits or set-asides for the remaining groundfish species or species groups. The IFQ Program is subject to area restrictions (GCAs, RCAs, and EFHCAs) listed at 660.XXX. The shorebased IFQ fishery may be restricted or closed as a result of projected overages within the shorebased IFQ Program, the Mothership Coop Program, or the C/P Coop Program. As determined necessary by the Regional Administrator, area restrictions, season closures, or other measures will be used to prevent the trawl sector in aggregate or the individual trawl sectors (shorebased IFQ, Mothership Coop, or C/P Coop) from exceeding an OY, or formal allocation specified in the PCGFMP or regulation at § 660.XXX subpart XX.

(b) Participation requirements. [Reserved]

(1) QS Permit Owners [Reserved]

(2) IFQ Vessels [Reserved]

(c) IFQ Species and Allocations.

(1) IFQ Species. IFQ species are those groundfish species for which QS will be issued. QS will carry designations for the species/species groups, area, and trawl sector to which it applies. QS and QP species groupings and area subdivisions will be those for which OYs are specified in the ABC/OY tables (XXXXXXX) and those for which there is an area-specific precautionary harvest policy. QS for remaining minor rockfish will be

aggregated for the shelf and slope depth strata (nearshore species are excluded as described at § 660.XXX). The following are the IFQ species:

IFQ Species	
ROUNDFISH	*ROCKFISH*
Lingcod *Pacific cod* *Pacific whiting* *Sablefish north of 36° N. lat.* *Sablefish south of 36° N. lat.*	*Pacific ocean perch* *Widow rockfish* *Canary rockfish* *Chilipepper rockfish* *Bocaccio* *Splitnose rockfish* *Yellowtail rockfish* *Shortspine thornyhead north of 34° 27' N. lat.* *Shortspine thornyhead south of 34° 27' N. lat.* *Longspine thornyhead north of 34° 27' N. lat.* *Cowcod* *Darkblotched* *Yelloweye* *Minor Rockfish North slope species complex* *Minor Rockfish North shelf species complex* *Minor Rockfish South slope species complex* *Minor Rockfish South shelf species complex*
FLATFISH	
Dover sole *English sole* *Petrale sole* *Arrowtooth flounder* *Starry flounder* *Other Flatfish stock complex*	

(2) IFQ Program Allocations. [Reserved]

(d) QS permits and QS accounts.

(1) General. In order to obtain and control QS, a person must apply for a QS permit. NMFS will determine if the applicant is eligible to acquire QS and complies with the accumulation limits found at §660.XXX(x), Subpart D. For those persons that are found to be eligible for a QS permit, NMFS will establish a QS account. QP will be issued annually at the start of the year to a QS account based on the percent of QS registered to the account. QS owners must transfer their QP from their QS account to a vessel account in order for those QP to be fished.

(2) Eligibility and registration. [Reserved]

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

(4) Accumulation limits.

(i) QS control limits are an accumulation limit and are the amount of QS that a person, individually or collectively, may control. These amounts are as follows:

Species Category	*QS Control Limit*
Nonwhiting Groundfish Species	*2.7%*
Lingcod - coastwide	*2.5%*
Pacific Cod	*12.0%*
Pacific whiting (shoreside)	*10.0%*
Sablefish	
N. of 36° (Monterey north)	*3.0%*
S. of 36° (Conception area)	*10.0%*
PACIFIC OCEAN PERCH	*4.0%*
*WIDOW ROCKFISH **	*5.1%*
CANARY ROCKFISH	*4.4%*
Chilipepper Rockfish	*10.0%*
BOCACCIO	*13.2%*
Splitnose Rockfish	*10.0%*
Yellowtail Rockfish	*5.0%*
Shortspine Thornyhead	
N. of 34°27'	*6.0%*
S. of 34°27'	*6.0%*
Longspine Thornyhead	
N. of 34°27'	*6.0%*
COWCOD	*17.7%*
DARKBLOTCHED	*4.5%*
YELLOWEYE	*5.7%*
Minor Rockfish North	
Shelf Species	*5.0%*
Slope Species	*5.0%*
Minor Rockfish South	
Shelf Species	*9.0%*
Slope Species	*6.0%*
Dover sole	*2.6%*
English Sole	*5.0%*
Petrale Sole	*3.0%*
Arrowtooth Flounder	*10.0%*
Starry Flounder	*10.0%*
Other Flatfish	*10.0%*
Other Fish	*5.0%*
Pacific Halibut	*5.4%*

(ii) Individual and collective rule. The QS that counts toward a person's accumulation limit will include:

(A) the QS owned by them, and

(B) a portion of the QS owned by an entity in which that person has an interest, where 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.

(iii) Control means, but is not limited to the following:

(A) the person has the right to direct, or does direct, the business of the entity to which the QS are registered;

(B) the person has the right to direct, or does direct, the delivery of groundfish harvested under a permit registered to a different person;

(C) the person has the right in the ordinary course of business to limit the actions of or replace, or does limit or replace, the chief executive officer, a majority of the board of directors, any general partner, or any person serving in a management capacity of the entity to which the QS is registered;

(D) the person has the right to direct, or does direct, the transfer of QS;

(E) the person, through loan covenants, has the right to restrict, or does restrict, the day to day business activities and management policies of the entity to which the QS is registered;

(F) the person has the right to control, or does control, the management of, or to be a controlling factor in, the entity to which the QS is registered;

(G) the person has the right to cause, or does cause, the sale of QS;

(H) the person absorbs all of the costs and normal business risks associated with ownership and operation of the entity to which the QS is registered; and

(I) the person has the ability through any means whatsoever to control the entity to which QS is registered.

(iv) Divestiture. An adjustment period will be provided for QS permit owners that are found to exceed the accumulation limits. QS will be issued for amounts in excess of accumulation limits only for holders of limited entry permits transferred by November 8, 2008, if such transfers have been registered with NMFS by November 30, 2008. The holder of any permit transferred after that time will be eligible to receive an initial allocation for that permit of only those QS that are within the accumulation limits. Anyone who qualifies for an initial allocation of QS in excess of the accumulation limits will be allowed to receive that allocation but must divest themselves of the excess QS during years three and four of the IFQ program. Holders of QS in excess of the control limits may receive and use the QP associated with that excess, up to the time their divestiture is completed. At the end of year 4 of the IFQ program, any QS held by a person in excess of the accumulation limits in place at the time of the initial issuance of QS will be revoked and redistributed to the remainder of the of the QS holders in proportion to the QS holdings. At the start of the 5th year of the IFQ Program, QP will not be issued for QS held in excess of the accumulation limits. No compensation will be due for any revoked shares.

