



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 679 and 680

[Docket No. 2102190025]

RIN 0648-BJ73

Fisheries of the Exclusive Economic Zone Off Alaska; Central Gulf of Alaska

Rockfish Program; Amendment 111

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement Amendment 111 to the Fishery Management Plan for Groundfish of the Gulf of Alaska Management Area (GOA FMP) and a regulatory amendment to reauthorize the Central Gulf of Alaska (CGOA) Rockfish Program. This final rule retains the conservation, management, safety, and economic gains realized under the Rockfish Program and makes minor revisions to improve administration of the Rockfish Program. This final rule is necessary to continue the conservation benefits, improve efficiency, and provide economic benefits of the Rockfish Program that would otherwise expire on December 31, 2021. This final rule is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the GOA FMP, and other applicable laws.

DATES: This rule is effective on [*INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER*].

ADDRESSES: Electronic copies of the Environmental Assessment and the Regulatory Impact Review (collectively referred to as the “Analysis”) and the Finding of No Significant Impact prepared for this final rule may be obtained from

<https://www.regulations.gov> or from the NMFS Alaska Region website at

<https://www.fisheries.noaa.gov/region/alaska>.

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 NMFS Alaska Region, P.O. Box 21668, Juneau, AK 99802-1668, Attn: Glenn Merrill; in person at NMFS Alaska Region, 709 West 9th Street, Room 401, Juneau, AK; and to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review - Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT: Stephanie Warpinski, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS published the Notice of Availability for Amendment 111 in the **Federal Register** on July 27, 2020 (85 FR 15367), with public comments invited through September 28, 2020. NMFS published the proposed rule to implement Amendment 111 in the **Federal Register** on September 4, 2020 (85 FR 55243) with public comments invited through October 5, 2020. The Secretary of Commerce approved Amendment 111 on October 22, 2020 after accounting for information from the public, and determining that Amendment 111 is consistent with the GOA FMP, the Magnuson-Stevens Act, and other applicable laws. The FMP amendment text includes two grammatical errors that were not found prior to the approval. These errors do not materially change the language in the FMP amendment nor are these errors reflected in the regulatory text that this final rule promulgates. The regulatory text accurately reflects the amendment’s intent. NMFS received ten comment letters on the proposed Amendment 111 and the proposed rule. A summary of the comments and NMFS’ responses are provided under the heading “Comments and Responses” below.

Background

The following background sections describe the Rockfish Program and the need for this final rule.

The Rockfish Program

This section provides a brief overview of the existing Rockfish Program. A detailed description of the Rockfish Program and its development is provided in the preamble to the proposed rule and in Section 1.2 of the Analysis.

The Rockfish Program is a type of limited access privilege program (LAPP) developed to enhance resource conservation and improve economic efficiency in the CGOA rockfish fisheries. The Rockfish Program as implemented under this final rule will continue the LAPP management structure, and will provide the same benefits established under the previous Rockfish Program implemented by Amendment 88 to the GOA FMP (76 FR 81247, December 27, 2011). For more information about the background and history of this program, see the preamble to the proposed rule (85 FR 55243, September 4, 2020) and the Analysis (SEE **ADDRESSES**).

The Rockfish Program (1) assigns quota share (QS) and cooperative quota (CQ) to participants for primary and secondary species, (2) allows a participant holding an LLP license with rockfish QS to form a rockfish cooperative with other persons, (3) allows holders of catcher/processor LLP licenses to opt-out of rockfish cooperatives for a given year, (4) establishes a limited access fishery for participants who do not participate in a fishery cooperative for a given year, (5) includes an entry level longline fishery for persons who do not hold rockfish QS, (6) establishes constraints, commonly known as sideboard limits, for other non-Rockfish Program fisheries that apply to vessels and LLP licenses eligible to participate in the Rockfish Program, and (7) includes monitoring and enforcement provisions.

As summarized in Sections 2 and 3.5 of the Analysis (SEE **ADDRESSES**), the Rockfish Program provided greater security to harvesters through the formation of

rockfish cooperatives. Fishing under cooperative management resulted in a slower-paced fishery that allows a harvester to choose when to fish. The Rockfish Program also provided greater stability for processors by spreading out production over a longer period. Overall, the Rockfish Program provides greater benefits to shoreside processors, catcher/processors, CGOA fishermen, and communities than were realized under the previous LLP management scheme.

Need for this Final Rule

Under Amendment 88, the current Rockfish Program was given a 10-year life span. The North Pacific Fishery Management Council (Council) recommended this action to prevent the Rockfish Program from expiring on December 31, 2021. This final rule maintains the conservation management, safety, and economic benefits of the Rockfish Program and improves efficiency by making minor revisions to existing regulations to improve administrative provisions of the Rockfish Program.

Unless otherwise noted, the reauthorized Rockfish Program includes all regulatory provisions established under the Rockfish Program implemented by Amendment 88. These provisions include the existing allocation of QS among the fishery participants, the process and requirements to fish in a cooperative, sideboard limitations, and monitoring and reporting requirements. Section 1.7 of the Analysis describes the alternatives considered and Section 1.10.2 provides the rationale for the reauthorized Rockfish Program. The reader is referred to those sections of the Analysis (SEE **ADDRESSES**) for additional details.

Amendment 111 to the GOA FMP and this final rule reauthorize the Rockfish Program and address a variety of administrative and management issues of the Rockfish Program. The specific regulatory changes recommended by the Council and included in this final rule are discussed in Section 1.6.2 of the Analysis (SEE **ADDRESSES**) and include:

- Removing the Rockfish Program sunset date of December 31, 2021, with the effect of allowing the Rockfish Program to continue indefinitely;
- Specifying that only shoreside processors receiving Rockfish Program CQ must submit the Rockfish Ex-vessel Volume and Value Report, rather than catcher/processors;
- Modifying cooperative check-in notice timing into the Rockfish Program from 48 to 24 hours;
- Removing requirements that an annual Rockfish Program cooperative report be submitted to NMFS. The Council requested that the Rockfish Program cooperatives continue to voluntarily provide annual reports to the Council;
- Removing requirements for a fishing plan to be submitted with a cooperative application for CQ;
- Requiring annual NMFS cost recovery reports in regulation;
- Allowing NMFS to reallocate unharvested Pacific cod allocated to Rockfish Program cooperatives to other non-Rockfish Program sectors after the Rockfish Program fisheries close on November 15, consistent with existing inseason management regulatory authorities;
- Allowing NMFS to reallocate unused rockfish incidental catch allowances (ICA) to Rockfish Program cooperatives;
- Clarifying regulations regarding accounting for inseason use caps to specify that any transfer of unused rockfish ICAs or catcher/processor CQ to catcher vessel cooperatives does not apply to catcher vessel ownership, cooperative, harvester CQ, or shoreside processor CQ use caps;
- Exempting vessels from Crab Rationalization Program sideboard limits when fishing in the Rockfish Program;

- Removing catcher/processor rockfish program sideboard limits in the Western GOA rockfish fisheries;
- Removing the requirement for a trawl catcher vessel that has checked into and is participating in the Rockfish Program fishery to stand down for three days when transiting from the BSAI to the GOA while Pacific cod or pollock is open to directed fishing in the BSAI;
- Removing requirements for shoreside processors under the Rockfish Program to provide an observer work station and observer communication requirements; and
- Making minor technical corrections to clarify the season dates for directed fishing for Pacific cod under the Rockfish Program, and updating references to dusky rockfish (*Sebastes variabilis*) throughout regulations in 50 CFR part 679.

