



# Compliance Guide for the Pacific Coast Groundfish Trawl Rationalization Program

## Program Improvement and Enhancement Rule (PIE 2), including:

- Quota share permit application and transfers,
- Lender exceptions,
- Quota pound deficits,
- Co-op reports,
- First receiver site licenses,
- End of year quota pound transfers,
- Permit/vessel registration process and terms,
- Other minor clarifications and new prohibitions.

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This small entity compliance guide was prepared pursuant to section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. 104-121. The statements in this document are intended solely as guidance. This document is intended to provide a plain-language summary of how small businesses can comply with regulations in (or promulgated in) the second program improvement and enhancement rule of the Pacific Coast groundfish trawl rationalization program (78 FR 68764, November 15, 2013). Any discrepancies between this guide and the *Federal Register* will be resolved in favor of the *Federal Register*.



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## Need Help?

### Websites:

NMFS, Pacific Coast Groundfish Management, Trawl Rationalization Program :

[http://www.westcoast.fisheries.noaa.gov/fisheries/groundfish\\_catch\\_shares/index.html](http://www.westcoast.fisheries.noaa.gov/fisheries/groundfish_catch_shares/index.html)

Pacific Fishery Management Council, Groundfish Management:

<http://www.pcouncil.org/groundfish/fishery-management-plan/>

### Question regarding the program?

Contact the Groundfish Policy and Regulations Branch at:

Phone: 206-526-6140 Fax: 206-526-6736

### Question regarding permits/licenses?

Contact the NMFS, West Coast Region Permits Office at:

Phone: 206-526-4353

### Question regarding the observer program?

Contact the West Coast Groundfish Observer Program at:

Phone: 206--302-1777

### Question regarding the catch monitor program?

Contact the catch monitor program coordinator at:

Phone: 503-595-3282

### Need to contact NMFS law enforcement?

Find an enforcement office nearest you at: <http://www.nmfs.noaa.gov/ole/index.html>

### Need to report violations?

Hotline: 800-853-1964

## Introduction

In January 2011, NMFS implemented the trawl rationalization program for the Pacific coast groundfish fishery's trawl fleet (see 75 FR 78344; Dec. 15, 2010). The program was adopted in 2010 through Amendments 20 and 21 to the FMP and consists of an Individual Fishing Quota (IFQ) program for the shorebased trawl fleet (including whiting and non-whiting fisheries); and cooperative (coop) programs for the at-sea mothership (MS) and catcher/processor (C/P) trawl fleets (whiting only).

Since that time, the Pacific Fishery Management Council (Council) and NMFS have been addressing implementation issues as they arise, some of which are in the PIE 2 rule and this compliance guide.

## 1. Who Should Read This Guide?

This guide is designed for commercial fishermen and processors participating in the Pacific Coast groundfish fishery. It provides information to assist participants in understanding the regulations of the West Coast Trawl Catch Share Program (program) and, in particular, the second program improvement and enhancement rule (PIE 2) (see 78 FR 68764).

This compliance guide is organized by: (Ch. 2) Changes applicable to all commercial groundfish sectors; (Ch. 3) Changes applicable to all trawl programs; (Ch. 4) Changes applicable to the Shorebased IFQ program; and (Ch. 5) Changes applicable to the at-sea whiting fisheries (MS coop program and C/P coop program).

## This guide applies to you if...

- you are a shorebased first receiver taking deliveries of IFQ species
- you are a mothership participating in the MS Coop Program
- you are a catcher vessel that delivers groundfish to either the shorebased or mothership sectors
- you are a catcher/processor participating in the C/P Coop Program
- you are a member of the limited entry fixed gear sector
- you are a lender to participants in the Shorebased IFQ Program

## 2 ■ Changes Applicable to All Commercial Groundfish Sectors

The following chapter discusses changes implemented by PIE 2 that affect all commercial groundfish sectors.

### 2.1 Permit/vessel registration process changes

NMFS revised regulations at §660.25(b)(4)(iv), (v), (vii), and (viii) that outline the process for requesting a change in vessel ownership, permit registered to a vessel, and ownership of a limited entry permit.

#### Why was this change required?

The previous regulations did not have a well-defined process for making a change in vessel ownership registered to a limited entry permit. NMFS made this change because in viewing USCG data periodically, it found changes in vessel ownership had not been reported promptly to NMFS. As such, the information on the permit was out of date. NMFS felt that it was important to place the responsibility of updating changes in vessel ownership on the new vessel owner and not the permit owner, who may or may not have knowledge of changes in vessel ownership.

