(e) * * *
(4) [Reserved]
(5) Vessel owners or operators that decide not to fish for or retain HMS for a period of time encompassing two or more trips may follow the requirements of this paragraph (e)(5) in lieu of paragraphs (e)(2) and (e)(3) of this section.

(i) If a vessel owner or operator decides not to fish for or retain HMS for a period of time encompassing two or more trips, that owner or operator may choose to “declare out” of the fishery. To “declare out,” the vessel owner or operator must contact NMFS using an attached VMS terminal to indicate the operator does not plan to fish for or retain HMS. By “declaring out” of the HMS fishery, the vessel owner or operator is exempt from the requirements of paragraphs (e)(2) and (e)(3) of this section, unless the circumstances described in paragraph (e)(5)(ii) of this section apply, but must still comply with all other HMS regulations that are applicable to the vessel including area and gear closures.

(ii) If a vessel owner or operator has advised NMFS that it will not be fishing for or retaining HMS as described in paragraph (e)(5)(i) of this section, but incidentally catches and retains any HMS while fishing, the vessel owner is required to change the target species declaration and advise NMFS, as described in paragraph (e)(2) of this section while at sea before landing with any HMS. The vessel must also report advance notice of landing to NMFS as described in paragraph (e)(3) of this section.

(iii) Once the vessel owner or operator changes the declaration per paragraph (e)(5)(ii) of this section, that vessel is assumed to be fishing under the requirements of paragraphs (e)(1) through (e)(3) of this section until the vessel owner or operator makes another declaration under paragraph (e)(5) of this section.

§ 635.69 Vessel monitoring systems.

(a) * * *
(1) Whenever the vessel has pelagic longline gear on board;

(2) Whenever a vessel issued a directed shark LAP has gillnet gear on board from November 15–April 15.

(d) Installation and activation. Only an E–MTU VMS that has been approved by NMFS for Atlantic HMS Fisheries may be used. Any VMS unit must be installed by a qualified marine electrician. When any NMFS-approved E–MTU VMS is installed and activated or reinstalled and reactivated, the vessel owner or operator must—

* * * *
(1) Owners or operators of vessels subject to requirements specified in paragraph (a) of this section must ensure the VMS unit is on so that it will submit automatic position reports every hour, 24 hours a day. Except as otherwise noted in this paragraph (e)(1), the VMS unit must always be on, operating and reporting without interruption, and NMFS enforcement must receive hourly position reports without interruption. No person may interfere with, tamper with, alter, damage, disable, or impede the operation of a VMS unit, or attempt any of the same. Vessels fishing outside the geographic area of operation of the installed VMS will be in violation of the VMS requirement. Owners of vessels may request a documented power down exemption from NMFS enforcement if the vessel will not be fishing for an extended period of time. The request must describe the reason an exemption is being requested: the location of the vessel during the time an exemption is sought; the exact time period for which an exemption is needed (i.e., the time the VMS signal will be turned off and turned on again); and sufficient information to determine that a power down exemption is appropriate. Approval of a power down must be documented and will be granted, at the discretion of NMFS enforcement, only in certain circumstances (e.g., when the vessel is going into dry dock for repairs, or will not be fishing for an extended period of time).

(2) Hailing out. Prior to departure for each trip, a vessel owner or operator must initially report to NMFS declaring any highly migratory species the vessel will target on that trip and the specific type(s) of fishing gear that will be on board the vessel, using NMFS-defined gear codes. If the vessel owner or operator participates in multiple HMS fisheries, or possesses multiple fishing gears on board the vessel, the vessel owner or operator must submit multiple electronic reports to NMFS. If, during the trip, the vessel switches to a gear type or species group not reported on the initial declaration, another declaration must be submitted before this fishing begins. This information must be reported to NMFS using an attached VMS terminal or using another method as instructed by NMFS enforcement.

(3) Hailing in. A vessel owner or operator must report advance notice of landing to NMFS. For the purposes of this paragraph (e)(3), landing means to arrive at a dock, berth, beach, seawall, or ramp. The vessel owner or operator is responsible for ensuring that NMFS is contacted at least 3 hours and no more than 12 hours in advance of landing regardless of trip duration. This information must be reported to NMFS using an attached VMS terminal and must include the date, approximate time, and location of landing.
Changes From the Proposed Rule
No changes were made from the proposed rule.

Classification
The NMFS Assistant Administrator has determined that this final rule is consistent with the Pacific Coast Groundfish FMP, other provisions of the MSA, and other applicable law.

