

NOTICE OF OFFICE OF MANAGEMENT AND BUDGET ACTION

Date 01/29/2010

Department of Commerce
National Oceanic and Atmospheric Administration
FOR CERTIFYING OFFICIAL: Suzanne Hilding
FOR CLEARANCE OFFICER: Diana Hynek

In accordance with the Paperwork Reduction Act, OMB has taken action on your request received 07/17/2009

ACTION REQUESTED: Extension without change of a currently approved collection
TYPE OF REVIEW REQUESTED: Regular
ICR REFERENCE NUMBER: 200906-0648-010
AGENCY ICR TRACKING NUMBER:
TITLE: Alaska Rockfish Pilot Program
LIST OF INFORMATION COLLECTIONS: See next page

OMB ACTION: Approved without change
OMB CONTROL NUMBER: 0648-0545
The agency is required to display the OMB Control Number and inform respondents of its legal significance in accordance with 5 CFR 1320.5(b).

EXPIRATION DATE: 01/31/2013 DISCONTINUE DATE:

BURDEN:	RESPONSES	HOURS	COSTS
Previous	1,408	3,270	5,909
New	496	408	681
Difference			
Change due to New Statute	0	0	0
Change due to Agency Discretion	0	0	0
Change due to Agency Adjustment	-912	-2,862	-5,228
Change Due to Potential Violation of the PRA	0	0	0

TERMS OF CLEARANCE:

OMB Authorizing Official: Kevin F. Neyland
Deputy Administrator,
Office Of Information And Regulatory Affairs

List of ICs

IC Title	Form No.	Form Name	CFR Citation
Application for Rockfish Cooperative Fishing Quota (CQ)	NA	Application for Rockfish Cooperative Fishing Quota (CQ)	
Application for Rockfish Limited Access Fishery	NA	Application for Rockfish Limited Access Fishery	
Application for Entry-Level Rockfish Fishery	NA	Application for Entry-Level Rockfish Fishery	
Application to Opt-out of Rockfish Fishery	NA	Application to Opt Out of Rockfish Fishery	
Application for Inter-Cooperative Transfer of Rockfish CQ	NA	Application for Intercooperative Transfer of Cooperative Quota	
Rockfish Cooperative Catch Report			50 CFR 679.5(r)
Annual Rockfish Cooperative Report			50 CFR 679.5(r)
Rockfish Cooperative Termination of Fishing Declaration			50 CFR 679.5(r)
Vessel Check-in/Check-out Report			50 CFR 679.5(r)
Appeals for denial of rockfish permit			50 CFR 679.4(n)

PAPERWORK REDUCTION ACT SUBMISSION

Please read the instructions before completing this form. For additional forms or assistance in completing this form, contact your agency's Paperwork Clearance Officer. Send two copies of this form, the collection instrument to be reviewed, the supporting statement, and any additional documentation to: Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.

<p>1. Agency/Subagency originating request</p>	<p>2. OMB control number b. <input type="checkbox"/> None a. _____ - _____</p>
<p>3. Type of information collection (<i>check one</i>)</p> <p>a. <input type="checkbox"/> New Collection</p> <p>b. <input type="checkbox"/> Revision of a currently approved collection</p> <p>c. <input type="checkbox"/> Extension of a currently approved collection</p> <p>d. <input type="checkbox"/> Reinstatement, without change, of a previously approved collection for which approval has expired</p> <p>e. <input type="checkbox"/> Reinstatement, with change, of a previously approved collection for which approval has expired</p> <p>f. <input type="checkbox"/> Existing collection in use without an OMB control number</p> <p>For b-f, note Item A2 of Supporting Statement instructions</p>	<p>4. Type of review requested (<i>check one</i>)</p> <p>a. <input type="checkbox"/> Regular submission</p> <p>b. <input type="checkbox"/> Emergency - Approval requested by _____ / _____ / _____</p> <p>c. <input type="checkbox"/> Delegated</p>
	<p>5. Small entities Will this information collection have a significant economic impact on a substantial number of small entities? <input type="checkbox"/> Yes <input type="checkbox"/> No</p>
	<p>6. Requested expiration date</p> <p>a. <input type="checkbox"/> Three years from approval date b. <input type="checkbox"/> Other Specify: _____ / _____</p>
<p>7. Title</p>	
<p>8. Agency form number(s) (<i>if applicable</i>)</p>	
<p>9. Keywords</p>	
<p>10. Abstract</p>	
<p>11. Affected public (<i>Mark primary with "P" and all others that apply with "x"</i>)</p> <p>a. <input type="checkbox"/> Individuals or households d. <input type="checkbox"/> Farms</p> <p>b. <input type="checkbox"/> Business or other for-profit e. <input type="checkbox"/> Federal Government</p> <p>c. <input type="checkbox"/> Not-for-profit institutions f. <input type="checkbox"/> State, Local or Tribal Government</p>	<p>12. Obligation to respond (<i>check one</i>)</p> <p>a. <input type="checkbox"/> Voluntary</p> <p>b. <input type="checkbox"/> Required to obtain or retain benefits</p> <p>c. <input type="checkbox"/> Mandatory</p>
<p>13. Annual recordkeeping and reporting burden</p> <p>a. Number of respondents _____</p> <p>b. Total annual responses _____</p> <p> 1. Percentage of these responses collected electronically _____ %</p> <p>c. Total annual hours requested _____</p> <p>d. Current OMB inventory _____</p> <p>e. Difference _____</p> <p>f. Explanation of difference</p> <p> 1. Program change _____</p> <p> 2. Adjustment _____</p>	<p>14. Annual reporting and recordkeeping cost burden (<i>in thousands of dollars</i>)</p> <p>a. Total annualized capital/startup costs _____</p> <p>b. Total annual costs (O&M) _____</p> <p>c. Total annualized cost requested _____</p> <p>d. Current OMB inventory _____</p> <p>e. Difference _____</p> <p>f. Explanation of difference</p> <p> 1. Program change _____</p> <p> 2. Adjustment _____</p>
<p>15. Purpose of information collection (<i>Mark primary with "P" and all others that apply with "X"</i>)</p> <p>a. <input type="checkbox"/> Application for benefits e. <input type="checkbox"/> Program planning or management</p> <p>b. <input type="checkbox"/> Program evaluation f. <input type="checkbox"/> Research</p> <p>c. <input type="checkbox"/> General purpose statistics g. <input type="checkbox"/> Regulatory or compliance</p> <p>d. <input type="checkbox"/> Audit</p>	<p>16. Frequency of recordkeeping or reporting (<i>check all that apply</i>)</p> <p>a. <input type="checkbox"/> Recordkeeping b. <input type="checkbox"/> Third party disclosure</p> <p>c. <input type="checkbox"/> Reporting</p> <p> 1. <input type="checkbox"/> On occasion 2. <input type="checkbox"/> Weekly 3. <input type="checkbox"/> Monthly</p> <p> 4. <input type="checkbox"/> Quarterly 5. <input type="checkbox"/> Semi-annually 6. <input type="checkbox"/> Annually</p> <p> 7. <input type="checkbox"/> Biennially 8. <input type="checkbox"/> Other (describe) _____</p>
<p>17. Statistical methods</p> <p>Does this information collection employ statistical methods</p> <p style="text-align: center;"><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>18. Agency Contact (person who can best answer questions regarding the content of this submission)</p> <p>Name: _____</p> <p>Phone: _____</p>

19. Certification for Paperwork Reduction Act Submissions

On behalf of this Federal Agency, I certify that the collection of information encompassed by this request complies with 5 CFR 1320.9

NOTE: The text of 5 CFR 1320.9, and the related provisions of 5 CFR 1320.8(b)(3), appear at the end of the instructions. *The certification is to be made with reference to those regulatory provisions as set forth in the instructions.*

The following is a summary of the topics, regarding the proposed collection of information, that the certification covers:

- (a) It is necessary for the proper performance of agency functions;
- (b) It avoids unnecessary duplication;
- (c) It reduces burden on small entities;
- (d) It used plain, coherent, and unambiguous terminology that is understandable to respondents;
- (e) Its implementation will be consistent and compatible with current reporting and recordkeeping practices;
- (f) It indicates the retention period for recordkeeping requirements;
- (g) It informs respondents of the information called for under 5 CFR 1320.8(b)(3):
 - (i) Why the information is being collected;
 - (ii) Use of information;
 - (iii) Burden estimate;
 - (iv) Nature of response (voluntary, required for a benefit, mandatory);
 - (v) Nature and extent of confidentiality; and
 - (vi) Need to display currently valid OMB control number;
- (h) It was developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected (see note in Item 19 of instructions);
- (i) It uses effective and efficient statistical survey methodology; and
- (j) It makes appropriate use of information technology.

If you are unable to certify compliance with any of the provisions, identify the item below and explain the reason in Item 18 of the Supporting Statement.

Signature of Senior Official or designee

Date

Agency Certification (signature of Assistant Administrator, Deputy Assistant Administrator, Line Office Chief Information Officer, head of MB staff for L.O.s, or of the Director of a Program or StaffOffice)

Signature

Date

Signature of NOAA Clearance Officer

Signature

Date

**SUPPORTING STATEMENT
ALASKA ROCKFISH PILOT PROGRAM
OMB CONTROL NO. 0648-0545**

INTRODUCTION

National Marine Fisheries Service (NMFS) manages the groundfish fisheries in the exclusive economic zone (EEZ) off the coast of Alaska under the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area, the Fishery Management Plan for Groundfish of the Gulf of Alaska, and the Northern Pacific Halibut Act of 1982. The Fishery Management Plan (FMP)s were prepared by the North Pacific Fishery Management Council (Council) under the Magnuson-Stevens Fishery Conservation and Management Act as amended in 2006. Regulations implementing these procedures are located at 50 CFR part 679.

In Section 802 of the Consolidated Appropriations Act of 2004 (Pub. L. 108–199; Section 802), the United States (U.S.) Congress directed the Secretary of Commerce to establish, in consultation with the Council, a pilot program for management of the rockfish fisheries in the Central Gulf of Alaska (CGOA). Following this directive, in 2005 the Council adopted a share-based management program. The Rockfish Pilot Program (Program) under which the total allowable catch is apportioned as exclusive shares to cooperatives based on the catch history of the members of those cooperatives. The Program provides exclusive harvesting and processing privileges for a specific set of rockfish species, associated species, and Pacific halibut harvested incidentally to those CGOA rockfish in an area from 140° W. long. to 168° W. long. The Program was originally established as a two-year program, but was extended to a five-year program. The current termination date for the Program is December 31, 2011.

This action is a request for renewal of an existing collection.

A. JUSTIFICATION

1. Explain the circumstances that make the collection of information necessary.

The Program was developed by trawl industry representatives, primarily from Kodiak, Alaska, in conjunction with catcher/processor representatives who sought to improve the economic efficiency of the CGOA rockfish fisheries by developing a program that would establish cooperatives to receive exclusive harvest privileges. The Program was designed to create a slower-paced fishery. This would allow the harvester to choose when to fish and therefore avoid poor weather. The Program would also provide greater stability for processors by spreading out production over a greater period of time.

2. Explain how, by whom, how frequently, and for what purpose the information will be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, then explain how the collection complies with all applicable Information Quality Guidelines.

The Program allocation is divided between the catcher vessel sector and the catcher/ processor sector, based on historic catches of the participants in the respective sectors. Participants in each

sector can either fish as part of a cooperative or in a competitive, limited access fishery or may opt-out of the fishery. Fifteen catcher/processors and 47 catcher vessels qualified for the Program. Any eligible catcher/processor may form a cooperative with any other eligible catcher/processor. Eligible catcher vessels may form cooperatives in association with one of the five inshore processors.

NMFS deducts an incidental catch allowance for non-rockfish species to support directed fisheries of each target rockfish species prior to the allocations under the Program. These species are collectively referred to as “secondary species”. Target rockfish and secondary species are subject to a full retention requirement to minimize discards.

The Program regulates the formation of cooperatives and the use of the annual catch amount by the cooperative. In addition to the requirements to join a cooperative, an eligible rockfish harvester or eligible rockfish processor must meet specific requirements that differ between the catcher vessel sector and the catcher/processor sector.

Before fishing begins in January of each year, NMFS requires eligible rockfish harvesters to file an application to participate in a CGOA Rockfish limited access fishery or to opt-out of the fishery. This declaration helps NMFS decide how to monitor harvests, and whether there is sufficient catch available in a limited access fishery to allow NMFS to open the fishery without risk of exceeding the available catch. These declarations are due by September 1 of the year before fishing. These applications apply for one year.

Application forms are available through the Internet on the NMFS Alaska Region Web site at <http://www.alaskafisheries.noaa.gov>, or by contacting NMFS at (800) 304-4846, Option 2.

a. Application for Rockfish Cooperative Fishing Quota (CQ)

The Program regulates the formation of cooperatives and the use of the annual catch amount by the cooperative. A cooperative must manage and monitor members’ catch of target rockfish, allocated secondary species, and Pacific halibut prohibited species catch (PSC), to ensure that it is able to fully harvest but not overharvest its allocations.

The cooperative must form an association with the processor to which it delivered the most rockfish to historically. These cooperative/processor associations are intended to ensure that a cooperative lands a substantial portion of its catch with its members’ historic processor. The exact terms of the association are subject to negotiation and are confidential to the parties, but since the cooperative agreement requires the approval of the associated processor, it is likely that these agreements contain terms defining cooperative landings requirements.

A CQ permit is issued annually to a rockfish cooperative if the members of that rockfish cooperative have submitted a complete and timely application for CQ as described at § 679.81(e)(4) that is subsequently approved by the Regional Administrator. A CQ permit authorizes a rockfish cooperative to participate in the Rockfish Program. The CQ permit will indicate the amount of primary rockfish species and secondary species that may be harvested by the rockfish cooperative, and the amount of rockfish halibut PSC that may be used by the rockfish cooperative. The CQ permit will list the members of the rockfish cooperative, the

vessels that are authorized to fish under the CQ permit for that rockfish cooperative, and the eligible rockfish processor with whom that rockfish cooperative is associated, if applicable.

A CQ permit is valid under the following circumstances:

- ◆ Until the end of the year for which the CQ permit is issued;
- ◆ Until the amount harvested is equal to the amount specified on the CQ permit for all primary rockfish species, secondary species, and rockfish halibut PSC;
- ◆ Until the permit is modified by transfers;
- ◆ Until the permit is voided through an approved rockfish cooperative termination of fishing declaration; or
- ◆ Until the permit is revoked, suspended, or modified.

An application may be submitted by mail or fax. A copy of all applications must be retained, regardless of submittal method.

Application for Rockfish Cooperative Fishing Quota (CQ)

Block A – Rockfish Cooperative Identification (ID)

Legal name
Type of business entity under which cooperative is organized
State in which legally registered as a business entity
Date of incorporation
Name of authorized representative
Permanent business address, including P.O. Box or street address, city, state, and zip code
Business telephone number and fax number, including area code
Business e-mail address

Block B – Members of the Rockfish Cooperative

License Limitation Program (LLP) holder and ownership documentation
Full name and NMFS Person ID
LLP license number(s)
Names of all persons, to the individual level, holding an ownership interest in the LLP license assigned to the cooperative
Percent of ownership each person and individual holds in the LLP license

Block C – Identification of Rockfish Cooperative Member Vessels

Vessel name, Alaska Department of Fish and Game (ADF&G) vessel registration number, and United States Coast Guard (USCG) documentation number

Block D – Processor Associates of the Rockfish Cooperative

Processor name and NMFS person ID
Shoreside Processing Facility: Facility name, ADF&G processor code, and Federal Processor Permit (FPP) number
Stationary floating processor: Vessel name, ADF&G vessel registration number, USCG documentation number, ADF&G processor code, and FPP number
Processor ownership documentation:
Names of all persons, to the individual level, holding an ownership interest in the processor
Percentage ownership each person and individual holds in the processor.

Block E – Certification of cooperative authorized representative

Printed name and signature of authorized representative and date signed

Attachments

A copy of the business license issued by the state in which the Cooperative is registered as a business entity;

- A copy of the articles of incorporation or partnership agreement of the Rockfish Cooperative
- A copy of the membership agreement signed by the members of the rockfish cooperative (if different from the articles of incorporation or partnership agreement of the rockfish cooperative)
- Any article of incorporation or agreement submitted by the Rockfish Cooperative must include terms that specify that:
 - Eligible processor affiliated harvesters do not participate in price setting negotiations except as permitted by general antitrust law; and
 - The Rockfish Cooperative has established a monitoring program sufficient to ensure compliance with the Rockfish Program.

The number of cooperatives applying for CQ decreased from 20 to 6, based on actual count of cooperatives. This count has remained constant for the last three years. The number of pages is increased to 12, due to attachments that were not counted before.

Application for Rockfish Cooperative CQ, Respondent	
Number of respondents	6
Total annual responses (1 response per respondent)	6
Total burden hours	12
Time per response = 2 hr	
Total personnel cost (\$25 x 12)	300
Total miscellaneous costs (220.38)	220
Postage cost (0.86 x 3 = 2.58)	
Photocopy cost (0.05 x 12 pages x 3 = 1.80)	
Fax cost (\$6 x 12 pages x 3 = 216)	

Application for Rockfish Cooperative CQ, Federal Government	
Total responses	6
Total burden hours (0.5 x 6 = 3)	3
Time per response = 30 min	
Total personnel cost (\$25 x 3)	75
Total miscellaneous cost	0

b. Application for rockfish limited access fishery

An eligible rockfish harvester or eligible rockfish processor may fish in the limited access fishery if that person chooses not to, or cannot, participate in a cooperative or the opt-out fishery. This application must be submitted annually and received by NMFS no later than 1700 hours, Alaska Standard Time (AKST), on **March 1** of the year for which the applicant wishes to participate in a Rockfish limited access fishery, or if sent by U.S. mail, the application must be postmarked by that time.

An application may be submitted by mail or fax. A copy of all applications must be retained, regardless of submittal method.

Application for rockfish limited access fishery

Block A -- Applicant information

- Applicant's name and NMFS person ID
- Permanent business mailing address, including P.O. Box or street address, city, state, and zip code
- Business telephone number and fax number, including area code
- Business e-mail address
- Indicate if the applicant is a U.S. citizen; if YES, enter date of birth
- Indicate if the applicant is a U.S. corporation, partnership, association, or other non-individual business entity; if YES, provide date of incorporation.

Whether the applicant is an eligible Rockfish Harvester

Whether the applicant is participating in the Limited Access Fishery.

Block B -- Vessel identification

Vessel name

ADF&G vessel registration number, USCG documentation number, and LLP license number(s) held by the applicant and used on that vessel.

Block C – LLP Holdership documentation.

Names of all persons, to the individual level, holding an ownership interest in the LLP license

Percentage ownership each person and individual holds in the LLP license.

If a listed owner is not an individual, provide the same information for each such owner until all owners, and their percent of ownership, is revealed to the individual level

Block D -- Applicant certification

Signature of applicant and date signed

Printed name of applicant; if submitted by a representative, attach authorization.

In 2007, there were 4 catcher/processors and 3 catcher vessels; in 2008 7 catcher/processors and 2 catcher vessels; in 2009 7 catcher/processors and 2 catcher vessels.

Application for Rockfish Limited Access Fishery, Respondent	
Number of respondents	9
Catcher/processor LLPs = 7	
Catcher vessel LLPs = 2	
Total annual responses	9
Total annual time burden hours	18
Time per response = 2 hr	
Total personnel cost (18 x \$25)	\$450
Total miscellaneous cost (51.05)	\$51
Postage cost (0.43 x 5 = 2.15)	
Photocopy cost (0.05 x 2 pages x 9 = 0.90)	
Fax cost (\$6 x 2 pages x 4 = 48)	

Application for Rockfish Limited Access Fishery, Federal Government	
Total annual responses	9
Total annual time burden hours (4.5)	5
Time per response = 30 min	
Total personnel cost (5 x \$25)	125
Total miscellaneous cost	0

c. Application for Entry-Level Rockfish Fishery

An entry-level fishery is available for all persons who are not eligible rockfish harvesters or processors. This fishery is intended to provide opportunities for harvesters and processors who have not traditionally participated in the CGOA rockfish fisheries.

A person is eligible to participate in the Rockfish Program as an eligible Entry-Level Fishery Harvester if that person:

- ◆ Holds a permanent fully transferable LLP license endorsed for CGOA groundfish at the time of Application for the Entry-Level Fishery;
- ◆ Submits a timely Application for the Entry-Level Fishery that is approved by NMFS; This application must be submitted annually and received by NMFS no later than 1700

hours AKST, on **March 1** of the year for which the applicant wishes to participate in an entry-level rockfish fishery, or if sent by U.S. mail, the application must be postmarked by that time; and

- ◆ Is not an Eligible Rockfish Harvester or Processor.

An application may be submitted by mail or fax. A copy of all applications must be retained, regardless of submittal method.

Application for Entry-Level Rockfish Fishery

Block A -- Applicant Information

- Name and NMFS person ID
- Permanent business mailing address
- Business telephone number, fax number, and e-mail address (if available);
- Indicate whether applicant is a U.S. citizen; if YES, enter date of birth
- Indicate whether applicant is a U.S. corporation, partnership, association, or other non-individual business entity; if YES, enter the date of incorporation.

Block B -- Vessel Information

- Vessel name
- ADF&G vessel registration number and USCG documentation number of the vessel
- LLP license number(s) held by the applicant and used on that vessel.

Block C -- Attachments

- Attach a statement from an eligible entry level processor that affirms that the processor has a market for any rockfish delivered by that harvester in the entry-level fishery.

Block D -- Applicant certification

- Signature of applicant and date signed
- Printed name of applicant (or authorized representative); if representative, attach authorization.

The original analysis was based on the number of potential vessels that could apply for the rockfish entry-level fisheries. However, NMFS has registered only five participants each year since the Program began. Because it is possible that more persons could participate, the number of participants used in this analysis is 10.

Application for Entry-Level Rockfish Fishery, Respondent	
Number of respondents	10
Total annual responses	10
Total annual time burden hours	20
Time per response = 2 hr	
Total personnel cost to all applicants (20 x \$25)	\$500
Total miscellaneous cost (63.15)	\$63
Postage cost (0.43 x 5 = 2.15)	
Photocopy cost (0.05 x 2 pages x 10 = 1.00)	
Fax cost (\$6 x 2 pages x 5 = 60)	

Application for Entry-Level Rockfish Fishery, Federal Government	
Total responses	10
Total burden hours (10 x 0.5)	5
Time per response = 30 min	
Total personnel cost (5 x \$25)	\$125
Total miscellaneous cost	0

d. Application to Opt-out of Rockfish Fishery

An eligible rockfish harvester that holds an LLP license with a catch history allocation in the catcher/processor sector may choose to opt-out of many of the Program restrictions. When a participant ‘opts-out,’ any allocation that would have been made to a cooperative, based on the history of the participant, is redistributed to other participants in the sector.

If an eligible catcher/processor assigns an LLP license to the opt-out fishery, then that LLP license may not be used on a vessel that is participating in a cooperative, limited access fishery, or the entry level fishery.

An application may be submitted by mail or fax. A copy of all applications must be retained, regardless of submittal method.

Application to Opt-out of Rockfish Fishery

Block A -- Applicant information

- Name and NMFS person ID
- Permanent business mailing address
- Business telephone number, fax number, and e-mail address (if available)
- Indicate whether applicant is a U.S. citizen; If YES, enter date of birth
- Indicate whether applicant is a U.S. corporation, partnership, association, or other non-individual business entity; if YES, enter the date of incorporation;
- Indicate whether the applicant is an Eligible Rockfish Harvester
- Indicate whether the applicant is opting-out of the Rockfish Pilot Program
- Indicate whether the applicant holds an LLP with rockfish quota share (QS) assigned to the catcher/processor sector.

Block B -- Vessel information

- Name, ADF&G vessel registration number, and USCG documentation number of the vessel
- LLP license number(s) held by the applicant and used on that vessel.

Block C – LLP Holdership documentation

- Names of all persons, to the individual level, holding an ownership interest in the LLP license
- Percentage ownership each person and individual holds in the LLP license.

Block D -- Applicant certification

- Signature of applicant and date
- Printed name of applicant (or authorized representative); if representative, attach authorization...

The number of catcher/processors in the opt-out fishery was seven in 2007; and three in 2008 and 2009. The number used in this analysis is three.

Application to Opt-out of Rockfish Fishery, Respondent	
Number of respondents	3
Total annual responses	3
Total annual time burden hours	6
Timer per response = 2 hr	
Total personnel cost to all applicants (6 x \$25)	\$150
Total miscellaneous cost (24.73)	\$25
Postage cost (0.43 x 1 = 0.43)	
Photocopy cost (0.05 x 2 pages x 3 = 0.30)	
FAX cost (\$6 x 2 pages x 2 = 24)	

Application to Opt-out of Rockfish Fishery, Federal Government	
Total responses	3
Total burden hours	2
Time per response = 30 min	
Total personnel cost (\$25 x 2)	\$50
Total miscellaneous cost	0

e. Application for Inter-Cooperative Transfer of CQ

Once NMFS issues an annual catch amount to a cooperative, it may be fished by members of the cooperative or transferred to another cooperative. The transfer of an annual catch amount is valid only during the calendar year of the transfer.

A rockfish cooperative may transfer all or part of its CQ to another rockfish cooperative. In order for an inter-cooperative transfer to be approved, both parties must be already established and recognized by NMFS as a cooperative prior to the transfer. A large portion of the catcher/processor cooperative allocations was transferred to catcher vessel cooperatives in the first year. Under the Program, catcher/processor cooperatives are not permitted to *receive* quota transfers from catcher vessels cooperatives. This “one-way door” is intended to protect interests of shore plants and communities, in the event that catcher/processor production efficiencies exceed those of the shore-based sector. Under these rules, approximately half of the primary rockfish allocation to catcher/processor cooperatives was transferred to catcher vessel cooperatives during the first year.

A cooperative may only transfer or receive by transfer an annual catch amount if the cooperative submits an application for inter-cooperative transfer to NMFS. The transfer request may be submitted by mail, fax, courier, or online through the Internet. When using the online submittal method, the respondent must provide a NMFS Person ID and transfer key. These two pieces of information are provided by NMFS after an applicant is approved for participation in the Rockfish Program.

A copy of all applications must be retained, regardless of submittal method.

Application for Inter-Cooperative Transfer of CQ

Block A -- Identification of transferor

- Name and NMFS Person ID of rockfish cooperative
- Transfer key (if submitted online)
- Name of designated representative
- Permanent business mailing address including P.O. Box or street address, city, state, and zip code.
 - A temporary mailing address may be included, if appropriate
- Business telephone number and fax number, including area code
- Business e-mail address.

