

disclaimant and its successors or assigns. A notice of the disclaimer is published in the Official Gazette and attached to the printed copies of the specification. The disclaimer, to be recorded in the Patent and Trademark Office, must:

(1) Be signed by the patentee, or an attorney or agent of record;

(2) Identify the patent and complete claim or claims, or term being disclaimed. A disclaimer which is not a disclaimer of a complete claim or claims, or term will be refused recordation;

(3) State the present extent of the disclaimant's ownership interest in the patent; and

(4) Be accompanied by the fee set forth in § 1.20(d).

(b) An applicant may disclaim or dedicate to the public the entire term, or any terminal part of the term, of a patent to be granted. Such terminal disclaimer is binding upon the disclaimant and its successors or assigns. The terminal disclaimer, to be recorded in the Patent and Trademark Office, must:

(1)(i) For patent applications filed under 35 U.S.C. 111(a) or 363 on or after September 16, 2012, be signed by the applicant or an attorney or agent of record; or

(ii) For patent applications filed under 35 U.S.C. 111(a) or 363 before September 16, 2012, be signed:

(A) By the applicant;

(B) If there is an assignee of record of an undivided part interest, by the applicant and such assignee;

(C) If there is an assignee of record of the entire interest, by such assignee; or

(D) By an attorney or agent of record;

(2) Specify the portion of the term of the patent being disclaimed;

(3) State the present extent of the disclaimant's ownership interest in the patent to be granted; and

(4) Be accompanied by the fee set forth in § 1.20(d).

(c) Except as provided for in paragraph (d) of this section, a terminal disclaimer, when filed in a patent, a reexamination proceeding, or a patent application to obviate nonstatutory double patenting of a claimed invention based on a reference patent or application, must:

(1) Comply with the provisions of paragraphs (b)(2) through (4) of this section;

(2) Be signed in accordance with paragraph (b)(1) of this section if filed in a patent application (the subject application) or in accordance with paragraph (a)(1) of this section if filed in a patent or in a reexamination proceeding (the subject patent); and

(3) Include a provision agreeing that the subject patent or any patent granted

on the subject application shall be enforceable:

(i) Only for and during such period that the subject patent or any patent granted on the subject application is commonly owned with the reference patent or any patent granted on the reference application; and

(ii) Only if the subject patent or any patent granted on the subject application is not tied and has never been tied directly or indirectly to a patent by one or more terminal disclaimers filed to obviate nonstatutory double patenting in which:

(A) A claim has been finally held unpatentable or invalid under 35 U.S.C. 102 or 103 in a Federal court in a civil action or at the USPTO, and all appeal rights have been exhausted; or

(B) A statutory disclaimer of a claim is filed after any challenge based on 35 U.S.C. 102 or 103 to that claim has been made.

(d) A terminal disclaimer, when filed in a patent, a reexamination proceeding, or a patent application to obviate nonstatutory double patenting of a claimed invention based on a reference patent or application that is not commonly owned but was disqualified as prior art as set forth in either § 1.104(c)(4)(ii) or (c)(5)(ii) as the result of activities undertaken within the scope of a joint research agreement, must:

(1) Comply with the provisions of paragraphs (b)(2) through (4) of this section;

(2) Be signed in accordance with paragraph (b)(1) of this section if filed in a patent application (the subject application) or be signed in accordance with paragraph (a)(1) of this section if filed in a patent or in a reexamination proceeding (the subject patent); and

(3) Include a provision waiving the right to separately enforce the subject patent or any patent granted on the subject application and the reference patent or any patent granted on the reference application, and agreeing that the subject patent or any patent granted on the subject application shall be enforceable:

(i) Only for and during such period that the subject patent or any patent granted on the subject application and the reference patent or any patent granted on the reference application are not separately enforced; and

(ii) Only if the subject patent or any patent granted on the subject application is not tied and has never been tied directly or indirectly to a patent by one or more terminal disclaimers filed to obviate nonstatutory double patenting in which:

(A) A claim has been finally held unpatentable or invalid under 35 U.S.C. 102 or 103 in a Federal court in a civil action or at the USPTO, and all appeal rights have been exhausted; or

(B) A statutory disclaimer of a claim is filed after any challenge based on 35 U.S.C. 102 or 103 to that claim has been made.

**Katherine K. Vidal,**

*Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.*

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**BILLING CODE 3510–16–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 240502–0125]

RIN 0648–BM69

#### **Fisheries of the Exclusive Economic Zone Off Alaska; Amendment 113 to the Fishery Management Plan for the Groundfish of the Gulf of Alaska; Central Gulf of Alaska Rockfish Program Adjustments**

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS proposes regulations to implement amendment 113 to the Fishery Management Plan (FMP) for the Groundfish of the Gulf of Alaska (GOA). If approved, amendment 113 and this proposed rule would modify specific provisions of the Central Gulf of Alaska (CGOA) Rockfish Program (RP) to change the season start date, remove the catcher vessel (CV) cooperative holding cap, and revise the processing and harvesting caps. This action is necessary to provide increased flexibility and efficiency, and help ensure the rockfish total allowable catch (TAC) is fully harvested and landed in Kodiak while maintaining the intent of the RP. Amendment 113 is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the GOA FMP, and other applicable laws.