#### What is considered a change in vessel ownership and when must one report such a change to NMFS?

A change in vessel ownership includes any change in the individuals and/or entities given on the USCG vessel documentation or state vessel registration. This would include the addition or deletion of individuals or entities registered as vessel owners, or a change in name of an individual, or a change in an entity (for example, if Acme Inc, changes to Acme LLC, then this change would need to be reported to NMFS).

The new owner(s) of a vessel registered to a limited entry permit must report any change in vessel ownership to NMFS within 30 calendar days after such change has been registered with the USCG or a state licensing agency.

#### How do I request a change in vessel ownership?

When vessel ownership changes, the new vessel owner must provide the following items:

- 1) A complete application form for a change in vessel owner,
- 2) Current copy of the USCG Form 1270 for vessels of 5 net tons or greater, or a current copy of a state registration form for vessels under 5 net tons, and
- 3) Identification of Ownership Interest Form, if required.

Application forms for a change in vessel owner and Identification of Ownership Interest forms are available at: NMFS West Coast Region, Sustainable Fisheries Division, ATTN: Fisheries Permit Office, 7600 Sand Point Way, NE., Seattle, WA 98115; or

[http://www.westcoast.fisheries.noaa.gov/fisheries/management/groundfish\\_permits/limited\\_entry\\_permits.html](http://www.westcoast.fisheries.noaa.gov/fisheries/management/groundfish_permits/limited_entry_permits.html).

Contents of the application, and required supporting documentation, are also specified in the application form. Only complete applications will be processed.

## 2.2 Permit/ vessel registration terms

This revision affects all members of the commercial, limited entry Pacific Coast Groundfish fishery.

### What is a “permit holder” and why is the term being removed from regulations?

In regulation, the term “permit holder” is the owner of a vessel registered to a limited entry permit. The term “permit holder” is removed from regulations and replaced by “vessel owner” or “owner of a vessel registered to a limited entry permit” to reduce confusion among the regulated public on who is responsible. The term “permit owner” and “permit holder” have been used interchangeably by the public, which is not accurate. According to regulations, the permit owner registers their permit to be fished by a particular vessel, making the vessel owner the “holder” of the permit. “Permit holder” and “vessel owner” are used interchangeably in regulation while the public has used the term “permit holder” and “permit owner” interchangeably—causing confusion. In an effort to make the regulations clearer, NMFS has removed the term “permit holder” from regulation, and replaced it with “vessels registered to limited entry permits”; “vessel owner”; “vessel holding the permit”; and, “permit owners”, as appropriate.

## 3 ■ Changes Applicable to All Trawl Programs

The following chapter discusses changes implemented by PIE 2 that affect all trawl programs.

### 3.1 Sorting requirement for full retention

This revision affects all members of the Pacific Coast Groundfish trawl fishery. NMFS revised regulations at §660.112(b)(2)(ii), §660.130(d)(2)(i), §660.130(d)(3)(i), §660.140(j)(2)(viii), and §660.140(j)(2)(ix) to clarify that the term “predominant species” refers to a single species.

#### Why was this change required?

Use of the term “predominant species” has created confusion because “species” may be interpreted to be singular or plural, however as the term is used in this exception, there can only be a single predominant species identified prior to re-weighing, post-sorting, or it becomes extremely difficult to derive the weight of the predominant species by deducting the combined weight of incidental catch from total catch weight.



## 4 ■ Changes Applicable to the Shorebased IFQ Program

The following chapter discusses changes implemented by PIE 2 that affect the Shorebased IFQ program.

### 4.1 QS permit application and QS transfer regulations

Quota share (QS) transfer will begin on January 1, 2014 for all species with the exception of widow rockfish (see 77 FR 45508 and 78 FR 18879). The following chapter explains the QS transfer regulations, including the application process for new entrants into the fishery who would like to purchase QS.

#### What is a QS permit?

A QS permit conveys a conditional privilege that allows a person to own QS or individual bycatch quota (IBQ) for designated species and species groups to fish in the Shorebased IFQ Program.

#### Who may apply for a QS permit?

Only the following persons are eligible to own QS permits:

- (A) A United States citizen, that is eligible to own and control a U.S. fishing vessel with a fishery endorsement pursuant to 46 U.S.C. 12113 (general fishery endorsement requirements and 75 percent citizenship requirement for entities);
- (B) A permanent resident alien, that is eligible to own and control a U.S. fishing vessel with a fishery endorsement pursuant to 46 U.S.C. 12113 (general fishery endorsement requirements and 75 percent citizenship requirement for entities); or
- (C) 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 U.S.C. 12113 (general fishery endorsement requirements and 75 percent citizenship requirement for entities). However, there is an exception for any entity that owns a mothership 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.