The Council prepared a final environmental impact statement (EIS) for Amendment 20 and Amendment 21 to the Pacific Coast Groundfish FMP. The Amendment 20 and 21 EISs are available on the Council’s Web site at http://www.pcouncil.org/. The regulatory changes in this rule were categorically excluded from the requirement to prepare a NEPA analysis.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

The preamble to the proposed rule (78 FR 43125, July 19, 2013) included a detailed summary of the analyses contained in the IRFA. NMFS, pursuant to section 604 of the Regulatory Flexibility Act (RFA), prepared a FRFA in support of this rule. The FRFA incorporates the IRFA, a summary of the significant issues raised by the public comments in response to the IRFA, NMFS’ responses to those comments, and a summary of the analyses completed to support the action. A copy of the FRFA is available from NMFS and a summary of the FRFA, per the requirements of 5 U.S.C. 604(a), follows:

As described above, this action implements revisions to the Pacific Coast Groundfish Trawl Rationalization Program (program), a catch share program. This action implements the following actions that either implement original provisions of the program, modify it to increase the industry’s flexibility or efficiency, or make minor revisions/clarifications to the existing regulations. There were no significant issues raised by the public comments in response to the IRFA. No public comments were received on either the proposed rule or the collection of information requirement.

As discussed in the proposed rule, this rule affects the following sectors/programs: Shorebased Individual Fishing Quota (IFQ) Program—Trawl Fishery, Mothership Coop (MS) Program—Whiting At-sea Trawl Fishery, and Catcher-Processor (C/P) Coop Program—Whiting At-sea Trawl Fishery. In 2012, these fleets generated about $79 million in ex-vessel revenue: $11 million by the MS sector, $16 million by the CP sector, and $52 million by the Shorebased IFQ Program.

This rule also affects lenders that provide short-term inventory, credit, agricultural lending, and consumer cash

ADDITIONS: NMFS prepared a Final Regulatory Flexibility Analysis (FRFA), which is summarized in the Classification section of this final rule. Copies of the FRFA and the Small Entity Compliance Guide are available from William W. Stelle, Jr., Regional Administrator, West Coast Region, NMFS, 7600 Sand Point Way NE., Seattle, WA 98115–0070; or by phone at 206–526–6150. Copies of the Small Entity Compliance Guide are also available on the West Coast Region’s Web site at http://www.westcoast.fisheries.noaa.gov/index.html.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted to William W. Stelle, Jr., Regional Administrator, West Coast Region, NMFS, 7600 Sand Point Way NE., Seattle, WA 98115–0070, and to OMB by email to OIRA_Submission@omb.eop.gov, or fax to 202–395–7285.

FOR FURTHER INFORMATION CONTACT:
Ariel Jacobs, 206–526–4491; (fax) 206–526–6736; Ariel.Jacobs@noaa.gov.

SUPPLEMENTARY INFORMATION:
Background
In January 2011, NMFS implemented the troll rationalization program for the Pacific coast groundfish fishery’s troll fleet (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 troll fleet (including whiting and non-whiting fisheries); and cooperative (coop) programs for the at-sea mothership and catcher/processor troll 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 the subject of this final rule. This action includes the following, by category of (A) implementation of original program, (B) increasing flexibility or efficiency, and (C) minor revisions/clarifications:

(A) Implementation of Original Program
1. Establish quota share (QS) permit application and QS transfer regulations.

(B) Increasing Flexibility or Efficiency
2. Clarify exceptions for lenders from control rules,
3. Change the opt-out requirement for quota pound (QP) deficits,
4. Eliminate double filing of co-op reports (November and March),
5. Revise first receiver site license requirements (FRSL), including site inspection and expiration date, and
6. Remove end of the year ban on QP transfers between vessel accounts.

(C) Minor Revisions/Clarifications
7. Remove the term “permit holder” from groundfish regulations and replace with “vessel owner,” “permit owner,” or “owner of a vessel registered to a limited entry permit,” as applicable,
8. Revise the process for a permit holder (vessel owner) to change their vessel ownership,
9. Clarify that the processor obligation may be to more than one MS permit,
10. Revise the mothership catcher vessel (MS/CV) endorsement restriction given severability,
11. Clarify sorting requirement for full retention so “predominant species” means only one species,
12. Clarify the accumulation limits calculation for compliance with the annual QP vessel limit in vessel accounts.
13. Add a prohibition against failing to establish a new vessel account, following a change in vessel ownership, prior to fishing in the Shorebased IFQ program, and
14. Add a prohibition against landing fish from an IFQ trip to a first receiver without a valid FRSL.

Each of these items, along with additional background information, was described in detail in the proposed rule (78 FR 43125, July 19, 2013), and that information is not repeated here.

NMFS is currently involved in ongoing litigation regarding the initial allocation of whiting quota to the shoreside and mothership sectors of the troll rationalization program. The outcome of this litigation may affect existing quota share allocation amounts, and could potentially affect or delay quota share trading, which is scheduled to begin January 1, 2014 under existing regulations (78 FR 18879).