**DATES:** Submit comments on or before June 10, 2024.

**ADDRESSES:** A plain language summary of this proposed rule is available at <https://www.regulations.gov/docket/>

NOAA-NMFS-2023-0149. You may submit comments on this document, identified by NOAA-NMFS-2023-0149, by any of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Visit <https://www.regulations.gov> and type NOAA-NMFS-2023-0149 in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

- **Mail:** Submit written comments to Gretchen Harrington, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS. Mail comments to P.O. Box 21668, Juneau, AK 99802-1668.

**Instructions:** Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on <https://www.regulations.gov> without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous). Electronic copies of amendment 113 to the FMP, the Environmental Assessment and Regulatory Impact Review prepared for this action (the Analysis), and the Finding of No Significant Impact prepared for this action may be obtained from <https://www.regulations.gov> and 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 proposed rule may be submitted to NMFS at the above address and to <https://www.reginfo.gov/public/do/PRAMain>. Find this particular information collection by selecting “Currently under Review—Open for Public Comments” or by using the search function.

**FOR FURTHER INFORMATION CONTACT:** Joel Kraski, 907-586-7228, [joel.kraski@noaa.gov](mailto:joel.kraski@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Authority for Action

NMFS manages the groundfish fishery in the exclusive economic zone in the GOA according to the FMP for Groundfish of the Gulf of Alaska prepared by the North Pacific Fishery Management Council (Council) under

authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

A notice of availability (NOA) for amendment 113 was published in the **Federal Register** on April 4, 2024 (89 FR 23535), with comments invited through June 3, 2024. All relevant written comments received by the end of the comment period (See **DATES**), whether specifically directed to the NOA or this proposed rule, will be considered by NMFS in the approval/disapproval decision for amendment 113. Commenters do not need to submit the same comments on both the NOA and this proposed rule. Comments submitted on this proposed rule by the end of the comment period (See **DATES**) will be considered by NMFS in our decision to implement measures recommended by the Council and will be addressed in the response to comments in the final rule.

##### Background

Following is a description of the Central GOA Rockfish Program (RP) and the need for this proposed rule.

##### The Rockfish Program

This section provides a brief overview of the RP, which is a limited access privilege program (LAPP). The Council designed the RP to meet the requirements for limited access privileges in section 303A of the Magnuson-Stevens Act. The RP was developed to enhance resource conservation and improve economic efficiency in the CGOA rockfish fisheries. A detailed description of the RP and its development is provided in the preambles to the proposed and final rules implementing the RP from 2012 through 2021 (76 FR 52147, August 19, 2011 and 76 FR 81248, December 27, 2011).

Originally, the RP was developed to recognize historic participation of fishing vessels and processors. It established a set-aside for participants not eligible to participate in the Rockfish Pilot Program (RPP) and catch limits of species incidentally harvested: northern rockfish, pelagic shelf rockfish (since redefined as dusky rockfish), and Pacific ocean perch.

The RP, which includes the CGOA rockfish species of Pacific ocean perch, northern rockfish, and pelagic shelf rockfish, is based on the recognition of historical participation of fishing vessels and processors in the CGOA rockfish fisheries from 1996 to 2002. The RP

provides catch limits for non-rockfish species and non-target rockfish species harvested with the CGOA rockfish species, based upon historical harvest levels of these incidentally caught species; and sets aside up to 5 percent of the TAC of the CGOA rockfish fisheries for CVs that are not eligible to participate in the program. The RP apportions TAC to cooperatives formed by individuals holding a License Limitation Program (LLP) license with rockfish quota share (QS). Fishing under cooperative management resulted in a slower-paced fishery that allowed harvesters to choose when to fish and provided greater stability for processors by spreading out production over a longer period of time.

The RP provides exclusive harvesting privileges for vessels using trawl gear to harvest a specific set of “rockfish primary species” and associated “rockfish secondary species” (defined at 50 CFR 679.2) incidentally harvested to the rockfish primary species in the CGOA, an area from 147° W long. to 159° W long. The rockfish primary species are northern rockfish, Pacific ocean perch, and dusky rockfish. The rockfish secondary species are Pacific cod, rougheye rockfish, shortraker rockfish, and sablefish. The RP also allocates a portion of the halibut bycatch mortality limit for the GOA trawl fisheries to RP participants.