#### How do I apply for a QS permit, if I don't already have one?

To apply to become a QS permit owner, you must submit (1) a QS Permit Application Form, and (2) a Trawl Identification of Ownership Interest Form. These forms can be found online at the Quota Share Permits & Accounts page of the West Coast Regional website:

[http://www.westcoast.fisheries.noaa.gov/fisheries/groundfish\\_catch\\_shares/quota\\_share\\_permits\\_accounts.html](http://www.westcoast.fisheries.noaa.gov/fisheries/groundfish_catch_shares/quota_share_permits_accounts.html).

Additionally, a QS permit application will not be processed unless any required EDCs have been submitted. To see if you will be required to submit an EDC Form, please see Table 1 below.

Table 1. Who is required to submit an EDC Form?

Fishery Participant	Who is required to submit an EDC?
<b>(1) Limited entry trawl catcher vessels</b>	All owners, lessees, and charterers of a catcher vessel registered to a limited entry trawl endorsed permit at any time in 2011 and beyond
<b>(2) Motherships</b>	All owners, lessees, and charterers of a mothership vessel registered to an MS permit at any time in 2011 and beyond
<b>(3) Catcher processors</b>	All owners, lessees, and charterers of a catcher processor vessel registered to a C/P-endorsed limited entry trawl permit at any time in 2011 and beyond
<b>(4) First receivers/shorebased processors</b>	(A) All owners of a first receiver site license in 2011 and beyond  (B) All owners and lessees of a shorebased processor (as defined under "processor" at §660.11, for purposes of EDC) that received round or headed-and-gutted IFQ species groundfish or whiting from a first receiver in 2011 and beyond.

### What happens if my QS permit application is disapproved?

For all complete applications, NMFS will issue an initial administrative determination (IAD) that either approves or disapproves the application. If disapproved, the IAD will provide the reasons for this determination. The applicant may then appeal this decision by following the process outlined at §660.25(g) and as described in the IAD letter. If the applicant does not appeal the IAD within 30 calendar days, the IAD becomes the final decision of the Regional Administrator acting on behalf of the Secretary of Commerce.

### What happens if my QS permit application is approved?

Upon approval of a QS permit application, NMFS will issue a QS permit and associated QS account (as described below) with a starting QS percentage balance of zero for each IFQ and individual bycatch quota (IBQ) species. In this case, the QS permit serves as the IAD.

### **When is a QS permit effective ?**

The QS permit is effective on the date given on the permit and remains effective until the end of the calendar year.

### **Can I transfer my QS permit?**

No. A QS permit is not transferrable to another person, business or entity. Only the QS percentages are transferrable, not the permit itself.

### **When am I required to renew my QS permit?**

QS permits must be renewed online annually, between October 1 and November 30, to receive quota pound allocations and perform QS transfers. As part of the online QS permit renewal, QS permit owners will review and update contact information, and review ownership interest information, mailing in a new form if the one presented is incorrect. QS permit applications will not be processed unless any required EDCs have been submitted.

### **What if I fail to renew my QS permit by November 30?**

If a complete QS permit renewal package is not received by November 30, the QS permit and associated QS account will not be renewed/ activated for the start of the following calendar year, and QS may not be transferred. NMFS will not issue QP or IBQ pounds associated with the non-renewed QS permit for that year. Any QP or IBQ pounds derived from the QS or IBQ in the inactive QS account will be distributed to the active QS accounts in proportion to the QS or IBQ for each IFQ species given on the renewed QS permit.

### **If I fail to renew by the November 30 deadline, can I renew my QS account after January 1 of the following year?**

Yes. If a QS permit is not renewed during the October 1 through November 30 renewal period, the QS permit owner may renew after January 1 in the following year by submission of a paper renewal application, or may renew the QS permit during the next October 1 through November 30 renewal period. For renewals submitted after January 1, QP will not be allocated to the QS account in that year. The QS permit owner will be able to transfer QS percentages from the time the QS account is activated until November 30 of that calendar year.

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

online for the 2015 calendar year by November 30, 2014, QS permit owner A would be allocated 2015 QP, and could transfer QS in 2015.

## **What is a QS account?**

A QS account is an online accounting system much like an online banking account. A QS permit owner's QS and IBQ allocation amounts (expressed as a percent) for each species will appear in a QS account as well as the associated quota pounds (QP) and IBQ pounds. QS permit owners will be able to see their QS and IBQ balances, and their QP and IBQ pound balances, and will be able to initiate transfers of QP and IBQ pounds to vessel accounts, and transfers of QS and IBQ between QS accounts, using this system.