The following section describes the regulatory changes in greater detail.

This Final Rule

This section describes the changes to current regulations included in this final rule. This final rule will modify regulations at § 679.80(a)(2) to remove the expiration date of the Rockfish Program. The Rockfish Program had a 10-year authorization that required the Council to review the Rockfish Program and make any necessary changes to management based on that review, or allow the Rockfish Program to expire. This action responds to the Council's review.

This final rule modifies Rockfish Program recordkeeping and reporting requirements to: 1) amend regulations at § 679.5(r)(10)(i) to clearly state that only shoreside processors taking deliveries of species harvested using Rockfish Program CQ must submit the Rockfish Ex-Vessel Volume and Value Report; 2) modify cooperative check-in times from 48 to 24 hours at § 679.5(r)(8)(i)(A)(1); 3) remove the requirement for an annual Rockfish Program cooperative report to be submitted to NMFS at § 679.5(r)(6), and § 679.81(i)(3)(xxv) and (xxvi); 4) remove the requirement for rockfish

cooperatives to submit a fishing plan with annual applications for CQ at § 679.81(f)(4)(i)(D)(3); and 5) add a regulation at § 679.85(g) that states NMFS will annually publish a mandatory rather than voluntary Rockfish Program cost recovery report.

Additional detail describing the impact of these recordkeeping and reporting changes is included in the preamble of the proposed rule and in Section 3.7 of the Analysis (See **ADDRESSES**).

This final rule adds regulations at § 679.81(j) to authorize NMFS to reallocate unharvested Pacific cod after directed fishing under the Rockfish Program closes on November 15, consistent with existing reallocation procedures for Pacific cod in the Gulf of Alaska. Regulations at § 679.20(a)(12)(ii) allow NMFS to reallocate unused Rockfish Program Pacific cod. Under this provision, and taking into account the capability of a sector to harvest the reallocation, NMFS will allocate unused Rockfish Program Pacific cod first to catcher vessels, then to the combined catcher vessel and catcher/processor pot sector, and then to all other catcher/processor sectors.

This final rule adds regulations at § 679.81(j)(2), that authorize NMFS to reallocate unharvested rockfish species Incidental Catch Allowances (ICAs) to rockfish cooperatives. ICAs are set in the annual harvest specifications to account for incidental catch in other fisheries so that the TAC will not be exceeded. Section 3.7.10 of the Analysis and the preamble of the proposed rule details the process of determining reallocations of ICAs. If NMFS determines there is not sufficient ICA to reallocate, then no reallocation would occur.

This final rule adds regulations at § 679.82(a)(1)(vi) to clarify that any transfer of reallocated Rockfish Program ICAs or catcher/processor CQ to a catcher vessel cooperative does not apply when calculating catcher vessel use caps, including CV ownership, cooperative CQ, harvester QS, or shoreside processor caps. Use caps are

established to limit consolidation. (Please see the preamble of the proposed rule and Section 3.7.11 of the Analysis for additional detail on use cap provisions.)

This final rule makes several changes to regulations governing the sideboards and other tools designed to protect other Gulf of Alaska fishery participants outside of the Rockfish Program. Sideboards are limitations on the ability of harvesters to harvest in fisheries other than the CGOA rockfish fisheries. The changes include: 1) exempting Rockfish Program vessels from sideboard limits implemented under the Crab Rationalization Program at § 680.22(a)(1); 2) removing the Western GOA directed fishing prohibition and rockfish sideboard ratios at § 679.82(e)(4) for Rockfish Program catcher/processors; and 3) as further discussed below, removing the requirement at § 679.23 (h)(1) for a trawl catcher vessel checked into and participating in the Rockfish Program fishery to stand down for three days when transiting from the BSAI to the GOA while Pacific cod or pollock is open to directed fishing in the BSAI. In addition, NMFS also adds a clarifying technical revision to the remaining information at § 679.82(e)(4) to remove the table and reorganize the West Yakutat District rockfish sideboard ratios.

For this final rule, NMFS modifies § 679.23(h)(1) to remove the 3-day stand down requirement when a vessel moves from the BSAI to the GOA and is checked-in and participating in a Rockfish Program cooperative. This revision removes a regulatory limitation on vessels moving into the Rockfish Program but does not increase potential harvests in other non-Rockfish Program fisheries. Vessels that are not participating in the Rockfish Program must still comply with the 3-day stand down.

This final rule modifies regulations at § 679.84(f)(1) to remove unnecessary requirements for shoreside processors to maintain an observer workstation and communications equipment. These requirements were originally implemented under the Rockfish Pilot Program, which required that fisheries observers be stationed at shoreside processors participating in the Rockfish Pilot Program. Observer requirements for

shoreside processors were removed with the implementation of the Rockfish Program in 2012, making these equipment requirements no longer necessary.

This final rule includes two additional technical corrections to regulations that clarify the season dates for directed fishing for Pacific cod under the Rockfish Program and updates references to dusky rockfish throughout the regulations. This final rule clarifies the season dates for directed fishing for Pacific cod with trawl gear at § 679.23(d)(3)(ii) by cross-referencing the Rockfish Program season dates in § 679.84(g). Current Rockfish Program regulations at § 679.80(a)(3)(ii) specify that fishing by vessels participating in a Rockfish Program cooperative is authorized from 1200 hours, A.l.t., May 1 through 1200 hours, A.l.t., November 15. To clarify this, NMFS modifies regulations at § 679.23(d)(3)(ii) in this final rule to reference the specific season dates authorized under the Rockfish Program.

This final rule changes references to “pelagic shelf” rockfish to “dusky” rockfish throughout regulations in 50 CFR Part 679 to update regulations consistent with changes that have occurred to species categories since 2012 and the implementation of the Rockfish Program. Revising the references from pelagic shelf rockfish to dusky rockfish within the regulations and FMP is consistent with existing protocols for the annual stock assessment and harvest specifications of dusky rockfish.