(5) Appeals. [Reserved]

(6) Fees. The Regional Administrator is authorized to charge fees for administrative costs associated with the issuance of a QS permit consistent with the provisions given at §660.25(f), Subpart C.

(7) [Reserved]

(8) Application Requirements and Initial Issuance for QS Permit and QS.

(i) Eligible Applicant.

(A) For harvesters, only an owner of a valid trawl limited entry permit is eligible to apply to NMFS for an initial issuance of a QS permit and its associated QS amount. NMFS will not accept an application from a person that does not meet the eligibility requirements. NMFS will not recognize any other person as permit owner other than the person listed as permit owner in NMFS permit database at the time of receipt of the application.

(B) For shoreside processing entities, only those shoreside whiting first receivers recorded in the database that was extracted from PacFIN by NMFS on [INSERT DATE PROPOSED RULE PUBLISHED IN Federal Register], as having received landings of 1 mt or more of whiting from whiting trips in each of any 2 years from 1998 through 2004 are eligible to apply for an initial issuance of whiting QS. For the purposes of initial issuance of whiting QS, the following further define eligible shoreside processor applicants:

(1) a whiting trip is a fishing trip where greater than or equal to 50 percent by weight of the landing of groundfish is whiting as recorded in the database that was extracted from PacFIN by NMFS on [INSERT DATE PROPOSED RULE PUBLISHED IN Federal Register].

(2) a shoreside processor is an operation, working on US soil, that takes delivery of trawl caught groundfish that has not been processed; and that thereafter engages that fish in shoreside processing. Entities that received fish that have not undergone at-sea processing or shoreside processing and sell that fish directly to consumers shall not be considered a processor for purposes of QS allocations. Shoreside processing is defined as either of the following:

(i) 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.

(ii) The purchase and redistribution into a wholesale or retail market of live groundfish from a harvesting vessel.

(ii) Qualifying Criteria for QS.

(A) Non-whiting, non-overfished species QS. QS for non-whiting, non-overfished species will be calculated based on a limited entry trawl-endorsed permit's relative landings history from 1994 through 2003, dropping the 3 worst years of landings. The calculation will be based on the following:

(1) State landing receipts (fish tickets) as recorded in the database that was extracted from PacFIN by NMFS on [INSERT DATE PROPOSED RULE PUBLISHED IN Federal Register], for non-whiting landings (that is, for trips on which whiting is less than 50% of the total landings) will be used by NMFS to calculate landings for each limited entry trawl-endorsed permit's shoreside deliveries.

(2) Relative landings history will be calculated for each qualifying year by dividing the total catch of each non-whiting, non-overfished IFQ species for the vessel(s) registered to the permit by the sum of the total catch of that IFQ groundfish species from all vessel(s) meeting the qualifying criteria for a QS permit.

(3) The 3 worst years of landings means the 3 years with the lowest landings by weight for a specific non-whiting, non-overfished IFQ species.

(4) The current limited entry permit's landings history includes the landings history of any permits that have been previously combined with that permit. If two or more limited entry trawl permits have been simultaneously registered to the same vessel, NMFS will split the landing history evenly between both permits.

(5) History of illegal landings will not count toward the allocation of QS. Any landings made under an EFP in excess of the cumulative limits in place for the non-EFP fishery will not count towards the allocation of QS.

(6) Landings history from Federal limited entry groundfish permits that were retired through the Federal buyback program will be divided equally among qualifying QS permits, as described at paragraph (D).

(B) Whiting QS.

(1) For harvesters, whiting QS will be calculated based on a limited entry trawl-endorsed permit's relative landings history from 1994 through 2003, dropping the 3 worst years of landings. State landing receipts (fish tickets) as extracted by NMFS from PacFIN for whiting landings will be used to calculate landings for each limited entry trawl-endorsed permit's shoreside deliveries. The current limited entry permit's landings history includes the landings history of any permits that have been previously combined with that permit. If two or more limited entry trawl permits have been simultaneously registered to the same vessel, NMFS will split the landing history evenly between both permits. History of illegal landings will not count toward the allocation of QS. Any landings made under an EFP in excess of the cumulative limits in place for the non-EFP fishery will not count towards the allocation of QS. Landings history from the Federal limited entry trawl permits that were retired through the Federal buyback program will be divided equally among qualifying QS permits, as described at paragraph (D).

(2) For shoreside processors, whiting QS will be calculated based on a processor's relative landings history from 1994 through 2003, dropping the 2 worst years of landings. State landing receipts (fish tickets) as extracted by NMFS from PacFIN for whiting trips will be used to make the calculation. For purposes of making an initial issuance of whiting QS to a shoreside processor, NMFS will attribute landing history to the first receiver/processor reported on the landing receipt (the entity responsible for filling out the state fish ticket) as recorded in the database that was extracted from PacFIN by NMFS on [INSERT DATE PROPOSED RULE PUBLISHED IN Federal Register], except history may be reassigned to a shoreside processor/first receiver not on the landings receipt if both parties agree or if, through the initial issuance and appeals process, NMFS determines that the first receiver that filed the fish ticket is not, in fact, the entity that first processed the fish.

(C) Overfished Species QS. QS for overfished species will be calculated for each permit using a formula of target species QS (i.e., non-overfished species QS), logbook data, and WCGOP data. NMFS will apply the fleetwide average bycatch rates from the WCGOP to each permit's depth and latitude distributions from state logbooks and to each permit's target species QS allocations. Fleetwide average bycatch rates for latitudinal areas are divided shoreward and seaward of the RCA and are based on WCGOP data from 2003 through 2006. If there are no state logbooks associated with a specific permit for a given year, then fleetwide averages will be used.