##### Need for Amendment 113 and This Proposed Rule

In June 2022, the Council recommended that the Secretary approve amendment 113 to the GOA FMP. Amendment 113 and this proposed rule would address changes in, and potentially resolve associated impacts to, the RP fishery since the RP was reauthorized in 2021.

Cumulative changes since the start of the RP in 2012 have impacted the CGOA fisheries, resulting in difficulties harvesting and processing the CV cooperative quota (CQ), especially later in the season as processors approach the limit of their current processing cap or close for seasonal maintenance. Seasonal fishing activity is the driving force for the planning of vessels and processing staff needs. From the processors’ perspective, one of the primary reasons for implementing the RP was to allow the rockfish fishery to be prosecuted prior to the start of the pink salmon fishery, which begins in July. Previous overlaps in the timing of various fisheries led to processing capacity and labor issues. Processors were unable to sustain production when overwhelmed with landings from various overlapping fisheries or were

unable to expand or shrink their production-line employee pools in association with landings. The RP's early opening date allowed excess processor capacity and labor to be utilized more efficiently. Additionally, since 2021, the CGOA flatfish market prices have declined partially due to increased foreign trade tariffs levied by China, leading to a negative financial impact on Kodiak processors due to labor planning issues and lack of sustained deliveries to keep processing crews active. Given these RP processing facility issues, the Council chose to recommend measures that would provide processors increased flexibility, as described below, and allow the RP fishery to adapt to unforeseen challenges.

Seven individual Kodiak rockfish processors, each associated with one or more cooperatives, participated in the RP from 2012 through 2014. One RP processor was acquired in 2014 by another processing company, reducing the total number RP processors to six but leaving the number of RP cooperatives unchanged. Later, in 2018, a rockfish processor ceased processing and the associated cooperative disbanded. In 2020, a merger between processors, and a third processor deciding not to take any RP deliveries, reduced the total number to four processors. In late 2023, one of the four remaining processors announced the intent to sell the rockfish processing plant located in Kodiak, which may leave 10 percent of the TAC unable to be processed, as each of the remaining three processors are limited to processing 30 percent of the TAC.

Amendment 113 and this proposed rule would also provide additional flexibility for trawl vessels to participate in the RP during April, and could keep rockfish processors fully operational, thus mitigating impacts from changes in market conditions. The change in season start date from May 1 to April 1 annually would likely help maintain processing capacity for other non-trawl fisheries through workforce stability, which was observed during the 2021 rockfish season under the emergency rule (86 FR 14851, March 19, 2021) when NMFS temporarily moved the season start date to April 1, 2021.

The term "use cap" or "cap" is the limit on the quota that can be caught or processed by participants in the RP. This proposed rule would implement the amendment 113 change to three of the RP use caps to remove constraints on the amount of CQ that can be caught or processed by participants, while still maintaining the Council's original intent of preventing consolidation and

meeting the overall goal of prosecuting this fishery in a sustainable and functional manner. These changes to the FMP regulations would improve the likelihood that the TACs for the rockfish primary species and the rockfish secondary species would be fully harvested and landed in Kodiak.

In addition to providing additional flexibility to RP processors and harvesters, this proposed rule would implement the amendment 113 update to terminology in the FMP regulations for one species grouping by changing "pelagic shelf rockfish" to "dusky rockfish." This would resolve an overlooked species grouping reference that was not completely resolved with the final rule to implement amendment 111 to the GOA FMP (86 FR 11895, March 1, 2021). This is a change in name only; it was effectively made in May 2012 during the 2012 and 2013 harvest specifications (77 FT 15194, March 14, 2012), when the GOA FMP was revised by removing widow rockfish and yellowtail rockfish from the "pelagic shelf rockfish" species grouping, thus leaving only dusky rockfish.

Finally, this proposed rule would revise to the regulations to allow for increased flexibility, consistency, and clarity, as described in the *Other Regulatory Changes* section below.

### **This Proposed Rule**

#### *Change in Rockfish Program Season Start Date*

This proposed rule would change the start date for this fishery from May 1 to April 1, specified at § 679.80(a)(3)(ii) for a rockfish cooperative, to enhance flexibility for processing plants and vessel operators participating in the RP.

This proposed rule would also change associated references to RP season start dates in §§ 679.5(r)(10), 679.7(n)(3)(i), 679.7(n)(6)(vi), 679.51(a)(2)(vi)(D)(1), 679.81(i)(3), 679.84(g)(1), and 679.84(g)(2). The changes in § 679.5(r)(10) would add April to the reporting period of the Rockfish Ex-vessel Volume and Value Report. The changes in § 679.7(n)(3)(i) and (n)(6)(vi) would extend the requirement to use a Vessel Monitoring System (VMS) during the month of April while operating in the RP fishery. The changes in § 679.51(a)(2)(vi)(D)(1) would extend the observer requirements for RP from May to the month of April. The changes in §§ 679.81(i)(3), 679.84(g)(1) and 679.84(g)(2) would extend when catch of the rockfish primary species and rockfish secondary species are deducted from CQ from May to the month of April. These provisions all reference the

season start date for RP and the changes in this proposed rule would make the regulations consistent with the change to the season start date and would eliminate references to the prior start date of May 1.

