

## § 660.111

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activities permitted by the trawl rationalization program.

[75 FR 78383, Dec. 15, 2010, as amended at 80 FR 77271, Dec. 14, 2015]

### § 660.111 Trawl fishery—definitions.

These definitions are specific to the limited entry trawl fisheries covered in this subpart. General groundfish definitions are found at § 660.11.

*Accumulation limits* mean the maximum extent of permissible ownership, control or use of a privilege within the trawl rationalization program, and include the following:

(1) *Shorebased IFQ Program*—(i) *Control limits* means the maximum amount of QS or IBQ that a person may own or control, as described at § 660.140(d)(4).

(ii) *Vessel limits* means the maximum amount of QP a vessel can hold, acquire, and/or use during a calendar year, and specify the maximum amount of QP 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), as described at § 660.140(e)(4). Compliance with the QP vessel limit (annual limit) is calculated as all QPs transferred in minus all QPs transferred out of the vessel account.

(2) *MS Coop Program*. (i) MS permit usage limit means the maximum amount of the annual mothership sector Pacific whiting allocation that a person owning an MS permit may cumulatively process, no more than 45 percent, as described at § 660.150(f)(3)(i).

(ii) MS/CV permit ownership limit means 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, as described at § 660.150(g)(3)(i).

(iii) Catcher vessel usage limit means the maximum amount of the annual mothership sector Pacific whiting allocation that a vessel may catch, no more than 30 percent, as described at § 660.150(g)(3)(ii).

*Block area closures* or *BACs* are a type of groundfish conservation area, defined at § 660.11, bounded on the north and south by commonly used geographic coordinates, defined at § 660.11, and on the east and west by the EEZ,

and boundary lines approximating depth contours, defined with latitude and longitude coordinates at §§ 660.71 through 660.74 (10 fm through 250 fm), and § 660.76 (700 fm). BACs may be implemented or modified as routine management measures, per regulations at § 660.60(c). BACs may be implemented in the EEZ off Oregon and California for vessels using limited entry bottom trawl and/or midwater trawl gear. BACs may be implemented in the EEZ off Washington shoreward of the boundary line approximating the 250-fm depth contour for midwater trawl vessels. BACs may close areas to specific trawl gear types (*e.g.* closed for midwater trawl, bottom trawl, or bottom trawl unless using selective flatfish trawl) and/or specific programs within the trawl fishery (*e.g.* Pacific whiting fishery or MS Coop Program). BACs may vary in their geographic boundaries and duration. Their geographic boundaries, applicable gear type(s) and/or specific trawl fishery program, and effective dates will be announced in the FEDERAL REGISTER. BACs may have a specific termination date as described in the FEDERAL REGISTER, or may be in effect until modified. BACs that are in effect until modified by Council recommendation and subsequent NMFS action are set out in Tables 1 (North) and 1 (South) of this subpart.

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

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

*Catcher/Processor (C/P) Coop Program* or *C/P sector*, refers to the fishery described at § 660.160, subpart D. The C/P Coop Program is composed of vessels registered to a limited entry permit with a C/P endorsement and a valid declaration for limited entry,

midwater trawl, Pacific whiting catcher/processor sector.

*Charterer* means, for the purpose of economic data collection program, a person, other than the owner of the vessel, who: entered in to any agreement or commitment by which the possession or services of the vessel are secured for a period of time for the purposes of commercially harvesting or processing fish. A long-term or exclusive contract for the sale of all or a portion of the vessel's catch or processed products is not considered a charter.

*Columbia River Salmon Conservation Zone* means the ocean area surrounding the Columbia River mouth bounded by a line extending for 6 nm due west from North Head along 46°18' N lat. to 124°13.30' W long., then southerly along a line of 167 True to 46°11.10' N lat. and 124°11' W long. (Columbia River Buoy), then northeast along Red Buoy Line to the tip of the south jetty.

*Complete economic data collection (EDC) form* means that a response is supplied for each question, sub-question, 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.

*Coop agreement* means a private agreement between a group of MS/CV-endorsed limited entry permit owners or C/P-endorsed permit owners that contains all information specified at §§ 660.150 and 660.160, subpart D.

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

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

*Designated coop manager* means an individual appointed by a permitted coop that is identified in the coop agreement and is responsible for actions described at §§ 660.150 (for an MS coop) or 660.160 (for a C/P coop), subpart D.

*Ex-vessel value* means, for the purposes of the cost recovery program specified at § 660.115, all compensation (based on an arm's length transaction between a buyer and seller) that a fish buyer pays to a fish seller in exchange for groundfish species (as defined in § 660.11), and includes the value of all in-kind compensation and all other goods or services exchanged in lieu of cash. Ex-vessel value shall be determined before any deductions are made for transferred or leased allocation, or for any goods or services.

(1) For the Shorebased IFQ Program, the value of all groundfish species (as defined in § 660.11) from IFQ landings.

(2) For the MS Coop Program, the value of all groundfish species (as defined in § 660.11) delivered by a catcher vessel to an MS-permitted vessel.