This final rule clarifies at § 679.82 (e)(9)(iii) that a rockfish cooperative may not exceed any deep-water or shallow-water halibut PSC sideboard limit assigned to that cooperative. This clarification was meant to be included with the Rockfish Program implemented by Amendment 88 to the GOA FMP (76 FR 81247, December 27, 2011). If a cooperative uses halibut PSC fishing for rockfish in the WGOA or the West Yakutat District, any halibut PSC used will be debited from the deep-water complex halibut PSC limit assigned to that cooperative. Once a cooperative reaches its deep-water halibut PSC sideboard limit, it will be able to continue to fish for rockfish in the Western GOA or

West Yakutat District. This is further explained in the response to comment 3 in the “Comments and Responses” section below as well as in the “Changes from Proposed to Final Rule” section below.

Comments and Responses

NMFS received 10 comment letters on the NOA for Amendment 111 and the proposed rule. NMFS has summarized and responded to 18 unique comments below. One of the comment letters received was outside the scope of the proposed rule. The comments were from individuals, environmental groups, and Rockfish Program cooperative participants.

Comments on the Proposed Rule

Comment 1: Several commenters expressed general support for the reauthorization of the Rockfish Program without a sunset date. Commenters support the reauthorization of the Rockfish Program and the benefits the Program has created for historical harvesters, processors and the community of Kodiak.

Response: NMFS acknowledges this comment.

Comment 2: One commenter expressed support for the modification to § 679.82(e)(4), which removes the definition of sideboard ratios for Rockfish Program catcher/processors in the WGOA. However, the commenter does not support the proposed change to § 679.82(e)(2) that would remove the reference to the WGOA in this paragraph. This modification to § 679.82(e)(2) would lift the existing prohibition on directed rockfish fishing in the WGOA for non-Amendment 80 catcher/processors, which was not considered nor recommended by the Council.

Response: NMFS acknowledges the respondent’s support for the change to sideboard ratios for the Western GOA at § 679.82(e)(4). NMFS agrees that the proposed rule incorrectly proposed to modify regulations at § 679.82(e)(2) by removing the words “Western GOA” in this paragraph. This error has been corrected in this final rule.

Comment 3: A commenter requested that NMFS further clarify regulations implementing Amendment 88 to the GOA FMP (76 FR 81248, December 27, 2011). In the response to comment 31 in the final rule implementing Amendment 88 to the GOA FMP, NMFS responded to three questions related to the application of the deep-water halibut complex halibut PSC sideboard. NMFS stated in the final rule that if a cooperative uses halibut PSC fishing for rockfish in the Western GOA or the West Yakutat District, any halibut PSC used will be debited from the deep-water complex halibut PSC limit assigned to that cooperative. Once a cooperative reaches its deep-water halibut PSC sideboard limit, it will be able to continue to fish for rockfish in the Western GOA or West Yakutat District. However, reaching the deep-water halibut PSC limit would not prohibit the harvester from fishing for rockfish in the Western GOA or West Yakutat region. Any halibut PSC used for fishing rockfish would be debited from the deep-water complex halibut PSC limit assigned to that cooperative. In the final rule implementing Amendment 88 to the GOA FMP, NMFS clarified this by modifying regulations at § 679.7(n)(6)(iv) however, the commenter requested that NMFS update regulations at § 679.82(e)(9)(iii) to further clarify this point in this rule as intended in the final rule implementing Amendment 88 to the GOA FMP.

Response: NMFS agrees that this clarification is needed and this change is included in this final rule. As further explained in the “Changes from Proposed to Final Rule” section of this final rule, NMFS adds a clarification at § 679.82 (e)(9)(iii) that was meant to be added in at the implementation of the Rockfish Program through Amendment 88 to the GOA FMP. Once a halibut PSC limit is reached by a rockfish cooperative, that cooperative is prohibited from directed fishing in the shallow-water or deep-water flatfish complex depending on which PSC halibut sideboard had been reached in in the Western GOA or the West Yakutat District.

Comment 4: A commenter disagreed with the proposed changes to remove observer coverage requirements and observer workstations under the Rockfish Program because data collected by observers is necessary to investigate corruption in this fishery.

Response: NMFS acknowledges the commenter's support for observer data collected in the Rockfish Program fisheries. However, NMFS disagrees that the requirement for a shoreside processor to provide an observer workstation and communication equipment should not be removed. This final rule maintains existing observer coverage requirements for all participants for the purpose of monitoring the Rockfish Program fisheries as implemented under Amendment 88 to the GOA FMP (76 FR 81248, December 27, 2011). However, as part of that 2011 action, observer coverage requirements for shoreside processors were removed but the observer workstation and communication equipment requirements inadvertently remained in place. Without a requirement for observer coverage at shoreside processors under the Rockfish Program the observer workstation and communications equipment are not necessary and therefore these requirements are removed from regulation in this final rule. These changes are further described in the preamble to the proposed rule and Section 3.7.9 of the Analysis (See **ADDRESSES**).

Comment 5: A commenter stated that there is no such thing as "unused" fish and asserts that NMFS should not be authorized to reallocate any unused fish or Pacific cod under this Program.

Response: NMFS disagrees. Each year, after consultation with the Council, NMFS publishes the final harvest specifications, to specify the total allowable catch (TAC) for each target groundfish species and apportionments thereof, Pacific halibut prohibited species catch (PSC) limits, and seasonal allowances of pollock and Pacific cod. "Unused" fish in this context means unharvested and refers to the amount of catch for a particular species has been specified for harvest up to the TAC or apportionment of

the TAC but has not yet been fully harvested in the specified time period. Under the GOA FMP and its implementing regulations, NMFS has existing authority to reallocate unharvested species. This final rule authorizes NMFS to reallocate Pacific cod and rockfish ICA's that would otherwise remain unharvested without reallocation. These changes will contribute to achieving optimum yield under National Standard 1 and potentially reduce mandatory discards of these species in other fisheries. Additional information is included in the preamble to the proposed rule and Sections 1.9.2, 3.7.2, and 3.7.10 in the Analysis (See **ADDRESSES**).

Comment 6: A commenter stated that proposed changes to regulations implementing the Rockfish Program, including changes to recordkeeping and reporting requirements, appear to increase unsustainable overharvesting of the fisheries.

Response: NMFS disagrees. Changes to recordkeeping and reporting requirements are summarized in the classification section of this final rule and do not modify provisions of the Rockfish Program that would affect NMFS' ability to monitor fishery harvests under the Rockfish Program. These recordkeeping and reporting changes clarify existing provisions of the program and remove unnecessary reporting requirements. These changes are described in more detail in Section 3.7 of the Analysis (See **ADDRESSES**).