#### *Remove the Catcher Vessel Cooperative Rockfish CQ Use Cap*

This proposed rule would remove § 679.82(a)(3), thereby eliminating the CV cooperative rockfish CQ use cap that prevents a CV rockfish cooperative from holding or using an amount of rockfish primary species CQ during a calendar year that is greater than an amount resulting from 30.0 percent of the aggregate rockfish primary species QS initially assigned to the CV sector. Removing this use cap would allow cooperatives to reduce the administrative and management costs associated with managing the cooperatives. RP CVs are currently free to join any RP cooperative and each RP cooperative can associate with any processor, and any processor can associate with more than one cooperative. The Council determined, and NMFS agrees, that the RP's processing use cap provides the intended protection from over consolidation, as discussed below, and removing the 30 percent CV cooperative CQ cap would remove duplication and increase efficiencies for cooperatives.

Therefore, this proposed rule would relieve the unnecessary administrative burden caused by preventing RP CVs from joining together into larger cooperatives, while providing more flexibility within the RP fishery for CVs.

#### *Increase the Use Caps for Rockfish Processors*

This proposed rule would revise § 679.82(a)(5) to increase the use cap for rockfish processors from 30 percent to 40 percent of the CV QS pool for rockfish primary species, Pacific cod, and sablefish, which ensures that a minimum of three Kodiak processors would be necessary to process all the RP CQ. As noted above, seven individual Kodiak rockfish processors, each associated with one or more cooperatives, participated in the RP from 2012 through 2014. The reduction from seven rockfish processors down to the four that are currently required was not a result of consolidation; it occurred because of plant closures due to various market conditions since 2014. There are currently four rockfish processors operating in Kodiak, Alaska. One of those four rockfish processors announced in December 2023 that their Kodiak processing plant would be listed for sale, resulting in uncertainty for

vessels having a market for rockfish CQ deliveries. Increasing the processor use cap could allow consolidation of RP processing activity to three rockfish processors in Kodiak, Alaska. This could reduce the number of operating rockfish processors; however, increasing the processing cap to 40 percent would continue to limit processor consolidation and provide additional flexibility, allowing all of the CV CQ to be harvested and processed for the primary aggregated rockfish species, Pacific cod, and sablefish.

#### *Revise CV Aggregated Rockfish Harvesting Cap*

This proposed rule would revise § 679.82(a)(4) pertaining to the 8 percent harvest vessel use cap for catcher vessels. This proposed rule would not change the harvest vessel use cap for catcher/processor vessels.

This change would delete the phrases “rockfish primary species” and “aggregate rockfish primary species” in paragraph (4) and replace them with the phrase “Pacific ocean perch”, thus effectively removing dusky rockfish and northern rockfish from the calculation of the 8 percent harvest vessel use cap, so that the cap would apply only to a CV’s harvest of Pacific ocean perch. This change is intended to increase harvest under the RP and more fully utilize the dusky rockfish and northern rockfish TACs, which are consistently underharvested. This would provide an increased opportunity to CVs to harvest a larger portion of dusky rockfish and northern rockfish CQ. In the past, one to three CVs have approached the harvest vessel use cap, but never exceeded that use cap. CVs that have approached the aggregated rockfish harvesting cap limit primarily catch Pacific ocean perch. As a result, maintaining the 8 percent harvest vessel use cap for Pacific ocean perch, but removing it for dusky and northern rockfish, would continue to restrict the catch of Pacific ocean perch quota while simultaneously allowing RP CVs to harvest a greater portion of the dusky rockfish and northern rockfish CQ.

#### *Other Regulatory Changes*

In addition to the regulatory changes necessary to implement amendment 113, NMFS proposes the below revisions to the FMP regulations on the RP for clarity, efficiency, and technical consistency, pursuant to the authority of section 305(d) of the Magnuson-Stevens Act. These revisions would:

- Replace all relevant instances of “pelagic shelf rockfish” with “dusky rockfish” in § 679.7(n)(4), 679.7(n)(6)(vi), and table 37 in part 679.

