

**COUNCIL FINAL PREFERRED GROUND FISH TRAWL  
RATIONALIZATION ALTERNATIVE**

**Appendix D**

**To The  
Rationalization of the Pacific Coast  
Groundfish Limited Entry Trawl Fishery  
Final Environmental Impact Statement**

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## Acronyms and Abbreviations

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

## D.1 Overview of Recommendations by Sector

The Pacific Fishery Management Council's (Council) sector specific recommendations for rationalizing the trawl fishery are provided here and will be finalized and forwarded to the National Marine Fisheries (NMFS) for approval later in 2009. The recommendations were adopted at the Council's November 2008 meeting. In general, the Council recommends the following:

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

Manage with individual fishing quotas (IFQs).

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

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

Provide 80 percent of the initial allocation of whiting IFQ to holders of vessel permits; and

provide 20 percent of the initial allocation of whiting to processors.

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

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

Require that vessels declare pre-season the MS processor for which they will fish in a coming year.

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

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

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

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

The amount of allocation available for these sectors will be determined through the intersector allocation process. IFQ for the shoreside fishery may not be delivered to at-sea processors, nor may quota allocated to the mothership (MS) or CP sectors be delivered shoreside.

The following sections provide a general summary of the program for each sector, followed by a complete description that also identifies trailing actions the Council has been working on in 2009. These actions will be completed prior the time it submits the package to NMFS for approval.<sup>2</sup> *The trailing actions pertain to eligibility to own IFQ, accumulation limits, and adaptive management. Implementation is not expected earlier than 2011.*

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

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

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

<sup>2</sup> During its March and April 2009 meetings, the Council also clarified a number of its recommendations. These clarifications are reflected in the version of the trawl rationalization recommendation provided here.

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

Under this program, most status quo management tools would remain in place. The main exceptions are cumulative landing limits for nonwhiting groundfish species and a closure period to control whiting harvest at the start of the year.<sup>3</sup> Other measures, such as Rockfish Conservation Area (RCA) boundaries, may be adjusted as experience is gained with the IFQ program.

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

Halibut individual bycatch quota (IBQ) will be required to cover the incidental catch<sup>4</sup> of Pacific halibut in the groundfish trawl shoreside fishery. Under an IBQ program, retention would not be allowed.

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

#### **D.2.1.1 Initial Allocation**

The program will initially allocate IFQ as quota share (QS) to fishery participants based mainly on their historic involvement in the fishery. Following the initial allocation, transfers (described below) will also allow others to participate in the fishery as quota holders. The initial allocation can be viewed in two segments:

First, in developing its recommendation, the Council considered the groups that should be included in the initial allocation and the proportional split among the groups. The Council recommended that harvesters (those holding limited entry permits for trawl vessels) be given an initial allocation of 90 percent of the nonwhiting QS and 80 percent of the whiting QS. Ten percent of the QS for nonwhiting species would be made available for an adaptive management program and processors would receive 20 percent of the whiting QS.

Second, the Council considered specific allocation formulas to determine the amount of QS each eligible entity will receive. These calculations are based primarily on the delivery history associated with a vessel permit or processing company over a set number of years. For the allocation to permits, the QS associated with the history of permits retired in the buyback program will be distributed equally among the remaining qualified permits (about 44 percent of the QS will be allocated in this fashion). A special calculation is provided for incidentally caught overfished species. For these species, the allocation will be based on the QS recipient's need to cover incidental catch under current fishing practices (as measured by bycatch rates, individual permit logbooks for recent years, and the amount of target species QS that an entity receives). None of the QS for overfished species will be allocated equally among harvesters, with the exception of canary rockfish. A similar approach would be used for the allocation of halibut IBQ.

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<sup>3</sup> This closure period is necessary because of Endangered Species Act concerns related to salmon.

<sup>4</sup> At its June meeting, the Council will consider a recommendation by the Groundfish Allocation Committee to interpret previous Council action under Amendment 21 as creating an IBQ program to cover incidental mortality rather than catch.

### D.2.1.2 Stock Management Units for IFQs

QS will be issued for the species groups and areas for which there are OYs (management units). However, QS will not be required for some rarely caught species. Catch of these species would be monitored to ensure that they do not exceed any established allocations. There may be further area subdivisions for species for which there is an area specific precautionary harvest policy. There are also provisions that provide for both species group and area subdivision of QS after initial allocation.

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

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

Bycatch reduction and greater efficiency are expected to occur in the groundfish fishery under the IFQ program because of the transferability of QS and QP. Through the transfer of QS/QP (bought and sold or leased through private contract), it is anticipated that those best able to avoid catching overfished species and those who are most efficient will increase the amount of QS/QP registered to them. Those who consistently have high bycatch rates or operate less efficiently might choose to sell their QS and leave the fishery. Generally, anyone eligible to own a U.S.-documented fishing vessel could also acquire QS and QP, and the QS and QP could be acquired in very small increments.<sup>5</sup> These provisions will allow for new entrants into the fishery; for example, a crewmember could slowly purchase amounts of quota. They also allow for ownership of QS by entities that do not otherwise participate in the fishery. *In early 2009, during its trailing actions the Council considered but rejected substantially modifying provisions pertaining to who is eligible to own the QS.*

While transferability is an important component, some provisions limit transferability in order to protect against unintended consequences. For example, there will be accumulation limits on the amount of QS or QP that can be controlled by an entity and accumulation limits on the amount of QP registered to a vessel. The intent of these limits is to prevent excessive control of quota by a participant. *The exact percentages that will be used in these limits will be determined through a trailing action.*

An adaptive management provision will allow the Council to use 10 percent of the trawl allocation to provide incentives, support, or other compensation to offset adverse impacts of the program. This program may benefit communities and processors, among others. *Details will be the subject of a trailing action.*

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<sup>5</sup> To be eligible to own QS, the person need not actually own a U.S. documented fishing vessel.

#### D.2.1.4 Tracking and Monitoring

A tracking and monitoring program is necessary to ensure that all catch (including discards) is documented and matched against QP. At-sea observers would be required on all vessels, as well as shoreside monitoring during all off-loading (100 percent coverage). Cameras may be used to augment the observers and ensure compliance. Compared to status quo monitoring, this will be a significant increase for a large portion of the trawl fleet, particularly nonwhiting shoreside vessels. More accurate estimates of total mortality will benefit stock conservation goals. Discarding will be allowed, though all fish discarded will also have to be covered by QP. There would be 100 percent shoreside monitoring; and there may be limited landing hours to control costs. Additionally, a program for the mandatory submission of economic data is included to facilitate monitoring program performance.

#### D.2.1.5 Costs and Fee Structure

Program costs are of concern and ongoing Federal administrative costs are discussed in Appendix A and in Appendix H. Program benefits are expected to exceed costs. One of the major sources of costs is associated with industry payments for observers and catch monitors. To help mitigate against these costs, NMFS has announced its intent, subject to available Federal funding, that participants would initially be responsible for 10 percent of the cost of hiring observers and catch monitors. The industry proportion of the costs of hiring observers and catch monitors would be increased every year so that, once the fishery has transitioned to the rationalization program, the industry would be responsible for 100 percent of the cost of hiring the observers and catch monitors by 2014. Fee structures will be proposed to recover program costs from industry, up to the limit of 3 percent of ex-vessel value.

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

The Council will conduct a formal review of program performance no later than five years after implementation and every four years thereafter. The result of the evaluation could include dissolution of the program, revocation of all or part of quota shares, or other fundamental changes to the program. At the time of its first review, the Council will also consider the use of an auction or other non-history-based method when distributing quota share that may become available after the initial allocation.