Comments and Responses
NMFS solicited public comment on the second program improvement and enhancement rule (“PIE 2”) (78 FR 43125, July 19, 2013). The proposed rule also included a collection-of-information requirement subject to review and approval under the Paperwork Reduction Act (PRA). Public comment was also sought regarding potential impacts to the public due to this collection of information requirement. The comment period ended on August 19, 2013; no public comments were received on either the proposed rule or the collection of information requirement.

Changes From the Proposed Rule
No changes were made from the proposed rule.
The change in the size standard for vessels that harvest finfish does not change NMFS’ conclusions about this rule. This rule is administrative in nature and will not have a significant, negative impact on small entities. Some of these changes were recommended by the industry to increase flexibility or efficiency. This rule is likely to have beneficial effects on small entities. Instituting provisions that allow fishermen to trade their quota shares should allow fishermen and the fishery to achieve the full benefits of the IFQ program as identified in (75 FR 78344; Dec. 15, 2010). Increasing the availability of loans to fishermen by providing non-traditional lenders increased opportunity to make additional loans should also be beneficial to small entities.

No Federal rules have been identified that duplicate, overlap, or conflict with the alternatives. Public comment is hereby solicited, identifying such rules. Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as “small entity compliance guides.” The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a small entity compliance guide (the guide) was prepared. Copies of this final rule are available from the West Coast Regional Office, and the guide will be sent to all limited entry and quota share permit owners, vessel account holders, and first receiver site license holders for the fishery. The guide and this final rule will also be available on the West Coast Region’s Web site (see ADDRESSES) and upon request.

This final rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA) that has been approved by OMB under control number 0648–0620. NMFS received no comments on the proposed rule regarding this information collection. Public reporting burden for the QS permit/account application form is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Public reporting burden for the online QP transfer form (from a QS account to a vessel account, or vessel account to another vessel account) is estimated to average 8 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Public reporting burden for the mothership cooperative permit application form is estimated to average 4 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Public reporting burden for the trawl registration site license application form for re-registering applicants is estimated to average 110 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Public reporting burden for the trawl mothership cooperative cooperative permit application form is estimated to average 4 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Public reporting burden for the online QP transfer form (from a QS account to a vessel account, or vessel account to another vessel account) is estimated to average 8 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.
representative on the Council. The regulations have no direct effect on the tribes.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, and Indian fisheries.

Dated: November 8, 2013.

Samuel D. Rauch III,
Deputy Assistant Administrator for Regulatory Programs, performing the functions and duties of the Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons stated in the preamble, 50 CFR part 660 is amended as follows:

PART 660—FISHERIES OFF WEST COAST STATES

§ 660.25 Permits.

(a) * * *

(b) * * *

(3) * * *

(ii) Gear endorsement. There are three types of gear endorsements: Trawl, longline, and pot (trap). When limited entry “A”-endorsed permits were first issued, some vessel owners qualified for more than one type of gear endorsement based on the landings history of their vessels. Each limited entry “A”-endorsed permit has one or more gear endorsement(s). Gear endorsement(s) assigned to the permit at the time of issuance will be permanent and shall not be modified. While participating in the limited entry fishery, the vessel registered to the limited entry “A”-endorsed permit is authorized to fish the gear(s) endorsed on the permit.

While participating in the limited entry, fixed gear primary fishery for sablefish described at § 660.231, a vessel registered to more than one limited entry permit is authorized to fish with any gear, except trawl gear, endorsed on or at least one of the permits registered for use with that vessel. Vessels registered to limited entry permits may be used to fish with open access gear, subject to the crossover provisions at § 660.60(b)(7)(ii), except that vessels registered to sablefish-endorsed permits fishing in the sablefish primary season described at § 660.231, may not fish with open access gear against those limits. An MS permit does not have a gear endorsement.

§ 660.11 [Amended]

2. In § 660.11, remove the definition for “Permit holder”.

3. In § 660.12, revise paragraph (a)(8) to read as follows:

§ 660.12 General groundfish prohibitions.

(a) * * *

(b) * * *

(8) Fail to sort, prior to the first weighing after offloading, those groundfish species or species groups for which there is a trip limit, size limit, scientific sorting designation, quota, harvest guideline, ACT, ACL or OY, if the vessel fished or landed in an area during a time when such trip limit, size limit, scientific sorting designation, quota, harvest guideline, ACT, ACL or OY applied; except as specified at § 660.130(d).

4. In § 660.25:

a. Revise paragraphs (b)(3)(ii), (b)(3)(iv)(C)(4), (b)(3)(vii), and the heading of paragraph (b)(4);

b. Add paragraph (b)(4)(i)(G); and

c. Revise the heading of paragraph (b)(4)(iv), and paragraphs (b)(4)(iv)(A) through (C), (b)(4)(iv)(B) and (D), (b)(4)(vii)(B), (b)(4)(vii) introductory text, (b)(4)(vii)(A) through (C), (b)(4)(vii)(ii), and (g)(1).

The revisions and addition read as follows:

§ 660.25 Permits.