## **What equipment and software do I need to access my QS account?**

The QS account is a web-based system. Therefore, participants must have access to a computer with internet access and must set up online access to their QS account to participate. The computer must have internet browser software installed (e.g., Internet Explorer, Netscape, Mozilla Firefox), as well as the Adobe Flash Player software version 9.0 or greater.

## **How can I access my QS account?**

QS permit owners can access their QS accounts through the use of a unique ID and password. NMFS will mail the user ID and password to QS permit owners. When logging in the first time, the QS permit owner must change their password and provide answers to security questions; the password must also be changed every 6 months. QS permit owners should monitor their online QS account and all associated messages often.

## **Are QS permit owners required to transfer their associated QP or IBQ pounds to vessel accounts?**

Yes. Each year, in order for QP or IBQ pounds to be used, QS permit owners must transfer their associated QP and IBQ pounds from their QS account to a vessel account by September 1. If you fail to transfer QPs out of your QS account by September 1, they are stranded in the QS account and not available for use in a vessel account.

## **How do I transfer QP or IBQ pounds from a QS account to a vessel account?**

All QP or IBQ pounds must be transferred using the online QS and vessel account system. A QS permit owner may initiate a transfer by logging into their QS account, clicking on the "Initiate Transfer" tab, and identifying the species and the amount of QP or IBQ pounds (whole pounds) that will be transferred. A single transfer can include multiple species. The QS permit owner must also select a vessel that will receive the QP or IBQ pounds. QP cannot be transferred to another QS account – only to a vessel account. Once the transfer is submitted, the owner of the receiving vessel account must either accept or decline the transfer to complete the transaction in

the vessel account by clicking on the pending transfer tab. The vessel owner may only accept the entire transaction as initiated, and will not have the option to accept certain species and amounts and not others offered in the transfer. Once the transfer is completed (either accepted or declined), the system will provide a transaction confirmation number. If the transaction is accepted by the vessel owner, the designated species/amounts of QP or IBQ pounds will be debited from the QS account and credited into the vessel account. An online help guide with step-by-step instructions and screen shots is available here:

[https://www.webapps.nwfsc.noaa.gov/ifqdocs/IFQ\\_Help\\_Guide.pdf](https://www.webapps.nwfsc.noaa.gov/ifqdocs/IFQ_Help_Guide.pdf)

## Can QS permit owners transfer QS to other QS permit owners' accounts?

Yes, beginning on January 1, 2014, all QS permit owners with a renewed QS permit will be able to permanently transfer percentages of QS to other QS permit owners through their online QS accounts between January 1 and November 30 of each calendar year.

## How do you transfer QS from one QS account to another QS account?

1. Log into your quota share account (see above).
2. On the top menu tabs, click "Initiate Transfer".
3. Once on the "Initiate Transfer" tab, there will be sub-tabs. Click on the "Initiate QS Transfer" sub-tab.
4. On the "Initiate Transfer" screen, which will look very much like the "Initiate QP Transfer" screen, a box will be presented with the following columns: IFQ species, QS percentage available to transfer, QS percentage to transfer, QS price. To transfer QS percentages for one or more species, click on the "Transfer QS%" box for that species, and enter an amount of QS to the thousandth of a percentage (0.001%). Then enter the price in dollar value under the "QS Price" column for the species. You can

### FOR EXAMPLE:

If QS Permit Owner A sold 1.000% of Pacific whiting QS to Permit Owner B on March 31, 2014, the sale of QS would be effective at the time the transfer was accepted by QS Permit Owner B, but no QP would be associated with the sale (QP cannot be transferred between QS accounts – only to vessel accounts). QS Permit Owner A would continue to receive any allocations of Pacific whiting pounds (QP) based on the 1.000% for the remainder of the year (in this case, 2014). On November 30, 2014 (the end of the QS trading period), if QS Permit Owner B still owned the 1.000% of Pacific whiting that he purchased from QS Permit Owner A, the QS permit for 2015 mailed by NMFS to QS Permit Owner B would reflect the updated amount of Pacific whiting owned for 2015, and any QP allocated to that 1.000% in 2015 would be issued to QS Permit Owner B.

transfer QS of one or multiple species in a single transfer to another QS permit owner.

5. Indicate the type of transfer: cash sale, barter (swap quota share for quota share), cash and barter, self-trade, or other.
6. Indicate the total monetary compensation for the transfer, or the total amount you will be paid for the transfer. You can enter \$0.
7. List in the text box any non-monetary compensation you will receive for the transfer. For example, if you were trading quota shares for quota shares, list the species and amounts you will receive in return.
8. Click "Find QS Owners". A table with all the QS Permit Owners will populate. You can either type the QS Permit Owner you are transferring to into the search box, or you can scroll through the list of names (which are in alphabetical order) to find the QS Permit Owner.
9. Click on the QS Permit Owner name that you want to transfer to.
10. Click "Next".
11. Review the transfer, make sure the amount of QS and the QS permit owner you are transferring to are correct, and complete the transfer.
12. Once you have offered the QS transfer, the other QS Permit Owner will need to sign into their QS account to accept the transfer. The transfer will not be finalized until it has been acted upon by the transferee.