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

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

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

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



**Table D-1 cont.** Full description of the IFQ program

	<b>Element</b>	<b>Sub-element</b>	
A-1.3	General Management and Trawl Sectors		<p>Unless otherwise specified, status quo regulations, other than trip limits for species within the scope of the IFQ program, will remain in place. If individual vessel overages (catch not covered by QP) make it necessary, area restrictions, season closures, or other measures will be used to prevent the trawl sector (in aggregate or the individual trawl sectors listed here) from going over allocations.<sup>g</sup> The IFQ fishery may also be restricted or closed as a result of overages in other sectors.</p> <p>There will be three trawl sectors: shoreside, MS, and CP. However, as per Section A-1.1, IFQ will be required only for the shoreside trawl sector. The MS and CP sectors will be managed using co-ops, as specified in the co-op section of the trawl rationalization program. If the industry organized voluntary co-op program for the CP sector collapses, IFQ will be required for the CP sector, as specified in the co-op program described for that sector.</p> <p><i>Allocation among trawl sectors has been determined in FMP Amendment 21. Those allocations not covered by Amendment 21 will be addressed in the biannual specifications process.</i></p> <p><i>Trawl vessels fishing IFQ with nontrawl gear will be required to comply with the RCA lines applicable for that gear. Such restrictions, as necessary, will be determined in a separate process.</i></p>
A-1.4	Management of Nonwhiting Trips		<p>Nonwhiting trips are those with less than 50 percent whiting. No changes to management measures, other than those identified in Section A-1.3, have been identified at this time.</p>
A-1.5	Management of Whiting Trips <sup>h</sup>		<p>Whiting seasons will not be changed under the IFQ program, and so the current spring openings will be maintained to control impacts on ESA-listed salmon.<sup>i</sup> When the primary whiting season is closed for shoreside deliveries, cumulative whiting catch limits will apply and shoreside QP will be required to cover whiting incidental catch.</p>
A-1.6	Groundfish Permit Length Endorsements		<p>Length endorsement restrictions on LE permits endorsed for groundfish gear will be retained; however, the provision that requires that the size endorsements on trawl permits transferred to smaller vessels be reduced to the size of that smaller vessel will be eliminated (i.e., length endorsements will not change when a trawl-endorsed permit is transferred to a smaller vessel).</p>

**Table D-1 cont.** Full description of the IFQ program

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

**Table D-1 cont.** Full description of the IFQ program

	Element	Sub-element	
A-2.1.3	Allocation Formula	<p>a Permits with catcher vessel history</p> <p>b Permits with CP history</p> <p>c Processors (motherships)</p> <p>d Processors (shoreside)</p>	<p>QS will be issued for all fish management units within the scope of the program (see Section A-1.2) based on equal division and permit history, as follows:<sup>1</sup></p> <p><b>Equal Division:</b> There will be an equal division of the buy-back permits' pool of QS among all qualifying permits (<i>except the incidentally caught overfished species other than canary</i>). Qualifying permits include all catcher vessel permits, including those that have been used only in the MS sector. (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.)</p> <p><b>Permit History:</b> The remaining QS (<i>the QS left after setting aside amounts for equal allocation</i>) will be allocated based on each permit's history (see following formulas).</p> <p><b>For the portion of the allocation based on each permit's history.</b>  For <b>nonwhiting</b> trips, permit history used for QS allocation will be calculated:</p> <p><b>For nonoverfished species:</b> using an allocation period of 1994-2003. Within that period use relative history and drop the three worst years.<sup>m</sup></p> <p><b>For overfished species taken incidentally:<sup>n</sup></b> using target species QS as a proxy based on the following approach: Apply fleet average bycatch rates to each permit's depth and latitude distributions and target species QS allocations. Fleet average bycatch rates for latitudinal areas<sup>o</sup> divided shoreward and seaward of the RCA will be developed from West Coast Observer Program data for 2003-06. For the purposes of the allocation, a permit's QS for each target species will be distributed shoreward and seaward of the RCA and latitudinally based on the permit's logbook information for 2003-06. If a permit does not have any logbooks for 2003-06, fleetwide averages will be used.<sup>p</sup></p> <p>For <b>whiting</b> trips, permit history used for QS allocation will be calculated as follows:</p> <p><b>For whiting</b>, use an allocation period of 1994-2003. Within that period, use relative history and drop the two worst years.<sup>q</sup></p> <p><b>For bycatch species</b> (if IFQ is used for bycatch species): use the whiting history as a proxy (i.e., allocation will be pro rata based on the whiting allocation).</p> <p><b>Area Assignments:</b> Landings history will be assigned to catch areas based on port of landing.<sup>r</sup></p> <p><b>Relative history (percent).</b> For each sector, the permit history for each year is measured as a percent of the sector's total for the year.</p> <p><b>Initial allocations will be constrained by accumulation limits.</b> See Section A-2.2.3.e for a discussion of the limits and divestiture requirements.</p> <p>Not applicable because a co-op program was provided for this sector rather than IFQs. (<i>This header is being left in the document so that paragraph numbering will correspond to numbering in the analysis</i>).</p> <p>Not applicable because a co-op program was provided for this sector rather than IFQs (<i>This header is being left in the document so that paragraph numbering will correspond to numbering in the analysis</i>).</p> <p>For whiting:</p> <ul style="list-style-type: none"> <li>Allocate whiting QS based on the entity's history for the allocation period of 1998<sup>s</sup>-2004 (drop two worst years) and use relative history.</li> </ul> <p><b>Initial allocations will be constrained by accumulation limits.</b> See Section A-2.2.3.e for a discussion of the limits and divestiture requirements.</p>

**Table D-1 cont.** Full description of the IFQ program

	<b>Element</b>	<b>Sub-element</b>	
A-2.1.4	History for Combined Permits and Other Exceptional Situations		Permit history for combined permits will include the history for all the permits that have been combined. For history occurring when two or more trawl permits were stacked, split the history evenly between the stacked permits. History for illegal landings will not count toward an allocation of QS. Landings made under nonwhiting Experimental Fishing Permits (EFPs) that are in excess of the cumulative limits in place for the nonEFP fishery will not count toward an allocation of QS. Compensation fish will not count toward an allocation of QS.
A-2.1.5	Initial Issuance Appeals		There will be no Council appeals process on the initial issuance of IFQ. NMFS will develop a proposal for an internal appeals process and bring it to the Council for consideration. Any revisions to an entity's fishtickets must be approved by the state in order to be accepted. Any proposed revisions to fishtickets should undergo review by state enforcement personnel prior to finalization of the revisions.
A-2.1.6	Direct Reallocation and Future Allocations After Initial Issuance		<p><b>Reallocation With Change in Overfished Status:</b> When an overfished species is rebuilt or a species becomes overfished there may be a change in the QS allocation within a sector (allocation between sectors is addressed in the intersector allocation process). When a stock becomes rebuilt, the reallocation will be to facilitate the re-establishment of historic target fishing opportunities. When a stock becomes overfished, QS may be reallocated to maintain target fisheries to the degree possible. That change may be based on a person's holding of QS for target species associated with the rebuilt species or other approaches deemed appropriate by the Council.</p> <p><b>Reallocation With Changes in Area Management</b> (Changes in management lines are expected to be rare; however, when they occur the following provides for the reallocation of QS in a manner that will give individual QS holders with the same amounts of total QP before and after the line changes.)</p> <p><b>Area Subdivision:</b> If at any time after the initial allocation an IFQ management unit is geographically subdivided, those holding QS for the unit being subdivided will receive an amount of QS for each newly created area that is equivalent to the amount they held for the area before it was subdivided.</p> <p><b>Area Recombination:</b> When two areas are combined, the QS held by individuals in each area will be adjusted proportionally such that (1) the total QS for the area sums to 100 percent, and (2) a person holding QS in the newly created area will receive the same amount of total QP as they would if the areas had not been combined.</p>