(1) Minimum QP Allocation for Canary Rockfish. For recipients of non-whiting QS that are issued less than 50 lb (QP) of canary rockfish, those recipients will receive additional canary rockfish QP in their QS account to bring their QP issued up to 50 lb. These additional canary rockfish QP will come from the 10 percent non-whiting QS that is reserved for the Adaptive Management Program. QS permit owners may not continue to receive this minimum canary rockfish QP after the first two years of the trawl rationalization program.

(2) [Reserved]

(D) Equal Division of Buyback Permit History. NMFS will make an equal division of the pool of non-overfished species QS from the Federal limited entry trawl permits that were retired through the Federal buyback program (i.e., buyback permit) (70 FR 45695, August 8, 2005) among all qualifying QS Permits for all QS species/species groups or areas. The QS pool associated with the buyback permits will be the buyback permit history as a percent of the total fleet history for the allocation period. The calculation will be based on total absolute pounds with no other adjustments and no dropped years.

(iii) Prequalified Application. A "prequalified application" is a partially pre-filled application where NMFS has preliminarily determined the landings history that may qualify the applicant for an initial issuance of QS.

(A) For harvesters, NMFS will mail a prequalified application to all current trawl limited entry permit owners, as listed in NMFS permit database, who are found to qualify for QS. NMFS will mail the application by certified mail to the current address of record in the NMFS permit database. The application will contain the basis of NMFS's calculation of their QS for each species/species group or area based on the database that was extracted from PacFIN by NMFS on [INSERT DATE PROPOSED RULE PUBLISHED IN Federal Register].

(B) For shoreside first receivers/processors, NMFS will mail a prequalified application to all shoreside processors who are found to qualify from PacFIN data for an initial issuance of whiting QS. NMFS will mail the application by certified mail to qualified shoreside processors to the current address of record given by the state in which entity is registered. For all qualified shoreside processors who meet the eligibility requirement at paragraph XXX, the application will provide the basis of NMFS's calculation of the initial issuance of whiting QS based on the database that was extracted from PacFIN by NMFS on [INSERT DATE PROPOSED RULE PUBLISHED IN Federal Register].

(iv) Applicants Not Prequalified. If a current permit owner of a trawl-endorsed limited entry permit or a whiting shoreside processor does not receive a prequalified application, and such persons believe they qualify for an initial issuance of QS, the person must contact NMFS in writing prior to the application deadline. The person must provide valid PacFIN data that substantiates that the person may be qualified for an initial issuance of QS. If NMFS finds that the person may qualify for QS, NMFS will allow the person to make an application. If the permit owner or shoreside processor fails to contact NMFS by the application deadline date, they forgo the opportunity to receive consideration for an initial issuance of QS.

(v) Corrections to the Application. If the applicant disagrees with the basis of NMFS' determination in the prequalified application, the applicant must provide in writing which parts of NMFS' determination are not accurate, and must include additional information to substantiate the correction. The corrections must be provided with the completed application form by the application deadline date. Corrections may only be submitted for the following:

(A) errors in NMFS' extraction, aggregation, or expansion of data, including:

(1) errors in NMFS extraction of landings data from PacFIN;

(2) errors in NMFS extraction of state logbook data from PacFIN;

(3) errors in the permit owner, permit combinations, or vessel registration as listed in NMFS permit database.

(B) Reassignment of whiting landings history for shoreside first receivers. For shoreside first receivers of whiting, the landing history may be reassigned to another person. In order for landing history to be reassigned to another person an authorized representative for the shoreside first receiver given on the state landing ticket must submit by the application deadline date for initial issuance of QS a letter which requests that the whiting landings history during the qualifying

years be conveyed to another person. The letter must be signed by an authorized representative of the shoreside first receiver named on the state landing tickets and signed by an authorized representative of the person the whiting landing history will be reassigned to. The letter must give the legal name of the person, business address and the name and phone number of the person receiving the whiting landing history. If a valid contract agreement exists that reassigns the landing history, that document must be provided to NMFS.

(vi) Submission of the Application and Application Deadline.

(A) Submission of the Application. Submission of the complete, certified application includes, but is not limited to, the following:

(1) The applicant is required to sign and notarize the application.

(2) The applicant must certify that they qualify to own QS and indicate whether they agree or disagree with NMFS' determination of initial issuance of QS provided in the application.

(3) The applicant is required to provide a complete Trawl Identification of Ownership Interest Form.

(4) Business entities are required to submit a corporate resolution or any other credible documentation as proof that the representative of the entity is authorized to act on behalf of the entity; and

(5) NMFS may request additional information of the applicant as necessary to make an IAD.

(B) Application Deadline. A complete, certified application must be postmarked no later than [insert date 60 calendar days after publication of the final rule in the FEDERAL REGISTER]. NMFS will not accept or review any applications received after the application deadline. There are no hardship provisions for this deadline.

(vii) Permit transfer during application period. At any time during the application process for initial issuance of QS and until a final decision is made by the Regional Administrator on behalf of the Secretary of Commerce, a permit owner cannot transfer ownership of the permit until the final decision for that application has been made.

(viii) Initial Administrative Determination (IAD). NMFS will issue an IAD for all complete, certified applications received by the application deadline date. If NMFS approves an application for initial issuance of QS, the applicant will receive a QS Permit specifying the amounts of QS the applicant has qualified for and will be registered to a QS Account. If NMFS disapproves an applicant's request to correct the application, the IAD will provide the reasons NMFS did not accept the corrections. As part of the IAD, NMFS will indicate if the QS Permit owner has QS in amounts that exceed the accumulation limits and are subject to divestiture provisions given at XXXXXX. If the applicant does not appeal the IAD within 30 calendar days of the date on the IAD, the IAD becomes the final decision of the Regional Administrator acting on behalf of the Secretary of Commerce.

(ix) Appeals. For QS permits issued under this section, the appeals process and timelines are specified at § 660.25(g), Subpart C. For the initial issuance of QS and the

QS permits, the basis for appeal are described in paragraph (d)(8)(v). Items not subject to appeal include, but are not limited to, the following:

(A) the accuracy of permit landings data or shoreside first receiver landings data from PacFIN;

(B) the formula used to calculate initial issuance of QS;

(C) the allocation of IFQ species to the shoreside trawl fishery.