(3) For the C/P Coop Program, the value as determined by the aggregate pounds of all groundfish species catch (as defined in § 660.11) retained on board, by the vessel registered to a C/P-endorsed limited entry trawl permit, multiplied by the MS Coop Program average price per pound as announced pursuant to § 660.115(b)(2).

*Fish buyer* means, for the purposes of the cost recovery program specified at § 660.115,

(1) For the Shorebased IFQ Program, the IFQ first receiver as defined in § 660.111.

(2) For the MS Coop Program, the owner of a vessel registered to an MS permit, the operator of a vessel registered to an MS permit, and the owner of the MS permit registered to that vessel. All three parties shall be jointly and severally responsible for fulfilling the obligations of a fish buyer.

(3) For the C/P Coop Program, the owner of a vessel registered to a C/P-endorsed limited entry trawl permit, the operator of a vessel registered to a C/P-endorsed limited entry trawl permit, and the owner of the C/P-endorsed limited entry trawl permit registered to that vessel. All three parties shall be jointly and severally responsible for fulfilling the obligations of a fish buyer.

*Fish seller* means the party who harvests and first sells or otherwise delivers groundfish species (as defined in § 660.11) to a fish buyer.

*IBQ pounds* means the quotas, expressed in round weight of fish, that are issued annually to each QS permit owner in the Shorebased IFQ Program based on the amount of IBQ they own and the amount of allowable bycatch mortality allocated to the Shorebased IFQ Program. IBQ pounds have the same species/species group and area designations as the IBQ from which they are issued.

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

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

*IFQ trip* means 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)* means 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. Species for which IBQ will be issued for the Shorebased IFQ Program are listed at § 660.140, subpart D.

*Individual fishing quota (IFQ)* means 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 in accordance with the Magnuson-Stevens Act. IFQ species for the

Shorebased IFQ Program are listed at § 660.140, subpart D.

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

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

*Klamath River Salmon Conservation Zone* means the ocean area surrounding the Klamath River mouth bounded on the north by 41°38.80' N lat. (approximately 6 nm north of the Klamath River mouth), on the west by 124°23' W long. (approximately 12 nm from shore), and on the south by 41°26.80' N lat. (approximately 6 nm south of the Klamath River mouth).

*Lessee* means, for the purpose of 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.

*Material change* means, for the purposes of a coop agreement, a change to any of the required components of the coop agreement, defined at §§ 660.150 and 660.160, subpart D, which was submitted to NMFS during the application process for the coop permit.

*Maximized retention* means a vessel retains all catch from a trip until landing, subject to the specifications of this subpart.

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

*Mothership (MS) Coop Program or MS sector* refers to the fishery described at § 660.150, subpart D, and includes both the coop and non-coop fisheries. The MS Coop Program is composed of motherships with MS permits and

catcher vessels registered to a limited entry permit with an MS/CV endorsement and a valid declaration for limited entry, midwater trawl, Pacific whiting mothership sector. The MS Coop Program also includes vessels registered to a limited entry permit without an MS/CV endorsement if the vessel is authorized to harvest the MS sector's allocation and has a valid declaration for limited entry, midwater trawl, Pacific whiting mothership sector.

*Mutual agreement exception* means, for the purpose of § 660.150, subpart D, an agreement that allows the owner of an MS/CV-endorsed limited entry permit to withdraw the permit's obligation of its catch history assignment to a permitted mothership processor, when mutually agreed to with the mothership processor, and to obligate to a different permitted mothership processor.

*Net ex-vessel value* means, for the purposes of the cost recovery program specified at § 660.115, the ex-vessel value minus the cost recovery fee.

*Pacific halibut set-aside* means an amount of Pacific halibut annually set aside for the at-sea whiting fisheries (mothership and C/P sectors) and which is based on the trawl allocation of Pacific whiting.

*Pacific whiting fishery* refers to the Pacific whiting primary season fisheries described at § 660.131. The Pacific whiting fishery is composed of vessels participating in the C/P Coop Program, the MS Coop Program, or the Pacific whiting IFQ fishery.

*Pacific whiting IFQ fishery* is composed of vessels on Pacific whiting IFQ trips.

*Pacific whiting IFQ trip* means a trip in which a vessel uses midwater groundfish trawl gear during the dates of the Pacific whiting primary season to target Pacific whiting, and Pacific whiting constitutes 50 percent or more of the catch by weight at landing as reported on the state landing receipt. Vessels on Pacific whiting IFQ trips must have a valid declaration for limited entry midwater trawl, Pacific whiting shorebased IFQ.

*Processor obligation* means an annual requirement for an MS/CV-endorsed limited entry permit to assign the

amount of catch available from the permit's catch history assignment to a particular MS permit.

*Quota pounds (QP)* means the quotas, expressed in round weight of fish, that are issued annually to each QS permit owner 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 designations as the QS from which they are issued.