**Table D-1 cont.** Full description of the IFQ program

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

**Table D-1 cont.** Full description of the IFQ program

	<b>Element</b>	<b>Sub-element</b>	
A-2.2.2	IFQ Annual Issuance	a Annual Quota Pound Issuance	QP will be issued annually to QS holders based on the amount of QS held. <sup>y</sup> <i>As specified above, QS holders will have to transfer their QP to a vessel account in order for those QP to be used.</i>
		b Carryover (Surplus or Deficit)	<p>To the extent allowed by the conservation requirements of the Magnuson-Stevens Fishery Conservation and Management Act (MSA), a carryover allowance will allow surplus QP in a vessel's QP account to be carried over from one year to the next or allow a deficit in a vessel's QP account for one year to be carried over and covered with QP from a subsequent year. Surplus QP may not be carried over for more than one year.</p> <p>A vessel with a <b>QP surplus</b> at the end of the current year will be able to use that QP in the immediately following year, up to the limit of the carryover allowance (see below). However, if there is a decline in the OY, the amount of QP carried over as a surplus will be reduced in proportion to the reduction in the OY.</p> <p>A vessel with a <b>QP deficit</b> in the current year will be able to cover that deficit with QP from the following year without incurring a violation if</p> <ul style="list-style-type: none"> <li>(1) the amount of QP it needs from the following year is within the carryover allowance (see below), and</li> <li>(2) the QP are acquired within the time limits specified in A-2.2.1.<sup>w</sup></li> </ul> <p><b>Carryover Allowance:</b> Limit of up to 10 percent carryover for each species. This applies to both nonoverfished species and overfished species. The percentage is calculated based on the total pounds (used and unused) in a vessel's QP account for the current year. The percentage used for the carryover provision may be changed during the biennial specifications process.</p>
		c QS Use-or-Lose Provisions (Deleted)	<i>This section has been deleted but the numbering is being maintained as a placeholder so as not to change section numbering and corresponding references in the analysis.<sup>x</sup></i>
		d Entry Level Opportunities	Under the MSA, the Council is required to consider entry level fishermen, small vessel owners, and crew members, and in particular the possible allocation of a portion of the annual harvest to individuals falling in those categories. No special provisions have been identified for analysis. New entry is addressed indirectly by allowing crew, captains and others to acquire QS in small increments.
A-2.2.3	IFQ Transfer Rules	a Eligible to Own or Hold	No person can acquire quota shares or quota pounds other than 1) a United States citizen, 2) a permanent resident alien, or 3) a corporation, partnership, or other entity established under the laws of the United States or any State, that is eligible to own and control a U.S. fishing vessel with a fishery endorsement pursuant to 46 USC 12113 (general fishery endorsement requirements and 75 percent citizenship requirement for entities). However, there is an exception for any entity that owns a MS that participated in the west coast groundfish fishery during the allocation period and is eligible to own or control that U.S. fishing vessel with a fishery endorsement pursuant to sections 203(g) and 213(g) of the AFA.

**Table D-1 cont.** Full description of the IFQ program

	<b>Element</b>	<b>Sub-element</b>	
A-2.2.3	continued	b Transfers and Leasing	<p>QS/QP will be transferable and transfers must be registered with NMFS. NMFS will not differentiate between a transfer for a lease and a permanent transfer.<sup>y</sup></p> <p>Each year, all QP must be transferred to a vessel account. A penalty for not meeting this transfer requirement has not been recommended; however, this requirement is intended to encourage its availability for use by the fleet.</p> <p>QP can only be transferred into vessel accounts. Once in a vessel account QP can be transferred from one vessel account to another.</p>
		c Temporary Transfer Prohibition	<p>NMFS may establish temporary prohibitions on the transfer of QS, as necessary to facilitate program administration.</p> <p>QS will not be transferred in the first two years of the program (QP will be transferable).</p>
		d Divisibility	<p>QS will be highly divisible and the QP will be transferred in whole pound units (i.e., fractions of a pound may not be transferred).</p>
		e Accumulation Limits (Vessel and Control)	<p>Limits<sup>z</sup> may vary by species/species group, areas, and sector. The values for the limits are provided in Table D-2. The vessel unused QP limits may be revisited in the first biennial specifications process after implementation of the program.</p> <p><b>Vessel Use Limit (Vessel Limit):</b> A limit on the total QP that may be registered for a single vessel during the year. This element will mean that a vessel could not have more used and unused quota pounds registered for the vessel than a predetermined percentage of the QP pool.</p> <p><b>Vessel Unused QP Limit:</b> A limit on the amount of unused QP that may be registered to the vessel at any time. This limit applies only for overfished species and Pacific halibut.</p> <p><b>QS Control Limit:</b> A person, individually or collectively, may not control QS in excess of the specified limit (because there is no the grandfather clause). QS controlled by a person shall include those registered to that person, plus those controlled by other entities in which the person has a direct or indirect ownership interest, as well as shares that the person controls through other means.<sup>aa</sup> The calculation of QS controlled by a person will follow the “individual and collective” rule.</p> <p>Individual and Collective Rule: The QS that counts toward a person's accumulation limit will include 1) the QS or QP owned by them, and 2) a portion of the QS owned by any entity in which that person has an interest. The person's share of interest in that entity will determine the portion of that entity's QS that counts toward the person's limit.<sup>bb</sup></p> <p><b>Grandfather Clause and Divestiture:</b> There will not be a grandfather clause for the QS control limits, however, an adjustment period is provided through the following divestiture rules. QS will be issued for amounts in excess of aggregate and species control limits only for holders of 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 aggregate and individual species control limits. Anyone who qualifies for an initial allocation of QS in excess of the control limits will be allowed to receive that allocation but required to divest themselves of that excess QS sometime during years three and four of the IFQ program (the two years after the QS transfer moratorium specified in Section A-2.2.3.c). Holders of QS in excess of the limits</p>