Comment 7: We support the proposed revisions to remove unnecessary reporting requirements. Removing the requirements to submit a fishing plan and to submit a cooperative report to NMFS will save industry unnecessary time as neither report is used in actively managing the fishery. Although the Cooperative Manager will still give a voluntary cooperative report/presentation to the Council once per year to inform the Council and the public on the program's and cooperative's performance, we estimate the time saved will be up to 25 hours per year. We also support reducing the submission time

for a cooperative check-in report from at least 48 hours to at least 24 hours before the vessel begins a fishing trip to help improve fishing efficiency.

Response: NMFS acknowledges this comment.

Comment 8: Two commenters suggest that NMFS should not use information submitted by commercial fishermen for fisheries management. The commenters suggested that the changes to reporting and recordkeeping requirements proposed by this action are inconsistent with the MSA and are likely to decrease the robustness of science-based components of the program and lead to increased accidental or intentional overfishing.

Response: NMFS acknowledges this comment. This final rule makes minor administrative changes to the Rockfish Program, none of which modify the types of information that NMFS relies on to make fishery management decisions. The Magnuson-Stevens Act and the GOA FMP require, among other things, that fishery management decisions be based on the best scientific information available. This final rule does not change the data sources used to monitor the harvest of species allocated under the Rockfish Program.

Comment 9: NMFS received several comment letters addressing issues outside the scope of this action. Commenters did not support this action because of the effects of fishing on natural resources, including marine mammals, and suggested that NMFS cut all commercial fishing quota by 50 percent, ban trawling in the Gulf of Alaska, and stop fishing for Pacific cod entirely.

Response: These comments address management issues that are beyond the scope of Amendment 111 and this regulatory action. This final rule does not change the process of allocating quota or establishing TACs or sideboard limits under the Rockfish Programs, nor does this final rule change specific management measures that govern the harvest of allocated species under the Rockfish Program, such as fishing location, timing,

effort, or authorized gear types. This final rule removes the sunset date and makes minor changes to the regulations implementing the Rockfish Program. The Magnuson-Stevens Act and the GOA FMP require, among other things, that the Council and NMFS manage fisheries to prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery and base management decisions on the best scientific information available. The commenter provided no information to support cutting commercial fishing quota by 50 percent off Alaska. Currently, commercial groundfish fisheries off Alaska are being responsibly managed with conservative harvest strategies and provide important economic benefits to Alaskan communities. Additionally, in Section 2 of the Analysis prepared for this action, NMFS considered impacts on endangered and threatened species and marine mammals (See **ADDRESSES**).

Comment 10: One commenter questioned how the quality of goods would be affected by the slower fishing times and if the industry will have to deal with quality control declines as production slows, including training procedures for this scenario.

Response: Sections 3.5.7 and 3.5.8 in the Analysis describes rockfish products, markets, and associated wholesale market values (See **ADDRESSES**). Section 4.1 of the Analysis goes into detail on how each National Standard is met (See **ADDRESSES**). The Rockfish Program establishes CQ allocations that allow stakeholders and groups of stakeholders to more efficiently utilize the CGOA resource relative to the limited access management that would go into place with no action. Efficiency is enhanced by allowing CQ holders to scale effort spatially and temporally to reduce costs and increase value.

In addition, there is a downward trend for rockfish products; however, it is attributed to currency valuation and rising secondary processing costs, not slower fishing time. At this time, NMFS is not aware of reduced quality control under the Rockfish Program, either at this present time or at implementation of the Pilot Program, when the

LAPP was established. As such, NMFS does not provide training procedures that address quality control in an established LAPP.

Comment 11: One commenter questioned if this rule supports the common (or great) good and if this rule is against the rights of other businesses fishing in the area for their own productivity.

Response: In recommending Amendment 111, the Council considered the 10 National Standards as contained in the Magnuson-Stevens Act. The National Standards are principles with which fishery management plans and their implementing regulations must be consistent, thereby ensuring sustainable and responsible fishery management. Section 4.1 of the Analysis goes into detail on how each National Standard is met (See **ADDRESSES**). This final rule promotes National Standards 5 and 6, specifically, in terms of community and economic considerations. This final rule maintains existing fish harvesting efficiencies under the Rockfish Program and modifies specific administrative provisions to improve operational efficiency of the Rockfish Program. The Rockfish Program takes into account the unique nature of the CGOA rockfish fishery in terms of its timing during the fishing year and value to the community of Kodiak. The Rockfish Program allows the fishery to be prosecuted during a longer period of time and avoid conflicts with the salmon fisheries that take place during July.

Comment 12: In the preamble of the proposed rule, NMFS omitted mention of thornyhead rockfish (*Sebastes alaskanus*), which is a secondary species for both catcher vessel and catcher processor cooperatives.

Response: NMFS acknowledges the error in the preamble of the proposed rule. The secondary species rationalized under the Rockfish Program include Pacific cod, roughey rockfish, shortraker rockfish, sablefish, and thornyhead rockfish. The regulatory text correctly specifies Rockfish Program secondary species. In Section 2.2 of

the Analysis, thornyhead rockfish are discussed in detail as a secondary species (See **ADDRESSES**).

Comment 13: The proposed regulation will undermine both the environmental and economic protections Congress intended with the MSA by increasing the TACs while simultaneously removing the sensible reporting and monitoring of this commercial activity. The past disasters, both for rockfish and for the people who depend on them for their livelihood, show a clear need for sensible common sense restrictions on fishing and continued reporting mandates.

Response: One of the goals of the Rockfish Program is to enhance resource conservation in the CGOA rockfish fisheries. The Rockfish Program, as implemented by this rule and Amendment 111 to the GOA FMP, continues the cooperative management structure that provides the fleet with tools to minimize bycatch to the extent practicable, reduce discards and improve utilization of groundfish species.

Overfishing Limits (OFLs) and TACs are set each year with conservation in mind. The Rockfish Program's primary and secondary species are not subject to overfishing and are not overfished; TACs are set in a precautionary manner. The current harvest specifications process and authorities for in-season management prevent overfishing and provide for the Rockfish Program to achieve optimum yield on a continuing basis. As described in the proposed rule and Section 2.2 of the Analysis, and this final rule, harvest of Rockfish Program quota will continue to be established by the Council and NMFS through the annual harvest specifications (85 FR 13802, March 10, 2020) (See **ADDRESSES**). Amendment 111 and this final rule do not substantively change conservation and management of the species managed under the CGOA Rockfish Program.

As described in the response to comment 8, this final rule makes minor administrative changes to the Rockfish Program, none of which modify the types of

information that NMFS relies on to make fishery management decisions. This final rule does not change the data sources used to monitor the harvest of species allocated under the Rockfish Program.

Comment 14: The MSA states that any conservation efforts in the area must take into account any potential effects it could have on surrounding fishing communities. Fishing communities are defined as “a social or economic group whose members reside in a specific location and share a common dependency on commercial, recreational, or subsistence fishing.” This would include many of the region's indigenous communities. Amendment 111 has not demonstrated sufficient concern towards the cultural and health impacts it will have on Alaska Native communities.