Block B -- Identification of transferee

- Name and NMFS Person ID
- Transfer key (if submitted online)
- Name of designated representative
- Permanent business mailing address, including P.O. Box or street address, city, state, and zip code.
 - A temporary mailing address may be included, if appropriate
- Business telephone number and fax number, including area code
- Business e-mail address.

Block C -- Identification of Rockfish Cooperative member

Name and NMFS person ID of member to whose use cap the rockfish cooperative CQ will be applied
Amount of CQ applied (in mt.)

Block D – CQ to be transferred

Identify the type and amount of primary species, secondary species, or rockfish halibut PSC CQ to be transferred.

Block E -- Certification of transferor and processor

Signature of transferor and date signed
Signature of eligible rockfish processor (associated with cooperative)
Printed name of transferor (or authorized representative); if representative, attach authorization
Printed name of eligible rockfish processor associated with cooperative; if representative, attach authorization.

Block F -- Certification of transferee and processor

Signature of transferee and date signed
Signature of eligible rockfish processor and date signed
Printed name of transferee (or authorized representative); if representative, attach authorization
Printed name of eligible rockfish processor associated with cooperative); if representative, attach authorization.

From the beginning of the Program, NMFS estimates that each cooperative does three CQ transfers per season.

Application for Inter-Cooperative Transfer of Rockfish CQ, Respondent	
Number of respondents	6
Total annual responses (3 x 6) 3 transfers per coop per season	18
Total annual time burden hours Time per response = 1 hr	18
Total personnel cost (18 x \$25)	\$450
Total miscellaneous cost (15.85) Online (0.05 x 2 pages x 16 = 1.60) Fax (\$6 x 2 pages x 1 = 12) Postage (0.44 x 1 = 0.44) Photocopy cost (0.05 x 2 pages x 18 = 1.80)	\$16

Application for Inter-Cooperative Transfer of Rockfish CQ, Federal Government	
Total responses	18
Total burden hours Time per response = 30 min	9
Total personnel cost (\$25 x 9)	\$225
Total miscellaneous cost	0

f. Application to Participate in the Rockfish Pilot Program [Removed]

The respondents applied for rockfish QS at the beginning of the Program on this one-time application to participate, so this application is no longer necessary. Annual applications are still required for Limited Access Fishery, Opt-Out Fishery, Coop Fishery and Entry Level harvesters.

g. Rockfish Cooperative Catch Report.

Operators of catcher/processors and managers of shoreside processors or stationary floating processors that are authorized to receive fish harvested under a CQ permit in the Rockfish Program must submit to the Regional Administrator a Rockfish Cooperative Catch Report detailing each cooperative's delivery and discard of fish.

Currently, two persons are submitting these reports, for a total of six cooperatives (respondents). One person represents five cooperatives and submits approximately 40 reports per year by e-mail. The other person represents one cooperative and sends in about five reports a year and sends these via fax. This report is parallel to observer data, landing reports, and check-in data, which are the official sources of data used for managing fisheries. It is anticipated that this report will be eliminated in the future.

A copy of all reports must be retained, regardless of submittal method.

Rockfish Cooperative Catch Report

- CQ permit number
- ADF&G vessel registration number(s) of vessel(s) delivering catch
- Federal processors permit number of processor receiving catch
- Date the delivery was completed
- Amount of fish (in lb) delivered, plus weight of at-sea discards
- ADF&G fish ticket number(s) issued to catcher vessel(s).

Current number of cooperatives submitting this report is six.

Rockfish Cooperative Catch Report, Respondent	
Number of respondents	6
Total annual responses	45
8 reports per year for five respondents	
5 reports per year for one respondent	
Total annual time burden hours (22.5)	23 hr
Time per response = 30 min	
Total personnel cost (23 x \$25)	\$575
Total miscellaneous cost (68.50)	\$69
Email cost (0.05 x 2 pages x 40 = 4)	
Fax (\$6 x 2 pages x 5 = 60)	
Photocopy cost (0.05 x 2 pages x 45 = 4.50)	

Rockfish Cooperative Catch Report, Federal Government	
Total annual responses	45
Total annual time burden hours (1.5)	2
Time per response = 2 min	
Total personnel cost (2 x \$25)	\$50
Total miscellaneous cost	0

f. Annual Rockfish Cooperative Report

Each Rockfish cooperative must submit an annual Rockfish Cooperative report to NMFS by December 15 of each year, with a copy available to the Council. No form exists for this information.

A copy of all reports must be retained, regardless of submittal method.

Annual Rockfish Cooperative Report

- The cooperative's CQ, sideboard limit (if applicable), and any rockfish sideboard fishery harvests made by the rockfish cooperative vessels on a vessel-by-vessel basis;
- The cooperative's actual retained and discarded catch of CQ, and sideboard limit (if applicable) by statistical area and vessel-by-vessel basis;

- A description of the method used by the cooperative to monitor fisheries in which cooperative vessels participated; and
- A description of any actions taken by the cooperative in response to any members that exceeded their catch as allowed under the rockfish cooperative agreement.

Current number of cooperatives submitting this report is six.

Annual Rockfish Cooperative Report, Respondent	
Number of respondents	6
Total annual responses	6
Total annual time burden hours	240
Time per response = 40 hr	
Total personnel cost (240 x \$25)	\$6,000
Total miscellaneous cost 166.10)	\$166
Postage cost (1.72 x 5 = 8.60)	
Fax cost (\$6 x 25 pages x 1 = 150)	
Photocopy cost (0.05 x 25 pages x 6 = 7.50)	

Annual Rockfish Cooperative Report, Federal Government	
Total annual responses	6
Total annual time burden hours	30
Time per response = 5 hr	
Total personnel cost (30 x \$25)	\$1,383
Total miscellaneous cost	0

g. Rockfish Cooperative Termination of Fishing Declaration

A Rockfish cooperative may choose to terminate its CQ permit through a declaration submitted to NMFS. This declaration may be submitted to NMFS by mail, fax, or hand delivery/carrier. A copy of each declaration must be retained, regardless of submittal method.

NMFS will review the declaration and notify the cooperative’s authorized representative once the declaration has been approved.

Upon approval of a declaration, the CQ for all primary rockfish species and secondary species will be set to zero; rockfish halibut PSC assigned to that rockfish cooperative will be reapportioned; and that rockfish cooperative may not receive any CQ for any primary rockfish species, secondary species, and rockfish halibut PSC by transfer for the remainder of that calendar year.

A new CQ permit is issued annually to a rockfish cooperative if the members of that rockfish cooperative have submitted a complete and timely application for CQ that is subsequently approved by the Regional Administrator.

Rockfish Cooperative Termination of Fishing Declaration

- CQ permit number
- Date the declaration is submitted
- Rockfish cooperative’s legal name and NMFS Person ID
- Permanent business address, including P.O. Box or street address, city, state, and zip code
- Business telephone number and fax number, including area codes
- E-mail address (if available)
- Printed name and signature of designated representative.

NMFS estimates that two of the cooperatives each season submit a termination declaration.

Rockfish Cooperative Termination of Fishing Declaration, Respondent	
Number of respondents	2
Total annual responses	2
Total annual time burden hours (0.5) Time per response = 15 min	1
Total personnel cost (1 x \$25)	25
Total miscellaneous cost (12.20) Fax or courier (\$6 x 2 = 12) Photocopy cost (0.05 x 2 pp x 2 = 0.20)	12

Rockfish Cooperative Termination of Fishing Declaration, Federal Government	
Total annual responses	2
Total annual time burden hours (0.5) Time per response = 15 min	1
Total personnel cost (1 x \$25)	25
Total miscellaneous cost	0

h. Rockfish cooperative vessel check -in and check-out reports

The designated representative of a rockfish cooperative must designate, through a check-in procedure, any vessel that is fishing under the rockfish cooperative’s CQ permit before that vessel may fish under that CQ permit. This would allow the cooperative to determine how and when vessels will fish under a CQ permit. The designated cooperative representatives must “check-in” a vessel when it is fishing under a CQ permit during the rockfish cooperative fishing year, and “check-out” vessels no longer fishing under its CQ permit.

Vessel check-in report

Rockfish cooperatives must designate at least one vessel to fish the CQ permit for that cooperative effective on May 1. The representative must designate any vessel that is fishing under a CQ permit at least 48 hours prior to the time the vessel begins a fishing trip under a CQ permit. A check-in report is effective at the beginning of the first fishing trip after the designation has been submitted. This advance notice will provide NMFS time to adjust catch accounting procedures and accurately monitor catch. The check-in report may take the form of a list of vessels.

The designated representative may submit no more check-in reports in a calendar year than an amount equal to three times the number of LLP licenses that are assigned to that rockfish cooperative in that calendar year. This limit reduces the number of check-in reports and vessels that NMFS must track and reduces the chance that specific vessel’s catch is misapplied in NMFS’ catch accounting system.

Vessel check-out

If a vessel has completed fishing under a CQ permit for a rockfish cooperative, the designated representative must submit a check-out report for that vessel to notify NMFS of that fact, within 6 hours after the effective date and time of the designation. This will ensure that catch is

properly debited against a CQ account and reduces the risk that a subsequent trip would be misapplied as occurring under a CQ permit and have to be corrected.

The designated representative may submit no more check-out reports in a calendar year than an amount equal to three times the number of LLP licenses that are assigned to that rockfish cooperative in that calendar year.

Vessel Check-in/Check-out Report

- CQ Permit number
- ADF&G vessel registration number and USCG documentation number
- Date and time when check-in or check-out begins.

NMFS estimates that each of the six cooperatives sends 66 check-in/check-out reports each season. Although the current regulations at 50 CFR part 679 do not reflect it, the check-in and check-out reports may be sent as an email message.

Vessel Check-in/Check-out Report , Respondent	
Number of respondents	6
Total annual responses	396
Number responses per respondent = 66	
Total burden hours (66)	66 hr
Time per response = 10 min	
Total personnel cost (66 x 25)	\$1,650
Total miscellaneous costs (58.45)	\$58
Email (0.05 x 390 = 19.50)	
Postage cost (0.43 x 1= 0.43)	
Fax (\$6 x 5 = 30)	
Photocopy cost (0.05 x 1 page x 396 = 8.52)	

Vessel check-in/Check-out Report, Federal Government	
Total annual responses	396
Total burden hours (1.5)	99
Time per response = 15 min	
Total personnel cost (99 x \$25)	\$2,475
Total miscellaneous cost	0

i. Appeals

The Regional Administrator will evaluate Program applications submitted during the specified application period and will compare all claims in an application with the information in the official Program record. Any person, who is denied a rockfish permit, may file a written appeal to the NMFS Alaska Region Office of Administrative Appeals (OAA).

For permit appeals, the participant must provide a written statement in support of the appeal and must show why the initial administrative determination (IAD) should be reversed. If the participant does not appeal within 60 days following the issuance of the IAD, the IAD becomes a Final Agency Determination. A decision by the OAA becomes a Final Agency Action 30 days after it is issued, unless the Regional Administrator determines otherwise. An applicant who appeals an IAD will not receive rockfish cooperative allocation until after the final resolution of that appeal in favor of the applicant.

Appeals must be in writing and may be submitted by mail, fax, or delivery. NMFS estimates one appeal per year for the rockfish permits, although this is a high number.

Appeals, Respondent	
Number of respondents	1
Total annual responses	1
Total burden hours	4 hr
Time per response = 4 hr	
Total personnel cost (4 x \$25)	\$100
Total miscellaneous costs (1.11)	\$1
Postage to mail appeal (1 x \$0.86)	
Photocopy (1 x 5 pages x .05 = 0.25)	

Appeals, Federal Government	
Total responses	1
Total burden hours	25
Time per response = 25 hr	
Total personnel cost (25 x \$100)	\$2,500
Total miscellaneous costs	0

It is anticipated that the information collected will be disseminated to the public or used to support publicly disseminated information. As explained in the preceding paragraphs, the information gathered has utility. NMFS will retain control over the information and safeguard it from improper access, modification, and destruction, consistent with National Oceanic and Atmospheric Administration (NOAA) standards for confidentiality, privacy, and electronic information. See response to Question 10 of this Supporting Statement for more information on confidentiality and privacy. The information collection is designed to yield data that meet all applicable information quality guidelines. Prior to dissemination, the information will be subjected to quality control measures and a pre-dissemination review pursuant to Section 515 of Public Law 106-554.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.

The application for inter-cooperative transfer may be submitted online, as well as by fax or mail. Other applications are “fillable” on the computer screen by participant at the NMFS Alaska Region Home Page at www.fakr.noaa.gov, then must be downloaded, printed, and mailed, faxed, or delivered to NMFS.

The following information collections do not have forms: 1) Rockfish cooperative catch reports may be emailed or faxed (907-586-9361); 2) Annual rockfish cooperative reports must be mailed or faxed. Check-in and check-out reports are faxed or mailed. Termination of fishing declarations must be faxed or hand-delivered. Appeals are mailed, faxed, or hand-delivered.

The address for mailing is NOAA National Marine Fisheries Service, RAM Program; P.O. Box 21668, Juneau, AK 99802-1668.

Future plans include additional interactive permit applications completed through the Internet.

4. Describe efforts to identify duplication.

The cooperative catch report does duplicate observer data, landing reports, and check-in data, which are the official sources of data used for managing the fisheries. It is anticipated that this report will be eliminated in the future, as soon as software revisions are in place. Other than the cooperative catch report, this information collection is part of a specialized and technical program that is not like any other.

5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.

The collection-of-information does not impose a significant impact on the estimated less-than-six small entities.

6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.

The consequences of not collecting this information would be that NMFS could not fulfill the intent of Section 802 of the Consolidated Appropriations Act of 2004 and would reverse the impacts of the Program achieved to date. The most notable effect of the Program is the substantial reduction in discards in the CGOA rockfish fisheries. In the years leading up to the Program, discards of Pacific ocean perch regularly exceeded 5 percent of total catch of the species. Discards of sablefish exceeded 100 metric tons in some years and exceeded 250 metric tons in one year. Under the Program, discards of these species are generally not permitted by cooperatives, reducing discards to near zero. Halibut mortality also dropped sharply, most notably in the catcher vessel sector, where halibut mortality dropped from between 25 and 50 pounds per ton of directed rockfish catch to less than 5 pounds per ton of rockfish catch. In addition to the conservation benefits from these discard and mortality reductions, the use of more pelagic gear in the fishery has provided habitat benefits.

Shoreside processors that qualified for the Program have clearly benefited from the cooperative associations that have facilitated their coordination of deliveries. The redistribution of rockfish deliveries away from times of peak salmon processing has reduced pressure on plant processing crews. Quality of landings is said to have improved because scheduling has reduced the time that catcher vessels must wait to offload.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.

No inconsistencies occur in this collection.

8. Provide information on the PRA Federal Register Notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

A Federal Register Notice published on February 6, 2009 (74 FR 6268) solicited public comments on the information collection. No comments were received.

9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.

No payment or gift will be provided under this program.

10. Describe any assurance of confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.

As stated on the collection forms, the information collected is confidential under section 402(b) of the Magnuson-Stevens Act (16 U.S.C. 1801 *et seq.*); and also under NOAA Administrative Order (AO) 216-100, which sets forth procedures to protect confidentiality of fishery statistics.

All information collected is part of a system of records: NOAA #19, Permits and Registrations for United States Federally Regulated Fisheries.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

NA.

12. Provide an estimate in hours of the burden of the collection of information.

Estimated total unique respondents, 55, down from 1,142. Estimated total responses, 496, down from 1,408. Estimated total burden, 408, down from 3,270 hr. Estimated total personnel cost, \$10,200, down from \$81,688.

13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection (excluding the value of the burden hours in Question 12 above).

Estimated total miscellaneous costs \$681, down from \$5,909.

14. Provide estimates of annualized cost to the Federal government.

Estimated total burden, 181 hr, down from 756 hr. Estimated total personnel cost, \$7,033, down from \$20,763.

15. Explain the reasons for any program changes or adjustments.

Adjustments are made in this collection, due in part to differences in numbers of participants, based on current permit counts, and due to revisions to postage rates and fax costs. One error is corrected in the calculation of appeals personnel costs.

Application to participate in the rockfish pilot program: removed
a decrease of 71 respondents and responses, 0 instead of 71
a decrease of 142 hr burden, 0 instead of 142
a decrease of \$3,550 personnel costs, 0 instead of \$3,550
a decrease of \$270 miscellaneous costs, 0 instead of \$270

Application for rockfish cooperative CQ
a decrease of 14 respondents and responses, 6 instead of 20
a decrease of 28 hr burden, 12 hr instead of 40 hr
a decrease of \$700 personnel costs, \$300 instead of \$1,000
an increase of \$141 miscellaneous costs, \$220 instead of \$79

Application for limited access fishery
a decrease of 31 respondents and responses, 9 instead of 40
a decrease of 62 hr burden, 18 hr instead of 80 hr
a decrease of \$1,550 personnel costs, \$450 instead of \$2,000
a decrease of \$130 miscellaneous costs, \$51 instead of \$181

Application to Opt-out
an increase of \$14 miscellaneous costs, \$25 instead of \$11

Application for entry-level fishery
a decrease of 1,061 respondents and responses, 10 instead of 1,071
a decrease of 2,122 hr burden, 20 hr instead of 2,142 hr
a decrease of \$53,050 personnel costs, \$500 instead of \$53,550
a decrease of \$5,072 miscellaneous costs, \$63 instead of \$5,135

Application for inter-cooperative transfer
an increase of 1 respondent, 6 instead of 5
an increase of 3 responses, 18 instead of 15
an increase of 3 hr burden, 18 hr instead of 15 hr
an increase of \$75 personnel costs, \$450 instead of \$375
an increase of \$8 miscellaneous costs, \$16 instead of \$8

Rockfish cooperative catch report
an increase of 1 respondent, 6 instead of 5
a decrease of 80 responses, 45 instead of 125
an increase of 2 hr burden, 23 hr instead of 21 hr
an increase of \$50 personnel costs, \$575 instead of \$525
an increase of \$50 miscellaneous costs, \$69 instead of \$19

Annual rockfish cooperative report

- a decrease of 14 respondents and responses, 6 instead of 20
- a decrease of 560 hr burden, 240 hr instead of 800 hr
- a decrease of \$14,000 personnel costs, \$6,000 instead of \$20,000
- an increase of \$86 miscellaneous costs, \$166 instead of \$80

Rockfish cooperative termination of fishing declaration

- An increase of \$12 personnel costs, \$25 instead of \$13

Rockfish vessel check-in and check-out reports

- a decrease of 14 respondents, 6 instead of 20
- an increase of 356 responses, 396 instead of 40
- an increase of 46 hr burden, 66 hr instead of 20 hr
- an increase of \$1,150 personnel costs, \$1,650 instead of \$500
- a decrease of \$54 miscellaneous costs, \$58 instead of \$112

Rockfish Program appeals

- an increase of \$75 personnel costs, \$100 instead of \$25, to correct an error
- a decrease of \$1 miscellaneous costs, \$1 instead of \$2.

NOTE: Although each change above is correct, the actual previous hours and miscellaneous costs, as calculated by NOAA, totaled 3,271, rather than 3,270 and \$5,910 rather than \$5,909. Since the latter figures are the currently approved ones, we are attributing the differences to the results of rounding off by the ROCIS system.

16. For collections whose results will be published, outline the plans for tabulation and publication.

The information collected will not be published.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.

NA.

18. Explain each exception to the certification statement identified in Item 19 of the OMB 83-I.

NA.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not employ statistical methods.

Revised: 04/14/2009

Application for Rockfish Cooperative Fishing Quota (CQ)	U.S. Dept. of Commerce/ NOAA National Marine Fisheries Service (NMFS) Restricted Access Management (RAM) P.O. Box 21668 Juneau, AK 99802-1668 (800) 304-4846 toll free / (907) 586-7202 in Juneau (907) 586-7354 fax	
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A Rockfish Cooperative that submits a complete application that is approved by NMFS will receive a CQ permit that establishes an annual amount of primary rockfish species, secondary species, and rockfish halibut prohibited species catch (PSC) that is based on the collective rockfish quota share (QS) of the License Limitation Program (LLP) licenses assigned to the rockfish cooperative by its members. A CQ permit will list the amount of CQ, by fishery, held by the Rockfish Cooperative, the members of the Rockfish Cooperative and LLP licenses assigned to that rockfish cooperative, and the vessels which are authorized to harvest fish under that CQ permit.

This application must be submitted annually by each Rockfish Cooperative and received by NMFS no later than March 1.

For the cooperative application to be considered complete, the following documents must be attached to the application:

- ◆ A copy of the business license issued by the state in which the Rockfish Cooperative is registered as a business entity;
- ◆ A copy of the articles of incorporation or partnership agreement of the Rockfish Cooperative;
- ◆ A copy of the Rockfish Cooperative agreement signed by the members of the Rockfish Cooperative (if different from the articles of incorporation or partnership agreement of the Rockfish Cooperative).
- ◆ Any article of incorporation or agreement submitted by the Rockfish Cooperative must include terms that specify that eligible rockfish processor affiliated harvesters do not participate in price setting negotiations except as permitted by general antitrust law and the Rockfish Cooperative has established a monitoring program sufficient to ensure compliance with the Rockfish Program.

<i>BLOCK A – ROCKFISH COOPERATIVE IDENTIFICATION</i>		
1. Rockfish Cooperative's legal name	2. Type of business entity under which the cooperative is organized	
	3. Date of Incorporation	
	4. State in which the cooperative is legally registered as a business entity	
5. Name of Authorized Representative		
6. Permanent business address		
7. Business Telephone No.	8. Business Fax No.	9. E-mail address

BLOCK B – MEMBERS OF THE ROCKFISH COOPERATIVE

LLP Holder and Ownership Documentation

1. Full name	2. NMFS Person ID:
	3. LLP number(s):

Enter the names of all persons, to the individual level, holding an ownership interest in the LLP license(s) assigned to the rockfish cooperative and the percent of ownership each person and individual holds in the LLP license(s).

Name	% Ownership in LLP License

LLP Holder and Ownership Documentation

1. Full name	2. NMFS Person ID:
	3. LLP number(s):

Enter the names of all persons, to the individual level, holding an ownership interest in the LLP license(s) listed above and the percentage ownership each person and individual holds in the LLP license(s). Attach additional pages as necessary.

Name	% Ownership in LLP License

LLP Holder and Ownership Documentation

1. Full name	2. NMFS Person ID:
	3. LLP number(s):

Enter the names of all persons, to the individual level, holding an ownership interest in the LLP license(s) listed above and the percentage ownership each person and individual holds in the LLP license(s). Attach additional pages as necessary.

Name	% Ownership in LLP License

LLP Holder and Ownership Documentation

1. Full name	2. NMFS Person ID:
	3. LLP number(s):

Enter the names of all persons, to the individual level, holding an ownership interest in the LLP license(s) listed above and the percentage ownership each person and individual holds in the LLP license(s). Attach additional pages as necessary.

Name	% Ownership in LLP License

Vessel Name	ADF&G No.	USCG No.
Vessel Name	ADF&G No.	USCG No.
Vessel Name	ADF&G No.	USCG No.
Vessel Name	ADF&G No.	USCG No.
Vessel Name	ADF&G No.	USCG No.

BLOCK D -- PROCESSOR ASSOCIATES OF THE ROCKFISH COOPERATIVE

1. Processor Name	2. NMFS Person ID
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Shoreside Processing Facility

3. Facility Name	4. ADF&G processor code
	5. Federal processor permit No.

Stationary Floating Processor

6. Vessel Name	7. ADF&G No.	8. USCG No.
9. ADF&G processor code	10. Federal processor permit No.	

Processor Ownership Information

Provide the names of all persons, to the individual level, holding an ownership interest in the processor and the percentage ownership each person and individual holds in the processor. Attach additional pages if necessary.

Name	% Ownership in Processor

BLOCK E - CERTIFICATION OF COOPERATIVE AUTHORIZED REPRESENTATIVE

Under penalties of perjury, I declare that I have examined this application, and to the best of my knowledge and belief, the information is true, correct, and complete.

1. Signature of Cooperative Authorized Representative	2. Date Signed
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3. Printed Name of Cooperative Authorized Representative
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Instructions for
APPLICATION FOR ROCKFISH CQ

Issuance of a permit in response to this application may be delayed or denied if it is determined that the applicant(s) owes any delinquent non-tax debts to any agency or department of the United States federal government.

GENERAL INFORMATION

A rockfish cooperative that submits a complete application and that is approved by NMFS will receive a rockfish cooperative allocation that establishes an annual catch limit of primary and secondary species based on the collective catch history holdings of the License Limitation Program (LLPs) held and contributed by the members of the rockfish cooperative. A allocation will list the amount of allocation, by fishery, held by the rockfish cooperative and identify the members of the rockfish cooperative.

Submit a completed application for a Rockfish Cooperative quota, including all amendments, such that they are received by NMFS **no later than March 1** to receive an allocation that may be used during the calendar year.

For the cooperative application to be considered complete, the following documents must be attached to the completed application:

- ◆ A copy of the business license issued by the state in which the Cooperative is registered as a business entity
- ◆ A copy of the articles of incorporation or partnership agreement of the Rockfish Cooperative
- ◆ A copy of the agreement signed by the members of the Rockfish Cooperative (if different from the articles of incorporation or partnership agreement)
- ◆ Any article of incorporation or agreement submitted by the Rockfish Cooperative must include terms that specify that:
 - The eligible processor does not participate in price setting negotiations except to the extent permitted by general antitrust law; and
 - The Rockfish Cooperative has established a monitoring program sufficient to ensure compliance with the Rockfish Pilot Program.

Type or print legibly in ink; retain a copy of completed application for your records.

When complete, mail application to:

**NMFS Alaska Region
Restricted Access Management (RAM)
P.O. Box 21668
Juneau, AK 99802-1668**

Or fax to:

FAX: (907) 586-7354

If you need additional information, contact RAM at:

(800) 304-4846 (#2) or (907) 586-7202 (#2).

Please allow at least 10 working days for your application to be processed. Items will be sent by first class mail, unless you provide alternate instructions *and* include a prepaid mailer with appropriate postage or corporate account number for express delivery.

COMPLETING THE APPLICATION

BLOCK A – ROCKFISH COOPERATIVE IDENTIFICATION

1. Legal name
2. Type of business entity under which organized
3. State in which legally registered as a business entity
4. Date of Incorporation
5. Name of the authorized representative who will be conducting business with NMFS.
6. Permanent business address, including P.O. Box number or street address, city, state, and zip code
- 7-8. Business telephone number and fax number, including area code
9. Business e-mail address

BLOCK B – MEMBERS OF ROCKFISH COOPERATIVE (LLP Holdership Documentation)

(Copy this page to accommodate additional coop members)

1. Full name of member
2. NMFS Person ID
3. LLP license number(s)
4. Name and the percent of ownership each person holds in the LLP(s). List all persons, to the individual level, holding an ownership interest in the LLP(s) assigned to the rockfish cooperative and the percent of ownership each person and individual holds in the LLP license(s).