**Table D-1 cont.** Full description of the IFQ program

	Element	Sub-element	
		e Accumulation Limits (Vessel and Control) (continued)	<p>may receive and use the QP associated with that excess, up to the time their divestiture is completed. However, QP for year five of the program will not be issued for QS held in excess of the limits. At the end of year four, any QS still held in excess of the species or aggregate limits in place at the time of the initial QS allocation will be revoked and redistributed to the remainder of the QS holders in proportion to their QS holdings. No compensation will be due for any revoked shares. Divestiture transfers will be allowed in accordance with the provisions established here and the transfer rules and processes implemented by NMFS. Permit transfers will not be limited or required by the divestiture provision.</p> <p><b>Calculation of Aggregate Nonwhiting QS Holdings:</b> To determining how much aggregate nonwhiting QS an entity holds, an entity's QS for each species will be converted to pounds. This conversion will always be conducted using the trawl allocations applied to the 2010 OYs, until such time as the Council recommends otherwise. Specifically, each entity's QS for each species will be multiplied by the shoreside trawl allocation for that species. The entity's pounds for all nonwhiting species will then be summed and divided by the shoreside trawl allocation of all nonwhiting species to get the entity's share of the aggregate nonwhiting trawl quota.</p> <p><i>Note: QS that is not allocated because of the accumulation limits and absence of the grandfather clause will be distributed to other eligible recipients in a manner that maintains the distribution among groups specified in A-2.1.1 and based on the allocation formulas specified in A-2.1.3.</i></p>
A-2.3	Program Administration		
A-2.3.1	Tracking, Monitoring and Enforcement		<p>It is the Council intent to provide NMFS flexibility sufficient to design and implement a tracking and monitoring program that will achieve the goals and objectives of the trawl rationalization program.</p> <p><b>Discarding by Shoreside Sector</b>  Nonwhiting – Discarding of IFQ species allowed, discarding of IBQ species required, discarding of nongroundfish species allowed.  Whiting  Maximized retention vessels:  Discarding of fish covered by IFQ or IBQ, and nongroundfish species prohibited.  Vessels sorting at-sea:  Same as for nonwhiting.</p> <p><b>At-Sea Catch Monitoring for Shoreside Sector</b>  Nonwhiting – The sorting of catch, the weighing and discarding of any IBQ and IFQ species, and the retention of IFQ species must be monitored by the observer.  Whiting  For maximized retention vessels: video monitoring as proposed under Amendment 10. Observers would be required in addition to or as a replacement for video monitoring.  For vessels that sort at-sea: The sorting, weighing and discarding of any IFQ or IBQ species must be monitored by an observer with supplemental video monitoring.</p> <p>Shoreside Landings Monitoring  The sorting, weighing and reporting of any IFQ species must be monitored by a shoreside landings monitor (IBQ will have been discarded at sea).</p>



**Table D-1 cont.** Full description of the IFQ program

	<b>Element</b>	<b>Sub-element</b>	
A-2.3.1	continued		<p style="text-align: center;"><b>Catch Tracking Mechanisms for Shoreside Sector</b></p> <p><b>Electronic vessel logbook report</b> VMS-based electronic logbook required to be transmitted from vessel. At-sea entry by vessel personnel required including catch weight by species and if retained or discarded.</p> <p><b>Vessel landing declaration report</b> Mandatory declaration reports.</p> <p><b>Electronic ITQ landing report</b> Mandatory reports completed by processors and similar to electronic fishticket report.</p> <p><b>Processor production report</b> Mandatory reports (possible inclusion of proprietary data included to be recommended as option is fleshed out).</p> <p style="text-align: center;"><b>Cost Control Mechanisms for Shoreside Sector</b></p> <p><b>Shoreside landing hour restrictions</b> Landing hours may be restricted.</p> <p><b>Shoreside site Licenses</b> Mandatory license for shoreside deliveries. License can be issued to any site that meets the monitoring requirements.</p> <p><b>Vessel Certification</b> Mandatory certification. Certificate can be issued to any vessel that meets the monitoring requirements.</p> <p style="text-align: center;"><b>Program Performance Measures for Shoreside Sector</b></p> <p>Integrate into the tracking and monitoring program the collection of data on cost, earnings and profitability; economic efficiency and stability; capacity measures; net benefits to society; distribution of net benefits; product quality; functioning of quota market; incentives to reduce bycatch; market power; spillover effects into other fisheries; contribution to regional economies (income and employment); distributional effects/community impacts; employment in seafood catching and processing; safety; bycatch and discards; administrative, enforcement, and management costs. (See A-2.3.2)</p>
A-2.3.2	Socio-Economic Data Collection		<p>The data collection program will be expanded and submission of economic data by harvesters and processors will be mandatory. Random and targeted audits may be used to validate mandatory data submissions. See footnote for a full description<sup>cc</sup> Information on QS transaction prices, will be included in a central QS ownership registry. <i>NOTE: Data collection started before the first year of implementation would be beneficial, in order to have a baseline for comparison.</i></p>
A-2.3.3	Program Costs	a Cost Recovery	<p>Fees up to three percent of exvessel value, consistent with 303A(e) of the MSA may be assessed. Cost recovery shall be for costs of management, data collection, analysis, and enforcement activities.</p>
		b Fee Structure	<p>To be determined. The TIQC recommended a fee structure that reflects usage. A fee structure that allows for equitable sharing of observer costs for smaller vessels may be developed.</p>

**Table D-1 cont.** Full description of the IFQ program

	Element	Sub-element	
A-2.3.4	Program Duration and Modification		<p>The Council shall begin a review of the IFQ program no later than 5 years after implementation of the program. The review will evaluate the progress the IFQ program has made in achieving the goal and objectives of Amendment 20. The result of this evaluation could include dissolution of the program, revocation of all or part of quota shares, or other fundamental changes to the program. Holders of quota shares should remain cognizant of this fact when making decisions regarding their quota shares, including buying selling, and leasing of these shares.</p> <p>The Council shall consider the use of an auction or other nonhistory based methods when distributing quota share that may become available after initial allocation. This may include quota created when a stock transitions from overfished to nonoverfished status, quota not used by the adaptive management program, quota forfeited to “use it or lose it” provisions, and any quota that becomes available as a result of the initial or subsequent reviews of the program.</p> <p>The specific form of the auction or other method of distribution shall be designed to achieve the goals of Amendment 20, specifically including minimizing the adverse effects from an IFQ program on fishing communities to the extent practical.</p> <p>After the initial review, there will be a review process every four years. A community advisory committee will take part in the review of IFQ program performance.</p>
A-3	<b>Adaptive Management (also see Section A-9)</b>		<p>Ten percent of the nonwhiting QS will be reserved to facilitate adaptive management in the shoreside nonwhiting sector. Therefore, each year 10 percent of the shoreside trawl sector nonwhiting quota pounds will be available for use in adaptive management (adaptive management QP). The set aside will be used to address the following objectives.</p> <ul style="list-style-type: none"> <li>○ Community stability</li> <li>○ Processor stability</li> <li>○ Conservation</li> <li>○ Unintended/Unforeseen consequences of IFQ management.</li> <li>○ Facilitating new entrants.</li> </ul> <p><b>Years One and Two.</b> During the first two years in which the IFQ program is in place, the method to be used in distributing QP in years three through five will be determined, including.</p> <ul style="list-style-type: none"> <li>○ The decision making and organization structure to be used in distributing the QP set aside<sup>dd</sup></li> <li>○ The formula for determining community and processor eligibility, as well as methods for allocation, consistent with additional goals.</li> <li>○ The division of QP among the states.</li> <li>○ Whether to allow the multi-year commitment of QP to a particular project.</li> </ul> <p><b>Years Three through Five.</b> QP will be distributed through the organizational structure, decision process, formulas and criteria developed in years one and two and implemented through subsequent Council recommendation and NMFS rule making processes. Consideration will be given to the multiyear commitment of QP to particular projects (three year commitments).</p> <p><b>Review and Duration.</b> The set aside of QP for the identified objectives will be reviewed as part of the year five comprehensive review and a range of sunset dates will be considered, including 10, 15, 20 year and no sunset date options.</p>

**Table D-1 cont.** Full description of the IFQ program

	Element	Sub-element
A-4	<b>Pacific Halibut IBQ—nonretention</b>	IBQ for Pacific halibut bycatch in the trawl fishery will be established. The IBQ will be required to cover legal and sublegal sized Pacific halibut bycatch mortality in the area north of 40°10 N latitude. It is the intent of the Council that halibut IBQ mortality be estimated on an individual vessel basis. Such IBQ will be issued on the basis of a bycatch rate applied to the target species QS an entity receives in a manner similar to that described in Section A-2.1.3.a, for overfished species caught incidentally. Area-specific bycatch rates may be used for allocation but halibut IBQ will not be geographically subdivided.