If you have additional questions, an online help guide with step-by-step instructions and screen shots is available here:

[https://www.webapps.nwfsc.noaa.gov/ifaqdocs/IFQ\\_Help\\_Guide.pdf](https://www.webapps.nwfsc.noaa.gov/ifaqdocs/IFQ_Help_Guide.pdf)

### **When I transfer QS, are the associated QPs transferred simultaneously to another QS account?**

No. Any transfer of QS is a transfer of % value to another QS owner. QPs are transferred separately from QS account to a vessel account.

### **When do I receive the QP allocations associated with transferred QS?**

Any transfer of QS will be registered in the QS account in the current year, but will not be effective for the purposes of allocating QP until the start of the following year.

Essentially, the QS permit would reflect the amount of QS owned for the purposes of allocating QP in a current year. Regardless of how many QS transfers are made in a given year by the original owner of QS (as given on the QS permit, effective January 1), the original owner will be

allocated the QP associated with those percentages. Not until the start of the following year will the new owner(s) of those percentages have the percentages listed on their QS permit and receive the allocation of QP associated with those percentages in their QS account.

**The transfer of QS to and from QS permits/accounts that have not been renewed is prohibited.**

## 4.2 End of the year quota pound (QP) transfers

The regulations at §660.140(e)(3)(iii)(B) previously prohibited transfer of QP between vessel accounts from December 15-31 each year. This prohibition has been removed. This change only affects the Shoreside IFQ sector and is effective this year (2013).

### When may QP be transferred between vessel accounts?

QP may be transferred between vessel accounts during each calendar year, January 1 through December 31, subject to the vessel account regulations given at §660.140(e).

## 4.3 Change the opt-out requirement for quota pound (QP) deficits

Regulations specific to the opt-out requirement for vessels incurring a deficit may be found at §660.140(b)(1)(iii) and (e)(5)(ii)(A). To “opt-out” means that the vessel account owner declares out of the Shorebased IFQ Program for the year in which the deficit occurred. An additional option has been added to address QP deficits such that vessels that incur a deficit may re-enter the fishery under certain circumstances.

### What happens if my vessel account incurs a deficit?

A deficit occurs when catch exceeds available balance and results in a negative balance for that species. If your vessel account has a negative balance for any species, you have two options:

1. Transfer sufficient amounts of QP or IBQ pounds into the vessel account within 30 days to cover the deficit (30 days will begin from the *day and time* the deficit occurs in the vessel account; or
2. The vessel account owner declares out of the Shorebased IFQ Program for the year in which the deficit occurred. The vessel account owner must submit a signed, dated, and notarized letter to the Office of Law Enforcement (OLE), declaring out of the Shorebased IFQ Program for the remainder of the year and invoking the carryover provision to cover the deficit. Signed, dated, and notarized letters may be submitted to NMFS, Northwest

Region, Office of Law Enforcement, ATTN VMS, Bldg. 1, 7600 Sand Point Way NE., Seattle, WA 98115.

**Under the new regulations, if the vessel account owner covers the deficit later within the same calendar year, the vessel may re-enter the Shorebased IFQ Program. If the deficit occurs less than 30 days before the end of the calendar year, exiting out of the Shorebased IFQ Program for the remainder of the year is not required.**

Please note that for any vessel account with a deficit, the vessel may not go out on an IFQ fishing trip again until the deficit is covered.

## 4.4 QP vessel limits

This revision affects the Shorebased IFQ sector. NMFS revised regulations at §660.140(e)(4)(i) to clarify that the QP counted toward the annual allowable vessel limit is calculated as all QP transferred into a vessel account less all QP transferred out of a vessel account; pending transfers are not included in this calculation until the transaction has been finalized.

### Why is this change being made?

The current description of how annual QP vessel limits are tracked is misleading. The method for calculating the annual vessel limit must be independent of catch (used QP) because vessel accounts in deficit could potentially exceed the vessel limit.

The calculation for daily vessel limits (unused QP vessel limits) remains the same.

## 4.5 New prohibitions

### Change in vessel ownership requires new vessel account

NMFS added a prohibition for the Shorebased IFQ sector at §660.112(b) against failing to establish a new registered vessel account in the name of the current vessel owner following a change in ownership of a vessel and prior to fishing in the Shorebased IFQ Program with that vessel.