BLOCK C -- IDENTIFICATION OF ROCKFISH COOPERATIVE MEMBER VESSELS

Provide a list of any vessels that may be used by the cooperative to harvest CQ during the year for which CQ is applied. This list may not be modified during the year for which the CQ permit is issued. For each vessel provide:

Vessel name

Alaska Department of Fish and Game (ADF&G) vessel registration number

U.S. Coast Guard (USCG) documentation number

BLOCK D -- PROCESSOR ASSOCIATES OF THE ROCKFISH COOPERATIVE

Enter Processor name and NMFS Person ID

Shoreside processing facility: Enter name, ADF&G processor code, and Federal processor permit (FPP) number

Stationary floating processor (SFP): Enter name, ADF&G processor code, FPP number, ADF&G vessel registration number, and USCG documentation number

Processor ownership documentation: Enter names of all persons, to the individual level, holding an ownership interest in the processor and the percent of ownership each person and individual holds in the processor.

BLOCK E – CERTIFICATION OF COOPERATIVE AUTHORIZED REPRESENTATIVE

The Rockfish Cooperative's authorized representative must enter printed name, sign, and date the application certifying that all information is true, correct, and complete to the best of his/her knowledge and belief.

PUBLIC REPORTING BURDEN STATEMENT

Public reporting burden for this collection of information is estimated to average 2 hours per response, including the time for reviewing the instructions, searching the existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Assistant Regional Administrator, Sustainable Fisheries Division, NOAA National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802-1668.

ADDITIONAL INFORMATION

Before completing this form, please note the following: 1) Notwithstanding any other provision of 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 Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number; 2) This information is mandatory and is required to manage commercial fishing efforts under 50 CFR part 679 and under section 402(a) of the Magnuson-Stevens Act (16 U.S.C. 1801, *et seq.*); 3) Responses to this information request are confidential under section 402(b) of the Magnuson-Stevens Act as amended in 2006. They are also confidential under NOAA Administrative Order 216-100, which sets forth procedures to protect confidentiality of fishery statistics.

Revised: 04/14/2009

<p>Application for Rockfish Limited Access Fishery</p>	<p>U.S. Dept. of Commerce/ NOAA National Marine Fisheries Service (NMFS) Restricted Access Management (RAM) P.O. Box 21668 Juneau, AK 99802-1668 (800) 304-4846 toll free / 586-7202 in Juneau (907) 586-7354 fax</p>	
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This application must be submitted annually and received by NMFS no later than 1700 hours A.l.t. on **March 1** of the year for which the applicant wishes to participate in a Rockfish limited access fishery, or if sent by U.S. mail, the application must be postmarked by that time.

BLOCK A -- APPLICANT INFORMATION		
1. Applicant name	2. NMFS person ID	
3. Permanent business mailing address		
4. Business telephone No.	5. Business fax No.	6. e-mail address (if available)
7. Is applicant a U.S. citizen? <input type="checkbox"/> YES <input type="checkbox"/> NO If YES, enter date of birth _____		
8. Is the applicant a U.S. corporation, partnership, association, or other non-individual business entity? <input type="checkbox"/> YES <input type="checkbox"/> NO If YES, enter date of incorporation: _____		
9. Is applicant an eligible Rockfish Harvester? <input type="checkbox"/> YES <input type="checkbox"/> NO		
10. Is applicant participating in the Rockfish Limited Access Fishery? <input type="checkbox"/> YES <input type="checkbox"/> NO		

BLOCK B -- VESSEL IDENTIFICATION			
Vessel Name	ADF&G No.	USCG No.	LLP License No.

BLOCK C -- LLP HOLDERSHIP DOCUMENTATION

If the LLP License Holder (Applicant) is not an individual (i.e. is a corporation, partnership, association or some other non-individual entity) the name(s) of all owners of the Applicant must be provided, together with the percent of ownership. In the space below, enter the names of all of the owners of the Applicant, and indicate the percent of ownership. If a listed owner is not an individual, provide the same information for each such owner until all owners, and their percent of ownership, is revealed to the individual level.

Name	% Ownership in LLP License

BLOCK D -- APPLICANT CERTIFICATION

Under penalties of perjury, I declare that I have examined this application, and to the best of my knowledge and belief, the information is true, correct, and complete.

1. Signature of Applicant (or Authorized Representative)	2. Date Signed
3. Printed Name of Applicant (or Authorized Representative); if representative, attach authorization	

PUBLIC REPORTING BURDEN STATEMENT

Public reporting burden for this collection of information is estimated to average 2 hours per response, including the time for reviewing the instructions, searching the existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Assistant Regional Administrator, Sustainable Fisheries Division, NOAA National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802-1668.

ADDITIONAL INFORMATION

Before completing this form, please note the following: 1) Notwithstanding any other provision of 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 Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number; 2) This information is mandatory and is required to manage commercial fishing efforts under 50 CFR part 679 and under section 402(a) of the Magnuson-Stevens Act (16 U.S.C. 1801, *et seq.*); 3) Responses to this information request are confidential under section 402(b) of the Magnuson-Stevens Act as amended in 2006. They are also confidential under NOAA Administrative Order 216-100, which sets forth procedures to protect confidentiality of fishery statistics.

INSTRUCTIONS
Application for Limited Access Rockfish Fishery

Issuance of a permit in response to this application may be delayed or denied if it is determined that the applicant(s) owes any delinquent non-tax debts to any agency or department of the United States federal government.

This application must be submitted annually and received by NMFS no later than 1700 hours A.l.t. on **March 1** of the year for which the applicant wishes to participate in a Rockfish limited access fishery, or if sent by U.S. mail, the application must be postmarked by that time.

Eligible Rockfish Harvester

A person is eligible to participate in the Rockfish Program as an Eligible Rockfish Harvester if that person:

- ◆ Holds a permanent fully transferable License Limitation Program (LLP) license endorsed for Central Gulf of Alaska groundfish with a Legal Rockfish Landing of any Primary Rockfish Species attributed to that LLP license at the time of Application to Participate in the Rockfish Program; and
- ◆ Submits a timely Application to Participate in the Rockfish Program that is approved by NMFS;

Eligible Rockfish Processor

A person is eligible to participate in the Rockfish Program as an Eligible Rockfish Processor if that person:

- ◆ Holds the processing history of a shoreside processor or stationary floating processor (SFP) that received at least 250 metric tons in round weight equivalent of aggregate Legal Rockfish Landings of Primary Rockfish Species each calendar year in any four of the five calendar years beginning 1996 through 2000 during the season dates for that Primary Rockfish Species as established in Table 28 to part 679;
- ◆ Submits a timely Application to Participate in the Rockfish Program that is approved by NMFS; and
- ◆ That person or his successor-in-interest exists at the time of Application to Participate in the Rockfish Program.

The Rockfish Pilot Program Limited Access Fishery is authorized from 1200 hours, A.l.t., July 1 through 1200 hours, A.l.t., November 15. The fishery closes once the allocation is met or exceeded. If the annual catch amount assigned to the fishery is small, and forecast harvest rate is high, NMFS may not open a limited access fishery if it is likely that participants in the limited access fishery would exceed their allocation.

Type or print legibly in ink; retain a copy of completed application for your records.

When complete, mail application to:

NMFS Alaska Region
Restricted Access Management (RAM)
P.O. Box 21668
Juneau, AK 99802-1668

Or fax to:

FAX: (907) 586-7354

If you need additional information, contact RAM at

(800) 304-4846 (#2) or (907) 586-7202 (#2).

Please allow at least 10 working days for your application to be processed. Items will be sent by first class mail, unless you provide alternate instructions *and* include a prepaid mailer with appropriate postage or corporate account number for express delivery.

BLOCK A. APPLICANT INFORMATION

1. Applicant's name.
2. NMFS person ID.
3. Permanent business mailing address, including street address or P.O. box number, city, state, and zip code.
4. Business telephone number, fax number, and e-mail address (if available);
5. Indicate whether applicant is a U.S. citizen; if YES, enter date of birth.
6. Indicate whether applicant is a U.S. corporation, partnership, association, or other non-individual business entity; if YES, enter date of incorporation.
7. Indicate whether the applicant is an eligible Rockfish Harvester.
8. Indicate whether the applicant is participating in the Rockfish Limited Access Fishery.

BLOCK B. VESSEL IDENTIFICATION

Name, Alaska Department of fish and Game (ADF&G) vessel registration number, and United States Coast Guard (USCG) documentation number of the vessel
LLP license number(s) held by the applicant and used on that vessel.

BLOCK C. LLP HOLDERSHIP DOCUMENTATION

If the LLP License Holder (Applicant) is a corporation, partnership, association, or other non-individual entity, provide the names of, and the percent of ownership in the Applicant held by, all of its owners. Provide information to the individual level.

BLOCK D. APPLICANT CERTIFICATION

Signature of applicant and date signed
Printed name of applicant (or authorized representative); if representative, attach authorization.

Revised: 04/14/2009

<p>Application for Entry-Level Rockfish Fishery</p>	<p>U.S. Dept. of Commerce/ NOAA National Marine Fisheries Service (NMFS) Restricted Access Management (RAM) P.O. Box 21668 Juneau, AK 99802-1668 (800) 304-4846 toll free / (907) 586-7202 in Juneau (907) 586-7354 fax</p>	
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This application must be submitted annually and received by NMFS no later than **March 1** of the year for which the applicant wishes to participate.

BLOCK A -- APPLICANT INFORMATION		
1. Applicant name	2. NMFS person ID	
3. Permanent business mailing address		
4. Business telephone number	5. Business Fax number	6. E-mail address
7. Are you a U.S. citizen? <input type="checkbox"/> YES <input type="checkbox"/> NO If YES, enter Date of Birth _____		
8. Are you a U.S. corporation, partnership, association, or other non-individual business entity? <input type="checkbox"/> YES <input type="checkbox"/> NO If YES, enter date of incorporation: _____		

BLOCK B - VESSEL INFORMATION			
Vessel Name	ADF&G No.	USCG No.	LLP License No.

BLOCK C - ATTACHMENTS
<p>Harvesters who are applying to participate in the Entry-Level Fishery must attach a statement from an eligible Entry-Level Processor that affirms that the processor has a market for any rockfish delivered by that harvester in the Entry-Level Fishery.</p>

BLOCK D -- APPLICANT CERTIFICATION

Under penalties of perjury, I declare that I have examined this application, and to the best of my knowledge and belief, the information is true, correct, and complete.

1. Signature of Applicant (or Authorized Representative)

2. Date

3. Printed Name of Applicant (or Authorized Representative); if representative, attach authorization)

PUBLIC REPORTING BURDEN STATEMENT

Public reporting burden for this collection of information is estimated to average 2 hours per response, including the time for reviewing the instructions, searching the existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Assistant Regional Administrator, Sustainable Fisheries Division, NOAA National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802-1668.

ADDITIONAL INFORMATION

Before completing this form, please note the following: 1) Notwithstanding any other provision of 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 Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number; 2) This information is mandatory and is required to manage commercial fishing efforts under 50 CFR part 679 and under section 402(a) of the Magnuson-Stevens Act (16 U.S.C. 1801, *et seq.*); 3) Responses to this information request are confidential under section 402(b) of the Magnuson-Stevens Act as amended in 2006. They are also confidential under NOAA Administrative Order 216-100, which sets forth procedures to protect confidentiality of fishery statistics.

INSTRUCTIONS
Application for Entry-Level Rockfish Fishery

Issuance of a permit in response to this application may be delayed or denied if it is determined that the applicant(s) owes any delinquent non-tax debts to any agency or department of the United States federal government.

GENERAL INFORMATION

A person is eligible to participate in the Rockfish Program as an eligible Entry-Level Fishery Harvester if that person:

- ◆ Holds a permanent fully transferable License Limitation Program (LLP) license endorsed for Central Gulf of Alaska (CGOA) groundfish at the time of Application for the Entry-Level Fishery;
- ◆ Submits a timely Application for the Entry-Level Fishery that is approved by NMFS; and
- ◆ Is not an Eligible Rockfish Harvester or Processor.

An entry level fishery is available for all persons who are not eligible rockfish harvesters or processors. This fishery is intended to provide opportunities for harvesters and processors who had not traditionally participated in the CGOA rockfish fisheries.

An Eligible Entry Level Harvester who wishes to participate in the Entry-Level Fishery must submit an Application for the Entry-Level Rockfish Fishery. This application must be submitted annually and received by NMFS no later than 1700 hours A.l.t., on **March 1** of the year for which the applicant wishes to participate in an entry level rockfish fishery, or if sent by U.S. mail, the application must be postmarked by that time.

Type or print legibly in ink; retain a copy of completed application for your records.

When complete, mail application to:

NMFS Alaska Region
Restricted Access Management (RAM)
P.O. Box 21668
Juneau, AK 99802-1668

Or fax to:

FAX: (907) 586-7354

If you need additional information, contact RAM at: **(800) 304-4846 (#2)** or **(907) 586-7202 (#2)**.

Please allow at least 10 working days for your application to be processed. Items will be sent by first class mail, unless you provide alternate instructions *and* include a prepaid mailer with appropriate postage or corporate account number for express delivery.

COMPLETING THE APPLICATION

BLOCK A - APPLICANT INFORMATION

1. Name
2. NMFS person ID
3. Permanent business mailing address, including P.O. Box or street address, city, state, and zip code
- 4-5. Business telephone number and fax number, including area code

6. e-mail address
7. Indicate whether applicant is a U.S. citizen; if YES, enter date of birth
8. Indicate whether applicant is a U.S. corporation, partnership, association, or other non-individual business entity; if YES, enter the date of incorporation.

BLOCK B - VESSEL INFORMATION

1. Name and Alaska Department of Fish and Game (ADF&G) vessel registration number
2. United States Coast Guard (USCG) documentation number of the vessel
3. LLP license number(s) held by the applicant and used on that vessel.

BLOCK C -- ATTACHMENT

Harvesters who are applying to participate in the Entry-Level Fishery must attach a statement from an Eligible Entry Level Processor that affirms that processor has a market for any rockfish delivered by that harvester in the Entry-Level Fishery

BLOCK D - APPLICANT SIGNATURE AND DATE

Signature of applicant and date signed

Printed name of applicant (or authorized representative); if representative, attach authorization

Revised: 04/13/2009

<h2>Application to Opt Out of Rockfish Fishery</h2>	U.S. Dept. of Commerce/ NOAA National Marine Fisheries Service (NMFS) Restricted Access Management (RAM) P.O. Box 21668 Juneau, AK 99802-1668 (800) 304-4846 toll free / (907) 586-7202 in Juneau (907) 586-7354 fax	
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This application must be submitted annually and received by NMFS no later than 1700 hours A.l.t. on **March 1** of the year for which the applicant wishes to opt-out of a rockfish fishery, or if sent by U.S. mail, the application must be postmarked by that time.

BLOCK A -- APPLICANT INFORMATION		
1. Applicant name	2. NMFS person ID	
3. Permanent business mailing address		
4. Business telephone number	5. Business Fax number	6. e-mail address (if available)
7. Is the applicant a U.S. citizen? <input type="checkbox"/> YES <input type="checkbox"/> NO If YES, enter date of birth _____		
8. Is the applicant a U.S. corporation, partnership, association, or other non-individual business entity? <input type="checkbox"/> YES <input type="checkbox"/> NO If YES, enter date of incorporation: _____		
9. Is the applicant an Eligible Rockfish Harvester? <input type="checkbox"/> YES <input type="checkbox"/> NO		
10. Is the applicant opting-out of the Rockfish Pilot Program? <input type="checkbox"/> YES <input type="checkbox"/> NO		
11. Does the applicant hold an LLP license with Rockfish quota share (QS) assigned to the catcher/processor sector? <input type="checkbox"/> YES <input type="checkbox"/> NO		

BLOCK B -- VESSEL INFORMATION	
1. Name of vessel	2. ADF&G No.
	3. USCG No.
	4. LLP license No(s)

BLOCK C -- LLP HOLDERSHIP DOCUMENTATION

If the LLP License Holder (Applicant) is not an individual (i.e. is a corporation, partnership, association, or some other non-individual entity), the name(s) of all owners of the Applicant must be provided, together with the percent of ownership. In the space below, enter all of the names of all of the owners of the Applicant, and indicate the percent of ownership. If a listed owner is not an individual, provide the same information for each such owner until all owners, and their percent of ownership, is revealed to the individual level.

Name	% Ownership in LLP License

BLOCK D -- APPLICANT CERTIFICATION

Under penalties of perjury, I declare that I have examined this application, and to the best of my knowledge and belief, the information is true, correct, and complete.

1. Signature of Applicant (or Authorized Representative)	2. Date
3. Printed Name of Applicant (or Authorized Representative); if representative, attach authorization	

PUBLIC REPORTING BURDEN STATEMENT

Public reporting burden for this collection of information is estimated to average 2 hours per response, including the time for reviewing the instructions, searching the existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Assistant Regional Administrator, Sustainable Fisheries Division, NOAA National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802-1668.

ADDITIONAL INFORMATION

Before completing this form, please note the following: 1) Notwithstanding any other provision of 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 Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number; 2) This information is mandatory and is required to manage commercial fishing efforts under 50 CFR part 679 and under section 402(a) of the Magnuson-Stevens Act (16 U.S.C. 1801, *et seq.*); 3) Responses to this information request are confidential under section 402(b) of the Magnuson-Stevens Act as amended in 2006. They are also confidential under NOAA Administrative Order 216-100, which sets forth procedures to protect confidentiality of fishery statistics.

INSTRUCTIONS
Application to Opt Out of Rockfish Fishery

Issuance of a permit in response to this application may be delayed or denied if it is determined that the applicant(s) owes any delinquent non-tax debts to any agency or department of the United States federal government.

GENERAL INFORMATION

An Eligible Rockfish Harvester who wishes to Opt-out of the Rockfish Program for a calendar year with a License Limitation Program (LLP) license assigned a catch history allocation in the Catcher/Processor Sector must submit an Application to Opt-out. This application must be submitted annually and received by NMFS no later than 1700 hours A.l.t. on **March 1** of the year for which the applicant wishes to opt-out of a rockfish fishery, or if sent by U.S. mail, the application must be postmarked by that time.

Type or print legibly in ink; retain a copy of completed application for your records.

When complete, mail application to:

NMFS Alaska Region
Restricted Access Management (RAM)
P.O. Box 21668
Juneau, AK 99802-1668

Or fax to:

FAX: (907) 586-7354

If you need additional information, contact RAM at **(800) 304-4846 (#2)** or **(907) 586-7202 (#2)**.

Please allow at least 10 working days for your application to be processed. Items will be sent by first class mail, unless you provide alternate instructions *and* include a prepaid mailer with appropriate postage or corporate account number for express delivery.

COMPLETING THE APPLICATION

BLOCK A. APPLICANT INFORMATION

1. Name
2. NMFS person ID
3. Permanent business mailing address
4. Business telephone number, fax number, and e-mail address (if available).
5. Indicate whether applicant is a U.S. citizen; if YES, provide date of birth.
6. Indicate whether applicant is a U.S. corporation; if YES, provide date of incorporation
7. Indicate whether the applicant is an Eligible Rockfish Harvester.
8. Indicate whether the applicant is opting-out of the Rockfish Pilot Program.
9. Indicate whether the applicant holds an LLP license with Rockfish quota share (QS) assigned to the catcher/processor sector.

BLOCK B. VESSEL INFORMATION

1. Name of vessel and Alaska Department of Fish and Game (ADF&G) vessel registration number
2. United States Coast Guard (USCG) documentation number
3. LLP license number(s) held by the applicant and used on that vessel.

BLOCK C. LLP HOLDERSHIP DOCUMENTATION

Names of all persons, to the individual level, holding an ownership interest in the LLP license and the percent of ownership each person and individual holds in the LLP license.

BLOCK D. APPLICANT CERTIFICATION

Signature of applicant (or authorized representative) and date signed

Printed name of applicant (or authorized representative); if representative, attach authorization

Revised: 04/14/2009

Application for Inter-Cooperative Transfer of CQ Rockfish Fishery		U.S. Dept. of Commerce/ NOAA National Marine Fisheries Service (NMFS) Restricted Access Management (RAM) P.O. Box 21668 Juneau, AK 99802-1668 (800) 304-4846 toll free / (907) 586-7202 in Juneau (907) 586-7354 fax	
BLOCK A -- IDENTIFICATION OF TRANSFEROR Applicant must be a U.S. corporation, partnership, association, or other non-individual business entity.			
1. Name of Rockfish Cooperative		2. NMFS person ID	
3. Name of authorized representative			
4. Permanent business mailing address		5. Temporary business mailing address (if applicable)	
6. Business telephone No.	7. Business fax No.	8. E-mail address (if available)	

BLOCK B -- IDENTIFICATION OF TRANSFEROR'S ELIGIBLE ROCKFISH PROCESSOR			
1. Name of Processor		2. NMFS person ID	
3. Name of designated representative			
4. Permanent business mailing address		5. Temporary business mailing address (if applicable)	
6. Business telephone number	7. Business Fax number	8. E-mail address (if available)	

BLOCK C -- IDENTIFICATION OF TRANSFEREE		
1. Name of Rockfish Cooperative		2. NMFS person ID
3. Name of authorized representative		
4. Permanent business mailing address		5. Temporary business mailing address (if applicable)
6. Business telephone No.	7. Business fax No.	8. E-mail address (if available)

BLOCK D -- IDENTIFICATION OF TRANSFEREE'S ELIGIBLE ROCKFISH PROCESSOR		
1. Name of Processor		2. NMFS person ID
3. Name of designated representative		
4. Permanent business mailing address		5. Temporary business mailing address (if applicable)
6. Business telephone number	7. Business Fax number	8. E-mail address (if available)

**BLOCK E¹ – IDENTIFICATION OF ROCKFISH COOPERATIVE QUOTA (CQ)
 TO BE TRANSFERRED (LEASE) TO COOPERATIVE MEMBER(S)
 (To Be Completed By Transferor)**

Identify the type and amount of Primary Species, Secondary Species, or Rockfish Halibut PSC CQ to be transferred. Distribute the CQ identified in Block E¹ to cooperative members in Block E².

Duplicate this page as necessary.

Type of CQ (Primary, Secondary, Halibut PSC)	Species to be Transferred	Amount (in mt)

**BLOCK E² – IDENTIFICATION OF ROCKFISH COOPERATIVE MEMBER(S)
 (To Be Completed By Transferee)**

A rockfish cooperative receiving primary rockfish species CQ by transfer must assign that primary rockfish species CQ to a member of the rockfish cooperative for purposes of applying the use caps established under § 679.82(a). **Duplicate this page** as necessary.

1. Name of Qualifying Member (print):	NMFS Person ID:	Species:	Amount of CQ:
2. Name of Qualifying Member (print):	NMFS Person ID:	Species:	Amount of CQ:
3. Name of Qualifying Member (print):	NMFS Person ID:	Species:	Amount of CQ:
4. Name of Qualifying Member (print):	NMFS Person ID:	Species:	Amount of CQ:
5. Name of Qualifying Member (print):	NMFS Person ID:	Species:	Amount of CQ:
6. Name of Qualifying Member (print):	NMFS Person ID:	Species:	Amount of CQ:

BLOCK F¹ -- CERTIFICATION OF TRANSFEROR	
Under penalties of perjury, I declare that I have examined this application, and to the best of my knowledge and belief, the information is true, correct, and complete.	
1. Signature of Transferor's Designated Representative	2. Date
3. Printed Name of Transferor's Designated Representative; attach authorization	
BLOCK F² -- CERTIFICATION OF TRANSFEROR'S PROCESSOR	
Under penalties of perjury, I declare that I have examined this application, and to the best of my knowledge and belief, the information is true, correct, and complete.	
1. Signature of Eligible Rockfish Processor (associated with Cooperative)	2. Date
3. Printed Name of Eligible Rockfish Processor	

BLOCK G¹ -- CERTIFICATION OF TRANSFEREE	
Under penalties of perjury, I declare that I have examined this application, and to the best of my knowledge and belief, the information is true, correct, and complete.	
1. Signature of Applicant (or Authorized Representative)	2. Date
3. Printed Name of Applicant (or Authorized Representative); if representative, attach authorization	
BLOCK G² -- CERTIFICATION OF TRANSFEREE'S PROCESSOR	
Under penalties of perjury, I declare that I have examined this application, and to the best of my knowledge and belief, the information is true, correct, and complete.	
1. Signature of Eligible Rockfish Processor (associated with Cooperative)	2. Date
3. Printed Name of Eligible Rockfish Processor	

PUBLIC REPORTING BURDEN STATEMENT

Public reporting burden for this collection of information is estimated to average 2 hours per response, including the time for reviewing the instructions, searching the existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Assistant Regional Administrator, Sustainable Fisheries Division, NOAA National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802-1668.

ADDITIONAL INFORMATION

Before completing this form, please note the following: 1) Notwithstanding any other provision of 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 Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number; 2) This information is mandatory and is required to manage commercial fishing efforts under 50 CFR part 679 and under section 402(a) of the Magnuson-Stevens Act (16 U.S.C. 1801, *et seq.*); 3) Responses to this information request are confidential under section 402(b) of the Magnuson-Stevens Act as amended in 2006. They are also confidential under NOAA Administrative Order 216-100, which sets forth procedures to protect confidentiality of fishery statistics.

INSTRUCTIONS
Application for Inter-Cooperative Transfer
Rockfish Fishery

Issuance of a permit in response to this application may be delayed or denied if it is determined that the applicant(s) owes any delinquent non-tax debts to any agency or department of the United States federal government.

GENERAL INFORMATION

A rockfish cooperative may transfer all or part of its cooperative quota (CQ) to another rockfish cooperative. This transfer requires the submission of an Application for Inter-Cooperative Transfer to NMFS. Once NMFS issues an annual catch amount to a cooperative, it may be fished by members of the cooperative or transferred to another cooperative. **Note:** A cooperative in the catcher vessel sector may not transfer an annual catch amount to a cooperative in the catcher/processor sector.

The transfer of an annual catch amount is only valid during the calendar year of the transfer. A cooperative may only transfer or receive by transfer an annual catch amount if the cooperative:

- ◆ Notifies NMFS. A transfer is not effective until NMFS has been notified and NMFS has sent confirmation to the transferor and the transferee.
- ◆ Identifies the amount and type or annual catch amount transferred and the cooperative and cooperative member to which that annual catch amount is transferred. An annual catch amount received by a cooperative has to be attributed to a member of that cooperative to apply the use caps.
- ◆ Ensures that any transfer does not cause the receiving cooperative to exceed its use cap limitations.