<sup>a</sup> California halibut gear of 7.5” or greater used in state waters would be exempted.

<sup>b</sup> Mandatory gear conversion (the permanent switching from trawl to some other gear) was considered but not included at this time.

<sup>c</sup> Since the shoreside trawl sector covers all shoreside deliveries, this implies that IFQ issued for the shoreside trawl sector may not be used for at-sea deliveries (i.e., may not be used to cover deliveries made to motherships or catch by catcher-processors).

<sup>d</sup> Notwithstanding this provision, a vessel with a LE trawl permit may catch the trawl QP with a nontrawl gear, as per Section A-1.1.

<sup>e</sup> At present there are no groundfish species for which the harvest in the trawl fishery is managed differently by geographic area. An example of an area specific precautionary policy from outside trawl fishery management is the geographic differential recommended by the Scientific and Statistical Committee for lingcod. Lingcod is monitored and managed differently in different geographic areas though there is a single coastwide ABC and OY for lingcod. Since there are no geographic subdivisions in the trawl management measures for lingcod, it is assumed that lingcod trawl IFQ will not be geographically subdivided.

<sup>f</sup> Such changes in latitudinal area management may occur as a result of changes in the management areas for species/species complexes in the ABC/OY table or as a result of separate Council action to change the trawl QS by area. In either case, specific Council action will be required to change the management areas and such action will be accompanied by appropriate supporting analysis and public comment opportunity.

<sup>g</sup> The Council authority to establish or modify RCAs will not be changed by this program.

<sup>h</sup> A whiting QP rollover provision was considered but rejected from further analysis. This provision would have allowed unused QP to be reclassified so that they could be used in any whiting sector.

<sup>i</sup> The current process for changing the whiting fishery opening dates involves a regulatory amendment developed under the FMP through a framework process. Implementation of an IFQ program should not change this process.

<sup>j</sup> **“Processors”** are defined as follows:

**An at-sea processor** is a vessel that operates as a mothership in the at-sea whiting fishery or a permitted vessel operating as a catcher-processor in the at-sea whiting fishery.

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

**“Shoreside Processing”** is defined as either of the following:

1. Any activity that takes place shoreside; and that involves: cutting groundfish into smaller portions; OR freezing, cooking, smoking, drying groundfish; OR packaging that groundfish for resale into 100 pound units or smaller for sale or distribution into a wholesale or retail market.

**Table D-1 cont.** Full description of the IFQ program

OR

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

<sup>k</sup> Transfer of physical assets alone should not be considered a basis for successor in interest. Business relationships such as transfer of the company name and customer base might be reasonable evidence of successor in interest.

<sup>l</sup> Due to the divestiture provision of Section A-2.3.2.e, it is relatively unlikely that accumulation limits will constrain the amount of QS an entity receives in the initial allocation. However, if an entity qualifies for QS in excess of accumulation limits and is does not qualify to receive that QS under the divestiture provision, the initial allocation will be constrained by first applying the aggregate limits and then, if necessary, the individual species limits. In using this approach, the entity's QS allocation should not be scaled back more than necessary to stay within limits and any QS not allocated will be reallocated to other QS recipients.

<sup>m</sup> State landings receipts (fishtickets) will be used to assess landings history for shoreside deliveries. In some cases, fishticket records do does not identify species to the same level of detail used for the IFQ management units (e.g., reports "unspecified rockfish"). Under such circumstances standard species composition routines usually used at the port level have been applied to vessel level data to estimate the species composition of such landings. In some instances, even after applying species composition information there may be some fishticket records with a species groundfish categorization that does not match with one of the IFQ management units. Under such circumstances, when the initial allocations are made, other information on the landings records and in logbooks might be used to assign the landing to its most probable species category.

<sup>n</sup> The intent is to provide an allocation method for QS for overfished species which addresses the vessel's need to have the QS to cover incidental catch in fisheries that target healthy stocks. The method would attempt to allocate the species to those who will be receiving QS for related target species. By allocating overfished species QS to those most in need of it, such an allocation would be expected to reduce transition costs. Currently, the list of overfished species that fall into this category is as follows: canary rockfish, darkblotched rockfish, Pacific Ocean perch, widow rockfish, and yelloweye rockfish. This list may change by the time the program is ready to be implemented. If a major target species became overfished, it would not be intended that such a species would be allocated via an alternative method (for example species such as Dover sole, sablefish, or Pacific whiting).

<sup>o</sup> The four areas are as follows: (1) north of 47°40 N latitude; (2) between 47°40 N latitude and 43°55 N latitude; (3) between 43°55 N latitude and 40°10 N latitude; and (4) south of 40°10 N latitude.

<sup>p</sup> In order to determine an amount of aggregate target species to which bycatch rates will be applied, each vessel's QS will be multiplied by the trawl allocation at the time of implementation.

<sup>q</sup> State landings receipts (fishtickets) will be used to assess landings history for shoreside deliveries.

<sup>r</sup> Catch area data on fishtickets are not considered appropriate for this purpose. The catch area field is often filled out by fish receivers that do not know the area in which the vessel fished. Additionally catch area is often left unspecified. Therefore, it will be assumed that all catch comes from ocean areas near the port of landing.

<sup>s</sup> March 2010. Changed from 1994-2004 to 1998-2003 to reflect Council action of November 2008.

<sup>t</sup> Unless there is a change in the total OY or other factors affecting trawl allocation for the areas involved, in which case their change in QP would be proportional to the change in the trawl allocation.

<sup>u</sup> QP from a subsequent year may not be accessed until such QP have been issued by NMFS.

<sup>v</sup> Including QS that an entity received in excess of accumulation limits in place at the time of initial allocation (see Section A-2.2.3.e).

<sup>w</sup> Carryover of deficits provides some flexibility to use pounds from a year to cover a deficit from a previous year. Without a carryover provision, a vessel would still need to use pounds in a subsequent year to cover an overage but would incur a violation.

<sup>x</sup> The following is the text deleted from this section: "No QS use-or-lose provision has been specified. The need for this provision will be evaluated as part of program review process, and the provision could be added later, if

**Table D-1 cont.** Full description of the IFQ program

necessary. *Section A-2.2.3.b contains a provision mandating the transfer of QP to vessels each year. This is intended to encourage QP use.*"

<sup>y</sup> QS may be transferred on a temporary basis through private contract (leased) but NMFS will not track lease transfers differently than any other transfer.

<sup>z</sup> The "vessel" accumulation limit was originally termed a "permit" limit. The term "permit" was changed to "vessel" to be consistent with Section A-2.1.3, which indicates that QP go into vessel accounts, not permit accounts. The term "own or control" was shortened to "control" for simplicity. "Control" includes ownership and therefore is inclusive of "ownership."

<sup>aa</sup> It is the Council intent that control limits should not constrain the formation of risk pools to help the fishermen deal with overfished species constraints, so long as the pools do not undermine the effectiveness of the accumulation limits. A risk pool is one in which two or more people enter into an agreement whereby if one person does not have the QP the others would agree to provide the QP, if they have them. Whether these kinds of agreements are informal or formal, as other considerations and conditions are added to the agreements they may begin to constitute control. It is the Council intent to allow for these pooling agreements, so long as they do not become control.

<sup>bb</sup> For example, if a person has a 50 percent ownership interest in that entity, then 50 percent of the QS owned by that entity will count against the individual's accumulation limit unless it is otherwise determined that have effective control of a greater or lesser amount.