This change would clarify that the regulations apply only to one species, dusky rockfish. This would resolve an overlooked species grouping reference. Recommendations were made by the Council during the 2012 and 2013 harvest specifications process to align the GOA FMP with the Stock Assessment and Fisheries Evaluation report for the GOA. In May 2012, the GOA FMP was revised to remove widow rockfish and yellowtail rockfish from the “pelagic shelf rockfish” assemblage, leaving only dusky rockfish (77 FR 15194, March 14, 2012). The final rule to implement amendment 111 to the GOA FMP changed references from “pelagic shelf” rockfish to “dusky” rockfish throughout 50 CFR part 679 to update the GOA FMP regulations consistent with changes that have occurred to species categories since 2012 and consistent with the implementation of the Rockfish Program (86 FR 11895, March 1, 2021). However, the final rule implementing the Rockfish Program did not change § 679.7(n)(4), 679.7(n)(6)(vi), and table 37 in part 679. Tables or other sections that refer to a specific year in which all three species were present in the assemblage would not be changed.

- Revise § 679.5(r)(8)(i)(A) and (B) to allow vessel operators to submit the check in/out reports on behalf of the rockfish cooperative for additional flexibility. The designated representative of a rockfish cooperative, or vessel operator authorized by the rockfish cooperative, would be able to conduct the check in/out process for the rockfish cooperative vessel.

- Remove the website address for the NMFS Alaska Region website in § 679.5(r)(10)(v). Because the website address is included in the definition of “NMFS Alaska Region website” at § 679.2, it is no longer necessary (and it may be confusing) to also include the website in § 679.5(r)(10)(v).

- Revise § 679.81(f)(4) by removing the requirement to submit all listed documents for the Annual Application for the RP. Thus, all documents would be required to be submitted with an initial application, while applicants would be required to resubmit only those documents from the initial application that contain new or changed information. This change would help reduce the reporting burden for subsequent annual applications.

- Regulations at § 679.81(g)(2)(i) and (ii) by removing “Transfer Key” from the application for inter-cooperative transfer of cooperative quota, as Transfer Keys are no longer used by the RP.

#### **Classification**

Pursuant to sections 304(b)(1)(A) and 305(d) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the GOA FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment. Pursuant to MSA section 305(d), this action is necessary to carry out amendment 113 to the GOA FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, and to revise regulations associated with the RP for clarity and technical consistency. Section 305(d) grants the authority to make technical changes to existing regulations, updating cross-references, and clarifications to facilitate pre-planned efficiencies. This proposed rule has been determined to be not significant for the purposes of Executive Order 12866.

A Regulatory Impact Review was prepared to assess costs and benefits of available regulatory alternatives. A copy of this analysis is available from NMFS (see **ADDRESSES**). The Council recommended amendment 113, and NMFS proposes these regulations based on those measures that maximize net benefits to the Nation. Specific aspects of the economic analysis are discussed below in the Initial Regulatory Flexibility Analysis section.

#### *Initial Regulatory Flexibility Analysis*

This Initial Regulatory Flexibility Analysis (IRFA) was prepared for this proposed rule, as required by Section 603 of the Regulatory Flexibility Act (RFA) (5 U.S.C. 603), to describe the economic impact this proposed rule, if adopted, would have on small entities. This IRFA describes the action; the reasons why this proposed rule is proposed; the objectives and legal basis for this proposed rule; the number and description of directly regulated small entities to which this proposed rule would apply; the recordkeeping, reporting, and other compliance requirements of this proposed rule; and the relevant Federal rules that may duplicate, overlap, or conflict with this proposed rule. This IRFA also describes significant alternatives to this proposed rule that would accomplish the stated objectives of the Magnuson-Stevens Act, and any other applicable statutes, and that would minimize any significant economic impact of this proposed rule on small entities. The description of the proposed action, its purpose, and the legal basis are explained above in the **SUPPLEMENTARY INFORMATION** section of

this proposed rule, and are not repeated here.

For Regulatory Flexibility Act purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of \$11 million for all its affiliated operations worldwide.

#### *Number and Description of Small Entities Regulated by This Proposed Rule*

This proposed rule would directly regulate the owners and operators of CVs and catcher/processor vessels eligible to participate in the CGOA RP. In 2022 (the most recent year of complete data), 57 vessels participated in the RP, 26 of which are considered small entities based on the \$11 million threshold. None of the nine catcher/processor vessels that participate in the RP 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 for combined annual receipts for all affiliated operations worldwide. Additional detail is included in Sections 2.9 in the Analysis prepared for this rule (see **ADDRESSES**).