Type or print legibly in ink; retain a copy of completed application for your records.

When complete, mail application to:

NMFS Alaska Region
Restricted Access Management (RAM)
P.O. Box 21668
Juneau, AK 99802-1668

Or fax to:

FAX: (907) 586-7354

If you need additional information, contact RAM at **(800) 304-4846 (#2)** or **(907) 586-7202 (#2)**.

Please allow at least 10 working days for your application to be processed. Items will be sent by first class mail, unless you provide alternate instructions *and* include a prepaid mailer with appropriate postage or corporate account number for express delivery.

Instructions
**APPLICATION FOR INTER-COOPERATIVE TRANSFER
ROCKFISH FISHERY**

GENERAL INFORMATION

In order for an inter-cooperative transfer to be approved, both parties must be already established and recognized by NMFS as a cooperative. NMFS will notify the transferor and transferee once the application has been received and approved. A transfer of cooperative quota (CQ) is not effective until approved by NMFS.

A Rockfish Cooperative may transfer all or part of its CQ to another Rockfish Cooperative. This transfer requires the submission of an Application for Inter-Cooperative Transfer to NMFS. Once NMFS issues an annual catch amount to a cooperative, it may be fished by members of the cooperative or transferred to another cooperative. However, a cooperative in the catcher vessel sector may not transfer an annual catch amount to a cooperative in the catcher/processor sector.

This transfer of an annual catch amount is only valid during the calendar year of the transfer. A cooperative may only transfer or receive by transfer an annual catch amount, if the cooperative:

- ◆ Notifies NMFS. A transfer is not effective until NMFS has been notified and NMFS has sent confirmation to the transferor and the transferee.
- ◆ Identifies the amount and type or annual catch amount transferred and the cooperative and cooperative member to which that annual catch amount is transferred. An annual catch amount received by a cooperative has to be attributed to a member of that cooperative to apply the use caps.
- ◆ Ensures that any transfer does not cause the receiving cooperative to exceed its use cap limitations.

ADDITIONALLY

- ◆ Print information in the application legibly in ink or type information.
- ◆ Retain a copy of completed application for your records.
- ◆ Do not wait until right before an opening to apply for your permit, as you may not receive it on time. Please **allow up to ten working days** for a transfer application to be reviewed, processed, and approved; the parties will be notified upon approval or disapproval of the transfer.
- ◆ Submit the completed application:

By mail to: **Alaska Region, NOAA Fisheries (NMFS)
Restricted Access Management (RAM)
P.O. Box 21668
Juneau, AK 99802-1668**

By fax to: **RAM at 907-586-7354**

Applications may be faxed to RAM at 907-586-7354; however, permits will not be returned by fax. The original, signed permit must be on board the vessel.

By Internet to: <https://alaskafisheries.noaa.gov>

Or, hand deliver to:

**NOAA Fisheries
Alaska Region (NMFS/RAM)
Federal Building
709 W. 9th Street, Suite 713
Juneau, Alaska 99801**

Items will be sent to you by first class mail, unless you provide alternate instructions and include a prepaid mailer with appropriate postage or a corporate account number for express delivery. Additional information is available from RAM, as follows:

Website: <http://www.alaskafisheries.noaa.gov/ram/default.htm>

Telephone (toll free): 800-304-4846 (press "2")

Telephone (in Juneau): 907-586-7202 (press "2")

e-Mail: RAM.Alaska@noaa.gov

COMPLETING THE APPLICATION

A complete transfer of catch history or halibut PSC allocation issued to a Rockfish Cooperative requires that the following information be provided to NMFS.

BLOCK A -- IDENTIFICATION OF TRANSFEROR (BUYER).

1. Name and NMFS Person ID
2. Name of authorized representative
- 3-4. Permanent business mailing address, including P.O.Box or street address, city, state, and zip code.
A temporary mailing address may be included, if applicable)
- 5-6. Business telephone number and business fax number, including area codes.
7. Business e-mail address (if available)

BLOCK B -- IDENTIFICATION OF TRANSFEROR'S ELIGIBLE ROCKFISH PROCESSOR.

1. Name and NMFS Person ID
2. Name of authorized representative
- 3-4. Permanent business mailing address, including P.O.Box or street address, city, state, and zip code.
A temporary mailing address may be included, if applicable)
- 5-6. Business telephone number and business fax number, including area codes.
7. Business e-mail address (if available)

BLOCK C -- IDENTIFICATION OF TRANSFEREE (SELLER)

1. Name and NMFS Person ID
2. Name of designated representative
- 3-4. Permanent business mailing address, including P.O.Box or street address, city, state, and zip code.
A temporary mailing address may be included, if applicable)
- 5-6. Business telephone number and business fax number, including area codes.
7. Business e-mail address (if available)

BLOCK D -- IDENTIFICATION OF TRANSFEREE'S ELIGIBLE ROCKFISH PROCESSOR.

1. Name and NMFS Person ID
2. Name of authorized representative
- 3-4. Permanent business mailing address, including P.O.Box or street address, city, state, and zip code.
A temporary mailing address may be included, if applicable)
- 5-6 Business telephone number and business fax number, including area codes.
- 7 Business e-mail address (if available)

BLOCK E¹ -- IDENTIFICATION OF ROCKFISH COOPERATIVE QUOTA (CQ) TO BE TRANSFERRED (LEASE) TO COOPERATIVE MEMBER(S)

(To Be Completed By Transferor)

Identify the type of CQ (Primary, Secondary, Halibut PSC), species to be transferred, and amount of transfer (in metric tons) Distribute the CQ identified in Block E¹ to cooperative members in Block E². Duplicate this page as necessary.

BLOCK E² -- IDENTIFICATION OF ROCKFISH COOPERATIVE MEMBER(S)

(To Be Completed By Transferee)

A rockfish cooperative receiving primary rockfish species CQ by transfer must assign that primary rockfish species CQ to a member of the rockfish cooperative for purposes of applying the use caps established under § 679.82(a). Duplicate this page as necessary.

Enter the name of Qualifying Member (print), NMFS Person ID, species transferred, and amount of CQ transferred.

BLOCK F¹ -- CERTIFICATION OF TRANSFEROR

Enter printed name and signature of transferor, and date signed. If designated representative, attach authorization.

BLOCK F² -- CERTIFICATION OF TRANSFEROR'S PROCESSOR

Enter printed name and signature of eligible rockfish processor, and date signed. If designated representative, attach authorization.

BLOCK G¹ -- CERTIFICATION OF TRANSFEREE

Enter printed name and signature of transferee, and date signed. If designated representative, attach authorization.

BLOCK G² -- CERTIFICATION OF TRANSFEREE'S PROCESSOR

Enter printed name and signature of eligible rockfish processor, and date signed. If designated representative, attach authorization.

SEC. 303. CONTENTS OF FISHERY MANAGEMENT PLANS 16 U.S.C. 1853

95-354, 99-659, 101-627, 104-297

(a) **REQUIRED PROVISIONS.**—Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, shall—

(1) contain the conservation and management measures, applicable to foreign fishing and fishing by vessels of the United States, which are—

(A) necessary and appropriate for the conservation and management of the fishery to prevent overfishing and rebuild overfished stocks, and to protect, restore, and promote the long-term health and stability of the fishery;

(B) described in this subsection or subsection (b), or both; and

(C) consistent with the national standards, the other provisions of this Act, regulations implementing recommendations by international organizations in which the United States participates (including but not limited to closed areas, quotas, and size limits), and any other applicable law;

(2) contain a description of the fishery, including, but not limited to, the number of vessels involved, the type and quantity of fishing gear used, the species of fish involved and their location, the cost likely to be incurred in management, actual and potential revenues from the fishery, any recreational interest in the fishery, and the nature and extent of foreign fishing and Indian treaty fishing rights, if any;

(3) assess and specify the present and probable future condition of, and the maximum sustainable yield and optimum yield from, the fishery, and include a summary of the information utilized in making such specification;

(4) assess and specify—

(A) the capacity and the extent to which fishing vessels of the United States, on an annual basis, will harvest the optimum yield specified under paragraph (3),

(B) the portion of such optimum yield which, on an annual basis, will not be harvested by fishing vessels of the United States and can be made available for foreign fishing, and

(C) the capacity and extent to which United States fish processors, on an annual basis, will process that portion of such optimum yield that will be harvested by fishing vessels of the United States;

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(5) specify the pertinent data which shall be submitted to the Secretary with respect to commercial, recreational, charter fishing, and fish processing in the fishery, including, but not limited to, information regarding the type and quantity of fishing gear used, catch by species in numbers of fish or weight thereof, areas in which fishing was engaged in, time of fishing, number of hauls, economic information necessary to meet the requirements of this Act, and the estimated processing capacity of, and the actual processing capacity utilized by, United States fish processors;

(6) consider and provide for temporary adjustments, after consultation with the Coast Guard and persons utilizing the fishery, regarding access to the fishery for vessels otherwise prevented from harvesting because of weather or other ocean conditions affecting the safe conduct of the fishery; except that the adjustment shall not adversely affect conservation efforts in other fisheries or discriminate among participants in the affected fishery;

(7) describe and identify essential fish habitat for the fishery based on the guidelines established by the Secretary under section 305(b)(1)(A), minimize to the extent practicable adverse effects on such habitat caused by fishing, and identify other actions to encourage the conservation and enhancement of such habitat;

(8) in the case of a fishery management plan that, after January 1, 1991, is submitted to the Secretary for review under section 304(a) (including any plan for which an amendment is submitted to the Secretary for such review) or is prepared by the Secretary, assess and specify the nature and extent of scientific data which is needed for effective implementation of the plan;

109-479

(9) include a fishery impact statement for the plan or amendment (in the case of a plan or amendment thereto submitted to or prepared by the Secretary after October 1, 1990) which shall assess, specify, and analyze the likely effects, if any, including the cumulative conservation, economic, and social impacts, of the conservation and management measures on, and possible mitigation measures for—

(A) participants in the fisheries and fishing communities affected by the plan or amendment;

(B) participants in the fisheries conducted in adjacent areas under the authority of another Council, after consultation with such Council and representatives of those participants; and

(C) the safety of human life at sea, including whether and to what extent such measures may affect the safety of participants in the fishery;

(10) specify objective and measurable criteria for identifying when the fishery to which the plan applies is overfished (with an analysis of how the criteria were determined and the relationship of the criteria to the reproductive potential of stocks of fish in that fishery) and, in the case of a fishery which the Council or the Secretary has determined is approaching an overfished condition or is overfished, contain conservation and management measures to prevent overfishing or end overfishing and rebuild the fishery;

(11) establish a standardized reporting methodology to assess the amount and type of bycatch occurring in the fishery, and include conservation and management measures that, to the extent practicable and in the following priority—

(A) minimize bycatch; and

(B) minimize the mortality of bycatch which cannot be avoided;

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(12) assess the type and amount of fish caught and released alive during recreational fishing under catch and release fishery management programs and the mortality of such fish, and include conservation and management measures that, to the extent practicable, minimize mortality and ensure the extended survival of such fish;

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(13) include a description of the commercial, recreational, and charter fishing sectors which participate in the fishery, including its economic impact, and, to the extent practicable, quantify trends in landings of the managed fishery resource by the commercial, recreational, and charter fishing sectors;

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(14) to the extent that rebuilding plans or other conservation and management measures which reduce the overall harvest in a fishery are necessary, allocate, taking into consideration the economic impact of the harvest restrictions or recovery benefits on the fishery participants in each sector, any harvest restrictions or recovery benefits fairly and equitably among the commercial, recreational, and charter fishing sectors in the fishery and;

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(15) establish a mechanism for specifying annual catch limits in the plan (including a multiyear plan), implementing regulations, or annual specifications, at a level such that overfishing does not occur in the fishery, including measures to ensure accountability.

97-453, 99-659, 101-627, 102-251, 104-297

(b) DISCRETIONARY PROVISIONS.—Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, may—

(1) require a permit to be obtained from, and fees to be paid to, the Secretary, with respect to—

(A) any fishing vessel of the United States fishing, or wishing to fish, in the exclusive economic zone [or special areas,]* or for anadromous species or Continental Shelf fishery resources beyond such zone [or areas]*;

(B) the operator of any such vessel; or

(C) any United States fish processor who first receives fish that are subject to the plan;

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(2)(A) designate zones where, and periods when, fishing shall be limited, or shall not be permitted, or shall be permitted only by specified types of fishing vessels or with specified types and quantities of fishing gear;

(B) designate such zones in areas where deep sea corals are identified under section 408, to protect deep sea corals from physical damage from fishing gear or to prevent loss or damage to such fishing gear from interactions with deep sea corals, after considering long-term sustainable uses of fishery resources in such areas; and

(C) with respect to any closure of an area under this Act that prohibits all fishing, ensure that such closure—

- (i) is based on the best scientific information available;
- (ii) includes criteria to assess the conservation benefit of the closed area;
- (iii) establishes a timetable for review of the closed area's performance that is consistent with the purposes of the closed area; and
- (iv) is based on an assessment of the benefits and impacts of the closure, including its size, in relation to other management measures (either alone or in combination with such measures), including the benefits and impacts of limiting access to: users of the area, overall fishing activity, fishery science, and fishery and marine conservation;

(3) establish specified limitations which are necessary and appropriate for the conservation and management of the fishery on the—

- (A) catch of fish (based on area, species, size, number, weight, sex, bycatch, total biomass, or other factors);
- (B) sale of fish caught during commercial, recreational, or charter fishing, consistent with any applicable Federal and State safety and quality requirements; and
- (C) transshipment or transportation of fish or fish products under permits issued pursuant to section 204;

(4) prohibit, limit, condition, or require the use of specified types and quantities of fishing gear, fishing vessels, or equipment for such vessels, including devices which may be required to facilitate enforcement of the provisions of this Act;

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(5) incorporate (consistent with the national standards, the other provisions of this Act, and any other applicable law) the relevant fishery conservation and management measures of the coastal States nearest to the fishery and take into account the different circumstances affecting fisheries from different States and ports, including distances to fishing grounds and proximity to time and area closures;

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(6) establish a limited access system for the fishery in order to achieve optimum yield if, in developing such system, the Council and the Secretary take into account—

- (A) present participation in the fishery;
- (B) historical fishing practices in, and dependence on, the fishery;
- (C) the economics of the fishery;
- (D) the capability of fishing vessels used in the fishery to engage in other fisheries;
- (E) the cultural and social framework relevant to the fishery and any affected fishing communities;
- (F) the fair and equitable distribution of access privileges in the fishery; and
- (G) any other relevant considerations;

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(7) require fish processors who first receive fish that are subject to the plan to submit data which are necessary for the conservation and management of the fishery;

(8) require that one or more observers be carried on board a vessel of the United States engaged in fishing for species that are subject to the plan, for the purpose of collecting data necessary for the conservation and management of the fishery; except that such a vessel shall not be required to carry an observer on board if the facilities of the vessel for the quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized;

(9) assess and specify the effect which the conservation and management measures of the plan will have on the stocks of naturally spawning anadromous fish in the region;

(10) include, consistent with the other provisions of this Act, conservation and management measures that provide harvest incentives for participants within each gear group to employ fishing practices that result in lower levels of bycatch or in lower levels of the mortality of bycatch;

(11) reserve a portion of the allowable biological catch of the fishery for use in scientific research;

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(12) include management measures in the plan to conserve target and non-target species and habitats, considering the variety of ecological factors affecting fishery populations; and

(14)[sic]¹⁵ prescribe such other measures, requirements, or conditions and restrictions as are determined to be necessary and appropriate for the conservation and management of the fishery.

97-453, 104-297

(c) PROPOSED REGULATIONS.—Proposed regulations which the Council deems necessary or appropriate for the purposes of—

(1) implementing a fishery management plan or plan amendment shall be submitted to the Secretary simultaneously with the plan or amendment under section 304; and

(2) making modifications to regulations implementing a fishery management plan or plan amendment may be submitted to the Secretary at any time after the plan or amendment is approved under section 304.

¹⁵ So in original.

P.L. 109-479, sec. 104(b), MSA § 303 note

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EFFECTIVE DATES; APPLICATION TO CERTAIN SPECIES.—The amendment made by subsection (a)(10)¹⁶—

(1) shall, unless otherwise provided for under an international agreement in which the United States participates, take effect—

(A) in fishing year 2010 for fisheries determined by the Secretary to be subject to overfishing; and

(B) in fishing year 2011 for all other fisheries; and

(2) shall not apply to a fishery for species that have a life cycle of approximately 1 year unless the Secretary has determined the fishery is subject to overfishing of that species; and

(3) shall not limit or otherwise affect the requirements of section 301(a)(1) or 304(e) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1851(a)(1) or 1854(e), respectively).

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SEC. 303A. LIMITED ACCESS PRIVILEGE PROGRAMS.

16 U.S.C. 1853a

(a) **IN GENERAL.**—After the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, a Council may submit, and the Secretary may approve, for a fishery that is managed under a limited access system, a limited access privilege program to harvest fish if the program meets the requirements of this section.

(b) **NO CREATION OF RIGHT, TITLE, OR INTEREST.**—Limited access privilege, quota share, or other limited access system authorization established, implemented, or managed under this Act—

(1) shall be considered a permit for the purposes of sections 307, 308, and 309;

(2) may be revoked, limited, or modified at any time in accordance with this Act, including revocation if the system is found to have jeopardized the sustainability of the stock or the safety of fishermen;

(3) shall not confer any right of compensation to the holder of such limited access privilege, quota share, or other such limited access system authorization if it is revoked, limited, or modified;

(4) shall not create, or be construed to create, any right, title, or interest in or to any fish before the fish is harvested by the holder; and

(5) shall be considered a grant of permission to the holder of the limited access privilege or quota share to engage in activities permitted by such limited access privilege or quota share.

¹⁶ Section 104(a)(10) of P.L. 109-479 added section 303(a)(15).

(c) REQUIREMENTS FOR LIMITED ACCESS PRIVILEGES.—

(1) IN GENERAL.—Any limited access privilege program to harvest fish submitted by a Council or approved by the Secretary under this section shall—

(A) if established in a fishery that is overfished or subject to a rebuilding plan, assist in its rebuilding;

(B) if established in a fishery that is determined by the Secretary or the Council to have over-capacity, contribute to reducing capacity;

(C) promote—

(i) fishing safety;

(ii) fishery conservation and management; and

(iii) social and economic benefits;

(D) prohibit any person other than a United States citizen, a corporation, partnership, or other entity established under the laws of the United States or any State, or a permanent resident alien, that meets the eligibility and participation requirements established in the program from acquiring a privilege to harvest fish, including any person that acquires a limited access privilege solely for the purpose of perfecting or realizing on a security interest in such privilege;

(E) require that all fish harvested under a limited access privilege program be processed on vessels of the United States or on United States soil (including any territory of the United States);

(F) specify the goals of the program;

(G) include provisions for the regular monitoring and review by the Council and the Secretary of the operations of the program, including determining progress in meeting the goals of the program and this Act, and any necessary modification of the program to meet those goals, with a formal and detailed review 5 years after the implementation of the program and thereafter to coincide with scheduled Council review of the relevant fishery management plan (but no less frequently than once every 7 years);

(H) include an effective system for enforcement, monitoring, and management of the program, including the use of observers or electronic monitoring systems;

(I) include an appeals process for administrative review of the Secretary's decisions regarding initial allocation of limited access privileges;

(J) provide for the establishment by the Secretary, in consultation with appropriate Federal agencies, for an information collection and review process to provide any additional information needed to determine whether any illegal acts of anti-competition, anti-trust, price collusion, or price fixing have occurred among regional fishery associations or persons receiving limited access privileges under the program; and

(K) provide for the revocation by the Secretary of limited access privileges held by any person found to have violated the antitrust laws of the United States.

(2) WAIVER.—The Secretary may waive the requirement of paragraph (1)(E) if the Secretary determines that—

- (A) the fishery has historically processed the fish outside of the United States; and
- (B) the United States has a seafood safety equivalency agreement with the country where processing will occur.

(3) FISHING COMMUNITIES.—

(A) IN GENERAL.—

(i) ELIGIBILITY.—To be eligible to participate in a limited access privilege program to harvest fish, a fishing community shall—

- (I) be located within the management area of the relevant Council;
- (II) meet criteria developed by the relevant Council, approved by the Secretary, and published in the Federal Register;
- (III) consist of residents who conduct commercial or recreational fishing, processing, or fishery-dependent support businesses within the Council's management area; and
- (IV) develop and submit a community sustainability plan to the Council and the Secretary that demonstrates how the plan will address the social and economic development needs of coastal communities, including those that have not historically had the resources to participate in the fishery, for approval based on criteria developed by the Council that have been approved by the Secretary and published in the Federal Register.

(ii) FAILURE TO COMPLY WITH PLAN.—The Secretary shall deny or revoke limited access privileges granted under this section for any person who fails to comply with the requirements of the community sustainability plan. Any limited access privileges denied or revoked under this section may be reallocated to other eligible members of the fishing community.

- (B) PARTICIPATION CRITERIA.—In developing participation criteria for eligible communities under this paragraph, a Council shall consider—
- (i) traditional fishing or processing practices in, and dependence on, the fishery;
 - (ii) the cultural and social framework relevant to the fishery;
 - (iii) economic barriers to access to fishery;
 - (iv) the existence and severity of projected economic and social impacts associated with implementation of limited access privilege programs on harvesters, captains, crew, processors, and other businesses substantially dependent upon the fishery in the region or subregion;
 - (v) the expected effectiveness, operational transparency, and equitability of the community sustainability plan; and
 - (vi) the potential for improving economic conditions in remote coastal communities lacking resources to participate in harvesting or processing activities in the fishery.

(4) REGIONAL FISHERY ASSOCIATIONS.—

(A) IN GENERAL.—To be eligible to participate in a limited access privilege program to harvest fish, a regional fishery association shall—

- (i) be located within the management area of the relevant Council;
- (ii) meet criteria developed by the relevant Council, approved by the Secretary, and published in the Federal Register;
- (iii) be a voluntary association with established by-laws and operating procedures;
- (iv) consist of participants in the fishery who hold quota share that are designated for use in the specific region or subregion covered by the regional fishery association, including commercial or recreational fishing, processing, fishery-dependent support businesses, or fishing communities;
- (v) not be eligible to receive an initial allocation of a limited access privilege but may acquire such privileges after the initial allocation, and may hold the annual fishing privileges of any limited access privileges it holds or the annual fishing privileges that is [sic]¹⁷ members contribute; and
- (vi) develop and submit a regional fishery association plan to the Council and the Secretary for approval based on criteria developed by the Council that have been approved by the Secretary and published in the Federal Register.

(B) FAILURE TO COMPLY WITH PLAN.—The Secretary shall deny or revoke limited access privileges granted under this section to any person participating in a regional fishery association who fails to comply with the requirements of the regional fishery association plan.

¹⁷ So in original.

(C) PARTICIPATION CRITERIA.—In developing participation criteria for eligible regional fishery associations under this paragraph, a Council shall consider—

- (i) traditional fishing or processing practices in, and dependence on, the fishery;
- (ii) the cultural and social framework relevant to the fishery;
- (iii) economic barriers to access to fishery;
- (iv) the existence and severity of projected economic and social impacts associated with implementation of limited access privilege programs on harvesters, captains, crew, processors, and other businesses substantially dependent upon the fishery in the region or subregion;
- (v) the administrative and fiduciary soundness of the association; and
- (vi) the expected effectiveness, operational transparency, and equitability of the fishery association plan.

(5) ALLOCATION.—In developing a limited access privilege program to harvest fish a Council or the Secretary shall—

(A) establish procedures to ensure fair and equitable initial allocations, including consideration of—

- (i) current and historical harvests;
- (ii) employment in the harvesting and processing sectors;
- (iii) investments in, and dependence upon, the fishery; and
- (iv) the current and historical participation of fishing communities;

(B) consider the basic cultural and social framework of the fishery, especially through—

- (i) the development of policies to promote the sustained participation of small owner-operated fishing vessels and fishing communities that depend on the fisheries, including regional or port-specific landing or delivery requirements; and
- (ii) procedures to address concerns over excessive geographic or other consolidation in the harvesting or processing sectors of the fishery;

(C) include measures to assist, when necessary and appropriate, entry-level and small vessel owner-operators, captains, crew, and fishing communities through set-asides of harvesting allocations, including providing privileges, which may include set-asides or allocations of harvesting privileges, or economic assistance in the purchase of limited access privileges;

(D) ensure that limited access privilege holders do not acquire an excessive share of the total limited access privileges in the program by—

- (i) establishing a maximum share, expressed as a percentage of the total limited access privileges, that a limited access privilege holder is permitted to hold, acquire, or use; and
- (ii) establishing any other limitations or measures necessary to prevent an inequitable concentration of limited access privileges; and

(E) authorize limited access privileges to harvest fish to be held, acquired, used by, or issued under the system to persons who substantially participate in the fishery, including in a specific sector of such fishery, as specified by the Council.

(6) PROGRAM INITIATION.—

(A) LIMITATION.—Except as provided in subparagraph (D), a Council may initiate a fishery management plan or amendment to establish a limited access privilege program to harvest fish on its own initiative or if the Secretary has certified an appropriate petition.

(B) PETITION.—A group of fishermen constituting more than 50 percent of the permit holders, or holding more than 50 percent of the allocation, in the fishery for which a limited access privilege program to harvest fish is sought, may submit a petition to the Secretary requesting that the relevant Council or Councils with authority over the fishery be authorized to initiate the development of the program. Any such petition shall clearly state the fishery to which the limited access privilege program would apply. For multispecies permits in the Gulf of Mexico, only those participants who have substantially fished the species proposed to be included in the limited access program shall be eligible to sign a petition for such a program and shall serve as the basis for determining the percentage described in the first sentence of this subparagraph.

(C) CERTIFICATION BY SECRETARY.—Upon the receipt of any such petition, the Secretary shall review all of the signatures on the petition and, if the Secretary determines that the signatures on the petition represent more than 50 percent of the permit holders, or holders of more than 50 percent of the allocation in the fishery, as described by subparagraph (B), the Secretary shall certify the petition to the appropriate Council or Councils.

(D) NEW ENGLAND AND GULF REFERENDUM.—

(i) Except as provided in clause (iii) for the Gulf of Mexico commercial red snapper fishery, the New England and Gulf Councils may not submit, and the Secretary may not approve or implement, a fishery management plan or amendment that creates an individual fishing quota program, including a Secretarial plan, unless such a system, as ultimately developed, has been approved by more than 2/3 of those voting in a referendum among eligible permit holders, or other persons described in clause (v), with respect to the New England Council, and by a majority of those voting in the referendum among eligible permit holders with respect to the Gulf Council. For multispecies permits in the Gulf of Mexico, only those participants who have substantially fished the species proposed to be included in the individual fishing quota program shall be eligible to vote in such a referendum. If an individual fishing quota program fails to be approved by the requisite number of those voting, it may be revised and submitted for approval in a subsequent referendum.