<sup>cc</sup>**Expanded data collection** would include:

mandatory submission of economic data for LE trawl industry (harvesters and processors),

voluntary submission of economic data for other sectors of the fishing industry,

transaction value information in a centralized registry of ownership, and

formal monitoring of government costs.

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

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

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

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

**Table D-1 cont.** Full description of the IFQ program

**Central Registry:** Information on transaction prices will be included in a central registry of QS owners. Such information will also be included for LE permit owners/lessees.

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

<sup>dd</sup> The following are three options for the sequences of agency involvement in decision making for the distribution of adaptive management QP after year 2..

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

**Table D-2.** Control and vessel limit options: Council preferred alternative.

Species Category	Vessel Limit (Applies to all QP in a Vessel Account, Used and Unused)	Vessel Unused QP Limit	QS Control Lim
Nonwhiting Groundfish Species	3.2%		2.7%
Lingcod - coastwide	3.8%		2.5%
Pacific Cod	20.0%		12.0%
Pacific whiting (shoreside)	15.0%		10.0%
Pacific whiting (mothership)	30.0%		20.0%
Sablefish			
N. of 36° (Monterey north)	4.5%		3.0%
S. of 36° (Conception area)	15.0%		10.0%
PACIFIC OCEAN PERCH	6.0%	4.0%	4.0%
WIDOW ROCKFISH *	8.5%	5.1%	5.1%
CANARY ROCKFISH	10.0%	4.4%	4.4%
Chilipepper Rockfish	15.0%		10.0%
BOCACCIO	15.4%	13.2%	13.2%
Splitnose Rockfish	15.0%		10.0%
Yellowtail Rockfish	7.5%		5.0%
Shortspine Thornyhead			
N. of 34°27'	9.0%		6.0%
S. of 34°27'	9.0%		6.0%
Longspine Thornyhead			
N. of 34°27'	9.0%		6.0%
COWCOD	17.7%	17.7%	17.7%
DARKBLOTCHED	6.8%	4.5%	4.5%
YELLOWEYE	11.4%	5.7%	5.7%
Minor Rockfish North			
Shelf Species	7.5%		5.0%
Slope Species	7.5%		5.0%
Minor Rockfish South			
Shelf Species	13.5%		9.0%
Slope Species	9.0%		6.0%
Dover sole	3.9%		2.6%
English Sole	7.5%		5.0%
Petrale Sole	4.5%		3.0%
Arrowtooth Flounder	20.0%		10.0%
Starry Flounder	20.0%		10.0%
Other Flatfish	15.0%		10.0%
Other Fish	7.5%		5.0%
Pacific Halibut	14.4%	5.4%	5.4%

\* If widow rockfish is rebuilt before initial allocation of QS, the vessel limit will be set at limit will be 1.5 times the control limit.

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

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

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

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

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

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

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

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

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

NMFS will close the whiting fishery, a particular sector, the co-op or non-co-op fishery within a sector, or individual co-ops, as appropriate, when it is projected that a whiting catch or bycatch limit will be reached. With respect to co-ops, inseason monitoring and closure will be needed only at the highest level of aggregation of the co-ops. For example, if individual co-ops join together to form an inter-co-op that covers the entirety of one of the whiting sectors, then NMFS will track and close at the sector level. Nevertheless, vessel level monitoring will still be required to ensure that catch is accurately recorded.

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



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

Under this program, those who hold whiting-endorsed permits for catcher vessels in the MS sector will choose each year whether to be part of a co-op or to register to fish in the non-co-op portion of the fishery. The holders of catcher vessel permits with mothership whiting endorsements will form the co-ops. Based on its catch history, each permit that qualifies for a mothership whiting endorsement will be capped at a portion of the history (endorsement share) of the MS sector allocation of whiting and bycatch species. Each year, NMFS will distribute a catch allocation to each catcher vessel co-op based on the sum of the endorsement shares for the permits registered to that co-op. NMFS will also distribute a catch allocation each year to the non-co-op portion of the fishery, based on the collective endorsement shares of the permits opting to participate in the non-co-op fishery.

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

The class of motherships will be closed by creating a LE permit for mothership vessels. There will be restrictions limiting a vessel's ability to both catch and operate as a mothership in the whiting fishery in the same year. This will limit the ability of processing vessels to move between the CP and MS sectors.

Prior to the start of each season, each catcher vessel permit desiring to participate in the co-op fishery will obligate itself to deliver its catch to a particular MS. The obligation to a particular co-op or MS will not carry over from one year to the next, it may be changed at the catcher vessel permit owners discretion based on its preseason declaration. While catch may be transferred among participants in a co-op or inter-co-op, such transfers would not change the MS to which the catch is obligated, unless a mutual agreement is reached.

As in the IFQ program, accumulation limits will be imposed to prevent excessive concentration of catch allocations. They will cap the proportion of whiting that an individual or entity can process, the proportion of whiting an individual or entity could accumulate via ownership of catcher vessel permit(s), and the amount that can be landed by any catcher vessel.

### ***D.5.3 Co-ops for Catcher-Processors***

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

Under the CP co-op program, the main Council recommendations are the creation of a CP endorsement to close the CP fishery to new entrants and the assignment of an allocation to the voluntary CP co-op. The endorsement will be granted to LE permits registered to CP vessels if the vessels meet specified qualification criteria. Only vessels with a CP LE permit will be allowed to harvest fish from the CP sector's allocation. LE permits with CP endorsements will continue to be transferable. NMFS will not establish an allocation of catch or catch history among CP permits unless the co-op fails. NMFS will

specify the assignment of the CP sector allocation to the CP sector co-op in regulation. If necessary, a closure will be used to keep the CP sector from exceeding its allocation of whiting and bycatch species.

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

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

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

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

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

Under the co-op program, catcher vessel permits for the MS sector will be endorsed for deliveries to motherships and amounts of history assigned to each catcher vessel permit based on past harvest in the fishery. Catcher-processor permits will be endorsed for participation in the CP sector.

The whiting catch history calculation for each mothership-endorsed catcher vessel permit [CV(MS)] will be assigned to a pool for the co-op in which the permit will participate, or to a pool for the mothership non-co-op fishery. NMFS will make an allocation assignment to the CP sector co-op based on the allocation to the CP sector. Co-ops are responsible for monitoring and enforcing the catch limits of co-op members.

NMFS will monitor the catch in the mothership non-co-op fishery, the mothership co-op fishery, the CP fishery, and the overall whiting catch of all at-sea sectors. NMFS will close each segment of the fishery based on projected attainment of whiting catch. Additionally, all at-sea sectors will be subject to closure based on attainment of the overall trawl whiting allocation.

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

There will not be a rollover of unused whiting from one sector to another.

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

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

The ESA-listed salmon bycatch management measures—that is, the 11,000 Chinook threshold, 0.05 rate threshold, and triggered 100 fathom closure—will also continue to be in place.

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

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

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

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Subdivide bycatch species managed with hard caps (widow, canary, darkblotched rockfish, and Pacific Ocean perch ) among each of the whiting sectors; within the sectors subdivide between the co-op fishery and non-co-op fishery (subdivision for the non-co-op fishery does not apply to the CP co-op program); and subdivide among co-ops.

Only those species with hard caps will be subdivided for bycatch management, and bycatch will be allocated to each permit and co-op pro rata in proportion to its whiting allocation. The MS sector's bycatch allocation will be divided between its co-op and non-co-op fishery, based on the allocations made to the permits participating in each portion of the fishery.

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

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All sectors and co-ops will close based on projected attainment of the at-sea whiting fishery bycatch cap for any one species. The mothership co-op fishery, non-co-op fishery, and CP fishery will each be closed based on projected attainment of their individual allocation. Additionally, each co-op will cease fishing when its bycatch allocation is reached.