Putting the area's rockfish population at risk of overharvesting would have direct negative impacts on Alaska Native communities who have long depended on rockfish for nutritional and cultural needs. Lack of precautions to assure sustainable catch of rockfish populations could have negative impacts on food insecurity. The ambition of industry should not curtail the cultural and subsistence use of wild fish stocks by Native Alaskans. We request that the agency review and weigh the impact that this rulemaking will have on Native Alaskan communities.

Response: As explained in the response to comment 12, Amendment 111 and this final rule do not substantively change conservation and management of the species managed in the CGOA Rockfish Program. Section 2.2 of the Analysis and the response to comment 12 describe how the GOA rockfish population is not at risk of being overfished or subjected to overfishing (See **ADDRESSES**).

This final rule and Amendment 111 are consistent with National Standard 8 and maintain the existing management structure of the Rockfish Program. As described in Section 3.5.6 of the Analysis and the Social Impact Assessment, no issues were identified for this final rule that would put the sustained participation of any fishing communities,

including Alaska Native communities, at risk. Implementing this final rule would not change the community protection measures built into the Rockfish Program and previously found to be functioning as intended. The Rockfish Program is likely to have continued beneficial impacts on fishing communities. Patterns of community participation in the CGOA rockfish fisheries are unlikely to change with implementation of the final rule. Among communities substantially engaged in and/or substantially dependent on the CGOA rockfish fisheries managed under the Rockfish Program, Kodiak is the most centrally engaged in and dependent on the fishery as measured by multiple indices across multiple sectors of the fishery. Kodiak has experienced beneficial impacts across harvester, processor, and support services sectors because of the implementation of the Rockfish Program, relative to the pre-Rockfish Pilot Program conditions, and has specifically benefitted from several community protection measures built into the program. Although not all individual operations have benefitted equally from the change in qualifying years between the Rockfish Pilot Program and the Rockfish Program, no substantial adverse sector-level or community-level impacts resulting from the implementation of the Rockfish Program have been identified for the community of Kodiak.

Comment 15: It is indicated within the EA that climate change is a reasonably foreseeable future action that may have an impact on primary and secondary species located within the action area. Given this explicit understanding of the looming detrimental impacts of climate change, even if the drastic increase in harvesting does not single handedly reduce the viability of the fish population, there is minimal room for natural phenomena to take place in combination with the harvesting increase while maintaining a viable fish stock that can support the industry. To ignore the risks of climate change and resulting El Niño events on the rockfish population coupled with increasing harvest, and its potential to decimate this rockfish population as seen in the

West Coast, suggest that the proposed rule should fully consider the risk of climate change and take more restrictive conservational measures.

Response: Section 2.2.3 of the EA states that climate change is the only reasonably foreseeable future action (RFFA) identified as likely to have an impact on primary and secondary target species allocated within the action area and timeframe, the EA concludes that “considering the direct and indirect impacts of the proposed action when added to the impacts of past and present actions, previously analyzed in other documents incorporated by reference, and the impacts of the RFFAs listed above, the cumulative impacts of the proposed action are determined to be insignificant.” Effects of the action and RFFAs on the target species are considered insignificant, because they are not expected to jeopardize the capacity of the stock to yield sustainable biomass on a continuing basis and are unlikely to affect the distribution of harvested stocks either spatially or temporally such that it has an effect on the ability of the stock to sustain itself.

Although the net effect of climate change on fish resources is currently difficult to predict with accuracy, NMFS and the Council use the Ecosystem Status Reports (ESR) to track the status and trends of ecosystem components through a variety of indicators that are synthesized through a blend of data analysis and modeling to produce ecosystem assessments. The ESR may thus provide early warning signals of direct ecosystem impacts that may affect fish resources, including rockfish species that could warrant management intervention or evidence of the efficacy of previous management actions, as well as track performance in meeting the stated ecosystem-based management goals of the Council.

NMFS reviews the RFFAs, including climate change, as described in the Harvest Specifications Environmental Impact Statement (EIS) each year to determine whether they occurred and, if they did occur, whether they would change the analysis in the Harvest Specifications EIS of the impacts of the harvest strategy on the human

environment (See **ADDRESSES**). In addition, NMFS considers each year whether other actions not anticipated in the Harvest Specifications EIS occurred that would have a bearing on the harvest strategy or its impacts. Each year stock assessment authors review the previous year's ESR for factors that may impact stock/complex biomass and summarize those for the Plan Teams' review. Indicators of concern can be highlighted within each stock assessment and can be used by the Groundfish Plan Teams and the Council to justify modification of allowable biological catch (ABC) recommendations or time/space allocations of catch. NMFS anticipates that current monitoring of groundfish trends and environmental conditions through selected key indicators, reporting in the annual ESRs, and incorporation of this information into the annual stock assessments and the harvest specification process is currently sufficient to alert the Council and NMFS managers to changes to rockfish population trends and conditions.

Comments on the Information Collection Supporting Statements for OMB Control Numbers 0648-0678 and 0648-0545

Comment 16: A commenter identified a couple changes to the supporting statement for the Rockfish Program collection of information (OMB Control Number 0648-0545). First, the commenter disagreed with the statement that "the cooperative must form an association with the processor to which it historically delivered the most rockfish. The cooperative/processor associations are intended to ensure that a cooperative lands a substantial portion of its catch with its members' historic processor." This was the case during the Rockfish Pilot Program. However, with the current Rockfish Program a cooperative must form an association with a processor within the city limits of Kodiak but that processor need not be the member's "historic" processor. Second, the supporting statement notes that the Rockfish Program Vessel Check-In/Check-Out and Termination of Fishing Report and Application for Rockfish Cooperative Fishing Quota (CQ) may be submitted to NMFS more often than quarterly. The commenter thinks the Agency meant

that the Application for Inter-Cooperative Transfer of Rockfish Cooperative Quota and the Rockfish Program Vessel Check-In/Check-Out reports may be submitted more often than quarterly (these transfers and check ins/outs occur many times over the season). The Application for Rockfish Cooperative Fishing Quota is submitted only once per year and any Termination of Fishing Report would be submitted only once per year.

Response: NMFS agrees with these changes, and they are reflected in the supporting statement for OMB Control Number 0648-0545 associated with this final rule.

Comment 17: A commenter was heartened to read that NMFS Alaska Region is currently working on offering submission of the Application for Rockfish Cooperative Fishing Quota application online through eFISH. The use of eFISH for vessel check-in and check-outs and CQ transfers greatly reduced the time and paperwork burden for the cooperatives so they look forward to being able to submit the annual cooperative applications online through eFISH.

Response: NMFS acknowledges this comment.