(a) * * *

(b) * * *

(3) * * *

(ii) Gear endorsement. There are three types of gear endorsements: Trawl, longline, and pot (trap). When limited entry “A”-endorsed permits were first issued, some vessel owners qualified for more than one type of gear endorsement based on the landings history of their vessels. Each limited entry “A”-endorsed permit has one or more gear endorsement(s). Gear endorsement(s) assigned to the permit at the time of issuance will be permanent and shall not be modified. While participating in the limited entry fishery, the vessel registered to the limited entry “A”-endorsed permit is authorized to fish the gear(s) endorsed on the permit.

While participating in the limited entry, fixed gear primary fishery for sablefish described at § 660.231, a vessel registered to more than one limited entry permit is authorized to fish with any gear, except trawl gear, endorsed on or at least one of the permits registered for use with that vessel. Vessels registered to limited entry permits may be used to fish with open access gear, subject to the crossover provisions at § 660.60(b)(7)(ii), except that vessels registered to sablefish-endorsed permits fishing in the sablefish primary season described at § 660.231, may not fish with open access gear against those limits. An MS permit does not have a gear endorsement.

(iv) * * * * *

(C) * * *

(4) Any partnership or corporation with any ownership interest in a limited entry permit with a sablefish endorsement or in the vessel registered to the permit shall document the extent of that ownership interest with NMFS via the Identification of Ownership Interest Form sent to the permit owner through the annual permit renewal process and whenever a change in permit owner, vessel owner, and/or vessel registration occurs as described at paragraph (b)(4)(iv) and (v) of this section. NMFS will not renew a sablefish-endorsed limited entry permit through the annual renewal process described at paragraph (b)(4)(i) of this section, or approve a change in permit owner, vessel owner, and/or vessel registration unless the Identification of Ownership Interest Form has been completed. Further, if NMFS discovers through review of the Identification of Ownership Interest Form that an individual person, partnership, or corporation owns or holds more than 3 permits and is not authorized to do so under paragraph (b)(3)(iv)(C)(2) of this section, the individual person, partnership or corporation will be notified and the permits owned or held by that individual person, partnership, or corporation will be void and reissued with the vessel status as “unidentified” until the permit owner owns and/or holds a quantity of permits appropriate to the restrictions and requirements described in paragraph (b)(3)(iv)(C)(2) of this section. If NMFS discovers through review of the Identification of Ownership Interest Form that a partnership or corporation has had a change in membership since November 1, 2000, as described in paragraph (b)(3)(iv)(C)(3) of this section, the partnership or corporation will be notified, NMFS will void any existing permits, and reissue any permits owned and/or held by that partnership or corporation in “unidentified” status with respect to vessel registration until the partnership or corporation is able to register ownership of those permits to persons authorized under this section to own sablefish-endorsed limited entry permits.

(vii) Endorsement and exemption restrictions. “A” endorsements, gear endorsements, sablefish endorsements and sablefish tier assignments, and C/P endorsements may not be registered to another permit owner (i.e., change in permit ownership or ownership interest) or to another vessel (i.e., change in vessel registration) separately from the limited entry permit. At-sea processing exemptions, specified at paragraph (b)(6) of this section, are associated with the vessel and not with the limited entry permit and may not be registered to another permit owner or to another vessel without losing the exemption.

(4) Limited entry permit actions—renewal, combination, stacking, change of permit owner or vessel owner, and change in vessel registration.

(i) * * * * *

(G) At the time of renewal, NMFS will notify owners of limited entry permits and vessel owners if vessel ownership information for a vessel registered to the permit is not current. NMFS will not renew a limited entry permit registered to a vessel for which vessel ownership information is not current.

(iv) Changes in permit owner and/or vessel owner—(A) General. Change in permit owner and/or vessel owner applications must be submitted to NMFS with the appropriate documentation described at paragraphs (b)(4)(vii) and (viii) of this section. The permit owner may convey the limited entry permit to a different person. The new permit owner will not be authorized to use the permit until the change in permit owner has been registered with and approved by NMFS. NMFS will not approve a change in
permit owner for a limited entry permit with a sablefish endorsement that does not meet the ownership requirements for such permit described at paragraph (b)(3)(iv)(C) of this section. NMFS will not approve a change in permit owner for a limited entry permit with an MS/CV endorsement or an MS permit that does not meet the ownership requirements for such permit described at §660.150(g)(3), and § 660.150(f)(3), respectively. NMFS considers the following as a change in permit owner that would require registering with and approval by NMFS, including but not limited to: Selling the permit to another individual or entity; adding an individual or entity to the legal name on the permit; or removing an individual or entity from the legal name on the permit. A change in vessel owner includes any changes to the name(s) of any or all vessel owners, as registered with USCG or a state. 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.