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

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

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

**At-sea Whiting Fishery:** 100 percent observer coverage aboard MS and CP will continue. Observers would be required in addition to or as a replacement for video monitoring.<sup>6</sup>

For some coverage, cameras may be used in place of observers (feasibility to be determined). It is the Council's intent to provide NMFS flexibility sufficient to design and implementation a tracking and monitoring program that will achieve the goals and objectives of the trawl rationalization program.

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

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

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

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

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<sup>6</sup> February 2010: The second sentence of this paragraph was adopted as part of the Council's November 2008 motion, but it was located under the section on the IFQ program rather than the section on the mothership co-op program.

A mandatory data collection program shall be developed and implemented as part of the groundfish trawl rationalization program and continued through the life of the program. Cost, revenue, ownership, employment and other information will be collected on a periodic basis (based on scientific requirements) to provide the information necessary to study the impacts of the program, including achievement of goals and objectives associated with the rationalization program. These data may also be used to analyze the economic and social impacts of future FMP amendments on industry, regions, and localities. The program will include targeted and random audits as necessary to verify and validate data submissions. *Data collected under this authority will be treated as confidential in accordance with Section 402 of the MSA.* Additional funding (as compared to status quo) will be needed to support the collection of these data. The data collected would include data needed to meet MSA requirements (including antitrust).

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

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

**Central Registry:** Information on transaction prices will be included in a central registry of whiting endorsed permit and MS permit owners. Such information will also be included for sales and lessees.

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

### **B-1.6 Adaptive Management**

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

### **B-1.7 Length Endorsement**

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

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

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

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

#### **a. Catcher Vessels**

Vessels with CV(MS)-endorsed permits may participate in either the co-op or non-co-op portion of the mothership fishery. They will choose annually which fishery they will participate in for the coming year. Additionally, any groundfish LE trawl permitted vessels may participate in the co-op portion of the fishery if they join a co-op (as described in Section B-2.3.3).<sup>7</sup> No other catcher vessels may participate in the mothership fishery.

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

#### **b. Processors**

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

#### **c. Vessels Excluded<sup>8</sup>**

Motherships also operating as a CP may not operate as a mothership: during a year in which it also participates as a CP.

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<sup>7</sup> When such permits participate in a co-op, the co-op will not be allocated any additional fish based on participation by such a vessel.

<sup>8</sup> A vessel that has been under foreign registry after the date of the AFA and that has participated in fisheries in the territorial waters or exclusive economic zones of other countries will not be eligible to participate as a mothership in the mothership sector of the Pacific whiting fishery, as per the AFA's modification of Section 12102(c)(6) of the USC. Section 12102(c)(6) of the USC has since been renumbered.

## B-2.2 Permits/Endorsement Qualification and Characteristics

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

#### a. Endorsement Qualification and History Assignment

Permits with a qualifying history will be designated as CV(MS) permits through the addition of an endorsement to their LE groundfish permit. At the time of endorsement qualification, each permit will also be assigned a catch history that will determine the share of the mothership whiting allocation associated with that permit.

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

**Catch History Assignment (Identification of Endorsement Related Catch History).** The initial catch history calculation for CV(MS) whiting endorsements will be based on whiting history of the permit for 1994 through 2003, dropping two<sup>9</sup> years. A permit's history for each year will be measured as a share of the fleet history for that year (i.e., "relative pounds" will be used). This catch history will be used by NMFS to assign both whiting and bycatch species allocations to the co-ops and non-co-op fishery pools, as per section B.1.3.2.

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

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

The CV(MS) whiting endorsement (together with the associated catch history) *may not be* severed from the groundfish LE trawl permit. Catch history associated with the whiting endorsement may not be subdivided. CV(MS) permits may be transferred two times during the fishing year, provided that the second transfer is back to the original catcher vessel (i.e., only one transfer per year to a different catcher vessel).

#### c. Accumulation Limit

**CV(MS) Permit Ownership:** No individual or entity may own CV(MS) permits for which the allocation total is greater than 20 percent.

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

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<sup>9</sup> February 2010: The word "worst" was removed in line with the Council's April 2009 action specifying that the permit owner would be allowed to select the years dropped from the calculation.

#### **d. Combination**

**CV(MS) Permit Combination to Achieve a Larger Size Endorsement.** When a CV(MS)-endorsed permit is combined with another permit (including unendorsed permits), the resulting permit will be CV(MS) endorsed.<sup>10</sup>

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

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##### **a. Qualifying Entities**

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

##### **b. Qualification Requirements**

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

##### **c. Transferability**

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

##### **d. Usage Limit**

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

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

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

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

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<sup>10</sup> Specifically, a CV(MS)-endorsed permit that is combined with a LE trawl permit that is not CV(MS) endorsed or one that is CV(Shoreside) [CV(SS)] endorsed will be reissued with the CV(MS) endorsement. If the other permit is CV(SS) endorsed, the CV(SS) endorsement will also be maintained on the resulting permit. However, CV(MS) and CV(SS) catch histories will be maintained separately on the resulting permit and be specific to participation in the sectors for which the catch histories were originally determined. If a CV(MS) permit is combined with a CP permit, the CV(MS) endorsement and history will not be reissued on the combined permit. The size endorsement resulting from permit combinations will be determined based on the existing permit combination formula.



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**B-2.3.2**      **When**

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

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

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

**Co-op permit and agreement.** Federal co-op permits will be issued for co-op agreements approved by NMFS. Signed copies of the cooperative contracts must be filed with the Council and NMFS and available for public review before the co-op is authorized to engage in fishing activities.<sup>11</sup> Any material changes or amendments to the contract must be filed annually with the Council and NMFS by a date certain.

**Letter to Department of Justice.** Co-ops must also file with the Council and NMFS a copy of a letter from the co-op requesting a business review letter on the fishery cooperative from the Department of Justice and any response to such request.

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

CV permits may join together in separate harvester co-ops. A minimum of 20 percent of the CV(MS) permit holders are required to form a co-op.<sup>12</sup> Co-ops may form co-ops with other co-ops. Within one of the whiting sectors, these co-ops may be formed to manage directed catch and/or bycatch. Whiting and bycatch allocations may be transferred among co-ops through inter-co-op agreements.

**c. Catch History Distributions among Permits**

Co-op agreements must stipulate that catch allocations to members of the co-op be based on their catch history calculation by NMFS used for distribution to the co-op.

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

Through temporary arrangements a co-op allocation may be harvested by any catcher vessel holding a valid LE trawl permit which has joined the co-op (including one that does not have a CV(MS) endorsement).<sup>13</sup>

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

The Council's intent is to have MS sector participants work with NMFS to develop and describe a process and co-op agreement requirements to include in implementing regulations for this action.

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<sup>11</sup> During council discussion, this was flagged by NOAA GC as a potential legal problem.

<sup>12</sup> The minimum threshold number of participants required to form a co-op balances the potential advantages for multiple co-ops while limiting implementation and management costs and administrative requirements for managing this sector.

<sup>13</sup> As a member of the co-op, such a vessel would be subject to Section B-2.4 and the indicated processor obligations.