(e) Vessel accounts. [Reserved]

(f) First Receiver Site License. [Reserved]

(g) Retention requirements (whiting and non-whiting vessels). [Reserved]

(h) Observer Requirements. [Reserved]

(i) [Reserved]

(j) Shoreside Catch Monitor requirements for IFQ first receivers. [Reserved]

(k) Catch weighing requirements. [Reserved]

(l) Gear Switching. [Reserved]

(m) Adaptive Management Program. [Reserved]

§ 660.150 Mothership (MS) Coop Program.

(a) General. The MS Coop Program is a limited access program that applies to eligible harvesters and processors in the mothership sector of the Pacific whiting at-sea trawl fishery. Eligible harvesters and processors, including MS permitted coop and non-coop fishery participants, must meet the requirements set forth in this section of the Pacific Coast groundfish regulations. In addition to the requirements of this section, the MS coop program is subject to the following groundfish regulations:

(1) Pacific whiting seasons §660.131, Subpart D

(2) Area restrictions specified for midwater trawl gear used to harvest Pacific whiting fishery specified at §660.131, Subpart D for GCAs, RCAs, Salmon Conservation Zones, BRAs, and EFHCAs.

(3) Regulations set out in the following sections of Subpart C: §660.11 Definitions, §660.XX Prohibitions, § 660.13 Recordkeeping and reporting, §660.14 VMS requirements, §660.15 Equipment requirements, §660.16 Groundfish Observer Program, §660.20 Vessel and gear identification, and §660.XXXAdd others plus the Pacific whiting measures at currently at 660.323XXX.

(4) Regulations set out in the following sections of Subpart D: §660.111 Trawl fishery definitions, §660.112 Trawl fishery prohibitions, §660.113 Trawl fishery recordkeeping and reporting, §660.116 Trawl fishery observer requirements, and §660.130 Limited entry trawl fishery management measures.

(5) The MS Coop program fishery may be restricted or closed as a result of projected overages within the MS Coop Program, the C/P Coop Program, or the shorebased IFQ Program. As determined necessary by the Regional Administrator, area restrictions, season closures, or other measures will be used to prevent the trawl sectors in aggregate or the individual sector (shorebased IFQ, MS Coop, or C/P Coop)) from exceeding an OY, or formal allocation specified in the PCGFMP or regulation at § 660.XXX subpart XX.

(b) Participation requirements. [Reserved]

(1) Mothership vessels. [Reserved]

(2) Mothership Catcher Vessels. [Reserved]

(3) MS Coop Formation and Failure. [Reserved]

(c) MS Coop Program Species and Allocations.

(1) MS Coop Program Species. MS Coop Program Species are as follows:

(i) Species with formal allocations to the MS Program: Pacific whiting, canary rockfish, darkblotched rockfish, Pacific Ocean perch, widow rockfish;

(ii) Species with set-asides for the MS and C/P Programs combined, as described in Table XXset-aside tableXX , Subpart C.

(2) Annual Mothership Sector sub-allocations. [Reserved]

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

(ii) Annual Coop Allocations. [Reserved]

(iii) Annual Non-Coop Allocation. [Reserved]

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

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

(5) Announcements. [Reserved]

(6) Redistribution of Annual Allocation. [Reserved]

(7) Processor obligation. [Reserved]

(8) Allocation accumulation limits [Reserved]

(d) MS Coop Permit and Agreement. [Reserved]

(e) Inter-coop Agreement. [Reserved]

(f) Mothership (MS) Permit.

(1) General. After January 1, 2011, only vessels registered to a MS permit can receive an at-sea whiting delivery in the mothership whiting sector. A vessel registered to MS permit may participate in a Mothership coop (subject to coop permit requirements and provisions of a private cooperative agreement) and/or may participate in the non-coop fishery at the same time or during the same year.

(i) Eligibility to Own or Hold a MS Permit. The only person that can acquire a MS permit is 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.

(ii) Vessel Size Endorsement. A MS permit does not have a vessel size endorsement assigned to it. The endorsement provisions at 660.334(c) do not apply to a MS permit.

(iii) Restriction on C/P Vessel Operating as MS. Restrictions on a vessel registered to C/P endorsed permit operating as a mothership are specified at § 660.XXC/P sxnX, Subpart D.

(2) Renewal, Change of permit ownership, or vessel registration. [Reserved]

(3) Accumulation Limit.

(i) MS Permit Usage Limit. No individual or entity who owns MS permit(s) may register the MS permit(s) to vessels that cumulatively process more than 45 percent of the annual mothership sector whiting allocation. For purposes of

determining accumulation limits, any person or entity subject to this limit must submit a complete trawl ownership interest form as part of annual renewal for the MS permit as provided for at 660.XXXXX. Also, an ownership interest form will be required when a new permit owner obtains a MS permit as part of a transfer request. Accumulation limits will be determined by calculating the percentage of ownership interest a person has in any MP permit. Ownership interest will subject to the individual and collective rule.

(ii) Individual and collective rule. The ownership that counts toward a person's accumulation limit will include:

(A) the MS permit owned by them, and

(B) a portion of the MS permit owned by an entity in which that person has an interest, where the person's share of interest in that entity will determine the portion of that entity's ownership that counts toward the person's limit.

(iii) Control means, but is not limited to the following:

(A) the person has the right to direct, or does direct, the business of the entity to which the permit is registered;

(B) the person has the right to direct, or does direct, the delivery of groundfish harvested under a permit registered to a different person;

(C) the person has the right in the ordinary course of business to limit the actions of or replace, or does limit or replace, the chief executive officer, a majority of the board of directors, any general partner, or any person serving in a management capacity of the entity to which the permit is registered;

(D) the person has the right to direct, or does direct, the transfer of the permit;

(E) the person, through loan covenants, has the right to restrict, or does restrict, the day to day business activities and management policies of the entity to which the permit is registered;

(F) the person has the right to control, or does control, the management of, or to be a controlling factor in, the entity to which the permit is registered;

(G) the person has the right to cause, or does cause, the sale of the permit;

(H) the person absorbs all of the costs and normal business risks associated with ownership and operation of the entity to which the permit is registered; and

(I) the person has the ability through any means whatsoever to control the entity to which permit is registered.