NMFS has become aware of situations where vessel ownership changed and the new owner was given access to the old owner's vessel account. Although current regulations at §660.140(e)(2)(ii) and (e)(3)(ii) state that any change in vessel ownership, including a change in the legal name of the vessel owner(s), will require the new owner to register with NMFS for a vessel account, the action described above was not explicitly prohibited. This new prohibition makes it clear that when the owner of a vessel changes, the new owner must request a new vessel account in their name and acquire QP into the new vessel account, and may not fish against QP in the old owner's vessel account.



## **IFQ landing must go to first receiver with a FRSL**

NMFS added a prohibition for the Shorebased IFQ sector at §660.112(b) against landing groundfish taken and retained during an IFQ trip, from the vessel that harvested the fish, to a first receiver that does not hold a valid first receiver site license for the physical location where the IFQ landing occurred.

This prohibition was added to make it clear that both first receivers and those making landings to first receivers are equally responsible for ensuring that the first receiver holds a valid first receiver site license prior to receiving an IFQ landing at an authorized physical site.

## **4.6 Lenders and QS/ IBQ limits**

The regulations at §660.140(d)(4)(iii) define control rules for eight categories of participants in the Shorebased IFQ program. Control rules limit the amount of QS/ IBQ that may be owned by a participant in the fishery. The eight categories of participants that must obey the control rules are: (1) the person who directs the business of the entity that owns the QS/ IBQ, (2) the person serving as a manager (i.e., a chief executive officer or board of directors) for the entity that owns the QS/ IBQ, (3) the person in charge of the transfer of QS/ IBQ or the resulting QP, (4) the person who controls day to day business management of the entity that owns the QS/ IBQ, (5) the person who controls any activity related to QS/ IBQ or QP and fish harvested under that QP, (6) the person who controls the management of the entity that owns the QS/ IBQ, (7) the person that controls the sale or lease of the QS/ IBQ or corresponding QP, and (8) any person who has a controlling interest in an entity that owns QS/ IBQ.

Lenders such as banks and other financial institutions that rely on QS or IBQ as collateral for loans are provided with an exception from these control rules, as described below.

### **What lenders qualify for the exception from the control rules?**

Banks or other financial institutions that are regularly or primarily engaged in the business of lending and NOT engaged in or controlled by entities whose primary business is the harvesting, processing, or distribution of fish or fish products.

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

## 4.7 First receiver site license (FRSL) changes

These changes only affect the Shoreside IFQ sector.

### **What are the effective dates for first receiver site licenses (FRSL)?**

Each FRSL is effective from the date listed on the FRSL until June 30 of each year, regardless of when the permit was issued. This change replaces the previous effective dates (a year from the date of issuance) for FRSLs.

### **How often are site inspections required for FRSL holders, and who needs to be present during the inspection?**

Each FRSL holder must have a site inspection for the site given on the license at least once every three years (instead of annually, as previously required). However, NMFS may require a site inspection more frequently than once every three years as deemed necessary. Additionally, NMFS may require the presence of a representative of the FRSL holder representative during a site inspection. If the FRSL holder's representative is unavailable at the time of the inspection, then NMFS may postpone the inspection until the requested representative is able to be present for the site inspection.

### **What if NMFS requires that changes be made to the catch monitor (CM) plan?**

Submitting a catch monitor plan is a requirement for a complete FRSL application. If NMFS requires that changes be made to the submitted catch monitor (CM) plan, then the FRSL holder may have to demonstrate that such changes have been implemented at the site prior to acceptance of the FRSL CM plan.

### **How often must FRSL holders re-register their FRSLs?**

First receivers must submit a complete re-registration application annually, no later than April 15 to ensure their new license is issued effective July 1. Again, all FRSLs expire on June 30<sup>th</sup>. NMFS will mail re-registration applications to all existing FRSL holders on or about February 1 each year. For all FRSL holders who submit a complete re-registration application, NMFS will notify those FRSL holders who will be required to have a site inspection during that year. For those FRSL holders who submit a re-registration application after April 15 of a given year, NMFS may not be able to issue the license by July 1 of that year, resulting in a lapse of their current FRSL.

## 5. Changes Applicable to the At-Sea Whiting Fisheries (MS Coop Program and C/P Coop Program)

The following chapter discusses changes implemented by PIE 2 that affect the at-sea whiting fisheries (MS coop program and C/P coop program).

### 5.1 Eliminate double filing of co-op reports

The regulations at §660.113(c)(3) and at §660.113(d)(3) require filing of coop reports for the Mothership (MS) and Catcher/Processor (C/P) sectors, respectively.