(ii) The Secretary shall conduct a referendum under this subparagraph, including notifying all persons eligible to participate in the referendum and making available to them information concerning the schedule, procedures, and eligibility requirements for the referendum process and the proposed individual fishing quota program. Within 1 year after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, the Secretary shall publish guidelines and procedures to determine procedures and voting eligibility requirements for referenda and to conduct such referenda in a fair and equitable manner.

(iii) The provisions of section 407(c) of this Act shall apply in lieu of this subparagraph for an individual fishing quota program for the Gulf of Mexico commercial red snapper fishery.

(iv) Chapter 35 of title 44, United States Code, (commonly known as the Paperwork Reduction Act) does not apply to the referenda conducted under this subparagraph.

(v) The Secretary shall promulgate criteria for determining whether additional fishery participants are eligible to vote in the New England referendum described in clause (i) in order to ensure that crew members who derive a significant percentage of their total income from the fishery under the proposed program are eligible to vote in the referendum.

(vi) In this subparagraph, the term ‘individual fishing quota’ does not include a sector allocation.

(7) TRANSFERABILITY.—In establishing a limited access privilege program, a Council shall—

(A) establish a policy and criteria for the transferability of limited access privileges (through sale or lease), that is consistent with the policies adopted by the Council for the fishery under paragraph (5); and

(B) establish, in coordination with the Secretary, a process for monitoring of transfers (including sales and leases) of limited access privileges.

(8) PREPARATION AND IMPLEMENTATION OF SECRETARIAL PLANS.—This subsection also applies to a plan prepared and implemented by the Secretary under section 304(c) or 304(g).

(9) ANTITRUST SAVINGS CLAUSE.—Nothing in this Act shall be construed to modify, impair, or supersede the operation of any of the antitrust laws. For purposes of the preceding sentence, the term ‘antitrust laws’ has the meaning given such term in subsection (a) of the first section of the Clayton Act, except that such term includes section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair methods of competition.

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(d) AUCTION AND OTHER PROGRAMS.—In establishing a limited access privilege program, a Council shall consider, and may provide, if appropriate, an auction system or other program to collect royalties for the initial, or any subsequent, distribution of allocations in a limited access privilege program if—

(1) the system or program is administered in such a way that the resulting distribution of limited access privilege shares meets the program requirements of this section; and

(2) revenues generated through such a royalty program are deposited in the Limited Access System Administration Fund established by section 305(h)(5)(B) and available subject to annual appropriations.

(e) COST RECOVERY.—In establishing a limited access privilege program, a Council shall—

(1) develop a methodology and the means to identify and assess the management, data collection and analysis, and enforcement programs that are directly related to and in support of the program; and

(2) provide, under section 304(d)(2), for a program of fees paid by limited access privilege holders that will cover the costs of management, data collection and analysis, and enforcement activities.

(f) CHARACTERISTICS.—A limited access privilege established after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 is a permit issued for a period of not more than 10 years that—

(1) will be renewed before the end of that period, unless it has been revoked, limited, or modified as provided in this subsection;

(2) will be revoked, limited, or modified if the holder is found by the Secretary, after notice and an opportunity for a hearing under section 554 of title 5, United States Code, to have failed to comply with any term of the plan identified in the plan as cause for revocation, limitation, or modification of a permit, which may include conservation requirements established under the plan;

(3) may be revoked, limited, or modified if the holder is found by the Secretary, after notice and an opportunity for a hearing under section 554 of title 5, United States Code, to have committed an act prohibited by section 307 of this Act; and

(4) may be acquired, or reacquired, by participants in the program under a mechanism established by the Council if it has been revoked, limited, or modified under paragraph (2) or (3).

(g) LIMITED ACCESS PRIVILEGE ASSISTED PURCHASE PROGRAM.—

(1) IN GENERAL.—A Council may submit, and the Secretary may approve and implement, a program which reserves up to 25 percent of any fees collected from a fishery under section 304(d)(2) to be used, pursuant to section 53706(a)(7) of title 46, United States Code, to issue obligations that aid in financing—

(A) the purchase of limited access privileges in that fishery by fishermen who fish from small vessels; and

(B) the first-time purchase of limited access privileges in that fishery by entry level fishermen.

(2) ELIGIBILITY CRITERIA.—A Council making a submission under paragraph (1) shall recommend criteria, consistent with the provisions of this Act, that a fisherman must meet to qualify for guarantees under subparagraphs (A) and (B) of paragraph (1) and the portion of funds to be allocated for guarantees under each subparagraph.

(h) EFFECT ON CERTAIN EXISTING SHARES AND PROGRAMS.—Nothing in this Act, or the amendments made by the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, shall be construed to require a reallocation or a reevaluation of individual quota shares, processor quota shares, cooperative programs, or other quota programs, including sector allocation in effect before the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006.

(i) TRANSITION RULES.—

(1) IN GENERAL.—The requirements of this section shall not apply to any quota program, including any individual quota program, cooperative program, or sector allocation for which a Council has taken final action or which has been submitted by a Council to the Secretary, or approved by the Secretary, within 6 months after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, except that—

(A) the requirements of section 303(d) of this Act in effect on the day before the date of enactment of that Act shall apply to any such program;

(B) the program shall be subject to review under subsection (c)(1)(G) of this section not later than 5 years after the program implementation; and

(C) nothing in this subsection precludes a Council from incorporating criteria contained in this section into any such plans.

(2) PACIFIC GROUND FISH PROPOSALS.—The requirements of this section, other than subparagraphs (A) and (B) of subsection (c)(1) and subparagraphs (A), (B), and (C) of paragraph (1) of this subsection, shall not apply to any proposal authorized under section 302(f) of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 that is submitted within the timeframe prescribed by that section.

16 U.S.C. 1853a note, 1854
MSA §§ 303A note, 304

P.L. 109-479, sec. 106(e), MSA § 303A note

16 U.S.C. 1853a note

APPLICATION WITH AMERICAN FISHERIES ACT.—Nothing in section 303A of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), as added by subsection (a) [P.L. 109-479], shall be construed to modify or supersede any provision of the American Fisheries Act (46 U.S.C. 12102 note; 16 U.S.C. 1851 note; et alia).

P.L. 104-297, sec. 108(i), MSA § 303 note

EXISTING QUOTA PLANS.—Nothing in this Act [P.L.104-297] or the amendments made by this Act shall be construed to require a reallocation of individual fishing quotas under any individual fishing quota program approved by the Secretary before January 4, 1995.

SEC. 304. ACTION BY THE SECRETARY

16 U.S.C. 1854

104-297

(a) REVIEW OF PLANS.—

(1) Upon transmittal by the Council to the Secretary of a fishery management plan or plan amendment, the Secretary shall—

(A) immediately commence a review of the plan or amendment to determine whether it is consistent with the national standards, the other provisions of this Act, and any other applicable law; and

(B) immediately publish in the Federal Register a notice stating that the plan or amendment is available and that written information, views, or comments of interested persons on the plan or amendment may be submitted to the Secretary during the 60-day period beginning on the date the notice is published.

(2) In undertaking the review required under paragraph (1), the Secretary shall—

(A) take into account the information, views, and comments received from interested persons;

(B) consult with the Secretary of State with respect to foreign fishing; and

(C) consult with the Secretary of the department in which the Coast Guard is operating with respect to enforcement at sea and to fishery access adjustments referred to in section 303(a)(6).

(3) The Secretary shall approve, disapprove, or partially approve a plan or amendment within 30 days of the end of the comment period under paragraph (1) by written notice to the Council. A notice of disapproval or partial approval shall specify—

(A) the applicable law with which the plan or amendment is inconsistent;

(B) the nature of such inconsistencies; and

(C) recommendations concerning the actions that could be taken by the Council to conform such plan or amendment to the requirements of applicable law.

If the Secretary does not notify a Council within 30 days of the end of the comment period of the approval, disapproval, or partial approval of a plan or amendment, then such plan or amendment shall take effect as if approved.

104-297

SEC. 402. INFORMATION COLLECTION

16 U.S.C. 1881a

109-479

(a) COLLECTION PROGRAMS.—

(1) COUNCIL REQUESTS.—If a Council determines that additional information would be beneficial for developing, implementing, or revising a fishery management plan or for determining whether a fishery is in need of management, the Council may request that the Secretary implement an information collection program for the fishery which would provide the types of information specified by the Council. The Secretary shall undertake such an information collection program if he determines that the need is justified, and shall promulgate regulations to implement the program within 60 days after such determination is made. If the Secretary determines that the need for an information collection program is not justified, the Secretary shall inform the Council of the reasons for such determination in writing. The determinations of the Secretary under this paragraph regarding a Council request shall be made within a reasonable period of time after receipt of that request.

(2) SECRETARIAL INITIATION.—If the Secretary determines that additional information is necessary for developing, implementing, revising, or monitoring a fishery management plan, or for determining whether a fishery is in need of management, the Secretary may, by regulation, implement an information collection or observer program requiring submission of such additional information for the fishery.

109-479

(b) CONFIDENTIALITY OF INFORMATION.—

(1) Any information submitted to the Secretary, a State fishery management agency, or a marine fisheries commission by any person in compliance with the requirements of this Act shall be confidential and shall not be disclosed except—

(A) to Federal employees and Council employees who are responsible for fishery management plan development, monitoring, or enforcement;

(B) to State or Marine Fisheries Commission employees as necessary to further the Department's mission, subject to a confidentiality agreement that prohibits public disclosure of the identity of business of any person;

(C) to State employees who are responsible for fishery management plan enforcement, if the States employing those employees have entered into a fishery enforcement agreement with the Secretary and the agreement is in effect;

(D) when required by court order;

(E) when such information is used by State, Council, or Marine Fisheries Commission employees to verify catch under a limited access program, but only to the extent that such use is consistent with subparagraph (B);

(F) when the Secretary has obtained written authorization from the person submitting such information to release such information to persons for reasons not otherwise provided for in this subsection, and such release does not violate other requirements of this Act;

(G) when such information is required to be submitted to the Secretary for any determination under a limited access program; or

(H) in support of homeland and national security activities, including the Coast Guard's homeland security missions as defined in section 888(a)(2) of the Homeland Security Act of 2002 (6 U.S.C. 468(a)(2)).

(2) Any observer information shall be confidential and shall not be disclosed, except in accordance with the requirements of subparagraphs (A) through (H) of paragraph (1), or—

(A) as authorized by a fishery management plan or regulations under the authority of the North Pacific Council to allow disclosure to the public of weekly summary bycatch information identified by vessel or for haul-specific bycatch information without vessel identification;

(B) when such information is necessary in proceedings to adjudicate observer certifications; or

(C) as authorized by any regulations issued under paragraph (3) allowing the collection of observer information, pursuant to a confidentiality agreement between the observers, observer employers, and the Secretary prohibiting disclosure of the information by the observers or observer employers, in order—

(i) to allow the sharing of observer information among observers and between observers and observer employers as necessary to train and prepare observers for deployments on specific vessels; or

(ii) to validate the accuracy of the observer information collected.

(3) The Secretary shall, by regulation, prescribe such procedures as may be necessary to preserve the confidentiality of information submitted in compliance with any requirement or regulation under this Act, except that the Secretary may release or make public any such information in any aggregate or summary form which does not directly or indirectly disclose the identity or business of any person who submits such information. Nothing in this subsection shall be interpreted or construed to prevent the use for conservation and management purposes by the Secretary, or with the approval of the Secretary, the Council, of any information submitted in compliance with any requirement or regulation under this Act or the use, release, or publication of bycatch information pursuant to paragraph (2)(A).

(c) RESTRICTION ON USE OF CERTAIN INFORMATION.—

(1) The Secretary shall promulgate regulations to restrict the use, in civil enforcement or criminal proceedings under this Act, the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.), and the Endangered Species Act (16 U.S.C. 1531 et seq.), of information collected by voluntary fishery data collectors, including sea samplers, while aboard any vessel for conservation and management purposes if the presence of such a fishery data collector aboard is not required by any of such Acts or regulations thereunder.

(2) The Secretary may not require the submission of a Federal or State income tax return or statement as a prerequisite for issuance of a permit until such time as the Secretary has promulgated regulations to ensure the confidentiality of information contained in such return or statement, to limit the information submitted to that necessary to achieve a demonstrated conservation and management purpose, and to provide appropriate penalties for violation of such regulations.

16 U.S.C. 1881a-1881b
MSA §§ 402-403

(d) **CONTRACTING AUTHORITY.**—Notwithstanding any other provision of law, the Secretary may provide a grant, contract, or other financial assistance on a sole-source basis to a State, Council, or Marine Fisheries Commission for the purpose of carrying out information collection or other programs if—

(1) the recipient of such a grant, contract, or other financial assistance is specified by statute to be, or has customarily been, such State, Council, or Marine Fisheries Commission; or

(2) the Secretary has entered into a cooperative agreement with such State, Council, or Marine Fisheries Commission.

(e) **RESOURCE ASSESSMENTS.**—

(1) The Secretary may use the private sector to provide vessels, equipment, and services necessary to survey the fishery resources of the United States when the arrangement will yield statistically reliable results.

(2) The Secretary, in consultation with the appropriate Council and the fishing industry--

(A) may structure competitive solicitations under paragraph (1) so as to compensate a contractor for a fishery resources survey by allowing the contractor to retain for sale fish harvested during the survey voyage;

(B) in the case of a survey during which the quantity or quality of fish harvested is not expected to be adequately compensatory, may structure those solicitations so as to provide that compensation by permitting the contractor to harvest on a subsequent voyage and retain for sale a portion of the allowable catch of the surveyed fishery; and

(C) may permit fish harvested during such survey to count toward a vessel's catch history under a fishery management plan if such survey was conducted in a manner that precluded a vessel's participation in a fishery that counted under the plan for purposes of determining catch history.

(3) The Secretary shall undertake efforts to expand annual fishery resource assessments in all regions of the Nation.

104-297

SEC. 403. OBSERVERS

16 U.S.C. 1881b

(a) **GUIDELINES FOR CARRYING OBSERVERS.**—Within one year after the date of enactment of the Sustainable Fisheries Act, the Secretary shall promulgate regulations, after notice and opportunity for public comment, for fishing vessels that carry observers. The regulations shall include guidelines for determining—

(1) when a vessel is not required to carry an observer on board because the facilities of such vessel for the quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized; and

(2) actions which vessel owners or operators may reasonably be required to take to render such facilities adequate and safe.

Title 50: Wildlife and Fisheries

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

Subpart G—Rockfish Program

Source: 71 FR 67252, Nov. 20, 2006, unless otherwise noted.

§ 679.80 Initial allocation of rockfish QS.

Regulations under this subpart were developed by National Marine Fisheries Service to implement Section 802 of the Consolidated Appropriations Act of 2004 (Public Law 108–199). Additional regulations that implement specific portions of the Rockfish Program are set out at: §679.2 Definitions, §679.4 Permits, §679.5 Recordkeeping and reporting, §679.7 Prohibitions, §679.20 General limitations, §679.21 Prohibited species bycatch management, §679.28 Equipment and operational requirements, and §679.50 Groundfish Observer Program.

(a) *Applicable areas and duration* —(1) *Applicable areas*. The Rockfish Program applies to Rockfish Program fisheries in the Central GOA Regulatory Area and rockfish sideboard fisheries in the GOA and BSAI.

(2) *Duration*. The Rockfish Program authorized under this part expires on December 31, 2011.

(3) *Seasons*. The following fishing seasons apply to fishing under this subpart subject to other provisions of this part:

(i) *Rockfish entry level fishery—longline gear vessels*. Fishing by vessels participating in the longline gear portion of the rockfish entry level fishery is authorized from 0001 hours, A.I.t., January 1 through 1200 hours, A.I.t., November 15.

(ii) *Rockfish entry level fishery—trawl vessels*. Fishing by vessels participating in the trawl gear portion of the rockfish entry level fishery is authorized from 1200 hours, A.I.t., May 1 through 1200 hours, A.I.t., November 15.

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

(iv) *Rockfish fishery—rockfish limited access fishery*. Fishing by vessels participating in the rockfish limited access fishery is authorized from 1200 hours, A.I.t., July 1 through 1200 hours, A.I.t., November 15.

(b) *Eligibility for harvesters to participate in the Rockfish Program* —(1) *Eligible rockfish harvester*. A person is eligible to participate in the Rockfish Program as an eligible rockfish harvester if that person:

(i) Holds a permanent fully transferrable LLP license at the time of application to participate in the Rockfish Program that:

(A) Is endorsed for Central GOA groundfish with a trawl gear designation; and

(B) Has a legal rockfish landing of any primary rockfish species in which the sum of the catch of all primary rockfish species for that legal rockfish landing exceeded the catch of all other groundfish; and

(ii) Submits a timely application to participate in the Rockfish Program that is approved by NMFS.

(2) *Rockfish entry level fishery harvester*. A person is eligible to participate in the Rockfish Program as a rockfish entry level fishery harvester if that person:

(i) Holds a valid LLP license endorsed for Central GOA groundfish at the time of application for the entry level fishery;

(ii) Submits a timely application for the entry level fishery that is approved by NMFS; and

(iii) That person does not hold a permanent fully transferrable LLP license that is endorsed for Central GOA groundfish with a trawl designation and has a legal rockfish landing of any primary rockfish species in which the sum of the catch of all primary rockfish species for that legal rockfish landing exceeded the catch of all other groundfish.

(3) *Assigning a legal rockfish landing to an LLP license*. A legal rockfish landing is assigned to an eligible LLP license endorsed for the Central GOA management area with a trawl gear designation if that legal rockfish landing was made onboard a vessel that gave rise to that LLP license prior to the issuance of that LLP license, or that legal rockfish landing was made on a vessel using trawl gear operating under the authority of that LLP license.

(4) *Legal rockfish landings assigned to the catcher/processor sector*. A legal rockfish landing for a primary rockfish species is assigned to the catcher/processor sector if:

(i) The legal rockfish landing of that primary rockfish species was harvested and processed onboard a vessel during the season dates for that primary rockfish species as established in Table 28 to this part; and

(ii) The legal rockfish landings that were derived from that vessel resulted in, or were made under the authority of, an eligible LLP license that is endorsed for Central GOA groundfish fisheries with trawl gear with a catcher/processor designation.

(5) *Legal rockfish landings assigned to the catcher vessel sector*. A legal rockfish landing for a primary rockfish species is assigned to the catcher vessel sector if:

(i) The legal rockfish landing of that primary rockfish species was harvested and not processed onboard a vessel during the season dates for that primary rockfish species as established under Table 28 to this part; and

(ii) The legal rockfish landings that were derived from that vessel resulted in, or were made under the authority of, an eligible LLP license that is endorsed for Central GOA groundfish fisheries with trawl gear; and

(iii) Those legal rockfish landings do not meet the criteria for being a legal rockfish landing assigned to the catcher/processor sector as defined in paragraph (b)(4) of this section.

(c) *Eligibility for processors to participate in the Rockfish Program*—(1) *Eligible rockfish processor*. A person is eligible to participate in the Rockfish Program as an eligible rockfish processor if that person:

(i) Holds the processing history of a shoreside processor or stationary floating processor that received not less than 250 metric tons in round weight equivalents of aggregate legal rockfish landings of primary rockfish species each calendar year in any four of the five calendar years from 1996 through 2000 during the season dates for that primary rockfish species as established in Table 28 to this part;

(ii) Submits a timely application to participate in the Rockfish Program that is approved by NMFS; and

(iii) That person or successor-in-interest exists at the time of application to participate in the Rockfish Program.

(2) *Holder of processing history*. A person holds the processing history of a shoreside processor or stationary floating processor if that person:

(i) Owns the shoreside processor or stationary floating processor at which the legal rockfish landings were received at the time of application to participate in the Rockfish Program, unless that processing history has been transferred to another person by the express terms of a written contract that clearly and unambiguously provides that such processing history has been transferred; or

(ii) (A) Holds the processing history of a shoreside processor or stationary floating processor at which the legal rockfish landings were received and obtained that processing history by the express terms of a written contract that clearly and unambiguously provides that such processing history is held by that person at the time of application to participate in the Rockfish Program; and

(B) The shoreside processor or stationary floating processor from which that processing history is derived did not have a valid Federal Processor Permit at the time that the processing history had been transferred by the express terms of a written contract.

(3) *Eligible entry level fishery processor*. A person is eligible to participate in the Rockfish Program as an eligible entry level fishery processor if that person is not an eligible rockfish processor.

(d) *Official Rockfish Program record*—(1) *Use of the official Rockfish Program record*. The official Rockfish Program record will contain information used by the Regional Administrator to determine:

(i) The amount of legal rockfish landings and resulting processing history assigned to a shoreside processor or stationary floating processor;

(ii) The amount of legal rockfish landings assigned to an LLP license;

(iii) The amount of rockfish QS resulting from legal rockfish landings assigned to an LLP license held by an eligible rockfish harvester;

(iv) Sideboard ratios assigned to eligible rockfish harvesters;

(v) The amount of legal rockfish landings assigned to an eligible rockfish processor for purposes of establishing a rockfish cooperative with eligible rockfish harvesters; and includes:

(vi) All other information used by NMFS that is necessary to determine eligibility to participate in the Rockfish Program and assign specific harvest or processing privileges to Rockfish Program participants.

(2) *Presumption of correctness*. The official Rockfish Program record is presumed to be correct. An applicant to participate in the Rockfish Program has the burden to prove otherwise. For the purposes of creating the official Rockfish Program record, the Regional Administrator will presume the following:

(i) An LLP license is presumed to have been used onboard the same vessel from which that LLP license was derived during the calendar years 2000 and 2001, unless written documentation is provided that establishes otherwise.

(ii) If more than one person is claiming the same legal rockfish landing, then each LLP license for which the legal rockfish landing is being claimed will receive an equal share of any resulting rockfish QS unless the applicants can provide written documentation that establishes an alternative means for distributing the catch history to the LLP licenses.

(3) *Documentation*. (i) Only legal rockfish landings, as defined in §679.2, shall be used to establish an allocation of rockfish QS or a sideboard ratio.

(ii) Evidence of legal rockfish landings used to establish processing history for an eligible rockfish processor is limited to State of Alaska fish tickets.

(4) *Non-severability of legal rockfish landings*. Legal rockfish landings are non-severable:

(i) From the LLP license to which those legal rockfish landings are assigned according to the official Rockfish Program record; or

(ii) From the shoreside processor or stationary floating processor at which the legal rockfish landings were received unless the processing history assigned to that shoreside processor or stationary floating processor is transferred, in its entirety, to another person under the provisions in paragraph (c)(2)(ii) of this section.

(e) *Application to participate in the Rockfish Program*—(1) *Submission of application to participate in the Rockfish Program.* A person who wishes to participate in the Rockfish Program as an eligible rockfish harvester or eligible rockfish processor must submit a timely and complete application to participate in the Rockfish Program. This application may only be submitted to NMFS using the following methods:

(i) Mail: Regional Administrator, c/o Restricted Access Management Program, NMFS, P.O. Box 21668, Juneau, AK 99802-1668;

(ii) Fax: 907-586-7354; or

(iii) Hand Delivery or Carrier: NMFS, Room 713, 709 West 9th Street, Juneau, AK 99801.

(2) *Forms.* Forms are available through the internet on the NMFS Alaska Region website at <http://www.fakr.noaa.gov>, or by contacting NMFS at 800-304-4846, Option 2.

(3) *Deadline.* A completed application to participate in the Rockfish Program must be received by NMFS no later than 1700 hours A.I.t. on January 2, 2007, or if sent by U.S. mail, postmarked by that time.

(4) *Contents of application.* A completed application must contain the following information:

(i) *Applicant identification.* (A) The applicant's name, NMFS person ID (if applicable), tax ID or social security number, permanent business mailing address, business telephone number, and business fax number, and e-mail (if available);

(B) Indicate (YES or NO) if the applicant is a U.S. citizen; if YES, enter his or her date of birth;

(C) Indicate (YES or NO) if the applicant is a U.S. corporation, partnership, association, or other business entity; if YES, enter the date of incorporation;

(D) Indicate (YES or NO) if the applicant is a successor-in-interest to a deceased individual or to a non-individual no longer in existence, if YES attach evidence of death or dissolution;

(E) For an applicant claiming legal rockfish landings associated with an LLP license, enter the following information for each LLP license: LLP license number, name of the original qualifying vessel(s) (OQV(s)) that gave rise to the LLP license, ADF&G vessel registration number of the OQV, and names, ADF&G vessel registration numbers, and USCG documentation numbers of all other vessels used under the authority of this LLP license, including dates when landings were made under the authority of an LLP license for 2000 and 2001;

(F) For an applicant claiming legal rockfish landings in the catcher/processor sector, enter the following information: LLP license numbers, vessel names, ADF&G vessel registration numbers, and USCG documentation numbers of vessels on which legal rockfish landings were caught and processed.

(ii) *Processor eligibility.* (A) Indicate (YES or NO) if the applicant received at least 250 metric tons in round weight equivalent of aggregate legal rockfish landings of primary rockfish species each calendar year in any four of the five calendar years from 1996 through 2000 during the season dates for that primary rockfish species as established in Table 28 to this part;

(B) If the answer to paragraph (e)(4)(ii)(A) of this section is YES, enter the facility name and ADF&G processor code(s) for each processing facility where legal rockfish landings were received and the qualifying years or seasons for which applicant is claiming eligibility.

(C) Enter the name of the community in which the primary rockfish species were received. The community is either:

(1) The city, if the community is incorporated as a city within the State of Alaska;

(2) The borough, if the community is not a city incorporated within the State of Alaska, but the community is in a borough incorporated within the State of Alaska.

(D) Enter the four calendar years from 1996 through 2000 that NMFS will use to determine the percentage of legal rockfish landings received by that eligible rockfish processor for purposes of forming an association with a rockfish cooperative.

(E) Submit a copy of the contract that demonstrates that the legal processing history and rights to apply for and receive processor eligibility based on that legal processing history have been transferred or retained (if applicable); and

(F) Any other information deemed necessary by the Regional Administrator.

(iii) *Applicant signature and certification.* The applicant must sign and date the application certifying that all information is true, correct, and complete to the best of his/her knowledge and belief. If the application is completed by a designated representative, then explicit authorization signed by the applicant must accompany the application.