(4) Appeals. [Reserved]

(5) Fees. The Regional Administrator is authorized to charge fees for administrative costs associated with the issuance of a MS permit consistent with the provisions given at §660.25(f), Subpart C.

(6) Application Requirements and Initial Issuance for MS Permit.

(i) Eligible Applicant. An owner of a vessel that processed whiting in the mothership sector in the qualifying years may apply for a MS permit, except that in the case of bareboat charterers, the charterer of the bareboat may apply.

(ii) Qualifying Criteria for MS Permit. In order to qualify for a MS permit, a mothership vessel must have processed at least 1,000 mt of whiting in each of two years during the qualifying years of 1997 through 2003.

(iii) Prequalified Application. A "prequalified application" is a partially pre-filled application where NMFS has preliminarily determined the processing history that may qualify the applicant for MS permit. NMFS will mail a prequalified application to the owner of the vessel or charterer of the bareboat who are found to qualify for the MS permit. NMFS will mail the application by certified mail to the current address of record in the NMFS permit database or in the NORPAC database. The application will contain the basis of NMFS's determination that the mothership vessel meets the qualifying criteria for the MS permit based on Pacific Whiting observer data recorded in the database that was extracted from NORPAC by NMFS on [INSERT DATE PROPOSED RULE PUBLISHED IN Federal Register].

(iv) Applicants Not Prequalified. Owners of vessels that do not receive an prequalified application from NMFS, and believe they are qualified for a MS permit, must contact NMFS in writing by the application deadline date requesting clarification of their eligibility status and providing credible documentation to substantiate their claim. Credible documentation may include official NMFS observer records that demonstrate the vessel met the qualifying criteria given in paragraph (b) above. If NMFS finds that the person may qualify for a MS permit, NMFS will allow that person to make an application. If the person fails to contact NMFS in writing by the application deadline date, the person forgoes the opportunity to receive consideration for initial issuance of a MS permit.

(v) Corrections to the Application. If the applicant disagrees with the basis of NMFS' determination in the prequalified application, the applicant must provide in writing which parts of NMFS' determination are not accurate, and must include additional information to substantiate the correction. The corrections must be provided with the completed application form by the application deadline date. Corrections may only be submitted for errors in NMFS' extraction, aggregation, or expansion of the database that was extracted from NORPAC by NMFS on [INSERT DATE PROPOSED RULE PUBLISHED IN Federal Register] or errors in NMFS permit database.

(vi) Submission of the Application and Application Deadline.

(A) Submission of the Application. Submission of the complete, certified application includes, but is not limited to, the following:

(1) The applicant is required to sign and notarize the application.

(2) The applicant must certify that they qualify to own a MS permit and indicate whether they agree or disagree with NMFS' determination on initial issuance of the MS permit provided in the application.

(3) The applicant is required to provide a complete Trawl Identification of Ownership Interest Form.

(4) Business entities are required to submit a corporate resolution or any other credible documentation as proof that the representative of the entity is authorized to act on behalf of the entity;

(5) A bareboat charterer must provide credible evidence that demonstrates it was chartering the mothership vessel under a private contract during the qualifying years; and

(6) NMFS may request additional information of the applicant as necessary to make an IAD.

(B) Application Deadline. A complete, certified application must be postmarked no later than [insert date 60 calendar days after publication of the final rule in the FEDERAL REGISTER] [XX or February 1, 2011 XX]. NMFS will not accept or review any applications received after the application deadline. There are no hardship provisions for this deadline.

(vii) Initial Administrative Determination. NMFS will issue an IAD for all complete, certified applications received by the application deadline date. If NMFS approves an application, the applicant will receive a MS Permit. If NMFS disapproves an applicant's request to correct the application, the IAD will provide the reasons NMFS did not accept the corrections. If the applicant does not appeal the IAD within 30 calendar days of the date on the IAD, the IAD becomes the final decision of the Regional Administrator acting on behalf of the Secretary of Commerce.

(viii) Appeals. For a MS permit issued under this section, the appeals process and timelines are specified at § 660.25(g), Subpart C. For the initial issuance of a MS permit, the basis for appeal is described in paragraph (f)(5)(v). Items not subject to appeal include, but are not limited to, the following:

(A) the formula used to calculate initial issuance of a MS permit;

(B) the allocation of MS Coop species to the MS Coop fishery.

(g) Mothership catcher vessel (MS/CV) endorsed permit.

(1) General. NMFS will issue a MS/CV endorsement and catch history assignment on qualified limited entry "A" endorsed trawl permits. Within the MS whiting fishery, vessels registered to a MS/CV endorsed permit may participate in a MS coop or in the non-coop fishery.

(i) Catch History Assignment. A catch history assignment is permanently assigned to MS/CV endorsed permit. The catch history assignment is based the catch history in the MS whiting sector during qualifying years as described below. The catch history assignment is expressed as percentage of whiting of the total

MS whiting sector allocation. The catch history allocation accrues to the coop that the MS/CV permit is tied to through private agreement, or will be directed to the non-coop fishery if the MS/CV endorsed permit is not participating in the coop fishery.

(ii) MS/CV Endorsement Not Severable from Permit. A MS/CV endorsement is permanently affixed to the original qualifying limited entry permit, and cannot be transferred separately from the original qualifying limited entry permit.

(iii) Vessel Size Endorsement. All vessels registered to a MS/CV limited entry permit are be subject to vessel size endorsement regulations given at 50 CFR 660.334 (c)(1)(i) and (c)(2)(ii)

(iv) Renewal. In addition to the requirements at XXXX [LE permit requirements] the owner of a MS/CV endorsed permit must identify their intent to participate in the non coop or coop fishery for the following year.

(v) Restrictions on Processing by MS/CV endorsed Permit. A vessel registered to MS/CV endorsed permit in a given year shall not engage in processing of whiting during that year.

(2) Change of Permit owner, vessel registration, vessel owner, or combination. [Reserved]

(3) Accumulation Limits.