(B) Effective date. The change in vessel ownership or change in the vessel holding the permit will be effective on the day the change is approved by NMFS, unless there is a concurrent change in the vessel registered to the permit. Requirements for changing the vessel registered to the permit are described at paragraph (b)(4)(v) of this section.

(C) Sablefish-endorsed permits. If a permit owner submits an application to register a sablefish-endorsed limited entry permit to a new permit owner or vessel owner during the primary sablefish season described at § 660.231 (generally April 1 through October 31), the initial permit owner must certify on the application form the cumulative quantity, in round weight, of primary season sablefish landed against that permit as of the application signature date for the then current primary season. The new permit owner or vessel owner associated with the new vessel must sign the application form acknowledging the amount of landings to date given by the initial permit owner. This certified amount should match the total amount of primary season sablefish landings reported on state landing receipts. As required at § 660.12(b), any person landing sablefish must retain on board the vessel from which sablefish is landed, and provide to an authorized officer upon request, copies of any and all reports of sablefish landings from the primary season containing all data, and in the exact manner, required by the applicable state law throughout the primary sablefish season during which a landing occurred and for 15 days thereafter.

(B) Application. Change in vessel registration applications must be submitted to NMFS with the appropriate documentation described at paragraphs (b)(4)(vii) and (viii) of this section. At a minimum, a permit owner seeking to change vessel registration of a limited entry permit shall submit to NMFS a signed application form and his/her current limited entry permit before the first day of the cumulative limit period in which they wish to fish. If a permit owner provides a signed application and current limited entry permit after the first day of a cumulative limit period, the permit will not be effective until the succeeding cumulative limit period. NMFS will not approve a change in vessel registration until it receives a complete application, the existing permit, a current copy of the USCG 1270, and other required documentation.

(D) Sablefish-endorsed permits. If a permit owner submits an application to register a sablefish-endorsed limited entry permit to a new permit owner or vessel owner, the permit owner must provide NMFS with a current copy of the USCG Form 1270 for vessels of 5 net tons or greater, or a current copy of a state registration form for vessels under 5 net tons.

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

(C) For a request to change a permit owner for an MS permit or for a request to change a vessel registration and/or change a permit owner or vessel owner for an MS/CV-endorsed limited entry trawl permit, an Identification of Ownership Interest Form must be completed and included with the application form.

(viii) Application forms available. Application forms for a change in vessel registration, permit owner, or vessel owner 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/userfiles/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.

§ 660.112 Trawl fishery—prohibitions.

5. In § 660.112, add paragraphs (b)(1)(xvi) and (xvii), and revise paragraphs (b)(2)(ii) to read as follows:

§ 660.113 Trawl fishery—recordkeeping and reporting.

8. In § 660.130, revise paragraphs (d)(2)(i), (d)(2)(ii) and (d)(3)(i) to read as follows:

§ 660.130 Trawl fishery—management measures.
(ii) Catcher vessels. All catch must be sorted to the species groups specified in paragraph (d)(1) of this section for vessels with limited entry permits, except those retaining all catch during a IFQ trip. The catch must not be discarded from the vessel and the vessel must not mix catch from hauls until the observer has sampled the catch. Prohibited species must be sorted according to the following species groups: Dungeness crab, Pacific halibut, Chinook salmon, other salmon. Non-groundfish species must be sorted as required by the state of landing.

(3) * * *

(i) Pacific whiting at-sea processing vessels may use an accurate in-line conveyor or hopper type scale to derive an accurate total weight prior to sorting. Immediately following weighing of the total catch, the catch must be sorted to the species groups specified in paragraph (d)(1) of this section and all incidental catch (groundfish and non-groundfish species) must be accurately accounted for and the weight of incidental catch deducted from the total weight to derive the weight of a single predominant species.

* * * * *

9. In §660.140, 

a. Revise paragraph (b)(1)(iii); 

b. Add paragraph (d)(2)(i)(iii), revise paragraphs (d)(3)(i)(A) and (C), (d)(3)(ii)(B)(2) and (d)(3)(ii)(B)(3)(ii), remove paragraph (d)(3)(ii)(B)(3)(iii), and revise paragraph (d)(4)(iii); 

c. Revise paragraphs (o)(5)(iii)(B), (o)(4)(i), and (o)(5)(ii)(A); 

d. Revise paragraphs (f)(2)(ii), (f)(3) introductory text, (f)(3)(i) and (ii), (f)(3)(iii)(A) and (B), add paragraph (f)(3)(iii)(C)(2), and revise paragraph (f)(3)(iii)(D); 

e. Revise paragraphs (f)(5) and (f)(6); and 

f. Revise paragraphs (j)(2)(vii) and (j)(2)(ix)(B), to read as follows:

§660.140 Shorebased IFQ Program.