#### When must the MS and C/P coops submit annual reports?

The MS and C/P coops must each submit an annual, final report to both NMFS and the Council in March of the following year (i.e., the annual, final report for 2014 would have to be submitted to NMFS and the Council in March 2015). The requirement to submit a report in November of the previous year has been removed.

### 5.2 Clarify that the processor obligation may be to more than one mothership (MS) permit

This revision affects all members of the Mothership sector of the commercial Pacific Coast Groundfish fishery. NMFS revised regulations at §660.150(c)(7)(i) in order to clarify that the processor obligation could be to more than one MS permit; at §660.150(g)(2)(iv)(D) to clarify the process for a permit with multiple mothership/ catcher vessel (MS/CV) endorsements that intends to participate in the non-coop fishery; and at §660.25(b)(3)(vii) to remove MS/CV endorsements from the list of endorsements that cannot be transferred separate from the limited entry permit.

#### Can an MS/CV endorsed trawl permit that has multiple catch history assignments be obligated to different MS permits?

Yes. Through the annual MS/CV-endorsed limited entry permit renewal process, the MS/CV-endorsed trawl permit owner must identify the MS permit they wish to assign each MS/CV endorsement and associated catch history assignment to. Only one MS permit may be designated for each MS/CV endorsement and associated catch history assignment.

For example, a trawl permit with two MS/CV endorsements could obligate each endorsement to a different MS permit. Each distinct MS/CV endorsement and associated CHA may only be obligated to one MS permit. Additionally, a permit with multiple MS/CV endorsements and associated CHAs may be registered to more than one coop or to both the coop and non-coop

fishery. The permit owner must specify on the coop permit application form which MS/CV endorsement and associated CHA is specifically registered to a particular coop.

## **5.3 Mothership catcher vessel (MS/CV) endorsement changes**

This revision affects all members of the Mothership sector of the commercial Pacific Coast Groundfish fishery. NMFS revised regulations at §660.25(b)(3)(vii) to remove MS/CV endorsements from the list of endorsements that cannot be transferred separate from the limited entry permit.

### **When will limited entry trawl permit owners in the Mothership fishery be allowed to request a change (or transfer) of MS/CV endorsements and associated CHA(s)?**

NMFS will begin accepting requests for change (or transfer) of MS/CV endorsements and associated CHA(s) on September 1, 2014.

Additionally, MS/CV-endorsed limited entry trawl permit owners will be required to divest themselves of ownership in permits in excess of the accumulation limits by August 31, 2016.

# Glossary

**Accumulation limits** – The maximum extent of permissible ownership, control or use of a privilege within the trawl rationalization program.

**Allocation** - The direct and deliberate distribution of the opportunity to participate in a fishery among identifiable, discrete user groups or individuals.

**At-sea processing** - Processing that takes place on a vessel or other platform that floats and is capable of being moved from one location to another, whether shorebased or on the water.

**Catch history assignment** – The percentage of allocation of the Pacific whiting for the mothership sector based on a limited entry permit’s qualifying history, which is specified on the MS/CV-endorsed limited entry trawl permit.

**Catcher Processor Coop or C/P Coop** - A harvester group that includes all eligible C/P-endorsed limited entry trawl permit owners as members that voluntarily form a coop and manage the catcher processor-specified allocations through private agreements and contracts.

**Complete economic data collection (EDC) form** – Ensures that a response is supplied for each question, subquestion, and answer-table cell. If particular question or sub-question is not applicable, ‘NA’, *must* be entered in the appropriate space on the form. The form *must* also be signed and dated to certify that the information is true and complete to the best of the signatory’s knowledge.

**C/P endorsement** - A C/P endorsement on a trawl limited entry permit conveys a conditional privilege that allows a vessel registered to it to harvest and process fish in the C/P Coop Program.

**Control limits** – The maximum amount of quota share that a person may own or control.

**Coop member** - A permit owner of an MS/CV-endorsed limited entry trawl permit for the MS Coop Program that is a party to an MS coop agreement, or a permit owner of a C/P-endorsed limited entry trawl permit that is legally obligated to the CP coop.

**IFQ trip** - A trip in which the vessel has a valid fishing declaration for any of the following: Limited entry midwater trawl, non-whiting shorebased IFQ; Limited entry midwater trawl, Pacific whiting shorebased IFQ; Limited entry bottom trawl, shorebased IFQ, not including demersal trawl; Limited entry demersal trawl, shorebased IFQ; or Limited entry groundfish non-trawl, shorebased IFQ.

**Individual bycatch quota (IBQ)** - The amount of bycatch quota for an individual species/species group and area expressed as a percentage of the annual allocation of allowable bycatch mortality to the Shorebased IFQ Program. IBQ is used as the basis for the annual calculation and allocation of a QS permit owner’s IBQ pounds in the Shorebased IFQ Program.