(i) MS/CV Permit Ownership Limit. No individual or entity shall own MS/CV permits for which the collective whiting allocation total is greater than 20 percent. For purposes of determining accumulation limits, NMFS requires that permit owners submit a complete trawl ownership interest form for the permit owner as part of annual renewal of a MS/CV endorsed permit. Also, an ownership interest form will be required when a new permit owner obtains a MS/CV permit as part of a transfer request. Accumulation limits will be determined by calculating the percentage of ownership interest a person has in any MS/CV permit and the amount of the whiting catch history assignment given on the permit. Ownership interest will subject to the individual and collective rule.

(A) Individual and collective rule. The whiting catch history assignment that counts toward a person's accumulation limit will include:

(1) the catch history assignment owned by them, and

(2) a portion of the catch history assignment owned by an entity in which that person has an interest, where the person's share of interest in that entity will determine the portion of that entity's catch history assignment that counts toward the person's limit.

(B) Control means, but is not limited to the following:

(1) the person has the right to direct, or does direct, the business of the entity to which the permit and catch history assignment are registered;

(2) the person has the right to direct, or does direct, the delivery of groundfish harvested under a permit registered to a different person;

(3) the person has the right in the ordinary course of business to limit the actions of or replace, or does limit or replace, the chief executive officer, a majority of the board of directors, any general partner, or any person serving in a management capacity of the entity to which the permit and catch history assignment are registered;

(4) the person has the right to direct, or does direct, the transfer of the permit;

(5) the person, through loan covenants, has the right to restrict, or does restrict, the day to day business activities and management policies of the entity to which the permit and catch history assignment are registered;

(6) the person has the right to control, or does control, the management of, or to be a controlling factor in, the entity to which the permit and catch history assignment are registered;

(7) the person has the right to cause, or does cause, the sale of the permit and associated catch history assignment;

(8) the person absorbs all of the costs and normal business risks associated with ownership and operation of the entity to which the permit and associated catch history assignment are registered; and

(9) the person has the ability through any means whatsoever to control the entity to which permit and associated catch history assignment are registered.

(C) Divestiture. If an individual or entity is found to exceed the ownership limit, NMFS will notify the applicant so that the applicant may comply with the MS/CV permit ownership limit requirement prior to issuance of the MS/CV endorsement.

(ii) Catcher Vessel Usage Limit. A vessel registered to MS/CV endorsed permit or a trawl limited entry permit shall not catch more than 30 percent of the mothership sector's whiting allocation.

(4) Appeals. [Reserved]

(5) Fees. The Regional Administrator is authorized to charge a fee for administrative costs associated with the issuance of a MS/CV endorsed permit as provided for at § 660.25(f), Subpart C.

(6) Application Requirements and Initial Issuance for MS/CV Endorsement.

(i) Eligible Applicant. Only a current owner of a trawl limited entry permit with a history of whiting deliveries in the MS whiting sector can apply for a MS/CV endorsement. Any past catch history associated with current trawl permit accrues to the current permit owner. NMFS will not accept an application from a person that does not meet the eligibility requirements. NMFS will not recognize any other person as permit owner other than the person listed as permit owner in NMFS permit database at the time of receipt of the application.

(ii) Qualifying Criteria for MS/CV Endorsement. In order to qualify for a MS/CV endorsement, vessels registered to a valid trawl endorsed limited entry

permit must have caught and delivered at least 500 mt of whiting to motherships between 1994 through 2003. The calculation will be based on the following:

(A) The catch history will include any deliveries of whiting by vessels registered to limited entry trawl endorsed permits that were subsequently combined to generate the current permit. If two or more limited entry trawl permits have been simultaneously registered to the same vessel, NMFS will split the landing history evenly between both permits.

(B) History of illegal landings will not count.

(C) Landings history from Federal limited entry groundfish permits that were retired through the Federal buyback program will not count.

(iii) Qualifying Criteria for Catch History Assignment. A catch history assignment will be specified as a percent on the MS/CV endorsed permit. The whiting catch history assignment calculation for the MS/CV endorsed permit will be based on the whiting catch history of vessels registered to the permit in each year from 1994 through 2003, dropping two years. The calculation will be based on the following:

(A) Pacific whiting observer data as recorded in the database that was extracted from NORPAC by NMFS on [INSERT DATE PROPOSED RULE PUBLISHED IN Federal Register].

(B) Relative pounds will be calculated for each qualifying year by dividing the total catch of Pacific whiting for the vessel(s) registered to the permit by the sum of the total catch from all Pacific whiting vessel(s) meeting the qualifying criteria for a MS/CV endorsed limited entry permit.

(C) The eight years with the highest relative pounds of Pacific whiting will be selected and added together to generate the permit's official catch history. The catch history amount associated with a permit will include the catch history of all permits that were combined into the current permit to create a larger vessel size endorsement.

(D) The catch history will include any deliveries of whiting by vessels registered to limited entry trawl endorsed permits that were subsequently combined to generate the current permit. If two or more limited entry trawl permits have been simultaneously registered to the same vessel, NMFS will split the landing history evenly between both permits.

(E) History of illegal landings will not count.

(F) Landings history from Federal limited entry groundfish permits that were retired through the Federal buyback program will not count.

(iv) Prequalified Application. A "prequalified application" is a partially pre-filled application where NMFS has preliminarily determined the landings history that may qualify the applicant for MS/CV endorsement and associated catch history assignment. NMFS will mail a prequalified application to the owner of the vessel who is found to qualify for the MS/CV endorsement and associated catch

history assignment. NMFS will mail the application by certified mail to the current address of record in the NMFS permit database. The application will contain the basis of NMFS's determination that the vessel meets the qualifying criteria for the MS/CV endorsement and associated catch history assignment based on Pacific Whiting observer data recorded in the database that was extracted from NORPAC by NMFS on [INSERT DATE PROPOSED RULE PUBLISHED IN Federal Register].

(v) Applicants Not Prequalified. If a current owner of a limited entry trawl endorsed permit does not receive a prequalified application, and the permit owner believes the permit's catch history qualifies for a MS/CV endorsement and catch history assignment, the permit owner must contact NMFS in writing by the application deadline date requesting clarification of their eligibility status and catch history assignment and provide credible documentation to substantiate their claim. Credible documentation may include official NMFS observer records that demonstrate the vessel met the qualifying criteria given in paragraphs (ii) and (iii) above. If NMFS finds that the permit owner may qualify for a MS/CV endorsement and catch history assignment, NMFS will allow the permit owner to make an application. If the permit owner fails to contact NMFS in writing by the application deadline date, the person forgoes the opportunity to receive consideration for a MS/CV endorsement and catch history assignment.