* * * * *

(b) * * * 

(1) * * * 

(iii) All IFQ species/species group catch (landings and discards) must be covered by QP or IBQ pounds. Any deficit (negative balance in a vessel account) must be cured within 30 calendar days from the date the deficit from that trip is documented in the vessel account, unless the deficit is within the limits of the carryover provision at paragraph (o)(5) of this section, in which case the vessel account owner must declare out of the Shorebased IFQ Program, and must eliminate the deficit prior to re-entry into the fishery in the current year, or within 30 days after the issuance of QP or IBQ pounds for the following year.

* * * * *

(d) * * * 

(2) * * * 

(iii) QS permit application process. NMFS will accept a QS permit application from January 1 to November 30 of each calendar year. QS permit applications received between December 1 and December 31 will be processed by NMFS in the following calendar year. NMFS will issue only one QS permit to each unique person, as defined at §660.11 subject to the eligibility requirements at paragraph (d)(2)(i) of this section. Each applicant must submit a complete application. A complete application includes a QS permit application form, payment of required fees, complete documentation of QS permit ownership on the Trawl Identification of Ownership Interest Form as required under paragraph (d)(4)(iv) of this section, and a complete economic data collection form if required under §660.114. NMFS may require additional documentation as it deems necessary to make a determination on the application. The QS permit application will be considered incomplete until the required information is submitted.

(A) Initial administrative determination. For all complete applications, NMFS will issue an IAD that either approves or disapproves the application. If approved, the QS permit serves as the IAD. If disapproved, the IAD will provide the reasons for this determination. 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.

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

(C) Appeals. If NMFS does not accept the QS permit application, the applicant may appeal the IAD consistent with the general permit appeals process defined at §660.25(g).

(3) * * *

(i) * * *

(A) QS permits expire at the end of each calendar year, and must be renewed between October 1 and November 30 of each year in order to remain in effect the following year. A complete QS permit renewal package must be received by NMFS no later than November 30 to be accepted by NMFS. A QS permit owner may submit a paper renewal package after January 1 of the following year as described in paragraph (d)(3)(ii)(C) of this section.

* * * * *

(C) A complete QS permit renewal package must be received by November 30 of each calendar year. If a complete QS permit renewal package is not received by November 30, NMFS will not renew the QS permit, the associated QS account will not be activated in 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 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, QPs allocated as specified at paragraph (d)(1) of this section will not be allocated to the QS account in that year. The QS permit owner will be able to transfer QPs for the time the QS account is activated until November 30 of that calendar year.

* * * * *

(ii) * * *

(B) * * *

(2) Transfer of QS or IBQ between QS accounts. Beginning January 1, 2014, QS permit owners may transfer QS (except for widow rockfish QS) or IBQ to another owner of a QS permit, subject to accumulation limits and approval by NMFS. The prohibition on transferability of widow rockfish QS is extended indefinitely pending final action on reallocation of widow rockfish QS, or a NMFS determination that no such reallocation will occur, except under U.S. court order or authorization and as approved by NMFS. QS or IBQ is transferred as a percent, divisible to one-thousandth of a percent (i.e., greater than or equal to 0.001%). QS or IBQ cannot be transferred to a vessel account. Owners of non-renewed QS permits may not transfer QS. QS in QS accounts cannot be transferred between QS accounts. NMFS will allocate QP based on the QS percentages as listed on a QS permit that was renewed during the previous October 1 through November 30 renewal period. QS transfers will be recorded in the QS account but will not become effective for purposes of allocating QPs until the
additional QP to allow QS permit

date that QS accounts are credited with
will be reactivated by NMFS from the
percentages as of December 1 of each
following year based on the QS
December 1 will be administratively
December 31 each year. Any QS
transferred between December 1 through
following year. QS or IBQ may not be
(d)(4)(iii)(C) and (G) of this section;

(ii) The QS account transfer function
will be reactivated by NMFS from the
date that QS accounts are credited with
additional QP to allow QS permit

control, control, or does control, the
management of, or to be a controlling
factor in, the entity to which the QS or
IBQ, or the resulting QP or IBQ pounds,
are registered, with the exception of
those activities allowed under paragraphs
d)(4)(iii)(C) and (G) of this section;

(G) The person, excluding banks and
other financial institutions that rely on
QS or IBQ as collateral for loans, has the
right to cause or prevent, or does cause
or prevent, the sale, lease or other
disposition of QS or IBQ, or the
resulting QP or IBQ pounds; and

(1) To qualify for this exception, a
bank or other financial institution must
be 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.

(2) Any state or federally chartered
bank or financial institution that meets
the requirement of paragraph
(d)(4)(iii)(G)(1) of this section does not
need to submit additional information
to NMFS.

(3) Any entity that is not a state or
federally chartered bank or financial
institution, must submit a letter
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 (see
paragraph (d)(4)(iv) of this section). 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.