Comment 18: Note that the fishery management council in Alaska is the North Pacific Fishery Management Council (NPFMC), not “Alaska Council.” Note that the program is titled, “Central Gulf of Alaska Rockfish Program,” not “Alaska Rockfish Program.”

Response: In response to this comment, the title of the information collection for OMB Control Number 0648-0678 has been changed from Alaska Council Cooperative Annual Reports to North Pacific Fishery Management Council Cooperative Annual Reports to reflect the correct name of the regional fishery management council. The title of the information collection for OMB Control Number 0648-0545 has been changed from Alaska Rockfish Program: Permits and Reports to Central Gulf of Alaska Rockfish Program: Permits and Reports to refer to the correct name of the program.

Changes from Proposed to Final Rule

There were two changes from the proposed to the final rule to correct an error in the proposed rule for this action and to correct an error included in the final rule implementing Amendment 88 to the GOA FMP (76 FR 81248, December 27, 2011).

The proposed rule inadvertently proposed to remove the words “Western Gulf of Alaska” in regulations at § 679.82(e)(2). Based on public comment 2 above, the final rule does not remove the words “Western Gulf of Alaska” at § 679.82(e)(2). The proposed change to paragraph § 679.82(e)(2) would have removed Western Gulf of Alaska sideboard limits applicable to vessels operating in fisheries outside the Rockfish Program. This proposed change to paragraph (e)(2) would have removed the Western Gulf of Alaska directed fishing prohibition applicable to vessels operating in fisheries outside the Rockfish Program. This is outside the scope of the action recommended by the Council and therefore this previously proposed change is not included in this final rule.

The second change from proposed to final rule corrects an inadvertent omission in the final rule implementing Amendment 88 to the GOA FMP (76 FR 81248, December 27, 2011). Comment 3 in this final rule provides support for this change. As originally described by NMFS in the response to comment 31 (76 FR 81248, December 27, 2011), this change clarifies that catcher/processors are limited from expanding their harvests of deep-water flatfish beyond an amount that could be supported by the proportion of the halibut PSC historically used by a cooperative. NMFS adds a clarification at § 679.82 (e)(9)(iii) that was meant to be added in at the implementation of the Rockfish Program through Amendment 88 to the GOA FMP (76 FR 81247, December 27, 2011). A rockfish cooperative may not exceed any deep-water or shallow-water halibut PSC sideboard limit assigned to that cooperative. If a cooperative uses halibut PSC while fishing for rockfish in the WGOA or the West Yakutat District, any halibut PSC used will be debited from the deep-water complex halibut PSC sideboard limit assigned to that cooperative. Once a cooperative reaches its deep-water halibut PSC sideboard limit, it could continue to fish

for rockfish in the Western GOA or West Yakutat District because the Council intended to limit the ability of cooperatives to expand their harvests of deep-water flatfish with the halibut PSC sideboard limit beyond an amount that could be supported by the proportion of the halibut PSC historically used by a cooperative during 2000 through 2006. The Council did not intend to limit the rockfish fisheries, which were fully harvested during this period. NMFS is clarifying that once the deep-water halibut PSC sideboard limit is reached, cooperatives may not continue to fish for deep-water species, except rockfish that are open for directed fishing, in the Western GOA or West Yakutat District and this is in response to a comment received at the final rule stage. Any halibut PSC that continues to accrue in the rockfish fishery by the cooperative in the WGOA and West Yakutat District will continue to accrue to the overall deep-water species fishery halibut PSC limit for the GOA.

Classification

Pursuant to sections 304(b)(1)(A) and 305(d) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that Amendment 111 to the GOA FMP and this final rule are necessary for the conservation and management of the CGOA Rockfish Program and are consistent with the GOA FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

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

Small Entity Compliance Guide

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 final regulatory flexibility analysis (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. The preambles to the proposed rule and this final rule include a detailed description of the actions necessary to comply with this rule and as part of this rulemaking process. NMFS has published on its website a summary of compliance requirements that serves as the small entity compliance guide for the Rockfish Program:

<https://www.fisheries.noaa.gov/resource/document/central-gulf-alaska-rockfish-program-informational-guide>. This rule does not require any additional compliance from small entities that is not described in the preambles. Copies of this final rule are available from NMFS at the following website: <https://www.fisheries.noaa.gov/region/alaska>.

Final Regulatory Flexibility Analysis (FRFA)

This FRFA incorporates the Initial Regulatory Flexibility Analysis (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 final rule.

Section 604 of the Regulatory Flexibility Act (RFA) requires that, when an agency promulgates a final rule under section 553 of Title 5 of the U.S. Code (5 U.S.C. 553), after being required by that section or any other law to publish a general notice of final rulemaking, the agency shall prepare a FRFA (5 U.S.C. 604). Section 604 describes the required contents of a FRFA: 1) a statement of the need for and objectives of the rule; 2) a statement of the significant issues raised by the public comments in response to the IRFA, a statement of the assessment of the agency of such issues, and a statement of any changes made to the proposed rule as a result of such comments; 3) the response of the agency to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA) in response to the proposed rule, and a detailed statement of any change made to the proposed rule in the final rule as a result of the comments; 4) a description of and an estimate of the number of small entities to which the rule will apply

or an explanation of why no such estimate is available; 5) a description of the projected reporting, recordkeeping, and other compliance requirements of the rule, including an estimate of the classes of small entities that will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; and 6) a description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes including a statement of the factual, policy, and legal reasons for selecting the alternative adopted and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.

A description of this final rule and the need for and objectives of this rule are contained in the preamble to the proposed rule (85 FR 55243, September 4, 2020) and final rule and are not repeated here.

Public and Chief Counsel for Advocacy Comments on the IRFA

An IRFA was prepared in the Classification section of the preamble to the proposed rule. The Chief Counsel for Advocacy of the SBA did not file any comments on the proposed rule. NMFS received no comments specifically on the IRFA.

Number and Description of Small Entities Regulated by this Final Rule

This final rule will directly regulate the owners and operators of catcher vessels, catcher/processor vessels, and shoreside processors eligible to participate in the CGOA Rockfish Program. In 2019 (the most recent year of complete data), 54 vessel owners participated in the Rockfish Program, 19 of which are considered small entities based on the \$11 million threshold. No catcher/processor vessels are classified as small entities because their combined gross income through affiliation with the Amendment 80 cooperative exceeds the \$11 million first wholesale value threshold. In 2018 and 2019, six shore-based cooperatives were associated with a unique shoreside processor under the Rockfish Program. Reliable information is not available on ownership affiliations among

individual processing operations or employment for the fish processors directly regulated by this final rule. Therefore, NMFS assumes that all of the processors directly regulated by this final rule could be small. Additional detail is included in Sections 3.5.5 and 3.9 in the Analysis prepared for this final rule (see **ADDRESSES**).