(vi) Corrections to the Application. If the applicant disagrees with the basis of NMFS' determination in the prequalified application, the applicant must provide in writing which parts of NMFS' determination are not accurate, and must include additional information to substantiate the correction. The corrections must be provided with the completed application form by the application deadline date. Corrections may only be submitted for errors in NMFS' extraction, aggregation, or expansion of the database that was extracted from NORPAC by NMFS on [INSERT DATE PROPOSED RULE PUBLISHED IN Federal Register] or errors in NMFS permit database.

(vii) Submission of the Application and Application Deadline.

(A) Submission of the Application. Submission of the complete, certified application includes, but is not limited to, the following:

(1) The applicant is required to sign and notarize the application.

(2) The applicant must certify that they qualify to own a MS/CV endorsed permit and indicate whether they agree or disagree with NMFS' determination on initial issuance of the MS/CV endorsed permit and catch history assignment provided in the application.

(3) The applicant is required to provide a complete Trawl Identification of Ownership Interest Form.

(4) Business entities are required to submit a corporate resolution or any other credible documentation as proof that the

representative of the entity is authorized to act on behalf of the entity;

(5) NMFS may request additional information of the applicant as necessary to make an IAD.

(B) Application Deadline. A complete, certified application must be postmarked no later than [insert date 60 calendar days after publication of the final rule in the FEDERAL REGISTER]. NMFS will not accept or review any applications received after the application deadline. There are no hardship provisions for this deadline.

(viii) Initial Administrative Determination. NMFS will issue an IAD for all complete, certified applications received by the application deadline date. If NMFS approves the application, the applicant will receive a MS/CV endorsed limited entry permit and associated whiting catch history assignment. If NMFS disapproves an applicant's request to correct the application, the IAD will provide the reasons NMFS did not accept the corrections. If known at the time of the IAD, NMFS will indicate if the MS/CV endorsed permit owner has ownership interest in catch history assignments that exceed the accumulation limits and are subject to divestiture provisions given at XXXXXX. If the applicant does not appeal the IAD within 30 calendar days of the date on the IAD, the IAD becomes the final decision of the Regional Administrator acting on behalf of the Secretary of Commerce.

(ix) Appeals. For a MS/CV endorsed permit and associated catch history assignment issued under this section, the appeals process and timelines are specified at § 660.25(g), Subpart C. For the initial issuance of a MS/CV endorsed permit and associated catch history assignment, the basis for appeal is described in paragraph (g)(6)(vi). Items not subject to appeal include, but are not limited to, the following:

(A) the formulas used to calculate initial issuance of a MS/CV endorsement and associated catch history assignment;

(B) the allocation of MS Coop species to the MS Coop fishery.

(h) Retention requirements. [Reserved]

(i) Observer Requirements. [Reserved]

(j) [Reserved.]

(k) Catch weighing requirements. [Reserved]

§ 660.160 Catcher-Processor (C/P) Coop Program

(a) General. The C/P Coop Program is a limited access program that applies to vessels in the C/P sector of the Pacific whiting at-sea trawl fishery and is a single voluntary coop. Eligible harvesters and processors must meet the requirements set forth in this section of the Pacific Coast groundfish regulations. In addition to the requirements of this section, the C/P coop program is subject to the following groundfish regulations:

(1) Pacific whiting seasons §660.131, Subpart D.

(2) Area restrictions specified for midwater trawl gear used to harvest Pacific whiting fishery specified at §660.131, Subpart D for GCAs, RCAs, Salmon Conservation Zones, BRAs, and EFHCAs.

(3) Regulations set out in the following sections of Subpart C: §660.11 Definitions, §660.XX Prohibitions, § 660.13 Recordkeeping and reporting, §660.14 VMS requirements, §660.15 Equipment requirements, §660.16 Groundfish Observer Program, §660.20 Vessel and gear identification, and §660.XXXAdd others plus the Pacific whiting measures at currently at 660.323XXX.

(4) Regulations set out in the following sections of Subpart D: §660.111 Trawl fishery definitions, §660.112 Trawl fishery prohibitions, §660.113 Trawl fishery recordkeeping and reporting, §660.116 Trawl fishery observer requirements, and §660.130 Limited entry trawl fishery management measures.

(5) The C/P Coop program may be restricted or closed as a result of projected overages within the MS Coop Program, the C/P Coop Program, or the shorebased IFQ Program. As determined necessary by the Regional Administrator, area restrictions, season closures, or other measures will be used to prevent the trawl sectors in aggregate or the individual sector (shore-based IFQ, MS Coop, or C/P Coop) from exceeding an OY, or formal allocation specified in the PCGFMP or regulation at § 660.XXX subpart XX.

(b) C/P Coop Program Species and Allocations

(1) C/P Coop Program Species. C/P Coop Program Species are as follows:

(i) Species with formal allocations to the C/P Coop Program: Pacific whiting, canary rockfish, darkblotched rockfish, Pacific Ocean perch, widow rockfish;

(ii) Species with set-asides for the MS and C/P Programs combined, as described in Table XXset-aside tableXX , Subpart C.

(2) [Reserved]

(c) C/P Coop Permit and Agreement. [Reserved]

(d) C/P endorsed permit.

(1) General. Participation of a vessel in the non-tribal primary whiting fishery in the C/P sector during the season described at 50 CFR 660.XXX requires that an owner of that vessel register the vessel to a valid limited entry permit with a C/P endorsement. All permit owners and owners of the vessels registered to these C/P endorsed permits will be members of the C/P coop and that coop must be registered to C/P coop permit and operate under a coop agreement as described at: XXXXX

(i) C/P Endorsement Not Separable from Permit. A C/P endorsement is not separable from the limited entry permit, and therefore, the endorsement may not be transferred separately from the limited entry permit.

(ii) Vessel Size Endorsement. A C/P endorsed limited entry permit registered to a vessel that is more than 5' smaller the permit size endorsement will not result in a permanent reduction in the size endorsement of the permit. The provision given at 50 CFR 660.334 (c)(1)(i) does not apply to a C/P endorsed permit.