*Quota share (QS)* means the amount of fishing quota for an individual species/species group and area expressed as a percentage of the annual allocation of fish to the Shorebased IFQ Program. The QS is used as the basis for the annual calculation and allocation of a 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. Species for which QS will be issued for the Shorebased IFQ Program are listed at § 660.140, subpart D.

*Salmon Mitigation Plan (SMP)* means a voluntary agreement amongst a group of at least three vessels in the MS Coop Program, C/P Coop Program, or Pacific whiting IFQ fishery to manage Chinook salmon bycatch, approved by NMFS under § 660.113(e). Vessels fishing under an approved SMP would have access to the Chinook salmon bycatch reserve as described in § 660.60(i)(2). Routine management measures to minimize Chinook salmon bycatch as described in § 660.60(i) may be implemented for vessels that are parties to an approved SMP.

*Shorebased IFQ Program or Shorebased IFQ sector*, refers to the fishery described at § 660.140, subpart D, and includes all vessels on IFQ trips.

*Stow or stowed*, for the purposes of this subpart, means the subject trawl gear is either stored below deck; or, if the gear cannot readily be moved, must be stowed in a secured and covered manner detached from all towing lines so that it is rendered unusable for fishing; or, if remaining on deck uncovered, must be stowed disconnected from the trawl doors with the trawl doors hung from their stanchions.

*Vessel account* means an account held by the vessel owner where QP and IBQ

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pounds are registered for use by a vessel in the Shorebased IFQ Program.

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### § 660.112 Trawl fishery—prohibitions.

In addition to the general prohibitions specified in § 660.12 and § 600.725 of this chapter, it is unlawful for any person or vessel to:

(a) *General*—(1) *Trawl gear endorsement*. Fish with groundfish trawl gear, or carry groundfish trawl gear on board a vessel that also has groundfish on board, unless the vessel is registered for use with a valid limited entry permit with a trawl gear endorsement, with the following exception.

(i) The vessel is in continuous transit from outside the fishery management area to a port in Washington, Oregon, or California;

(ii) The vessel is registered to a limited entry MS permit with a valid mothership fishery declaration, in which case trawl nets and doors must be stowed in a secured and covered manner, and detached from all towing lines, so as to be rendered unusable for fishing.

(2) *Sorting, retention, and disposition*.

(i) Fail to sort, retain, discard, or dispose of catch consistent with the requirements specified at §§ 660.130(d), 660.140 (b)(2)(iii) and (viii), 660.140(g), and 660.140(j)(2).

(ii) Fail to sort, retain, discard, or dispose of prohibited and protected species from maximized retention landings consistent with the requirements specified at § 660.140(g)(3).

(iii) Retain for personal use or allow to reach commercial markets any part of any prohibited or protected species.

(3) *Recordkeeping and reporting*. (i) Fail to comply with all recordkeeping and reporting requirements at § 660.13, subpart C; including failure to submit information, or submission of inaccurate or false information on any report required at § 660.13(d), subpart C, and § 660.113.

(ii) Falsify or fail to make and/or file, retain or make available any and all reports of groundfish landings, con-

taining all data, and in the exact manner, required by the regulation at § 660.13, subpart C, or § 660.113.

(iii) Failure to submit a complete EDC form to NMFS as required by § 660.113.

(4) *Observers*. (i) Fish in the Shorebased IFQ Program, the MS Coop Program, or the C/P Coop Program without observer coverage unless exempt from the observer coverage requirement for gear testing activity and have satisfied the declaration and notification requirements, as described in § 660.140(h), § 660.150(j), or § 660.160(g).

(ii) Fish in the Shorebased IFQ Program, the MS Coop Program, or the C/P Coop Program if the vessel is inadequate or unsafe for observer deployment as described at § 660.12(e).

(iii) Fail to maintain observer coverage in port as specified at § 660.140(h)(1)(i).

(5) *Fishing in conservation areas with trawl gear*. (i) Operate any vessel registered to a limited entry permit with a trawl endorsement in an applicable GCA (defined at §§ 660.11 and 660.130), except for purposes of continuous transiting (defined at § 660.11), unless all groundfish trawl gear on board is stowed (as defined at § 660.111), or unless otherwise authorized at § 660.130.

(ii) Fish with bottom trawl gear (defined at § 660.11) anywhere within EFH seaward of a line approximating the 700-fm (1,280-m) depth contour, as defined in § 660.76. For the purposes of regulation, EFH seaward of 700-fm (1,280-m) within the EEZ is described at § 660.75.

(iii) Fish with bottom trawl gear (defined at § 660.11) with a footrope diameter greater than 19 inches (48 cm) (including rollers, bobbins or other material encircling or tied along the length of the footrope) anywhere within EFH within the EEZ. For the purposes of regulation, EFH within the EEZ is described at § 660.75.

(iv) Fish with bottom trawl gear (defined at § 660.11) with a footrope diameter greater than 8 inches (20 cm) (including rollers, bobbins or other material encircling or tied along the length of the footrope) anywhere within the EEZ shoreward of a line approximating the 100-fm (183-m) depth contour (defined at § 660.73).