In addition to the main program, this final rule also maintains the “entry level” fishery for the longline sector. Since participation in that fishery is voluntary, the number of small entities participating in future years cannot be reliably predicted. From 2012 to 2019, an average of 4 vessels targeted CGOA rockfish in the entry level longline sector. Participation in this fishery has typically included vessels using jig gear and are considered small entities. Therefore, it is likely that a substantial portion of the entry level longline fishery participants will be small entities.

Recordkeeping, Reporting, and Other Compliance Requirements

This final rule will modify recordkeeping and reporting requirements under the Rockfish Program to 1) clarify that only shoreside processors receiving Rockfish Program CQ must submit the Rockfish Ex-vessel Volume and Value Report; 2) modify cooperative check-in times from 48 to 24 hours; 3) remove the requirement for an annual Rockfish Program cooperative report to be submitted to NMFS; 4) remove the requirement for rockfish cooperatives to submit a fishing plan with its annual application for cooperative quota; and 5) require NMFS to annually publish a Rockfish Program cost recovery report. These recordkeeping and reporting changes will clarify existing provisions of the program and remove unnecessary reporting requirements, slightly reducing the reporting burden for all directly regulated entities including small entities. The impacts of these changes are described in more detail in Section 3.7 of the Analysis prepared for this final rule (See **ADDRESSES**).

Description of Significant Alternatives Considered to the Final Action That Minimize Adverse Impacts on Small Entities

The final rule builds upon the Rockfish Pilot Program and the previously implemented Rockfish Program. The Rockfish Pilot Program was originally enacted through congressional direction to address economic inefficiencies in the fishery that primarily affected small entities. In recommending this final rule, the Council considered two alternatives, as it evaluated the potential for the continued rationalization of the CGOA rockfish fisheries. The two alternatives are the “no action” alternative (Alternative 1) that allows the Rockfish Program to expire on December 31, 2021 and an action alternative (Alternative 2) reauthorizing the Rockfish Program with numerous alternative elements to address a suite of potential management revisions. The Council considered alternatives that would modify the duration of the Rockfish Program: 1) remove the sunset date, or 2) implement a new sunset date of 10 to 20 years; and select from numerous alternative elements to revise administrative provisions of the Rockfish Program. The Council selected Alternative 2 with the suite of elements included in this final rule to remove the sunset date and modify specific provisions of the Rockfish Program.

Based upon the best available scientific data, and in consideration of the Council’s objectives of this action, it appears that there are no significant alternatives to the final rule that have the potential to accomplish the stated objectives of the Magnuson-Stevens Act and any other applicable statutes and that have the potential to minimize any significant adverse economic impact of the proposed rule on small entities. After public process, the Council concluded that the proposed Rockfish Program will best accomplish the stated objectives articulated in the preamble for this final rule, and in applicable statutes, and will minimize to the extent practicable adverse economic impacts on the universe of directly regulated small entities.

Duplicate, Overlapping, or Conflicting Federal Rules

NMFS has not identified any duplication, overlap, or conflict between this final rule and existing Federal rules.

Collection-of-Information Requirements

This final rule contains collection-of-information requirements subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). This rule changes the existing requirements for two collections of information—OMB Control Numbers 0648-0678 (Alaska Council Cooperative Annual Reports) and 0648-0545 (Alaska Rockfish Program: Permits and Reports)—and requests extension of OMB Control Number 0648-0545.

OMB Control Number 0648-0678

This rule revises the information collection requirements contained in OMB Control Number 0648-0678 to remove the requirement for an annual Rockfish Program cooperative report to be submitted to NMFS. This requirement is unnecessary, and removing it decreases the respondents' reporting costs. Another revision, which is not connected to this final rule, removes the AFA Catcher Vessel Intercooperative Agreement as a separate component of this collection because this is already included as an appendix to the AFA Annual Catcher Vessel Intercooperative Report, which is approved under OMB Control Number 0648-0678. The public reporting burden is estimated to average per individual response 40 hours for the AFA Annual Catcher Vessel Intercooperative Report and 25 to 40 hours for the annual Rockfish Program cooperative report submitted to the Council. The burden hours reported in the proposed rule were erroneously reported in minutes instead of hours. This final rule includes the accurate estimate of burden hours. The estimated burden hours for the submission of cooperative reports to NMFS reduces the overall burden hour estimate for this collection by 45 hours.

OMB Control Number 0648-0545

This final rule revise the information collection requirements contained in OMB Control Number 0648-0545, and NMFS has requested an extension of this collection for three years. This collection contains three applications and reports used by Rockfish Program cooperatives to apply for cooperative fishing permits, transfer cooperative quota, and manage cooperative fishing activity. This collection is necessary for NMFS to effectively administer and monitor compliance with the management provisions of the Rockfish Program.

This rule removes the requirement for a rockfish cooperative to submit a fishing plan with its Application for Rockfish Cooperative Fishing Quota. No change is made to the estimated reporting burden or costs for this application as the estimate allows for differences in the time needed to complete and submit the application. This rule also reduces the time for a Rockfish Program catcher vessel to submit a cooperative check-in report from 48 hours to 24 hours before the start of a fishing trip. This does not change the estimated reporting burden or costs for this report. These changes are necessary to remove unnecessary reporting requirements.

The respondents are the seven Rockfish Program cooperatives; the estimated total annual burden hours are 35 hours; and the estimated total annual cost to the public for recordkeeping and reporting costs is \$35.

Public reporting burden per individual response is estimated to average 2 hours for the Application for Rockfish Cooperative Fishing Quota; 10 minutes for the Application for Inter-Cooperative Transfer of Rockfish Cooperative Quota; and 10 minutes for the Rockfish Program Vessel Check-In/Check-Out and Termination of Fishing Report.

The public reporting burden includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

We invite the general public and other Federal agencies to comment on proposed and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Written comments and recommendations for this information collection should be submitted on the following website: www.reginfo.gov/public/do/PRAMain. Find these particular information collections by using the search function and entering either the title of the collection or the OMB Control Number (0648-0678 or 0648-0545).

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to penalty for failure to comply with, a collection of information subject to the requirement of the PRA, unless that collection of information displays a currently valid OMB control number.

List of Subjects

50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

50 CFR Part 680

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: February 19, 2021.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR parts 679 and 680 are amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for 50 CFR part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*; 1801 *et seq.*; 3631 *et seq.*; Pub. L. 108-447;
Pub. L. 111-281.

§ 679.2 [Amended]

2. In § 679.2, in paragraph (1) of the definition for “Rockfish Program species” and paragraph (1) of the definition for “Rockfish sideboard limit”, remove the words “pelagic shelf rockfish” and add in their place the words “dusky rockfish”.