(5) *Application evaluation.* The Regional Administrator will evaluate applications received as specified in paragraph (e)(3) of this section and compare all claims in an application with the information in the official Rockfish Program

record. Application claims that are consistent with information in the official Rockfish Program record will be approved by the Regional Administrator. Application claims that are inconsistent with official Rockfish Program record, unless verified by documentation, will not be approved. An applicant who submits inconsistent claims, or an applicant who fails to submit the information specified in paragraph (e)(4) of this section, will be provided a single 30-day evidentiary period to submit the specified information, submit evidence to verify his or her inconsistent claims, or submit a revised application with claims consistent with information in the official Rockfish Program record. An applicant who submits claims that are inconsistent with information in the official Rockfish Program record has the burden of proving that the submitted claims are correct. Any claims that remain inconsistent or that are not accepted after the 30-day evidentiary period will be denied, and the applicant will be notified by an initial administrative determination (IAD) of his or her appeal rights under §679.43.

(6) *Appeals.* If an applicant is notified by an IAD that claims made by the applicant have been denied, that applicant may appeal that IAD under the provisions at §679.43.

(f) *Rockfish QS allocation* —(1) *General.* An eligible rockfish harvester who holds an LLP license at the time of application to participate in the Rockfish Pilot Program will receive rockfish QS assigned to that LLP license based on the legal rockfish landings assigned to that LLP license according to the official Rockfish Program record.

(2) *Non-severability of rockfish QS from an LLP license.* Rockfish QS assigned to an LLP license is non-severable from that LLP license.

(3) *Calculation of rockfish QS.* (i) Based on the official Rockfish Program record, the Regional Administrator shall determine the total amount of legal rockfish landings of each primary rockfish species in each year during the fishery seasons established in Table 28 to this part.

(ii) For each sector, Rockfish QS for each primary rockfish species shall be based on the percentage of the legal rockfish landings of each primary rockfish species in that sector associated with each fully transferrable LLP licenses held by eligible rockfish harvesters in that sector.

(iii) The Regional Administrator shall calculate rockfish QS for each sector for each primary rockfish species “s” based on each fully transferable LLP license “i” held by all eligible rockfish harvesters by the following procedure:

(A) Sum the legal rockfish landings for each year during the fishery seasons established in Table 28 to this part.

(B) Select the five years that yield the highest tonnage of that primary rockfish species, including zero pounds if necessary.

(C) Sum the tonnage of the highest five years, for that species for that LLP license as selected under paragraph (f)(3)(iii)(B) of this section. This yields the Highest Five Years.

(D) Divide the Highest Five Years in paragraph (f)(3)(iii)(C) of this section for an LLP license and species by the sum of all Highest Five Years based on the official Rockfish Program record for that species as presented in the following equation:

$$\text{Highest Five Years}_i / \sum \text{All Highest Five Years}_s = \text{Percentage of the Totals}$$

The result (quotient) of this equation is the Percentage of the Totals.

(E) Multiply the Percentage of the Totals by the Initial Rockfish QS Pool for each relevant species as established in Table 29 to this part. This yields the number of rockfish QS units for that LLP license for that primary rockfish species in rockfish QS units.

(F) Determine the percentage of legal rockfish landings from the official Rockfish Program record in the qualifying years used to calculate the rockfish QS assigned to the catcher/processor sector and multiply the rockfish QS units calculated in paragraph (f)(3)(iii)(E) of this section by this percentage. This yields the rockfish QS units to be assigned to the catcher/processor sector for that LLP license and species. For each primary rockfish species, the total amount of rockfish QS units assigned to the catcher/processor sector is the sum of all catch history allocation units assigned to all eligible rockfish harvesters in the catcher/processor sector.

(G) Determine the percentage of legal rockfish landings from the official Rockfish Program record in the qualifying years used to calculate rockfish QS assigned to the catcher vessel sector and multiply the Rockfish QS units calculated in paragraph (f)(3)(iii)(E) of this section by this percentage. This yields the rockfish QS units to be assigned to the catcher vessel sector for that LLP license and species. For each primary rockfish species, the total amount of rockfish QS units assigned to the catcher vessel sector is equal to the sum of all rockfish QS units assigned to all eligible rockfish harvesters in the catcher vessel sector.

[71 FR 67252, Nov. 20, 2006, as amended at 72 FR 37681, July 11, 2007; 73 FR 67811, Nov. 17, 2008]

§ 679.81 Rockfish Program annual harvester and processor privileges.

(a) *Sector and LLP license allocations of primary rockfish species* —(1) *General.* Each calendar year, the Regional Administrator will determine the tonnage of primary rockfish species that will be assigned to the Rockfish Program. For participants in a rockfish cooperative, rockfish limited access fishery, or opt-out fishery, amounts will be allocated to the appropriate sector, either the catcher/processor sector or the catcher vessel sector. The tonnage of fish assigned to a sector will be further assigned to rockfish cooperative(s) or the rockfish limited access fishery within that sector.

(2) *Calculation.* The amount of primary rockfish species allocated to the Rockfish Program is calculated by deducting the incidental catch allowance (ICA) the Regional Administrator determines is required on an annual basis in other non-target fisheries from the TAC. Ninety-five (95) percent of the remaining TAC for that primary rockfish species (TACs) is assigned for use by rockfish cooperatives and the rockfish limited access fishery in the catcher vessel and catcher/processor sectors. Five (5) percent of the remaining TAC is allocated for use in the rockfish entry level fishery. The formulae are as follows in paragraphs (g)(2)(i) and (ii) of this section:

(i) $(TAC - ICA) \times 0.95 = TACs$.

(ii) $(TAC - ICA) \times 0.05 = TAC$ for the Rockfish Entry Level Fishery.

(3) *Primary rockfish species TACs assigned to the catcher/processor and catcher vessel sector.* TACs assigned for a primary rockfish species will be divided between the catcher/processor sector and the catcher vessel sector. Each sector will receive a percentage of TACs for each primary rockfish species equal to the sum of the rockfish QS units assigned to all LLP licenses that receive rockfish QS in that sector divided by the rockfish QS pool for that primary rockfish species. Expressed algebraically for each primary rockfish species “s” in paragraphs (g)(3)(i) and (ii) of this section:

(i) Catcher/Processor Sector TACs = $[(TACs) \times (\text{Rockfish QS Units in the Catcher/Processor Sectors/Rockfish QS Pools})]$.

(ii) Catcher Vessel Sector TACs = $[(TACs) \times (\text{Rockfish QS Units in the Catcher Vessel Sectors/Rockfish QS Pools})]$.

(4) *Use of primary rockfish species by an eligible rockfish harvester.* Once a TAC is assigned to a sector, the use of that TAC by eligible rockfish harvesters in that sector is governed by regulations applicable to the rockfish cooperative, limited access fishery, or opt-out fishery in which those eligible rockfish harvesters are participating. The TACs assigned as follows:

(i) Any TAC assigned to a rockfish cooperative is issued as CQ and may be harvested only by the members of the rockfish cooperative that has been assigned that CQ and only on vessels that are authorized to fish under that CQ permit. Once issued, CQ may be transferred between rockfish cooperatives according to the provisions in paragraph (f) of this section.

(ii) Any TAC assigned to the rockfish limited access fishery in the catcher vessel sector may be harvested by any eligible rockfish harvester who has assigned an LLP license with rockfish QS for use in the rockfish limited access fishery in the catcher vessel sector.

(iii) Any TAC assigned to the rockfish limited access fishery in the catcher/processor sector may be harvested by any eligible rockfish harvester who has assigned an LLP license with rockfish QS for use in the rockfish limited access fishery in the catcher/processor sector.

(iv) TACs not assigned to an opt-out fishery. Any TAC that would have been derived from rockfish QS assigned to the opt-out fishery is reassigned to rockfish cooperatives and the rockfish limited access fishery in the catcher/processor sector as established in paragraph (a)(5)(ii) of this section.

(5) *Determining the TACs of primary rockfish species.* TACs assigned to each rockfish cooperative or limited access fishery based on the rockfish QS assigned to that fishery in each sector according to the following procedures:

(i) *Catcher vessel sector.* The assignment of TACs to a rockfish cooperative or limited access fishery is governed by the Rockfish Program fishery to which an LLP license is assigned under this paragraph (a).

(A) *Rockfish cooperative.* The amount of TACs for each primary rockfish species assigned to a rockfish cooperative is equal to the amount of rockfish QS units assigned to that rockfish cooperative divided by the total rockfish QS pool in the catcher vessel sector multiplied by the catcher vessel TACs. Once TACs for a primary rockfish species is assigned to a rockfish cooperative, it is issued as CQ specific to that rockfish cooperative. The amount of CQ for each primary rockfish species that is assigned to a rockfish cooperative is expressed algebraically as follows:

$CQ = [(Catcher Vessel Sector TACs) \times (\text{Rockfish QS assigned to that Cooperative/Rockfish QS Units in the Catcher Vessel Sectors})]$.

(B) *Rockfish limited access fishery.* The amount of TACs for each primary rockfish species assigned to the rockfish limited access fishery is equal to the catcher vessel sector TACs subtracting all CQ issued to rockfish cooperatives in the catcher vessel sector for that primary rockfish species. Expressed algebraically in the following equation:

Catcher Vessel Sector Rockfish Limited Access Fishery TACs = Catcher Vessel Sector TACs - $(\sum CQ$ issued to Rockfish Cooperatives in the Catcher Vessel Sector).

(ii) *Catcher/processor sector.* The assignment of TACs to a rockfish cooperative or limited access fishery is determined by the Rockfish Program fishery to which an LLP license is assigned under this paragraph (a).

(A) *Rockfish cooperative.* The amount of TACs for each primary rockfish species assigned to a rockfish cooperative is equal to the amount of rockfish QS units assigned to that rockfish cooperative divided by the sum of the rockfish QS units assigned to rockfish cooperatives and the limited access fishery in the catcher/processor sector multiplied by the catcher/processor TACs. Once TACs for a primary rockfish species is assigned to a rockfish cooperative it is issued as CQ specific to that rockfish cooperative. The amount of CQ for each primary rockfish species that is assigned to a rockfish cooperative is expressed algebraically as follows:

$CQ = [(Catcher/Processor Sector TACs) \times (\text{Rockfish QS Units assigned to that Cooperative} / \sum \text{Rockfish QS Units assigned to all rockfish cooperatives and the Limited Access Fishery in the Catcher/Processor Sector})]$.

(B) *Rockfish limited access fishery.* The amount of TACs for each primary rockfish species assigned to the limited access fishery is equal to the catcher/processor TACs subtracting all CQ issued to rockfish cooperatives in the catcher/processor sector for that primary rockfish species. Expressed algebraically in the following equation:

Catcher/Processor Sector Rockfish Limited Access Fishery TACs = [(Catcher/Processor Sector TACs) - (\sum CQ issued to rockfish cooperatives in the Catcher/Processor Sector)].

(b) *Sector and LLP license allocations of secondary species* —(1) *General.* Each calendar year, the Regional Administrator will determine the tonnage of secondary species that may be assigned to the Rockfish Program. This amount will be assigned to the catcher/processor sector and the catcher vessel sector. The tonnage of fish assigned to a sector will be assigned only to rockfish cooperatives within that sector. CQ of secondary species is subject to the use limitations established in paragraph (b)(4) of this section.

(2) *Maximum amount of secondary species tonnage that may be assigned to the catcher/processor sector.* (i) Sum the amount of each secondary species retained by all vessels that gave rise to an LLP license with a catcher/processor designation or that fished under an LLP license with a catcher/processor designation during the directed fishery for any primary rockfish species in which the sum of the catch of all primary rockfish species for that legal rockfish landing exceeded the catch of all other groundfish during all qualifying season dates established in Table 28 to this part. This is the rockfish catcher/processor sector harvest for that secondary species.

(ii) Sum the amount of each secondary species retained by all vessels in the Central GOA regulatory Area and adjacent waters open by the State of Alaska for which it adopted a Federal fishing season from January 1, 1996, until December 31, 2002. This is the total secondary species harvest.

(iii) For each secondary species, divide the rockfish catcher/processor sector harvest by the total secondary species harvest and multiply by 100. This is the percentage of secondary species that may be assigned to the catcher/processor sector in the Rockfish Program fishery.

(iv) Multiply the percentage of each secondary species assigned to the catcher/processor sector in the Rockfish Program fishery by the TAC for that secondary species. This is the maximum amount of that secondary species that may be allocated to the catcher/processor sector in the Rockfish Program.

(v) The maximum amount of rougheyed rockfish that may be allocated to the catcher/processor sector is equal to 58.87 percent of the TAC for the Central GOA.

(vi) The maximum amount of shorttraker rockfish that may be allocated to the catcher/processor sector is equal to 30.03 percent of the TAC for the Central GOA.

(3) *Maximum amount of secondary species tonnage that may be assigned to the catcher vessel sector.* (i) Sum the amount of each secondary species retained by all vessels that gave rise to an LLP license with a catcher vessel designation or that fished under an LLP license with a catcher vessel designation during the directed fishery for any primary rockfish species in which the sum of the catch of all primary rockfish species for that legal rockfish landing exceeded the catch of all other groundfish during all qualifying season dates established in Table 28 to this part. This is the rockfish catcher vessel sector harvest for that secondary species.

(ii) Sum the amount of each secondary species retained by all vessels in the Central GOA regulatory Area and adjacent waters open by the State of Alaska for which it adopted a Federal fishing season from January 1, 1996, until December 31, 2002. This is the total secondary species harvest.

(iii) For each secondary species, divide the rockfish catcher vessel sector harvest by the total secondary species harvest and multiply by 100. This is the percentage of each secondary species that may be assigned to the catcher vessel sector in the Rockfish Program fishery.

(iv) Multiply the percentage of each secondary species assigned to the catcher vessel sector in the Rockfish Program fishery by the TAC for that secondary species. This is the maximum amount of that secondary species that may be allocated to the catcher vessel sector in the Rockfish Program.

(4) *Use of a secondary species by an eligible rockfish harvester.* Once the maximum amount of secondary species that may be assigned to a sector has been determined, the use of that specific amount that is assigned to that sector is governed by regulations applicable to the specific Rockfish Program fishery in which eligible rockfish harvesters are participating. The specific amount of each secondary species that may be used by eligible rockfish harvesters is determined by the following procedure:

(i) Secondary species may only be assigned to a rockfish cooperative. Once a secondary species is assigned to a rockfish cooperative it is issued as CQ, which may only be used by the rockfish cooperative to which it is assigned.

(ii) Secondary species are not assigned to a rockfish limited access fishery or the opt-out fishery and there is not a dedicated harvestable allocation for any specific participant in these rockfish fisheries.

(5) *Determining the amount of secondary species CQ assigned to a rockfish cooperative.* The amount of CQ for each secondary species that is assigned to each rockfish cooperative is determined according to the following procedures:

(i) *CQ assigned to rockfish cooperatives in the catcher/processor sector.* The CQ for a secondary species that is assigned to a rockfish cooperative is equal to the maximum amount of that secondary species that may be allocated to the catcher/processor sector in the Rockfish Program multiplied by the sum of the rockfish QS units for all primary rockfish species assigned to that rockfish cooperative divided by the sum of the rockfish QS units assigned to rockfish cooperatives and the limited access fishery for all primary rockfish species in the catcher/processor sector. Expressed algebraically in the following equation:

CQ for that Secondary Species = maximum amount of that Secondary Species that may be allocated to the Catcher/Processor Sector in the Rockfish Program x (\sum Rockfish QS Units assigned to that Rockfish cooperative / \sum Rockfish QS Units assigned to all rockfish cooperatives and the Limited Access Fishery in the Catcher/Processor Sector)

(ii) *CQ assigned to rockfish cooperatives in the catcher vessel sector.* The CQ for a secondary species that is assigned to a specific rockfish cooperative is equal to the maximum amount of that secondary species that may be allocated to the catcher vessel sector in the Rockfish Program multiplied by the sum of the rockfish QS units for all primary rockfish species assigned to that rockfish cooperative divided by the rockfish QS pool for all primary rockfish species in the catcher vessel sector. Expressed algebraically in the following equation:

CQ for that Secondary Species = maximum amount of that Secondary Species that may be allocated to the Catcher Vessel Sector in the Rockfish Program x (\sum Rockfish QS Units assigned to that Rockfish Cooperative / Rockfish QS Pool in the Catcher Vessel Sector).

(c) *Sector and LLP license allocations of rockfish halibut PSC—(1) General.* Each calendar year, the Regional Administrator will determine the tonnage of rockfish halibut PSC that will be assigned to the Rockfish Program. This amount will be allocated to the appropriate sector, either the catcher/processor sector or the catcher vessel sector. The tonnage of rockfish halibut PSC assigned to a sector will be further assigned as CQ only to rockfish cooperative(s) within that sector.

(2) *Maximum amount of rockfish halibut PSC that may be assigned to the catcher/processor and catcher vessel sectors.* (i) Sum the amount of halibut PSC used by all vessels that gave rise to an LLP license or that fished under an LLP license used during the directed fishery for any primary rockfish species in which the sum of the catch of all primary rockfish species for that legal rockfish landing exceeded the catch of all other groundfish during all qualifying season dates established in Table 28 to this part. This is the rockfish halibut PSC amount.

(ii) Sum the amount of halibut PSC by all vessels in the GOA Regulatory Area and adjacent waters open by the State of Alaska for which it adopted a Federal fishing season from January 1, 1996, until December 31, 2002. This is the Total Halibut PSC.

(iii) Divide the rockfish halibut PSC amount by the total halibut PSC and multiply by 100. This is the percentage of rockfish halibut PSC assigned to the Rockfish Program fishery.

(iv) Multiply the percentage of rockfish halibut PSC assigned to the Rockfish Program fishery by the GOA halibut PSC limit. This is the maximum amount of rockfish halibut PSC that may be allocated to the Rockfish Program fishery.

(v) Multiply the maximum amount of rockfish halibut PSC that may be allocated to the Rockfish Program fishery by the percentage of the aggregate Rockfish QS assigned to the catcher/processor sector. This is the maximum amount of rockfish halibut PSC that may be allocated to the catcher/processor sector.

(vi) Multiply the maximum amount of rockfish halibut PSC that may be allocated to the Rockfish Program fishery by the percentage of the aggregate Rockfish QS assigned to the catcher vessel sector. This is the maximum amount of rockfish halibut PSC that may be allocated to the catcher vessel sector.

(3) *Use of rockfish halibut PSC by an eligible rockfish harvester.* Once the maximum amount of rockfish halibut PSC that may be assigned to a sector has been determined, the use of that specific amount that is assigned to that sector is governed by the specific Rockfish Program fishery in which eligible rockfish harvesters are participating.

(i) *Rockfish halibut PSC is assigned only to a rockfish cooperative.* Once rockfish halibut PSC is assigned to a rockfish cooperative, it is issued as CQ, which may only be used by the members of the rockfish cooperative to which it is assigned.

(ii) Rockfish halibut PSC is not assigned to a rockfish limited access fishery or the opt-out fishery and there is not a dedicated allocation for any specific participant in these rockfish fisheries.

(4) *Determining the amount of rockfish halibut PSC CQ assigned to a rockfish cooperative.* The amount of CQ of rockfish halibut PSC that is assigned to each rockfish cooperative is determined according to the following procedures:

(i) *CQ assigned to rockfish cooperatives in the catcher/processor sector.* The CQ for rockfish halibut PSC that is assigned to a specific rockfish cooperative is equal to the maximum amount of rockfish halibut PSC that may be allocated to the catcher/processor sector multiplied by the sum of the rockfish QS units for all primary rockfish species assigned to that rockfish cooperative divided by the sum of the rockfish QS units assigned to rockfish cooperatives and the limited access fishery for all primary rockfish species in the catcher/processor sector. This is expressed algebraically in the following equation:

CQ for Rockfish Halibut PSC to a specific rockfish cooperative = maximum amount of Rockfish Halibut PSC that may be allocated to the Catcher/Processor Sector x (\sum Rockfish QS Units assigned to that Rockfish Cooperative / \sum Rockfish QS Units assigned to all rockfish cooperatives and the Limited Access Fishery in the Catcher/Processor Sector).

(ii) *CQ assigned to rockfish cooperatives in the catcher vessel sector.* The CQ for rockfish halibut PSC that is assigned to a specific rockfish cooperative is equal to the maximum amount of rockfish halibut PSC that may be allocated to the catcher vessel sector multiplied by the sum of the rockfish QS units for all primary rockfish species assigned to that rockfish cooperative divided by the rockfish QS pool for all primary rockfish species in the catcher vessel sector. This is expressed algebraically in the following equation:

CQ for Rockfish Halibut PSC to a specific rockfish cooperative = maximum amount of Rockfish Halibut PSC that may be allocated to the Catcher Vessel Sector x (\sum Rockfish QS Units assigned to that Rockfish Cooperative/Rockfish QS Pool in the Catcher Vessel Sector).

(d) *Assigning rockfish QS to a Rockfish Program fishery* —(1) *General.* Each calendar year, a person that is participating in the Rockfish Program must assign any LLP license and any rockfish QS assigned to that LLP license to a Rockfish Program fishery by the process specified in paragraph (e) of this section. A person may assign an LLP license and any rockfish QS assigned to that LLP license to only one Rockfish Program fishery in a fishing year. Any rockfish QS assigned to a person's LLP license after NMFS has issued CQ or the TAC for that calendar year will not result in any additional CQ or TAC being issued for that rockfish QS for that calendar year.

(2) *Rockfish cooperatives in the catcher vessel sector.* An eligible rockfish harvester may assign rockfish QS to a rockfish cooperative in the catcher vessel sector if:

(i) That eligible rockfish harvester assigns the rockfish QS associated with that LLP license to a rockfish cooperative on a complete application for CQ that is approved by the Regional Administrator and that meets the requirements of paragraph (i) of this section; and

(ii) That rockfish QS is derived from legal rockfish landings assigned to the catcher vessel sector.

(3) *Rockfish cooperative in the catcher/processor sector.* An eligible rockfish harvester may assign rockfish QS to a rockfish cooperative in the catcher/processor sector if:

(i) That eligible rockfish harvester assigns the rockfish QS associated with that LLP license to a rockfish cooperative on a complete application for CQ that is approved by the Regional Administrator and that meets the requirements of paragraph (i) of this section; and

(ii) That rockfish QS is derived from legal rockfish landings assigned to the catcher/processor sector.

(4) *Rockfish limited access fishery.* (i) An eligible rockfish harvester may assign rockfish QS to a rockfish limited access fishery if that eligible rockfish harvester:

(A) Assigns the rockfish QS associated with that LLP license to a limited access fishery on a complete application for the rockfish limited access fishery that is approved by the Regional Administrator; or

(B) Does not submit a complete application for CQ, or an application for the opt-out fishery that is approved.

(ii) The rockfish QS is assigned to the rockfish limited access fishery in the catcher vessel sector if that rockfish QS is assigned to the catcher vessel sector.

(iii) The rockfish QS is assigned to the rockfish limited access fishery in the catcher/processor sector if that rockfish QS is assigned to the catcher/processor sector.

(5) *Opt-out fishery.* An eligible rockfish harvester may assign rockfish QS assigned to the catcher/processor sector to the opt-out fishery if that eligible rockfish harvester assigns the rockfish QS associated with that LLP license to the opt-out fishery on a complete application for the opt-out fishery that is approved by the Regional Administrator.

(6) *Rockfish entry level fishery.* (i) A rockfish entry level harvester may assign an LLP license to the rockfish entry level fishery if that rockfish entry level harvester assigns that LLP license to the rockfish entry level fishery on a complete application for the entry level fishery that is approved by the Regional Administrator.

(ii) A rockfish entry level processor may participate in the rockfish entry level fishery if that rockfish entry level processor submits a complete application for the entry level fishery that is approved by the Regional Administrator.

(e) *Applications for a Rockfish Program fishery* —(1) *General.* Applications to participate in a Rockfish Program fishery are required to be submitted each year. A person who wishes to participate in a particular Rockfish Program fishery must submit a timely and complete application that is appropriate to that Rockfish Program fishery. These applications may only be submitted to NMFS using the following methods:

(i) Mail: Regional Administrator, c/o Restricted Access Management Program, NMFS, P.O. Box 21668, Juneau, AK 99802-1668;

(ii) Fax: 907-586-7354; or

(iii) Hand Delivery or Carrier: NMFS, Room 713, 709 West 9th Street, Juneau, AK 99801.

(2) *Forms.* Forms are available through the internet on the NMFS Alaska Region website at <http://www.fakr.noaa.gov>, or by contacting NMFS at: 800-304-4846, Option 2.

(3) *Deadline.* A completed application must be received by NMFS no later than 1700 hours A.I.t. on March 1 of the year for which the applicant wishes to participate in a Rockfish Program fishery, or if sent by U.S. mail, the application must be postmarked by that time.

(4) *Application for CQ.* A rockfish cooperative that submits a complete application that is approved by NMFS will receive a CQ permit that establishes an annual amount of primary rockfish species, secondary species, and rockfish halibut PSC that is based on the collective rockfish QS of the LLP licenses assigned to the rockfish cooperative by its members. A CQ permit will list the amount of CQ, by fishery, held by the rockfish cooperative, the members of the rockfish cooperative and LLP licenses assigned to that rockfish cooperative, and the vessels which are authorized to harvest fish under that CQ permit.

(i) *Contents of an application for CQ.* A completed application must contain the following information:

(A) *Rockfish cooperative identification.* The rockfish cooperative's legal name; the type of business entity under which the rockfish cooperative is organized; the state in which the rockfish cooperative is legally registered as a business entity; Tax ID number, date of incorporation, the printed name of the rockfish cooperative's designated representative; the permanent business address, telephone number, fax number, and e-mail address (if available) of the rockfish cooperative or its designated representative; and the signature of the rockfish cooperative's designated representative and date signed.

(B) *Members of the rockfish cooperative —(1) Harvester identification.* Full name, NMFS Person ID, LLP license number(s), Tax ID or SSN, name of the vessel(s), ADF&G vessel registration number, and USCG documentation number of vessel(s) on which the CQ issued to the rockfish cooperative will be used.

(2) *LLP holdership documentation.* Provide the names of all persons, to the individual level, holding an ownership interest in the LLP license(s) assigned to the rockfish cooperative and the percentage ownership each person and individual holds in the LLP license(s).

(C) *Processor associates of the rockfish cooperative —(1) Identification.* Full name, NMFS Person ID, Tax ID, facility name, ADF&G processor code, SFP vessel name, ADF&G vessel registration number, and USCG documentation number of vessel (if a vessel), and Federal Processor Permit for each processing facility or vessel.

(2) *Processor ownership documentation.* Provide the names of all persons, to the individual person level, holding an ownership interest in the processor and the percentage ownership each person and individual holds in the processor.