(V) The person, through loan

covenants or any other means, has the
right to restrict, or does restrict, and/or
has a controlling influence over the day
to day business activities or
management policies of the entity to
which the QS or IBQ are registered, with
the exception of those activities allowed
under paragraphs (d)(4)(iii)(C) and (G) of
this section;

(E) The person, has the right to
restrict, or does restrict, any activity
related to QS or IBQ or QP or IBQ
pounds, including, but not limited to,
use of QS or IBQ, or the resulting QP
or IBQ pounds, or disposition of fish
harvested under the resulting QP or IBQ
pounds, with the exception of those
activities allowed under paragraphs
(d)(4)(iii)(C) and (G) of this section;

(F) The person has the right to control,
or does control, the
management of, or to be a controlling
factor in, the entity to which the QS or
IBQ, or the resulting QP or IBQ pounds,
are registered, with the exception of
those activities allowed under paragraphs
d)(4)(iii)(C) and (G) of this section;

request by logging onto the online vessel
account. Following the instructions
provided on the Web site, the vessel
account owner must enter pertinent
information regarding the transfer
request including, but not limited to:
IFQ species, amount of QP or IBQ
pounds to be transferred for each IFQ
species (in whole pound increments);
name and any other identifier of the
eligible transferee (e.g., USCG
documentation number or state
registration number, as applicable) of
the eligible vessel account receiving the
transfer; and the value of the transferred
QP or IBQ pounds. The online system
will verify whether all information has
been entered and whether the transfer
complies with vessel limits, as
applicable. If the information is not
accepted, an electronic message will
record as much in the transferor’s vessel
account explaining the reason(s). If the
information is accepted, the online
system will record the pending transfer
in both the transferor’s and the
transferee’s vessel accounts. The
transferee must approve the transfer by
electronic signature. If the transferee
accepts the transfer, the online system
will record the transfer and confirm the
transaction in both accounts through a
transaction confirmation notice. Once
the transferee accepts the transaction,
the transaction is final and permanent.
QP or IBQ pounds may be transferred
between vessel accounts at any time
during January 1 through December 31
each year unless otherwise notified by
NMFS.

(4) * * *

(i) Vessel limits. For each IFQ species
or species group specified in this
paragraph, vessel accounts may not
have QP or IBQ pounds in excess of the
QP vessel limit (annual limit) in any
year, and, for species covered by unused
QP vessel limits (daily limit), may not
have QP or IBQ pounds in excess of the
unused QP vessel limit at any time. The
QP vessel limit (annual limit) is
calculated as all QPs transferred in
minus all QPs transferred out of
the vessel account. The unused QP vessel
limits (daily limit) is calculated as
unused available QPs plus any pending
outgoing transfer of QPs.

(5) * * *

(A) 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
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, West Coast Region, Office of Law Enforcement, ATTN VMS, Bldg. 1, 7600 Sand Point Way NE., Seattle, WA 98115. 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.

(f) * * *

(ii) An IFQ first receiver must have a separate first receiver site license for each unique physical location where the IFQ first receiver will receive, purchase or take custody, control, or take possession of an IFQ landing from a vessel.

(3) Application process. Persons interested in being licensed as an IFQ first receiver for a specific physical location must submit a complete application for a first receiver site license to NMFS, West Coast Region, ATTN: Fisheries Permit Office, Bldg. 1, 7600 Sand Point Way NE., Seattle, WA 98115. NMFS will only consider complete applications for approval. A complete application includes:

(i) State license. The license owner must provide a copy of a valid license issued by the state in which they operate that allows the person to receive fish from a catcher vessel.

(ii) Application form. A completed IFQ first receiver application form provided by NMFS, signed and dated by an authorized representative of the first receiver. To be considered complete, the form must also be notarized.

(iii) * * *

(A) Catch monitoring plan review process. NMFS will accept a catch monitoring plan if it includes all the required elements specified in paragraph (f)(3)(iii)(C) of this section and conforms with the actual operations and layout at the site. A site inspection is required for new first receiver site licenses. For re-registration of an existing first receiver site license, the site must be inspected at least once every three years or more frequently, as deemed necessary by NMFS, or by a NMFS designated representative. If NMFS does not accept a catch monitoring plan for any reason, a new or revised catch monitoring plan may be required of the first receiver.

(B) Arranging a site inspection. After receiving a complete application for a first receiver site license, if a site inspection is required, NMFS will contact the applicant to schedule a site inspection. A complete application for a first receiver site license must include the proposed catch monitoring plan. NMFS may request a representative of the first receiver to be at the site at the time of inspection. If the requested representative of the first receiver is not made available for the inspection, the site inspection may be postponed until the requested representative of the first receiver is made available.

(C) * * *

(12) Applicant contact. Print the name of the first receiver, physical location of the first receiver, name and phone number of the applicant, and the date of the application. The applicant must sign the catch monitoring plan.