3. In § 679.5, remove and reserve paragraph (r)(6) and revise paragraph (r)(8)(i)(A)(I) and (r)(10)(i).

The revisions read as follows:

§ 679.5 Recordkeeping and reporting (R&R).

* * * * *

(r) * * *

(8) * * *

(i) * * *

(A) * * *

(I) At least 24 hours prior to the time the catcher vessel begins a fishing trip to fish under a CQ permit; or

* * * * *

(10) * * *

(i) *Applicability.* A rockfish processor (as defined at § 679.2) that receives and purchases landings of rockfish CQ groundfish must submit annually to NMFS a complete Rockfish Ex-vessel Volume and Value Report, as described in this paragraph (r)(10), for each reporting period for which the rockfish processor receives rockfish CQ groundfish.

* * * * *

§ 679.20 [Amended]

4. In § 679.20, in paragraph (d)(1)(vi)(C)(I), remove the words “pelagic shelf rockfish” and add in their place the words “dusky rockfish”.

5. In § 679.23, revise paragraphs (d)(3)(ii) introductory text and (h)(1) to read as follows:

§ 679.23 Seasons.

* * * * *

(d) * * *

(3) * * *

(ii) *Trawl gear.* Subject to other provisions of this part, directed fishing for Pacific cod with trawl gear in the Western and Central Regulatory Areas is authorized only during the following two seasons except as authorized in Subpart G of this Section under the Rockfish Program:

* * * * *

(h) * * *

<p>If you own or operate a catcher vessel and fish for groundfish with trawl gear in the ***</p>	<p>You are prohibited from subsequently deploying trawl gear in the***</p>	<p>Until***</p>
<p>(1) BSAI while pollock or Pacific cod is open to directed fishing in the BSAI</p>	<p>Western and Central GOA regulatory areas</p>	<p>1200 hours A.l.t. on the third day after the date of landing or transfer of all groundfish on board the vessel harvested in the BSAI, unless you are engaged in directed fishing for Pacific cod in the GOA for processing by the offshore component or if checked-in and</p>

		participating in a CGOA Rockfish Program cooperative.
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* * * * *

6. In § 679.80 revise the paragraph (a) subject heading and remove and reserve paragraph (a)(2).

The revision reads as follows:

§ 679.80 Allocation and transfer of rockfish QS.

* * * * *

(a) *Applicable areas and seasons*—

* * * * *

7. In § 679.81, remove and reserve paragraph (f)(4)(i)(D)(3), remove paragraphs (i)(3)(xxv) and (xxvi), and add paragraph (j).

The addition reads as follows:

§ 679.81 Rockfish Program annual harvester privileges.

* * * * *

(j) *Reallocations*— Annual reallocation of Central Gulf of Alaska rockfish species—

(1) *Pacific cod*. After the Rockfish Program fisheries close on November 15, the Regional Administrator may reallocate any unused amount of Pacific cod from the Rockfish Program to other sectors through notification in the *Federal Register* consistent with regulations at § 679.20(a)(12)(ii).

(2) *Rockfish ICAs*—(i) *General*. The Regional Administrator may reallocate a portion of a Central GOA rockfish ICAs to rockfish cooperatives if the amounts assigned to the Central GOA rockfish ICAs are projected not to be harvested or used. The timing of a reallocation will be at the discretion of the Regional Administrator.

(ii) *Reallocation of Central Gulf of Alaska rockfish ICA species.* If, during a fishing year, the Regional Administrator determines that a reallocation of a portion of the ICAs of Central Gulf of Alaska rockfish species to rockfish cooperatives is appropriate, the Regional Administrator will issue a revised CQ permit to reallocate that amount of Central Gulf of Alaska rockfish species to rockfish cooperatives according to the following:

(A) Catcher vessel rockfish cooperatives will be given priority for reallocation; and

(B) The amount of additional CQ issued to each rockfish cooperative = Amount of Central Gulf of Alaska rockfish species available for reallocation to rockfish cooperatives \times (Amount of CQ for that Central Gulf of Alaska rockfish species initially assigned to that rockfish cooperative / Σ CQ for that Central Gulf of Alaska rockfish species initially assigned to all rockfish cooperatives in the respective sector).

8. In § 679.82:

a. Add paragraph (a)(1)(vi);

b. In paragraphs (d)(3) and (e)(2), remove the words “pelagic shelf rockfish” and add in their place the words “dusky rockfish”; and

c. Revise paragraphs (e)(4) and (e)(9)(iii).

The addition and revisions read as follows:

§ 679.82 Rockfish Program use caps and sideboard limits.

(a) * * *

(1) * * *

(vi) Any transfer of reallocated rockfish ICA (as authorized under § 679.81(j)(2)) or catcher/processor CQ to a catcher vessel cooperative does not apply to catcher vessel ownership, cooperative, harvester CQ, or shoreside processor CQ use caps.

* * * * *

(e) * * *

(4) *West Yakutat District rockfish sideboard ratios.* The rockfish sideboard ratio for each rockfish fishery in the West Yakutat District is an established percentage of the TAC for catcher/processors in the directed fishery for dusky rockfish and Pacific ocean perch. These percentages are confidential.

* * * * *

(9) * * *

(iii) A rockfish cooperative may not exceed any deep-water or shallow-water halibut PSC sideboard limits assigned to that cooperative when directed fishing for species other than rockfish.

* * * * *

9. In § 679.84, revise paragraph (f)(1) to read as follows:

§ 679.84 Rockfish Program recordkeeping, permits, monitoring, and catch accounting.

* * * * *

(f) * * *

(1) *Catch monitoring and control plan (CMCP).* The owner or operator of a shoreside processor receiving deliveries from a catcher vessel described in § 679.51(a)(2) must ensure the shoreside processor complies with the CMCP requirements described in § 679.28(g) except the requirements for an observer workstation and communication with observer as specified in § 679.28(g)(7)(vii) and (viii).

* * * * *

10. In § 679.85, add paragraph (g) to read as follows:

§ 679.85 Cost recovery.

* * * * *

(g) *Annual report.* Each year, NMFS will publish a report describing the rockfish program cost recovery fee program.

**PART 680—SHELLFISH FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE
OFF ALASKA**

11. The authority citation for part 680 continues to read as follows:

Authority: 16 U.S.C. 1862; Pub. L. 109-241; Pub. L. 109-479.

12. In § 680.22, revise paragraph (a)(1) introductory text to read as follows:

§ 680.22 Sideboard protections for GOA groundfish fisheries.

* * * * *

(a) * * *

(1) *Vessels subject to GOA groundfish sideboard directed fishing closures.* Any vessel that NMFS has determined meets one or both of the following criteria is subject to GOA groundfish sideboard directed fishing closures issued under paragraph (e) of this section except when participating in the Rockfish Program authorized under part 679, subpart G, of this chapter.

* * * * *