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

(1) A copy of the business license issued by the state in which the rockfish cooperative is registered as a business entity;

(2) A copy of the articles of incorporation or partnership agreement of the rockfish cooperative;

(3) A copy of the rockfish cooperative agreement signed by the members of the rockfish cooperative (if different from the articles of incorporation or partnership agreement of the rockfish cooperative) that includes terms that specify that:

(i) Eligible rockfish processor affiliated harvesters cannot participate in price setting negotiations except as permitted by general antitrust law; and

(ii) The rockfish cooperative must establish a monitoring program sufficient to ensure compliance with the Rockfish Program; and

(E) *Applicant signature and certification.* The applicant must sign and date the application certifying that all information is true, correct, and complete to the best of his/her knowledge and belief. If the application is completed by an designated representative, then explicit authorization signed by the applicant must accompany the application.

(ii) *Issuance of CQ.* Issuance by NMFS of a CQ permit is not a determination that the rockfish cooperative is formed or is operating in compliance with antitrust law.

(5) *Application for the rockfish limited access fishery.* An eligible rockfish harvester who wishes to participate in the rockfish limited access fishery for a calendar year must submit an application for the rockfish limited access fishery.

(i) *Contents of application for the rockfish limited access fishery.* A completed application must contain the following information:

(A) *Applicant identification.* The applicant's name, NMFS person ID (if applicable), tax ID or social security number, date of birth or date of incorporation, permanent business mailing address, business telephone number, fax number, and e-mail (if available);

(B) Indicate (YES or NO) whether the applicant is an eligible rockfish harvester;

(C) Indicate (YES or NO) whether the applicant is participating in the rockfish limited access fishery;

(D) *Vessel identification.* The name of the vessel, ADF&G vessel registration number, USCG documentation number, and LLP license number(s) held by the applicant and used on that vessel in this rockfish limited access fishery;

(E) *LLP holdership documentation.* Provide the names of all persons, to the individual person level, holding an ownership interest in the LLP license assigned to the rockfish limited access fishery and the percentage ownership each person and individual holds in the LLP license; and

(F) *Signature and certification.* The applicant must sign and date the application certifying that all information is true, correct, and complete to the best of his/her knowledge and belief. If the application is completed by an designated representative, then explicit authorization signed by the applicant must accompany the application.

(ii) [Reserved]

(6) *Application to opt-out.* An eligible rockfish harvester who wishes to opt-out of the Rockfish Program for a calendar year with an LLP license assigned rockfish QS in the catcher/processor sector must submit an application to opt-out.

(i) *Contents of application to opt-out.* A completed application must contain the following information:

(A) *Applicant identification.* The applicant's name, NMFS person ID (if applicable), tax ID or social security number, date of birth or date of incorporation, permanent business mailing address, business telephone number, fax number, and e-mail (if available);

(B) Indicate (YES or NO) whether the applicant is an eligible rockfish harvester;

(C) Indicate (YES or NO) whether the applicant is opting-out of the Rockfish Program;

(D) Indicate (YES or NO) whether the applicant holds an LLP license with rockfish QS assigned to the catcher/processor sector;

(E) *Vessel identification.* The name of the vessel, ADF&G vessel registration number, USCG documentation number, and LLP license number(s) held by the applicant and used on that vessel;

(F) *LLP holdership documentation.* Provide the names of all persons, to the individual level, holding an ownership interest in the LLP license and the percentage ownership each person and individual holds in the LLP license; and

(G) *Signature and certification.* The applicant must sign and date the application certifying that all information is true, correct, and complete to the best of his/her knowledge and belief. If the application is completed by an designated representative, then explicit authorization signed by the applicant must accompany the application.

(ii) [Reserved]

(7) *Application for the rockfish entry level fishery.* A rockfish entry level harvester who wishes to participate in the rockfish entry level fishery must submit an application for the rockfish entry level fishery.

(i) Contents of application for the entry level fishery. A completed application must contain the following information:

(A) The applicant's name, NMFS person ID (if applicable), tax ID or social security number (required), permanent business mailing address, and business telephone number, fax number, and e-mail address (if available);

(B) Indicate (YES or NO) whether applicant is a U.S. citizen, U.S. corporation, partnership; association, or other business entity; if YES, enter the date of birth or date of incorporation;

(C) For harvesters who are applying to participate in the entry level fishery, enter the name, ADF&G vessel registration number, and USCG documentation number of the vessel to be used in the entry level fishery, and LLP license number(s) held by the applicant and used on that vessel in the rockfish entry level fishery;

(D) Harvesters who are applying to participate in the entry level fishery must attach a statement from an eligible entry level processor that affirms that the harvester has a market for any rockfish delivered by that harvester in the entry level fishery; and

(E) The applicant must sign and date the application certifying that all information is true, correct, and complete to the best of his/her knowledge and belief. If the application is completed by an designated representative, then explicit authorization signed by the applicant must accompany the application.

(ii) [Reserved]

(f) *Transfer applications.* A rockfish cooperative may transfer all or part of its CQ to another rockfish cooperative. This transfer requires the submission of an application for inter-cooperative transfer to NMFS.

(1) *Application for inter-cooperative transfer.* NMFS will notify the transferor and transferee once the application has been received and approved. A transfer of CQ is not effective until approved by NMFS. A completed transfer of CQ issued to a rockfish cooperative requires that the following information be provided to NMFS in the application for inter-cooperative transfer:

(i) *Identification of transferor.* Enter the name of the rockfish cooperative; NMFS Person ID; name of the rockfish cooperative's designated representative; permanent business mailing address; and business telephone number, fax number, and e-mail address (if available) of the rockfish cooperative designated representative. A temporary mailing address for each transaction may also be provided.

(ii) *Identification of transferee.* Enter the name of the rockfish cooperative; NMFS Person ID(s); name of rockfish cooperative's designated representative; permanent business mailing address; and business telephone number, fax number, and e-mail address (if available) of the rockfish cooperative designated representative. A temporary mailing address for each transaction may also be provided.

(iii) *Identification of rockfish cooperative member.* Enter the name and NMFS Person ID of the member(s) to whose use cap the rockfish cooperative CQ will be applied, and the amount of CQ applied to each member for purposes of applying use caps established under the Rockfish Program under §679.82(a).

(iv) *CQ to be transferred.* Identify the type and amount of Primary species, secondary species, or rockfish halibut PSC CQ to be transferred.

(v) *Certification of transferor.* The rockfish cooperative transferor's designated representative and the eligible rockfish processor with whom that rockfish cooperative in the catcher vessel sector is associated must sign and date the application certifying that all information is true, correct, and complete to the best of his or her knowledge and belief. Also enter the printed name of the rockfish cooperative transferor's designated representative. Explicit authorization for the designated representative to act on behalf of the rockfish cooperatives must accompany the application.

(vi) Certification of transferee. The rockfish cooperative transferee's designated representative and the eligible rockfish processor with whom that rockfish cooperative in the catcher vessel sector is associated must sign and date the application certifying that all information is true, correct, and complete to the best of his or her knowledge and belief. Also enter the printed name of the rockfish cooperative transferee's designated representative. Explicit authorization for the designated representative to act on behalf of the rockfish cooperatives must accompany the application.

(2) [Reserved]

(g) *Transfer of processor eligibility.* A person may not transfer eligibility to receive and process under the Rockfish Program to another person except:

(1) As provided for under §679.80(c)(2)(ii); or

(2) If an eligible rockfish processor transfers complete ownership of a stationary floating processor or shoreside processing facility and all processing history associated with that stationary floating processor or shoreside processing facility to another person.

(3) *Limitation on use of processor eligibility.* Any person becoming an eligible rockfish processor by transfer may not receive fish harvested under the Rockfish Program outside of the community listed by the original recipient of the processor eligibility in the application to participate in the Rockfish Program under §679.80(e)(4)(ii)(C).

(4) *Non-severability of processor eligibility.* An eligible rockfish processor permit may not be divided or suballocated.

(h) *Maximum retainable amount (MRA) limits*—(1) *Rockfish cooperative.* A vessel assigned to a rockfish cooperative and fishing under a CQ permit may harvest groundfish species not allocated as CQ up to the amounts of the MRAs for those species as established in Table 30 to this part.

(2) *Catcher/processor sector rockfish limited access fishery.* An eligible rockfish harvester in the catcher/processor rockfish limited access fishery may harvest groundfish species other than primary rockfish species up to the amounts of the MRAs for those species as established in Table 30 to this part.

(3) *Catcher vessel sector rockfish limited access fishery.* An eligible rockfish harvester in the catcher vessel rockfish limited access fishery may harvest groundfish species other than primary rockfish species up to the amounts of the MRAs for those species as established in Table 30 to this part.

(4) *Opt-out fishery.* An eligible rockfish harvester in the opt-out fishery may harvest groundfish species other than primary rockfish species up to the amounts of the MRAs for those species as established in Table 10 to this part.

(5) *Rockfish entry level fishery.* An rockfish entry level harvester in the rockfish entry level fishery may harvest groundfish species other than primary rockfish species up to amounts of the MRAs for those species as established in Table 10 to this part.

(6) *Maximum retainable amounts (MRA).* (i) The MRA for an incidental catch species for vessels participating in a rockfish cooperative, or a rockfish limited access fishery, is calculated as a proportion of the total allocated primary rockfish species on board the vessel in round weight equivalents using the retainable percentage in Table 30 to this part; except that:

(ii) In the catcher vessel sector, shortraker and roughey rockfish are incidental catch species and are limited to an aggregate MRA of 2.0 percent of the retained weight of all primary rockfish species during that fishing trip.

(iii) Once the amount of shortraker rockfish harvested in the catcher vessel sector is equal to 9.72 percent of the shortraker rockfish TAC in the Central GOA regulatory area, then shortraker rockfish may not be retained by any participant in the catcher vessel sector.

(iv) In the rockfish limited access fishery for the catcher/processor sector, shortraker and roughey rockfish are incidental catch species and are limited to an aggregate MRA of 2.0 percent of the retained weight of all primary rockfish species during that fishing trip.

(v) Once the amount of shortraker rockfish harvested in the catcher/processor sector is equal to 30.03 percent of the shortraker rockfish TAC in the Central GOA regulatory area, then shortraker rockfish may not be retained in the rockfish limited access fishery in the catcher/processor sector.

(vi) Once the amount of roughey rockfish harvested in the catcher/processor sector is equal to 58.87 percent of the roughey rockfish TAC in the Central GOA regulatory area, then roughey rockfish may not be retained in the rockfish limited access fishery in the catcher/processor sector.

(i) *Rockfish cooperative*—(1) *General.* This section governs the formation and operation of rockfish cooperatives. The regulations in this section apply only to rockfish cooperatives that have formed for the purpose of applying for and fishing with CQ issued annually by NMFS. Members of rockfish cooperatives should consult legal counsel before commencing any activity if the members are uncertain about the legality under the antitrust laws of the rockfish cooperative's proposed conduct. Membership in a rockfish cooperative is voluntary. No person may be required to join a rockfish cooperative. Upon receipt of written notification that a person is eligible and wants to join a rockfish cooperative, that rockfish cooperative must allow that person to join subject to the terms and agreements that apply to the members of the cooperative as established in the contract governing the conduct of the rockfish cooperative. Members may leave a rockfish cooperative, but any CQ contributed by the rockfish QS held by that member remains assigned to that rockfish cooperative for the remainder of the calendar year. An LLP license or vessel that has been assigned to a rockfish cooperative in the catcher/processor sector that leaves a rockfish cooperative continues to be

subject to the sideboard limits established for that rockfish cooperative under §679.82(d) and (f), for that calendar year. If a person becomes the holder of an LLP license that has been assigned to a rockfish cooperative, then that person may join that rockfish cooperative upon receipt of that LLP license.

(2) *Legal and organizational requirements.* A rockfish cooperative must meet the following legal and organizational requirements before it is eligible to receive CQ:

- (i) Each rockfish cooperative must be formed as a partnership, corporation, or other legal business entity that is registered under the laws of one of the 50 states or the District of Columbia;
- (ii) Each rockfish cooperative must appoint an individual as designated representative to act on the rockfish cooperative's behalf and serve as contact point for NMFS for questions regarding the operation of the rockfish cooperative. The designated representative must be an individual, and may be a member of the rockfish cooperative, or some other individual designated by the rockfish cooperative;
- (iii) Each rockfish cooperative must submit a complete and timely application for CQ;
- (iv) Each rockfish cooperative must meet the mandatory requirements established in paragraphs (i)(3) and (4) of this section applicable to that rockfish cooperative.

(3) *Mandatory requirements.* The following table describes the requirements to form a rockfish cooperative in the catcher vessel or catcher/processor sector.

Requirement	Catcher Vessel Sector	Catcher/Processor Vessel Sector
(i) Who may join a rockfish cooperative?	Only persons who are eligible rockfish harvesters may join a rockfish cooperative. Persons who are not eligible rockfish harvesters may be employed by, or serve as the designated representative of a rockfish cooperative, but are not members of the rockfish cooperative.	
(ii) What is the minimum number of LLP licenses that must be assigned to form a rockfish cooperative?	No minimum requirement.	2 LLP licenses assigned rockfish QS in the catcher/processor sector. These licenses can be held by one or more persons.
(iii) Is an association with an eligible rockfish processor required?	Yes. An eligible rockfish harvester may only be a member of a rockfish cooperative formed in association with an eligible rockfish processor to which the harvester made the plurality of legal rockfish landings assigned to the LLP license(s) during the applicable processor qualifying period chosen by an eligible rockfish processor in the application to participate in the Rockfish Program.	No
(iv) What if an eligible rockfish harvester did not deliver any legal rockfish landings assigned to an LLP license to an eligible rockfish processor during a processor qualifying period?	That eligible rockfish harvester can assign that LLP license to any rockfish cooperative.	N/A
(v) What is the processor qualifying period?	The processor qualifying period is the four of five years from 1996 through 2000 that are used to establish the legal rockfish landings that are considered for purposes of establishing an association with an eligible rockfish processor. Each eligible rockfish processor will select a processor qualifying period in the application to participate in the Rockfish Program. An eligible rockfish harvester that has acquired the processing history of a shoreside processor or stationary floating processor under the provisions of §679.80(c)(2)(ii) must select only one processor qualifying period that is applicable to the aggregated processing history held by that eligible rockfish processor. The processor qualifying period may not be changed once selected for that eligible rockfish processor, including upon transfer of processor eligibility. The same processor qualifying period will be used for all LLP licenses to determine the legal rockfish landings that are considered for purposes of eligible rockfish harvesters establishing an association with an eligible rockfish processor.	N/A
(vi) Is there a minimum amount of rockfish QS that must be assigned to a rockfish cooperative for it to be allowed to form?	Yes. A rockfish cooperative must be assigned rockfish QS that represents at least 75 percent of all the legal rockfish landings that yields Rockfish QS of primary rockfish species delivered to that eligible rockfish processor during the four years selected by that processor.	No
(vii) What is allocated to the rockfish cooperative?	CQ for primary rockfish species, secondary species, and rockfish halibut PSC, based on the rockfish QS assigned to all of the LLP licenses that are assigned to the cooperative.	
(viii) Is this CQ an exclusive harvest privilege?	Yes, the members of the rockfish cooperative have an exclusive harvest privilege to collectively catch this CQ, or a cooperative can transfer all or a portion of this CQ to another rockfish cooperative.	
(ix) Is there a season during which designated vessels must 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.I.t. on May 1 through 1200 hours A.I.t. on November 15.	
(x) Can any vessel catch a rockfish cooperative's CQ?	No, only vessels that are named on the application for CQ for that rockfish cooperative can catch the CQ assigned to that rockfish cooperative. A vessel may be assigned to only one rockfish cooperative in a calendar year.	
(xi) Can the member of a rockfish cooperative transfer CQ individually without the approval of the other members of the rockfish cooperative?	No, only the rockfish cooperative's designated representative, and not individual members, may transfer its CQ to another rockfish cooperative, but only if that transfer is approved by NMFS as established under paragraph (i) of this section.	
(xii) Can a rockfish cooperative in the catcher/processor sector transfer its sideboard limit?	N/A	No, sideboard limits assigned to a rockfish cooperative in the catcher/processor sector is a limit applicable to a specific rockfish cooperative, and may not be transferred between rockfish cooperatives.
(xiii) Is there a hired master	No, there is no hired master requirement.	

requirement?		
(xiv) Can an LLP license be assigned to more than one rockfish cooperative in a calendar year?	No. An LLP license can only be assigned to one rockfish cooperative in a calendar year. An eligible rockfish harvester holding multiple LLP licenses may assign different LLP licenses to different rockfish cooperatives subject to any other restrictions that may apply.	
(xv) Can an eligible rockfish processor be associated with more than one rockfish cooperative?	An eligible rockfish processor can only associate with one rockfish cooperative per year at each shoreside processor or stationary floating processor owned by that eligible rockfish processor. An eligible rockfish processor who holds more than one processing history based on a transfer of processing history under the provisions of §679.80(c)(2)(ii) would be issued a single eligible rockfish processor permit that aggregates the processing history held by that eligible rockfish processor. That eligible rockfish processor may form an association with a rockfish cooperative with the eligible rockfish harvesters eligible to form a rockfish cooperative based on the aggregated processing history of that eligible rockfish processor and may receive rockfish delivered by that rockfish cooperative at a shoreside processor or stationary floating processor owned by that eligible rockfish processor subject to any other restrictions that may apply.	N/A
(xvi) Can an LLP license be assigned to a rockfish cooperative and the rockfish limited access fishery or opt-out fishery?	No. Once an LLP license is assigned to a rockfish cooperative, any rockfish QS assigned to that LLP license yields CQ for that rockfish cooperative for the calendar year. An LLP license may only be assigned to one Rockfish Program fishery in a calendar year.	
(xvii) Which members may harvest the rockfish cooperative's CQ?	That is determined by the rockfish cooperative contract signed by its members. Any violations of this contract by one cooperative member may be subject to civil claims by other members of the rockfish cooperative.	
(xviii) Does a rockfish cooperative need a contract?	Yes, a rockfish cooperative must have a membership agreement or contract that specifies how the rockfish cooperative intends to harvest its CQ. A copy of this agreement or contract must be submitted with the application for CQ.	
(xix) What happens if the rockfish cooperative exceeds its CQ amount?	A rockfish cooperative is not authorized to catch fish in excess of its CQ. Exceeding a CQ is a violation of the regulations. Each member of the rockfish cooperative is jointly and severally liable for any violations of the Rockfish Program regulations while fishing under authority of a CQ permit. This liability extends to any persons who are hired to catch or receive CQ assigned to a rockfish cooperative. Each member of a rockfish cooperative is responsible for ensuring that all members of the rockfish cooperative comply with all regulations applicable to fishing under the Rockfish Program.	
(xx) Is there a limit on how much CQ a rockfish cooperative may hold or use?	Yes, generally, a rockfish cooperative may not hold or use more than 30 percent of the aggregate primary rockfish species CQ assigned to the catcher vessel sector for that calendar year. See §679.82(a) for the provisions that apply.	No, but a catcher/processor vessel is still subject to any vessel use caps that may apply. See §679.82(a) for the use cap provisions that apply.
(xxi) Is there a limit on how much CQ a vessel may harvest?	No. However, a vessel may not catch more CQ than the CQ assigned to that rockfish cooperative for which it is authorized to fish.	Yes, generally, no vessel may harvest more than 60 percent of the aggregate primary rockfish species TAC assigned to the catcher/processor sector for that calendar year, unless exempt from this restriction. See §679.82(a) for the provisions that apply.
(xxii) If my vessel is fishing in a directed flatfish fishery in the Central GOA and I catch groundfish and halibut PSC, does that count against the rockfish cooperative's CQ?	(A) Any vessel authorized to harvest the CQ assigned to a rockfish cooperative must count any catch of primary rockfish species, secondary species, or rockfish halibut PSC against that rockfish cooperative's CQ from May 1 until November 15, or until the effective date of a rockfish cooperative termination of fishing declaration that has been approved by NMFS. (B) Groundfish harvests would not be debited against the rockfish cooperative's CQ if the vessel is not authorized to harvest CQ. In this case, any catch of halibut would be attributed to the halibut PSC limit for that directed target fishery and gear type.	
(xxiii) Can my rockfish cooperative negotiate prices for me?	The rockfish cooperatives formed under the Rockfish Program are intended to conduct and coordinate harvest activities for their members. Rockfish cooperatives formed under the Rockfish Program are subject to existing antitrust laws. Collective price negotiation by a rockfish cooperative must be conducted in accordance with existing antitrust laws.	
(xxiv) Are there any special reporting requirements?	Yes, each year a rockfish cooperative must submit an annual rockfish cooperative report to NMFS by December 15 of each year. The annual rockfish cooperative report may be made available to NMFS by mailing a copy to NMFS: Regional Administrator, P.O. Box 21668, Juneau, AK, 99802.	
(xxv) What is required in the annual rockfish cooperative report?	The annual rockfish cooperative report must include at a minimum:	
	(A) The rockfish cooperative's CQ, sideboard limit (if applicable), and any rockfish sideboard fishery harvests made by the vessels in the rockfish cooperative on a vessel-by-vessel basis;	
	(B) The rockfish cooperative's actual retained and discarded catch of CQ, and sideboard limit on an area-by-area and vessel-by-vessel basis;	
	(C) A description of the method used by the rockfish cooperative to monitor fisheries in which rockfish cooperative vessels participated;	
	(D) A description of any civil actions taken by the rockfish cooperative in response to any members that exceeded their allowed catch.	

(4) *Additional mandatory requirements* —(i) *Calculation of minimum legal rockfish landings for forming a rockfish cooperative.* If an eligible rockfish harvester holds an LLP license with rockfish QS for the catcher vessel sector that does not have any legal rockfish landings associated with an eligible rockfish processor from January 1, 1996, through December 31, 2000, during the fishery seasons established in Table 28 to this part, that eligible rockfish harvester may join any rockfish cooperative with that LLP license. Any such eligible rockfish harvester that joins a rockfish cooperative may not be considered as contributing an amount of Rockfish QS necessary to meet a minimum of 75 percent of the legal rockfish landings that yielded Rockfish QS delivered to that eligible rockfish processor during the four calendar years selected by that eligible rockfish processor for the purposes of establishing the rockfish cooperative.

(ii) *Restrictions on fishing CQ assigned to a rockfish cooperative.* A person fishing CQ assigned to a rockfish cooperative must maintain a copy of the CQ permit onboard any vessel that is being used to harvest any primary rockfish species, or secondary species, or that uses any rockfish halibut PSC.

(iii) *Transfer of CQ between rockfish cooperatives.* Rockfish cooperatives may transfer CQ during a calendar year with the following restrictions:

(A) A rockfish cooperative may only transfer CQ to another rockfish cooperative;

(B) A rockfish cooperative may only receive CQ from another rockfish cooperative;

(C) A rockfish cooperative in the catcher vessel sector may not transfer any CQ to a rockfish cooperative in the catcher/processor sector;

(D) A rockfish cooperative receiving primary rockfish species CQ by transfer must assign that primary rockfish species CQ to a member(s) of the rockfish cooperative for the purposes of applying the use caps established under §679.82(a). Secondary species or halibut PSC CQ is not assigned to a specific member of a rockfish cooperative;

(E) A rockfish cooperative may not transfer any sideboard limit assigned to it; and

(F) A rockfish cooperative may not receive any CQ by transfer after NMFS has approved a rockfish cooperative termination of fishing declaration that was submitted by that rockfish cooperative.

(5) *Use of CQ.* (i) A rockfish cooperative in the catcher vessel sector may not use a primary rockfish species CQ in excess of the amounts specified in §679.82(a).

(ii) Rockfish cooperative primary rockfish species CQ transferred to another rockfish cooperative will apply to the use caps of a named member(s) of the rockfish cooperative receiving the CQ, as specified in the transfer application.

(A) Each pound of CQ must be assigned to a member of the rockfish cooperative receiving the CQ for purposes of use cap calculations. No member of a rockfish cooperative may exceed the CQ use cap applicable to that member.

(B) For purposes of CQ use cap calculation, the total amount of CQ held or used by a person is equal to all tons of CQ derived from the Rockfish QS held by that person and assigned to the rockfish cooperative and all tons of CQ assigned to that person by the rockfish cooperative from approved transfers.

(C) The amount of rockfish QS held by a person, and CQ derived from that rockfish QS is calculated using the individual and collective use cap rule established in §679.82(a).

(6) *Successors-in-interest.* If a member of a rockfish cooperative dies (in the case of an individual) or dissolves (in the case of a business entity), the LLP license(s) and associated rockfish QS held by that person will be transferred to the legal successor-in-interest under the procedures described at §679.4(k)(6)(iv)(A). However, the CQ derived from that rockfish QS and assigned to the rockfish cooperative for that year from that person remains under the control of the rockfish cooperative for the duration of that calendar year. Each rockfish cooperative is free to establish its own internal procedures for admitting a successor-in-interest during the fishing season to reflect the transfer of an LLP license and associated rockfish QS, or the transfer of the processor eligibility due to the death or dissolution of a rockfish cooperative member or associated eligible rockfish processor.

§ 679.82 Rockfish Program use caps and sideboard limits.

(a) *Use caps* —(1) *General.* Use caps limit the amount of rockfish QS and CQ of primary rockfish species that may be held or used by an eligible rockfish harvester, and the amount of primary rockfish species TAC that may be received, by an eligible rockfish processor. Use caps do not apply to secondary species or halibut PSC CQ. Use caps may not be exceeded unless the entity subject to the use cap is specifically allowed to exceed a cap according to the criteria established under this paragraph (a) or by an operation of law. There are three types of use caps: person use caps; vessel use caps; and processor use caps. Person use caps limit the maximum amount of aggregate rockfish QS a person may hold and the maximum amount of aggregate primary rockfish species CQ that a person may hold or use. Person use caps apply to eligible rockfish harvesters and rockfish cooperatives. Vessel use caps limit the maximum amount of aggregate primary rockfish species CQ that a vessel operating as a catcher/processor may harvest. Processor use caps limit the maximum amount of aggregate primary rockfish species that may be received or processed by an eligible rockfish processor. All rockfish QS use caps are based on the aggregate primary rockfish species initial rockfish QS pool established by NMFS.

(2) *Eligible rockfish harvester use cap.* An eligible rockfish harvester may not individually or collectively hold or use more than:

(i) Five (5.0) percent of the aggregate rockfish QS initially assigned to the catcher vessel sector and resulting CQ unless that eligible rockfish harvester qualifies for an exemption to this use cap under paragraph (a)(6) of this section;

(ii) Twenty (20.0) percent of the aggregate rockfish QS initially assigned to the catcher/processor sector and resulting CQ unless that eligible rockfish harvester qualifies for an exemption to this use cap under paragraph (a)(6) of this section.