(D) Catch monitoring plan acceptance period and changes. NMFS will accept a catch monitoring plan if it includes the required elements specified in paragraph (f)(3)(iii)(C) of this section and conforms with the actual operations and layout at the site. For the first receiver site license to remain in effect, the owner or manager must notify NMFS in writing of any and all changes made in IFQ first receiver operations or layout that do not conform to the catch monitoring plan.

(5) Effective dates. The first receiver site license is valid from the effective date identified on the license until June 30, or until the state license required by paragraph (f)(2)(i) of this section is no longer effective, whichever occurs first. A first receiver site license may not be valid for more than 365 days.

(6) Re-registration of FRSL in subsequent years. Existing first receiver site license holders must reapply annually by following the application process specified in paragraph (f)(3) of this section. If the existing license holder fails to reapply, the first receiver site license will expire as specified in paragraph (f)(5) of this section. For existing first receiver site license holders to continue to receive IFQ landings without a lapse in the effectiveness of their first receiver site license, the following re-registration deadlines apply:

(i) NMFS will mail a first receiver site license application to existing license holders on or about February 1 each year.

(ii) Applicants who want to have their license effective for July 1 must submit their complete re-registration application to NMFS by April 15. For those first receiver site license holders who do not submit a complete re-registration application by April 15, NMFS may not be able to issue the new license by July 1 of that calendar year, and will issue the new license as soon as practicable.

* * * * *

(j) * * *

(2) * * *

(viii) Pacific whiting. For Pacific Whiting taken with midwater trawl gear, IFQ first receivers may use an in-line conveyor or hopper type scale to derive an accurate total catch weight prior to sorting. Immediately following weighing of the total catch and prior to processing or transport away from the point of landing, the catch must be sorted to the species groups specified at §660.130(d) and all incidental catch (groundfish and non-groundfish species) must be accurately weighed and the weight of incidental catch deducted from the total catch weight to derive the weight of a single predominant species.

* * * * *

■ 10. In §660.150, revise paragraphs (c)(7)(i), (d)(1)(iii)(A)(f)(i), and (g)(2)(iv)(D) to read as follows:

§660.150 Mothership (MS) Coop Program. * * * * *

(c) * * *

(7) * * *

(i) Processor obligation. Through the annual MS/CV-endorsed limited entry permit renewal process, the MS/CV-endorsed permit owner must identify to NMFS to which MS permit the MS/CV permit owner intends to obligate the catch history assignment associated with that permit if they are participating in the MS coop fishery. Only one MS permit may be designated for each MS/CV endorsement and associated catch history assignment.

* * * * *

(d) * * *

(1) * * *

(iii) * * *

(A) * * *

(1) * * *

(i) A list of all vessels and permit owners participating in the coop and their share of the allocated catch history assignments which must match the amount distributed to individual permit owners by NMFS.

* * * * *

(g) * * *
(2) * * *
(iv) * * *
[D] A limited entry trawl permit owner with multiple MS/CV-endorsements and associated CHA on a single permit may assign each distinct MS/CV endorsement and catch history assignment separately to coop(s) or the non-coop fishery. In such cases, as part of the coop permit application process, specified at paragraph (d)(1)(iii) of this section, 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.

11. In § 660.213, revise paragraph (d)(2) to read as follows:

§ 660.213 Fixed gear fishery—recordkeeping and reporting.

(d) * * *

(2) For participants in the sablefish primary season, the cumulative limit period to which this requirement applies is April 1 through October 31 or, for an individual vessel owner, when the tier limit for the permit(s) registered to the vessel has been reached, whichever is earlier.

12. In § 660.216, revise paragraph (a)(1) to read as follows:

§ 660.216 Fixed gear fishery—observer requirements.

(a) * * *

(1) When NMFS notifies the vessel owner, operator, or the manager of a catcher vessel, specified at § 660.16(c), of any requirement to carry an observer, the catcher vessel may not be used to fish for groundfish without carrying an observer.

13. In § 660.231, revise paragraph (b)(1) to read as follows:

§ 660.231 Limited entry fixed gear sablefish primary fishery.

(b) * * *

(1) Season dates. North of 36° N. lat., the sablefish primary season for the limited entry, fixed gear, sablefish-endorsed vessels begins at 12 noon local time on April 1 and closes at 12 noon local time on October 31, or closes for an individual vessel owner when the tier limit for the permit(s) registered to the vessel has been reached, whichever is earlier, unless otherwise announced by the Regional Administrator through the routine management measures process described at § 660.60(c).

14. In § 660.316, revise paragraph (a)(1) to read as follows:

§ 660.316 Open access fishery—observer requirements.

(a) * * *

(1) When NMFS notifies the vessel owner, operator, or the vessel manager of a catcher vessel, specified at § 660.16(c), of any requirement to carry an observer, the catcher vessel may not be used to fish for groundfish without carrying an observer.

[FR Doc. 2013–27417 Filed 11–14–13; 8:45 am]
BILLING CODE 3510–22–P