#### *Description of Significant Alternatives That Minimize Adverse Impacts on Small Entities*

In recommending amendment 113 and this proposed rule, the Council considered two alternatives, with multiple elements, including the “no action” alternative (Alternative 1); and an action alternative (Alternative 2) to modify the RP with four options to address a suite of potential management revisions. The Council selected, and this proposed rule would implement, Alternative 2, and all options under that alternative, which would increase net benefits to the nation in comparison to the status quo. Those options, which are described (along with a description of the benefits of each option) above in the section entitled, “This Proposed Rule,” are to: (1) change the season start date from May 1 to April 1; (2) remove the CV cooperative rockfish CQ use cap; (3) increase the use caps for rockfish processors; and (4) revise the CV aggregated rockfish harvesting cap. As described above in the “This Proposed Rule” section, these options enhance

flexibility (options 1, 2 and 3), relieve unnecessary administrative burdens for participants in the RP (option 2), and provide increased opportunities to harvest a larger portion of the dusky rockfish and northern rockfish CQ (option 4). The option to increase the processor use cap from 30 to 40 percent could allow consolidation of RP processing activity to three rockfish processors in Kodiak. This allows for the reduction of the number of operating rockfish processors from four to three. The expected result of this option to increase the processing cap would be continued limiting of processor consolidation while also allowing for additional flexibility compared to the status quo. These adjustments to the current CGOA RP would allow additional flexibility to adapt to changing market and environmental conditions, both on the water and in processing capacity within the community, as discussed in the “This Proposed Rule” section. The proposed action is intended to meet the overall goal of prosecuting this fishery in a sustainable and functional manner, and to better ensure that the TACs for the primary rockfish species and other allocated species are fully harvested and landed in Kodiak. As noted by the Council in its purpose and need statement, this proposed action includes relatively small changes to the regulations but could have a meaningful impact to the fishery and the Kodiak community.

Based upon the best available scientific data, and in consideration of the Council’s objectives of this action, there are no significant alternatives to Alternative 2, which would be implemented by this proposed 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 consideration of input from the public, the Council and NMFS concluded that the proposed action would best accomplish the stated objectives articulated above in the **SUPPLEMENTARY INFORMATION** section of this proposed rule, and in applicable statutes, and would minimize any significant economic impact of the proposed rule on small entities.

#### *Duplicate, Overlapping, or Conflicting Federal Rules*

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

#### *Recordkeeping, Reporting, and Other Compliance Requirements*

This proposed rule would modify recordkeeping and reporting requirements under the RP to: (1) Add the month of April to the Rockfish Ex-vessel Volume and Value Report; (2) modify cooperative check-in/out procedures to allow vessel operators to perform the check-in/out; (3) prohibit operation of a vessel that is assigned to a rockfish cooperative and fail to use functioning VMS equipment at all times when operating in a reporting area off Alaska for the month of April; and (4) require documentation for the Annual Application for the RP on the initial application, while subsequently requiring less documentation. Subsequent applications will only be required to resubmit documents for the application if information has changed. These recordkeeping and reporting changes would clarify existing provisions of the RP and remove unnecessary reporting requirements, with the result of slightly reducing the reporting burden for all directly regulated entities including small entities. The impact of these changes is described in more detail in Section 2.8.2 of the Analysis prepared for this proposed rule (See **ADDRESSES**).

#### *Collection-of-Information Requirements*

Under the Paperwork Reduction Act (PRA) of 1995, two collections of information (and the requirements therein) would continue to apply with no changes: Office of Management and Budget (OMB) Control Number 0648–0445, NMFS Alaska Region VMS Program; and OMB Control Number 0648–0711, Alaska Cost Recovery and Fee Programs. This proposed rule does not contain a change to the requirements contained in these two collections.

This proposed rule contains one collection-of-information requirement subject to review and approval by the OMB under the PRA. This proposed rule would revise the existing requirements for the collection of information OMB Control Number 0648–0545, entitled “Central Gulf of Alaska Rockfish Program: Permits and Reports.” As described below, the revisions made by this proposed rule to OMB Control Number 0648–0545 would not result in a change in estimated burden hours. Because of a concurrent action (submitted for three-year renewal) for 0648–0545, the revision to that collection of information for this rule will be assigned a temporary control number that will later be merged into 0648–0545.

Specifically, this proposed rule would revise the requirements for the Application for Rockfish Cooperative Fishing Quota to require the documents listed at § 679.81(f)(4)(i) to be submitted only with the initial application. In subsequent applications, applicants would need to resubmit these documents only if information has changed. This would not modify the respondents, responses, or the burden related to this application. This proposed rule would also allow vessel operators to conduct the check-in and check-out process for the rockfish cooperative vessel check-in and check-out reports. Currently this can only be done by the RP cooperative representative. This revision would add 10 vessel operators as new respondents for the rockfish check-in and check-out reports, but would not change the number of responses or the burden.

The public reporting burden for the Application for Rockfish Cooperative Fishing Quota is estimated to average two hours and the check-in and check-out reports are estimated to average 10 minutes each. These burden estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Public comment is sought regarding whether existing collections of information 0648–0445 and 0648–0711, and collection of information 0648–0545 as proposed for revision by this action, are necessary for the proper performance of the functions of the agency, including whether the information to be collected will have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Submit comments on these or any other aspects of the collection of information at <https://www.reginfo.gov/public/do/PRAMain>.