A co-op agreement must include:

1. A list of all vessels, and which must match the amount distributed to individual permit holders by NMFS.
2. Signature of all permit holders participating in the co-op.
3. A plan to adequately monitor catch and bycatch.
4. Adequate enforcement and penalty provisions to ensure that catch and bycatch overages do not occur.
5. Measures designed to reduce bycatch of overfished species.
6. An obligation to manage inseason transfers of catch history.
7. A requirement that agreement by at least a majority of the members is required to dissolve a co-op (**During council discussion this was flagged by NOAA GC as a potential legal problem**).
8. An obligation to produce an annual report to the Council and NMFS by a date certain documenting the co-op's catch and bycatch data and inseason transfers (the report is to be available for review by the public).
9. Identification of a co-op manager who will:
  - a. serve as the contact person with NMFS, the Council and other co-ops,
  - b. be responsible for the annual distribution of catch and bycatch,
  - c. oversee transfers,
  - d. prepare annual reports, and
  - e. be authorized to receive or respond to any legal process against the co-op.
10. Provisions that prohibit co-op membership by permit holders that have incurred legal sanctions that prevent them from fishing groundfish in the Council region.
11. A provision that requires new owners to comply with membership restrictions in the co-op agreements.

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

1. In the case of two or more cooperatives entering into an inter-cooperative agreement, the inter-co-op agreement must incorporate and honor the provisions of the individual co-op agreements unless all such agreements (or modifications thereof) are resubmitted for approval.
2. The requirements of Sections 2.3.3.a-2.3.3.e apply to the inter-co-op agreement, except that for the purpose of Section 2.3.3.e., subparagraph 7, the members of the inter-co-ops are the co-ops and not the participants in each co-op.

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

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

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

Each year, a permit will obligate to a processor all of its catch for a coming year.

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

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There will not be a processor tie that carries from one year to the next. CV(MS) permits will be obligated to a single MS permit for an entire year but may change to a different MS permit through a preseason declaration of intent.

Between September 1 and December 31 of the year prior to implementation and every year thereafter, each CV(MS) permit is required to contact NMFS and indicate whether CV(MS) permit will be participating in the co-op or non-co-op fishery in the following year. If participating in the co-op fishery, then CV(MS) permit must also provide the name of the MS permit that CV(MS) permit will be linked to in the following year (i.e., annual catcher vessel, mothership linkage that may be changed each year without requirement to go into the "non-co-op" fishery). Once established, the catcher vessel, mothership linkage shall remain in place until changed by CV(MS) permit. By September 1 of the year prior to implementation and every year thereafter, if CV permit would be participating in the co-op fishery in the following year, then CV permit must notify the MS permit that the CV permit QP will be linked to in the following year.<sup>14</sup>

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

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

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

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

##### **b. Mutual Agreement Exception**

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

#### **B-2.4.3 Mothership Processor Withdrawal**

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

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<sup>14</sup> February 2010: The last sentence of this paragraph was part of the November 2008 Council motion and was inadvertently omitted from previous drafts of the Council's final preferred alternative. At its June 2010 meeting, the provision was modified to specify September 1 as the notification date. Previously the date was July 1.

## **B-2.5 NMFS Role**

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### ***B-2.5.1 Permit and Endorsement Issuance***

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NMFS will issue all necessary permits and endorsements under the rules specified under this program. Appeals processes will be provided as appropriate and necessary.

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

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NMFS will announce a deadline before which all co-op agreements must be received for the coming year. NMFS will review and approve or reject co-op agreements based on standards provided here and other standards that it deems necessary to achieve the policy intent of the Council's actions.

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

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#### **a. Co-op Allocation**

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

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

Each year NMFS will determine the distribution to be given to the non-co-op fishery based on the catch history calculation of permit holders registered to participate in that fishery.

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

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1. NMFS will track all permit transfers and the invocation of mutual agreement exceptions. Permit transfers will not be valid until registered and acknowledged by NMFS.
2. NMFS will monitor catch and close segments of the fishery as necessary to ensure catch limits are not exceeded for:
  - a. the whiting mothership co-op fishery
  - b. the whiting mothership non-co-op fishery
  - c. the mothership whiting sector as a whole
3. NMFS will not necessarily monitor, but will investigate and enforce as it deems necessary, the permit and co-op obligations to motherships.
4. NMFS will not necessarily monitor or enforce (except as it deems necessary):
  - a. an individual permit's progress towards its catch allocations (permit level catch control will be at the co-op level and enforced through execution of the private contract)
  - b. a co-op's progress toward its catch allocation<sup>15</sup>

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<sup>15</sup> This assumes that there is an inter-co-op agreement in place that covers the entire co-op fishery. If such an agreement is not in place covering both catch and bycatch, NMFS may have to monitor catch by each individual

- c. actual performance of the co-op agreement (the parties to the contract will resolve through private contract and remedies any deviation from provisions such as that requiring that a vessel have the opportunity to harvest the catch allocated to the co-op based on that vessel's permit, Section B-2.3.3.c)
5. NMFS will monitor other program provisions as needed. In some situations, there may need to be a declaration procedure to determine where a permit is delivering its obligated catch, for example, if a mothership withdraws without transferring its permit or reaching a mutual agreement for the transfer of obligated deliveries to a different mothership.

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

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

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

Catch by the CP sector will be controlled primarily by closing the fishery when a constraining allocation is reached.<sup>16</sup> As under status quo, vessels may form co-ops to achieve benefits that result from a slower-paced, more controlled harvest. The main recommendations are the creation of a limited number of CP endorsements, the requirement that a CP co-op qualify for a Federal co-op permit, and the specification in regulation of the amounts that will be available for harvest by the voluntary co-op. A new entrant will have to acquire a permit with a CP endorsement in order to enter the fishery. If the co-op system fails, it will be replaced by an IFQ program and the initial issuance of IFQ will be allocated equally among the permits (equally divided among all CP endorsed permits).

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

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

**Participation as Mothership.** A CP cannot operate as a mothership during the same year it participates in the CP fishery.

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

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co-op (but not by the individual vessels in the co-op).

<sup>16</sup> All references to catcher-processors in this section references to vessels operating in the catcher-processor sector. Vessels under 75' which catch and process at-sea as part of the shoreside sector are not covered here.

permit.) The resulting size endorsement will be determined based on the existing permit combination formula.

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

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

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

**Annual registration.** As under status quo, co-op(s) will be formed among holders of permits for CP. Participation in the co-op will be at the discretion of those permit holders. If eligible participants choose to form a co-op, the CP sector will be managed as a private voluntary cooperative and governed by a private contract that specifies, among other things, allocation of whiting among CP permits, catch/bycatch management, and enforcement and compliance provisions. The co-op will submit an application to NMFS for a Federal co-op permit. NMFS will not establish an allocation of catch or catch history among permits unless the sector fails to organize itself under a single co-op agreement that qualifies for a Federal co-op permit. If the co-op system fails, it will be replaced by an IFQ program and the initial issuance of IFQ will be divided equally among all CP endorsed permits.

**Annual Reporting Requirements.** The CP cooperative will submit an annual report to the Council at their November meeting. The report will contain information about the current year's CP fishery, including the CP sector's annual allocation of Pacific whiting; the CP cooperative's actual retained and discarded catch of Pacific whiting, salmon, rockfish, groundfish, and other species on a vessel-by-vessel basis; a description of the method used by the CP cooperative to monitor performance of cooperative vessels that participated in the CP sector of the fishery; and a description of any actions taken by the CP cooperative in response to any vessels that exceed their allowed catch and bycatch. The report will also identify plans for the next year's CP fishery, including the companies participating in the cooperative, the harvest agreement, and catch monitoring and reporting requirements.

## **B-4.3 NMFS Role**

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

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NMFS will issue all necessary permits and endorsements under the rules specified under this program. Appeals processes will be provided as appropriate and necessary.

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

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

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

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

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