Both IBQ and QS may be listed on a QS permit and in the associated QS account. At initial issuance, Pacific halibut N 40°10' will be the only species for which IBQ will be issued.

**Individual fishing quota (IFQ)** - A federal permit to harvest a quantity of fish, expressed as a percentage of the total allowable catch of a fishery that may be received or held for exclusive use by a person. An IFQ is a harvest privilege that may be revoked at any time with in accordance with the Magnuson-Stevens Act.

**IFQ first receiver** - A person who receives, purchases, or takes custody, control, or possession of catch onshore directly from a vessel that harvested the catch while fishing under the Shorebased IFQ Program.

**IFQ landing** - An offload of fish harvested under the Shorebased IFQ Program.

**Lessee** - For the purpose of the economic data collection program, a person, other than the owner of the vessel or facility, who: Was identified as the leaseholder, in a written lease, of the vessel or facility, or paid expenses of the vessel or facility, or claimed expenses for the vessel or facility as a business expense on a Federal income tax return, or on a State income tax return.

**MS/CV endorsement** – An endorsement on a limited entry trawl permit that conveys a conditional privilege that allows a vessel registered to the permit to fish either in a coop or in the non-coop fishery in the MS Coop Program.

**MS/CV permit ownership limit** – The maximum amount of catch history assignment that a person may own, no more than 20 percent of the MS sector's allocation of Pacific whiting.

**MS permit usage limit** – The maximum amount of the annual mothership sector Pacific whiting allocation that a person may cumulatively process, no more than 45 percent.

**Ownership interest**– Participation in ownership of a corporation, partnership, or other entity.

**Pacific whiting IFQ fishery** – The Shorebased IFQ Program fishery composed of vessels making Pacific whiting IFQ trips during the primary whiting season fishery dates for the Shorebased IFQ Program.

**Pacific whiting IFQ trip** - A trip in which a vessel registered to a limited entry permit uses legal midwater groundfish trawl gear with a valid declaration for limited entry midwater trawl, Pacific whiting shorebased IFQ, during the dates of the Pacific whiting IFQ fishery primary season.

**Processing (or to process)** – The preparation or packaging of groundfish to render it suitable for human consumption, retail sale, industrial uses or long-term storage, including, but not limited to, cooking, canning, smoking, salting, drying, filleting, freezing, or rendering into meal or oil, but does not mean heading and gutting unless additional preparation is done.

**Processor** – A person, vessel, or facility that engages in commercial processing; or receives live groundfish directly from a fishing vessel for retail sale without further processing. For the purposes of economic data collection in the Shorebased IFQ Program, shorebased processor

means a person that engages in commercial processing, that is an operation working on U.S. soil or permanently fixed to land, that takes delivery of fish that has not been subject to at-sea processing or shorebased processing; and that thereafter engages that particular fish in shorebased processing; and excludes retailers, such as grocery stores and markets, which receive whole or headed and gutted fish that are then filleted and packaged for retail sale.

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

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

**QS Account** – An account established by NMFS for each QS permit owner to track the balances of QS or IBQ and QP or IBQ pounds for all IFQ species owned by that owner. NMFS will issue QP or IBQ pounds to QS permit owners, expressed in pounds, on an annual basis, to be deposited in the corresponding QS account.

**QS permit** - Conveys a conditional privilege to a person to own QS or IBQ in the Shorebased IFQ program.

**Shoreside processing** – Processing that takes place at a facility that is permanently fixed to land. For the purpose of economic data collection in the Shorebased IFQ Program, shorebased processing means: (i) Any activity that takes place shoreside and involves: cutting groundfish into smaller portions; or freezing, cooking, smoking, drying groundfish; or packaging that groundfish for resale into 100 pound units or smaller; for sale or distribution into a wholesale or retail market. (ii) The purchase and redistribution into a wholesale or retail market of live groundfish from a harvesting vessel.

**Vessel account** - An account established by NMFS upon request by an owner of a vessel registered to an eligible limited entry trawl permit in order to track QP and IBQ pounds. Vessel accounts are independent of the QS permit and QS account. Vessel accounts may only contain QP or IBQ pounds. Catch (landings and discards) in the Shorebased IFQ Program is deducted from vessel accounts.

**Vessel limits** – The maximum amount of quota poundage a vessel can hold, acquire, and/or use during a calendar year and specify the maximum amount of quota poundage that may be registered to a single vessel during the year (QP Vessel Limit) and, for some species, the maximum amount of unused QP registered to a vessel account at any one time (Unused QP Vessel Limit).