(iii) Restriction on C/P Vessel operating as CV. A vessel registered to C/P endorsed permit cannot operate as a catcher vessel delivering unprocessed whiting to another processor in the same calendar year.

(iv) Restriction on C/P Vessel Operating as MS. A vessel registered to C/P endorsed permit cannot operate as a mothership during the same year it participates in the CP fishery. At the time of permit renewal, the owner of the vessel registered to the C/P endorsed permit may declare whether it will operate solely as a MS in the year the permit is renewed for.

(2) Eligibility and Renewal for C/P endorsed permit. [Reserved.]

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

(4) Appeals. [Reserved]

(5) Fees. The Regional Administrator is authorized to charge fees for the administrative costs associated with review and issuance of a C/P endorsement consistent with the provisions at § 660.25(f), Subpart C.

(6) [Reserved]

(7) Application Requirements and Initial Issuance for C/P endorsement.

(i) Eligible Applicant. Only current permit owners of trawl endorsed limited entry permits that have been registered to catcher-processors that participated in the catcher-processor fishery are eligible to apply for a C/P endorsement. Any past catch history associated with current trawl permit accrues to the current permit owner. NMFS will not accept an application from a person that does not meet the eligibility requirements. NMFS will not recognize any other person as permit owner other than the person listed as permit owner in NMFS permit database at the time of receipt of the application.

(ii) Qualifying Criteria for C/P Endorsement. In order to qualify for a C/P endorsement, a vessel registered to a valid trawl endorsed limited entry permit must have caught and processed any amount of whiting during a primary catcher-processor season between 1997 through 2003. The calculation will be based on the following:

(A) Pacific Whiting Observer data recorded in the database that was extracted from NORPAC by NMFS on [INSERT DATE PROPOSED RULE PUBLISHED IN Federal Register] and NMFS permit data on limited entry trawl endorsed permits will be used to determine whether a permit meets the qualifying criteria for a C/P endorsement.

(B) Only whiting regulated by this subpart that was taken with midwater (or pelagic) trawl gear will be considered for the C/P endorsement.

(C) Permit catch and processing history includes only the catch/processing history of whiting for a vessel when it was registered to that particular permit during the qualifying years.

(D) History of illegal landings will not count.

(E) Landings history from Federal limited entry groundfish permits that were retired through the Federal buyback program will not count.

(iii) Prequalified Application. A "prequalified application" is a partially pre-filled application where NMFS has preliminarily determined the landings history that may qualify the applicant for C/P endorsement. NMFS will mail a prequalified application to the owner of the vessel who is found to qualify for the C/P endorsement. NMFS will mail the application by certified mail to the current address of record in the NMFS permit database. The application will contain the basis of NMFS's determination that the vessel meets the qualifying criteria for the C/P endorsement based on Pacific Whiting observer data recorded in the database that was extracted from NORPAC by NMFS on [INSERT DATE PROPOSED RULE PUBLISHED IN Federal Register].

(iv) Applicants Not Prequalified. If a current owner of a limited entry trawl endorsed permit does not receive a prequalified application, and the permit owner believes the permit's catch history qualifies for a C/P endorsement, the permit owner must contact NMFS in writing by the application deadline date requesting clarification of their eligibility status and provide credible documentation to substantiate their claim. Credible documentation may include official NMFS observer records that demonstrate the vessel met the qualifying criteria given in paragraph (ii) above. If NMFS finds that the permit owner may qualify for a C/P endorsement, NMFS will allow the permit owner to make an application. If the permit owner fails to contact NMFS in writing by the application deadline date, the person forgoes the opportunity to receive consideration for a C/P endorsement.

(v) Corrections to the Application. If the applicant disagrees with the basis of NMFS' determination in the prequalified application, the applicant must provide in writing which parts of NMFS' determination are not accurate, and must include additional information to substantiate the correction. The corrections must be provided with the completed application form by the application deadline date. Corrections may only be submitted for errors in NMFS' extraction, aggregation, or expansion of the database that was extracted from NORPAC by NMFS on [INSERT DATE PROPOSED RULE PUBLISHED IN Federal Register] or errors in NMFS permit database.

(vi) Submission of the Application and Application Deadline.

(A) Submission of the Application. Submission of the complete, certified application includes, but is not limited to, the following:

(1) The applicant is required to sign and notarize the application.

(2) The applicant must certify that they qualify to own a C/P endorsed permit and indicate whether they agree or disagree with NMFS' determination on initial issuance of the C/P endorsed permit provided in the application.

(3) Business entities are required to submit a corporate resolution or any other credible documentation as proof that the representative of the entity is authorized to act on behalf of the entity;

(4) NMFS may request additional information of the applicant as necessary to make an IAD.

(B) Application Deadline. A complete, certified application must be postmarked no later than [insert date 60 calendar days after publication of the final rule in the FEDERAL REGISTER]. NMFS will not accept or review any applications received after the application deadline. There are no hardship provisions for this deadline.

(vii) Initial Administrative Determination. NMFS will issue an IAD for all complete, certified applications received by the application deadline date. If NMFS approves the application, the applicant will receive a C/P endorsed limited entry permit. If NMFS disapproves an applicant's request to correct the application, the IAD will provide the reasons NMFS did not accept the corrections. If the applicant does not appeal the IAD within 30 calendar days of the date on the IAD, the IAD becomes the final decision of the Regional Administrator acting on behalf of the Secretary of Commerce.

(viii) Appeal. For a C/P endorsed permit issued under this section, the appeals process and timelines are specified at § 660.25(g), Subpart C. For the initial issuance of a C/P endorsed permit, the basis for appeal is described in paragraph (d)(7)(v). Items not subject to appeal include, but are not limited to, the following:

(A) the formula used to calculate initial issuance of a C/P endorsement;

(B) the allocation of C/P Coop species to the C/P Coop Program.

(e) Retention requirements. [Reserved]

(f) Observers Requirements. [Reserved]

(g) [Reserved]

(h) Catch weighting requirements. [Reserved]

(i) C/P Coop failure. [Reserved]

* Figure 1
* Trip Limit Tables - Table 3 North and South