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

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Date: May 2, 2024.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 679 as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 1. The authority citation for 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.

■ 2. In § 679.5, revise of paragraphs (r)(8)(i)(A) introductory text, (r)(8)(i)(B) introductory text, (r)(8)(ii), and (r)(10)(ii) and (v) to read as follows:

§ 679.5 Recordkeeping and reporting (R&R).

- (r) \* \* \*
(8) \* \* \*
(i) \* \* \*

(A) Vessel check-in. The designated representative of a rockfish cooperative must designate any vessel that is authorized to fish under the rockfish cooperative’s CQ permit, or, if authorized by the rockfish cooperative, the operator of a vessel must do so, before that vessel may fish under that CQ permit through a check-in procedure. The designated representative for a rockfish cooperative or operator of the vessel must submit to NMFS, in accordance with paragraph (r)(8)(ii) of this section, a check-in designation for a vessel:

(B) Vessel check-out. The designated representative of a rockfish cooperative must designate any vessel that is no longer fishing under a CQ permit for that rockfish cooperative, or, if authorized by the rockfish cooperative, the operator of the vessel must do so, through a check-out procedure. A check-out report must be submitted to NMFS, in accordance with (r)(8)(ii) of this section, within 6 hours after the effective date and time the rockfish cooperative ends the vessel’s authority to fish under the CQ permit.

(ii) Submittal. The designated representative of the rockfish cooperative or, if authorized by the rockfish cooperative, the operator of a vessel must submit a vessel check-in or check-out report electronically. The rockfish cooperative’s designated representative or vessel operator must

log into the online system and create a vessel check-in or vessel check-out request as indicated on the computer screen. By using the NMFS ID password and submitting the transfer request, the designated representative or vessel operator certifies that all information is true, correct, and complete.

- (10) \* \* \*

(ii) Reporting period. The reporting period of the Rockfish Ex-vessel Volume and Value Report shall extend from April 1 through November 15 of each year.

(v) Submittal. The rockfish processor must complete and submit online by electronic submission to NMFS the Rockfish Ex-vessel Volume and Value Report available at the Alaska Region website.

- 3. Amend § 679.7 by

- a. Revising paragraph (n)(3)(i) introductory text; and
b. Removing the phrase “pelagic shelf rockfish” and adding, in its place, the phrase “dusky rockfish” in paragraphs (n)(4) and (n)(6)(vi).

The revision reads as follows:

§ 679.7 Prohibitions.

- (n) \* \* \*
(3) \* \* \*

(i) Operate a vessel that is assigned to a rockfish cooperative and fail to use functioning VMS equipment as described at § 679.28(f) at all times when operating in a reporting area off Alaska from April 1:

- 4. In § 679.51, revise paragraph (a)(2)(vi)(D)(1) to read as follows:

§ 679.51 Observer and Electronic Monitoring System requirements for vessels and plants.

- (a) \* \* \*
(2) \* \* \*
(vi) \* \* \*
(D) \* \* \*

(1) Rockfish cooperative. A catcher/processor that is named on an LLP license that is assigned to a rockfish cooperative and is fishing under a CQ permit must have at least two observers aboard for each day that the vessel is used to catch or process fish in the Central GOA from April 1 through the earlier of November 15 or the effective date and time of an approved rockfish cooperative termination of fishing declaration. At least one observer must be endorsed as a lead level 2 observer. More than two observers must be aboard if the observer workload restriction

would otherwise preclude sampling as required.

\* \* \* \* \*  
 ■ 5. In § 679.80, revise paragraph (a)(3)(ii) to read as follows:

**§ 679.80 Allocation and transfer of rockfish QS.**

\* \* \* \* \*

- (a) \* \* \*
- (3) \* \* \*

(ii) *Rockfish cooperative.* Fishing by vessels participating in a rockfish cooperative is authorized from 1200 hours, A.l.t., April 1 through 1200 hours, A.l.t., November 15.

\* \* \* \* \*

■ 6. In § 679.81, revise paragraphs (f)(4) introductory text, (f)(4)(i) introductory text, (g)(2)(i) and (ii), and (i)(3)(viii) and (xxii) read as follows:

**§ 679.81 Rockfish Program annual harvester privileges.**

\* \* \* \* \*

(f) \* \* \*

(4) *Contents of the Application.* A completed application must contain the information specified on the Application for Rockfish Cooperative Fishing Quota identifying the rockfish cooperative, members of the cooperative, and processor associate of a catcher vessel rockfish cooperative, with all applicable fields accurately filled-in and all required documentation attached. The initial application must contain all documents specified at paragraph (f)(4)(i) of this section. Subsequent applications will only be required to resubmit documents specified at paragraph (f)(4)(i) if information they contain has changed.

(i) *Additional documentation.* For the cooperative application to be considered complete, the following documents must be attached to the initial application:

\* \* \* \* \*

(g) \* \* \*

(2) \* \* \*

(i) The transferor's designated representative must log into NMFS' online system and create a transfer request as indicated on the computer screen. By using the transferor's NMFS ID and password, and submitting the transfer request, the designated representative certifies that all information is true, correct, and complete.

(ii) The transferee's designated representative must log into the online system and accept the transfer request. By using the transferee's NMFS ID and password, the designated representative certifies that all information is true, correct, and complete.

\* \* \* \* \*

(i) \* \* \*

(3) \* \* \*

Requirement	Catcher vessel sector	Catcher/processor sector
* * * * *	* * * * *	* * * * *
(viii) Is there a season during which designated vessels may catch CQ?	Yes, any vessel designated to catch CQ for a rockfish cooperative is limited to catching CQ during the season beginning on 1200 hours, A.l.t., on April 1 through 1200 hours, A.l.t., on November 15.	
* * * * *	* * * * *	* * * * *
(xxii) When does catch count against my CQ permit? .....	Any vessel fishing checked-in (and therefore fishing under the authority of a CQ permit must count any catch of rockfish primary species, rockfish secondary species, or rockfish halibut PSC against that rockfish cooperative's CQ from April 1 until November 15, or until the effective date of a rockfish cooperative termination of fishing declaration that has been approved by NMFS).	
* * * * *	* * * * *	* * * * *

\* \* \* \* \*

■ 7. In § 679.82, remove and reserve paragraph (a)(3) and revise paragraphs (a)(4)(i) and (a)(5) to read as follows:

**§ 679.82 Rockfish Program use caps and sideboard limits.**

\* \* \* \* \*

- (a) \* \* \*

\* \* \* \* \*

- (4) \* \* \*

(i) A catcher vessel may not harvest an amount of Pacific ocean perch CQ greater than 8.0 percent of the Pacific ocean perch CQ issued to the catcher vessel sector during a calendar year.

\* \* \* \* \*

(5) *Use cap for rockfish processors.* (i) A rockfish processor may not receive or process an amount of rockfish primary species harvested with CQ assigned to the catcher vessel sector greater than 40.0 percent of the aggregate rockfish primary species CQ assigned to the catcher vessel sector during a calendar year.

(ii) A rockfish processor may not receive or process an amount of Pacific cod harvested with CQ assigned to the catcher vessel sector greater than 40.0 percent of Pacific cod CQ issued to the catcher vessel sector during a calendar year.

(iii) A rockfish processor may not receive or process an amount of sablefish harvested with CQ assigned to the catcher vessel sector greater than 40.0 percent of sablefish CQ issued to the catcher vessel sector during a calendar year.

(iv) \* \* \*

\* \* \* \* \*

**§ 679.84 [Amended]**

■ 8. Amend § 679.84 by removing the word "May" and add, in its place, the word "April" in paragraphs (g)(1) and (2).

■ 9. Revise table 37 to § 679 to read as follows.

TABLE 37 TO PART 679—GOA AMENDMENT 80 SIDEBOARD LIMIT FOR GROUND FISH FOR THE AMENDMENT 80 SECTOR

In the following management areas in the GOA and in adjacent waters open by the State of Alaska for which it adopts a Federal fishing season . . .	The sideboard limit for . . .	Is . . .
Area 610 .....	Pollock .....	0.3% of the TAC.

TABLE 37 TO PART 679—GOA AMENDMENT 80 SIDEBOARD LIMIT FOR GROUND FISH FOR THE AMENDMENT 80 SECTOR—  
Continued

In the following management areas in the GOA and in adjacent waters open by the State of Alaska for which it adopts a Federal fishing season . . .	The sideboard limit for . . .	Is . . .
Area 620 .....	Pollock .....	0.2% of the TAC.
Area 630 .....	Pollock .....	0.2% of the TAC.
Area 640 .....	Pollock .....	0.2% of the TAC.
West Yakutat District .....	Pacific cod .....	3.4% of the TAC.
	Pacific ocean perch .....	96.1% of the TAC.
	Dusky rockfish .....	89.6% of the TAC.
Central GOA .....	Pacific cod .....	4.4% of the TAC.
	Pacific ocean perch .....	Subject to regulations in subpart G to this part.
	Dusky rockfish .....	Subject to regulations in subpart G to this part.
	Northern rockfish .....	Subject to regulations in subpart G to this part.
Western GOA .....	Pacific cod .....	2.0% of the TAC.
	Pacific ocean perch .....	99.4% of the TAC.
	Dusky rockfish .....	76.4% of the TAC.
	Northern rockfish .....	100% of the TAC.

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