(3) *CQ use cap for rockfish cooperatives in the catcher vessel sector.* A rockfish cooperative may not hold or use an amount of CQ that is greater than the amount derived from 30.0 percent of the aggregate rockfish QS initially assigned to the catcher vessel sector unless the sum of the aggregate rockfish QS held by the eligible members of that rockfish cooperative prior to June 6, 2005 exceeds this use cap.

(4) *CQ use cap for a vessel in the catcher/processor sector.* (i) A vessel harvesting CQ in the catcher/processor sector may not harvest an amount of CQ that is greater than the amount derived from 60.0 percent of the aggregate rockfish QS initially assigned to the catcher/processor sector; unless:

(ii) the CQ harvested by a vessel is not greater than the amount of CQ derived from the rockfish QS assigned to the LLP licence(s) that was used on that vessel prior to June 6, 2005; and

(iii) This amount is greater than the CQ use cap for a vessel in the catcher/processor sector.

(5) *Primary rockfish species use cap for eligible rockfish processors.* (i) An eligible rockfish processor may not receive or process in excess of 30.0 percent of the aggregate primary rockfish species TAC, including CQ, assigned to the catcher vessel sector unless that eligible rockfish processor is receiving or processing an amount of aggregate primary rockfish species TAC that is not greater than the sum of the aggregate rockfish CQ derived from the amount of Rockfish QS initially assigned to those eligible rockfish harvesters eligible to form a rockfish cooperative in association with that eligible rockfish processor.

(ii) The amount of aggregate primary rockfish species TAC that is received by an eligible rockfish processor is calculated based on the sum of all aggregate primary rockfish species TAC, including CQ, received or processed by that eligible rockfish processor and the aggregate primary rockfish species TAC received or processed by any person in which that eligible rockfish processor has a "Ten percent or greater direct or indirect ownership interest for purposes of the Rockfish Program" as that term is defined in §679.2.

(6) *Use cap exemptions* —(i) *Rockfish QS.* An eligible rockfish harvester may receive an initial allocation of aggregate rockfish QS in excess of the use cap in that sector only if that rockfish QS is assigned to LLP license(s) held by that eligible rockfish harvester prior to June 6, 2005, and at the time of application to participate in the Rockfish Program.

(ii) *Transfer limitations.* (A) An eligible rockfish harvester that receives an initial allocation of aggregate rockfish QS that exceeds the use cap listed in paragraph (a)(2) of this section shall not receive any rockfish QS by transfer unless and until that person's holdings of aggregate rockfish QS in that sector are reduced to an amount below the use cap specified in paragraph (a)(2) of this section.

(B) If an eligible rockfish harvester receives an initial allocation of aggregate rockfish QS that exceeds the use cap listed in paragraph (a)(2) of this section, and that eligible rockfish harvester transfers rockfish QS to another person, and the amount of aggregate rockfish QS held by that eligible rockfish harvester after the transfer is greater than the use cap established in paragraph (a)(2) of this section, that eligible rockfish harvester may not hold more than the amount of aggregate rockfish QS remaining after the transfer.

(C) An eligible rockfish harvester that receives an initial allocation of aggregate rockfish QS that exceeds the use cap listed in paragraph (a)(2) of this section may not receive any rockfish QS by transfer or have any CQ attributed to that eligible rockfish harvester by a rockfish cooperative unless and until that person's holdings of aggregate rockfish QS in that sector are reduced to an amount below the use cap specified in paragraph (a)(2) of this section.

(iii) *CQ.* A rockfish cooperative may use CQ in excess of the use cap in that sector only if that CQ is derived from the rockfish QS assigned to an LLP license that was held by an eligible rockfish harvester prior to June 6, 2005 and that eligible rockfish harvester is eligible to join that cooperative.

(b) *Rockfish limited access fishery* —(1) *General.* (i) An eligible rockfish harvester may use an LLP license and assigned rockfish QS in the appropriate rockfish limited access fishery only if:

(A) That person submitted a complete and timely application for the rockfish limited access fishery that is approved by NMFS; or

(B) That LLP is not assigned to a rockfish cooperative for that calendar year, and that person has not submitted a complete and timely application to opt-out of the Rockfish Program that is approved by NMFS.

(ii) [Reserved]

(2) *Limited access fishery sectors.* (i) If an LLP license with rockfish QS in the catcher vessel sector is assigned to a limited access fishery, it is assigned to the catcher vessel rockfish limited access fishery.

(ii) If an LLP license with a rockfish QS in the catcher/processor sector is assigned a limited access fishery, it is assigned to the catcher/processor rockfish limited access fishery.

(3) *Primary rockfish species harvest limit.* All vessels that are participating in a rockfish limited access fishery may harvest an amount of primary rockfish species not greater than the TAC assigned to that primary rockfish species for the rockfish limited access fishery in that sector.

(4) *Secondary species allocations.* Secondary species shall be managed based on an MRA as established under Table 30 to this part.

(5) *Rockfish halibut PSC allocations.* Halibut caught by vessels in the rockfish limited access fishery shall be accounted against the halibut PSC allocation to the deep water species fishery complex for trawl gear for that seasonal apportionment. If the halibut PSC limit in the deep water fishery complex has been reached or exceeded for that seasonal apportionment, the rockfish limited access fishery will be closed until deep water species fishery complex halibut PSC is available for that sector.

(6) *Opening of the rockfish limited access fishery.* The Regional Administrator maintains the authority to not open a rockfish limited access fishery if he deems it appropriate for conservation or other management measures. Factors such as the total allocation, anticipated harvest rates, and number of participants will be considered in making any such decision.

(c) *Opt-out fishery.* An eligible rockfish harvester who holds an LLP license and who submits an application to opt-out with that LLP licence that is subsequently approved by NMFS may not fish for that fishing year in any directed

fishery for any primary rockfish species in the Central GOA and adjacent waters open by the State of Alaska for which it adopts the applicable Federal fishing season for that species with any vessel named on that LLP license.

(d) *Sideboard limitations — General.* The regulations in this section restrict the holders of LLP licenses eligible to receive rockfish QS from using the increased flexibility provided by the Rockfish Program to expand their level of participation in other groundfish fisheries. These limitations are commonly known as “sideboards.”

(1) *Notification of affected vessel owners and LLP license holders.* After NMFS determines which vessels and LLP licenses meet the criteria described in paragraphs (d) through (h) of this section, NMFS will inform each vessel owner and LLP license holder in writing of the type of sideboard limitation and issue a revised Federal Fisheries Permit and/or LLP license that displays the limitation on the face of the permit or LLP license.

(2) *Appeals.* A vessel owner or LLP license holder who believes that NMFS has incorrectly identified his or her vessel or LLP license as meeting the criteria for a sideboard limitation may make a contrary claim and provide evidence to NMFS. All claims must be submitted in writing to the RAM Program, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668, together with any documentation or evidence supporting the request within 30 days of being notified by NMFS of the sideboard limitation. If NMFS finds the claim is unsupported, the claim will be denied in an Initial Administrative Determination (IAD). The affected persons may appeal this IAD using the procedures described at §679.43.

(3) *Classes of sideboard restrictions.* There are several types of sideboard restrictions that apply under the Rockfish Program:

- (i) General sideboard restrictions as described under this paragraph (d);
- (ii) Catcher vessel sideboard restrictions as described under paragraph (e) of this section;
- (iii) Catcher/processor rockfish cooperative sideboard restrictions as described under paragraph (f) of this section;
- (iv) Catcher/processor limited access sideboard restrictions as described under paragraph (g) of this section; and
- (v) Catcher/processor opt–out sideboard restrictions as described under paragraph (h) of this section.

(4) *General sideboard restrictions.* General sideboard restrictions apply to fishing activities during July 1 through July 31 of each year in each fishery as follows:

- (i) Directed fishing for Pacific ocean perch, pelagic shelf rockfish, and northern rockfish in the regulatory area of the Western GOA and adjacent waters open by the State of Alaska for which it adopts a Federal fishing season;
- (ii) Directed fishing for Pacific ocean perch, pelagic shelf rockfish, and northern rockfish in the Western Yakutat District and adjacent waters open by the State of Alaska for which it adopts a Federal fishing season;
- (iii) Directed fishing for the following species in the West Yakutat District, Central GOA, and Western GOA and adjacent waters open by the State of Alaska for which it adopts the applicable Federal fishing season for that species based on the use of halibut PSC:
 - (A) Rex sole;
 - (B) Deep water flatfish;
 - (C) Arrowtooth flounder;
 - (D) Shallow water flatfish;
 - (E) Flathead sole; and

(iv) Directed fishing by a vessel in the catcher vessel sector for Pacific cod in the BSAI and adjacent waters open by the State of Alaska for which it adopts a Federal fishing season.

(5) *Vessels and LLP licenses subject to general and halibut PSC sideboard limitations.* (i) The sideboard fishing limitations described in paragraph (d) of this section apply both to the fishing vessel itself and to any LLP license derived in whole or in part from the history of that vessel. The sideboard limitations apply to any vessel named on that LLP license. These sideboard restrictions apply even if an LLP license holder did not submit an application to participate in the Rockfish Program but that LLP license is otherwise eligible to receive rockfish QS under the Rockfish Program based on legal rockfish landings.

(ii) Except as described in paragraph (d)(5)(iii) of this section, the owner of any vessel that NMFS has determined meets one of the following criteria is subject to groundfish directed fishing sideboard limits and halibut PSC sideboard limits issued under this paragraph (d):

- (A) Any vessel whose legal rockfish landings could generate rockfish QS;
- (B) Any LLP license under whose authority legal rockfish landings were made;
- (C) Any vessel named on an LLP license that was generated in whole or in part by the legal rockfish landings of a vessel meeting the criteria in paragraph (d)(5)(ii)(B) of this section.

(iii) Any AFA vessel that is not exempt from GOA groundfish sideboards under the AFA as specified under §679.64(b)(2)(ii) is exempt from the sideboard limits in this paragraph (d).

(6) *Determination of general sideboard ratios.* (i) Separate sideboard ratios for each rockfish sideboard fishery are established for the catcher vessel and the catcher/processor sectors. The general sideboard ratio for each fishery is determined according to the following table:

For the Management Area of the...	In the directed fishery for...	The Sideboard Limit for the Catcher/Processor Sector is...	The Sideboard Limit for the Catcher Vessel Sector is...
West Yakutat District	Pelagic Shelf Rockfish	72.4 percent of the TAC	1.7 percent of the TAC
	Pacific ocean perch	76.0 percent of the TAC	2.9 percent of the TAC
Western GOA	Pelagic Shelf Rockfish	63.3 percent of the TAC	0.0 percent of the TAC
	Pacific ocean perch	61.1 percent of the TAC	(Not released due to confidentiality requirements on fish ticket data established by the State of Alaska).
	Northern Rockfish	78.9 percent fo the TAC	0.0 percent of the TAC
BSAI	Pacific cod	N/A	0.0 percent of the TAC

(ii) Each rockfish cooperative in the catcher/processor sector will be assigned a sideboard limit for that rockfish cooperative as a percentage of the general sideboard ratio for that fishery.

(iii) The sideboard ratios that are applicable for each general sideboarded fishery for a rockfish cooperative in the catcher/processor sector are calculated by dividing the aggregate retained catch of that fishery, from July 1 through July 31 in each year from 1996 through 2002, caught by LLP licenses assigned to that rockfish cooperative that are subject to directed fishing closures under this paragraph (d), by the total retained catch from July 1 through July 31 in each year from 1996 through 2002 caught by all groundfish vessels in that sector.

(7) *Management of annual sideboard limits* —(i) *Sideboard directed fishing allowance.* (A) If the Regional Administrator determines that an annual sideboard limit for a general rockfish sideboard fishery has been or will be reached, the Regional Administrator may establish a directed fishing allowance for the species or species group applicable only to the group of vessels to which the general sideboard limit applies. A directed fishing allowance that is established for a rockfish cooperative in the catcher/processor sector may be fished only by that rockfish cooperative to which it is assigned.

(B) If the Regional Administrator determines that a sideboard limit is insufficient to support a directed fishing allowance for that species or species group, then the Regional Administrator may set the directed fishing allowance to zero for that species or species group for that sector or rockfish cooperative, as applicable.

(ii) *Directed fishing closures.* Upon attainment of a general directed fishing sideboard limit, the Regional Administrator will publish notification in the Federal Register prohibiting directed fishing for the species or species group in the specified sector, regulatory area, or district.

(8) *Determination of halibut PSC sideboard ratios.* (i) Sideboards for halibut PSC are established for the catcher vessel and the catcher/processor sectors separately. Sideboard limits for halibut PSC are calculated for each rockfish cooperative in the catcher/processor sector separately. The halibut PSC sideboard limit for each sector is established according to the following table:

For the following Sector...	the annual Deep-water complex halibut PSC Sideboard Limit in the GOA is...	the annual Shallow-water complex halibut PSC Sideboard Limit in the GOA is...
Catcher/Processor Sector	3.99 percent of the GOA annual halibut mortality limit	0.54 percent of the GOA annual halibut mortality limit
Catcher Vessel Sector	1.08 percent of the GOA annual halibut mortality limit	6.32 percent of the GOA annual halibut mortality limit

(ii) Each rockfish cooperative in the catcher/processor sector will be assigned a percentage of each halibut PSC sideboard limit established under paragraph (d)(8) of this section based on the following calculation:

(A) The aggregate halibut PSC used in the deep-water complex from July 1 through July 31 in each year from 1996 through 2002 by LLP licenses assigned to that rockfish cooperative that are subject to directed fishing closures under this paragraph (d), except primary rockfish fisheries in the Central GOA, divided by 3.99 percent of the GOA annual halibut mortality limit; and

(B) The aggregate halibut PSC used in the shallow-water complex from July 1 through July 31 in each year from 1996 through 2002 by LLP licenses assigned to that rockfish cooperative that are subject to directed fishing closures under this paragraph (d), divided by 0.54 percent of the GOA annual halibut mortality limit.

(C) Catcher/processor sector participants that are not in a rockfish cooperative will receive the aggregate portion of the deep water halibut PSC sideboard limit and shallow-water halibut PSC sideboard limit not assigned to rockfish cooperatives.

(9) *Management of halibut PSC sideboard limits*—(i) *Halibut PSC sideboard limits*. The resulting halibut PSC sideboard limits established under this paragraph (d) will be published in the annual GOA groundfish harvest specification notice and expressed in metric tons.

(A) If the Regional Administrator determines that a halibut PSC sideboard limit is sufficient to support a directed fishery for groundfish specified under paragraph (d)(4)(iii) of this section for a particular sector, then the Regional Administrator may establish a halibut PSC sideboard limit for the species complex applicable only to the group of vessels in that sector to which the halibut PSC sideboard limit applies. A halibut PSC sideboard limit that is established for a rockfish cooperative in the catcher/processor sector may be fished only by that rockfish cooperative in the catcher/processor sector to which it is assigned.

(B) If the Regional Administrator determines that a halibut PSC sideboard limit is insufficient to support a directed fishery for a groundfish fishery specified under paragraph (d)(4)(iii) of this section for a particular sector then the Regional Administrator may close directed fishing by that sector or rockfish cooperative in the catcher/processor sector.

(ii) *Directed fishing closures*. Upon determining that a halibut PSC sideboard limit is or will be reached, the Regional Administrator will publish notification in the Federal Register prohibiting directed fishing for the species or species complex in the specified sector, rockfish cooperative in the catcher/processor sector, regulatory area, or district. The following specific directed fishing closures will be implemented if a halibut PSC sideboard limit is reached:

(A) If the shallow-water halibut PSC sideboard limit for a sector or rockfish cooperative in the catcher/processor sector is reached, then NMFS will close directed fishing in that management area for:

- (1) Flathead sole; and
- (2) Shallow water flatfish.

(B) If the deep-water halibut PSC sideboard limit is reached for a sector or rockfish cooperative in the catcher/processor sector, then NMFS will close directed fishing in that management area for:

- (1) Rex sole;
- (2) Deep water flatfish; and
- (3) Arrowtooth flounder.

(iii) *Halibut PSC accounting*. Any halibut mortality occurring under a CQ permit or in a rockfish limited access fishery will not apply against the halibut PSC sideboard limits established paragraph (d)(8) of this section.

(e) *Sideboard provisions for catcher vessels*—(1) *General*. In addition to the sideboard provisions that apply under paragraph (d) of this section, except as described in paragraph (d)(5)(iii) of this section, the following additional sideboards apply to catcher vessels.

(2) *Catcher vessels subject to catcher vessel sideboard limits*. Any catcher vessel that NMFS has determined meets any of the following criteria is subject to the provisions under this paragraph (e):

- (i) Any catcher vessel whose legal rockfish landings could be used to generate rockfish QS for the catcher vessel sector in the Rockfish Program;
- (ii) Any catcher vessel named on an LLP license under which catch history could be used to qualify that LLP license for eligibility in the Rockfish Program; or
- (iii) Any catcher vessel named on an LLP license that was generated in whole or in part by the legal rockfish landings of a catcher vessel.

(3) *Prohibition for directed fishing in BSAI groundfish fisheries during July*. Vessels subject to the provisions of this paragraph (e) may not participate in directed fishing in the BSAI and adjacent waters open by the State of Alaska for which it adopts the applicable Federal fishing season for that species from July 1 through July 31 in any of the following directed fisheries:

- (i) Alaska plaice;
- (ii) Arrowtooth flounder;
- (iii) Flathead sole;
- (iv) Other flatfish;
- (v) Pacific ocean perch;
- (vi) Rock sole; and
- (vii) Yellowfin sole.

(f) *Sideboard provision—catcher/processor rockfish cooperative provisions*—(1) *General*. In addition to the sideboard provisions that apply under paragraph (d) of this section, the following additional sideboard limits under this paragraph (f) apply to catcher/processor vessels and LLP licenses that are assigned to a rockfish cooperative in the catcher/processor sector during a calendar year.

(2) *Vessels subject to rockfish cooperative sideboard provisions.* Any vessel that NMFS has determined meets any of the following criteria is subject to groundfish sideboard directed fishing closures issued under this paragraph (f):

(i) Any catcher/processor vessel whose legal rockfish landings has been used to qualify for the Rockfish Program and the vessel named on that LLP license is assigned to a rockfish cooperative;

(ii) Any catcher/processor vessel named on an LLP license under which catch history has been used to qualify that LLP license for the Rockfish Program and that LLP license is used in a rockfish cooperative; or

(iii) Any catcher/processor vessel that has been designated in an application for CQ.

(3) *Prohibition from fishing in BSAI groundfish fisheries.* A vessel subject to a rockfish cooperative sideboard provision under this paragraph (f) may not participate in directed groundfish fisheries in the BSAI and adjacent waters open by the State of Alaska for which it adopts the applicable Federal fishing season for that species between July 1 and July 14 except for sablefish harvested under the IFQ Program and pollock.

(4) *Prohibitions for fishing in GOA groundfish fisheries.* A vessel subject to a rockfish cooperative sideboard provision under this paragraph (f) may not participate in any directed groundfish fishery the GOA and adjacent waters open by the State of Alaska for which it adopts the applicable Federal fishing season for that species except sablefish harvested under the IFQ Program and groundfish harvested under a CQ permit in the GOA, until the earlier of:

(i) From July 1 through July 14 if:

(A) Any vessel in the rockfish cooperative does not meet monitoring standards established under paragraph (f)(4)(iii) of this section; and

(B) The rockfish cooperative has harvested any CQ prior to July 1; or

(ii) From July 1 until 90 percent of the rockfish cooperative's primary rockfish species CQ has been harvested if:

(A) Any vessel in the rockfish cooperative does not meet monitoring standards established under paragraph (f)(4)(iii) of this section; and

(B) The rockfish cooperative has not harvested any CQ prior to July 1.

(iii) The prohibition on fishing in any directed groundfish fishery in the GOA and adjacent waters open by the State of Alaska for which it adopts the applicable Federal fishing season for that species, except sablefish harvested under the IFQ Program, does not apply if all vessels in the rockfish cooperative maintain an adequate monitoring plan during all fishing for any CQ or any directed sideboard fishery as required under §679.84(c) through (e).

(g) *Sideboard provisions—catcher/processor limited access provisions —(1) General.* In addition to the sideboard provisions that apply under paragraph (d) of this section, the following sideboard limits under this paragraph (g) apply to any catcher/processor vessels and LLP licenses that are used in the rockfish limited access fishery for the catcher/processor sector.

(2) *Vessels subject to rockfish limited access fishery sideboard provisions.* Any vessel that NMFS has determined meets any of the following criteria is subject to groundfish sideboard directed fishing closures issued under this paragraph (g):

(i) Any catcher/processor vessel named on an LLP license whose legal rockfish landings were used to qualify for the Rockfish Program and the vessel named on that LLP license is assigned to a catcher/processor rockfish limited access fishery;

(ii) Any catcher/processor vessel named on an LLP license under which catch history was used to qualify that LLP license for the Rockfish Program and that LLP license is used in the catcher/processor rockfish limited access fishery;

(iii) Any catcher/processor vessel designated in an application for the rockfish limited access fishery for the catcher/processor sector; or

(iv) Any vessel named on an LLP license with legal rockfish landings in the catcher/processor sector if that LLP license is not specified in an application for CQ or an application to opt-out.

(3) *Prohibition from directed fishing in GOA and BSAI groundfish fisheries.* If a vessel named on an LLP license used in the rockfish limited access fishery has been assigned rockfish QS greater than an amount equal to 5 percent of the Pacific ocean perch rockfish QS allocated to the catcher/processor sector, then that vessel may not participate in any:

(i) GOA groundfish fishery and adjacent waters open by the State of Alaska for which it adopts the applicable Federal fishing season for that species other than the rockfish limited access fishery and sablefish harvested under the IFQ Program; or

(ii) BSAI groundfish fishery and adjacent waters open by the State of Alaska for which it adopts the applicable Federal fishing season for that species other than sablefish harvested under the IFQ Program or pollock, from July 1 until 90 percent of the Central GOA Pacific ocean perch that is allocated to the rockfish limited access fishery for the catcher/processor sector has been harvested.

(h) *Sideboard provisions—catcher/processor opt-out provisions —(1) General.* In addition to the sideboard provisions that apply under paragraph (d) of this section, the following sideboards under this paragraph (h) apply to any catcher/processor vessels and LLP license designated in an application to opt-out that is subsequently approved by NMFS.

(2) *Vessels subject to opt-out sideboard provisions.* (i) Any catcher/processor vessel whose legal rockfish landings were used to qualify for the Rockfish Program and for which the vessel named on that LLP license is assigned to the opt-out fishery;

(ii) Any catcher/processor vessel named on an LLP license under which catch history was used to qualify that LLP license for the Rockfish Program and that LLP license is used in the opt-out fishery; or

(iii) Any catcher/processor vessel designated in an application to opt-out.

(3) *Prohibitions on Central GOA rockfish directed harvest by opt-out vessels.* Any vessel that is subject to the opt-out sideboard restriction under this paragraph (h) is prohibited from directed fishing for the following species in the following management areas:

(i) Central GOA northern rockfish and adjacent waters open by the State of Alaska for which it adopts a Federal fishing season;

(ii) Central GOA Pacific ocean perch and adjacent waters open by the State of Alaska for which it adopts a Federal fishing season; and

(iii) Central GOA pelagic shelf rockfish and adjacent waters open by the State of Alaska for which it adopts a Federal fishing season.

(4) *Prohibitions on directed fishing in GOA groundfish fisheries without previous participation.* (i) Any vessel that is subject to the opt-out sideboard restriction under paragraph (c) of this section is prohibited from directed fishing in any groundfish fishery in the GOA and adjacent waters open by the State of Alaska for which it adopts the applicable Federal fishing season for that species (except sablefish harvested under the IFQ Program) from July 1 through July 14 of each year if that vessel has not participated in that directed groundfish fishery in any two years from 1996 through 2002 during the following time periods:

(A) June 30, 1996 through July 6, 1996;

(B) June 29, 1997 through July 5, 1997;

(C) June 28, 1998 through July 4, 1998;

(D) July 4, 1999 through July 10, 1999;

(E) July 8, 2000 through July 15, 2000;

(F) July 1, 2001 through July 7, 2001; and

(G) June 30, 2002 through July 6, 2002.

(ii) For purposes of this paragraph (h), participation in a fishery in Statistical Area 650 during a time period specified in paragraph (h)(4)(i) of this section shall be considered as participation in that same fishery in Statistical Area 640 during that time period.

[71 FR 67252, Nov. 20, 2006, as amended at 72 FR 37681, July 11, 2007]

§ 679.83 Rockfish Program entry level fishery.

(a) *Rockfish entry level fishery*—(1) *General.* A rockfish entry level harvester and rockfish entry level processor may participate in the rockfish entry level fishery as follows:

(i) *Trawl catcher vessels.* Trawl catcher vessels participating in the rockfish entry level fishery may collectively harvest, prior to September 1, an amount not greater than 50 percent of the total allocation to the rockfish entry level fishery as calculated under §679.81(a)(2). Allocations to trawl catcher vessels shall be made first from the allocation of Pacific ocean perch available to the rockfish entry level fishery. If the amount of Pacific ocean perch available for allocation is less than the total allocation allowable for trawl catcher vessels in the rockfish entry level fishery, then northern rockfish and pelagic shelf rockfish shall be allocated to trawl catcher vessels.

(ii) *Longline gear vessels.* Longline gear vessels participating in the rockfish entry level fishery may collectively harvest, prior to September 1, an amount not greater than 50 percent of the total allocation to the rockfish entry level fishery as calculated under §679.81(a)(2). Allocations of Pacific ocean perch, northern rockfish, and pelagic shelf rockfish to longline gear vessels shall be made after the allocation to trawl catcher vessels.

(iii) *Secondary species allocations.* Secondary species shall not be allocated to the rockfish entry level fishery. Secondary species shall be managed based on a MRA for the target species as described in Table 10 to this part.

(iv) *Halibut PSC allocations—trawl vessels.* Halibut PSC from trawl vessels in the rockfish entry level fishery shall be accounted against the allocation to the deep water species fishery complex for that seasonal apportionment. If the Halibut PSC allocation in the deep water fishery complex has been achieved or exceeded for that seasonal apportionment, the rockfish entry level fishery for trawl vessels will be closed until deep water species fishery complex halibut PSC is available.

(v) *Halibut PSC allocations—longline gear vessels.* Halibut PSC from longline gear vessels in the rockfish entry level fishery shall be accounted against the allocation to the other non-trawl fishery category for that seasonal apportionment. If the Halibut PSC allocation in the other non-trawl fishery category has been reached or exceeded for that seasonal apportionment, the rockfish entry level fishery for longline gear vessels will be closed until deep water species fishery complex halibut PSC is available.

(2) *Reallocation among trawl and longline gear vessels.* Any allocation of Pacific ocean perch, northern rockfish, or pelagic shelf rockfish that has not been harvested by 1200 hours, A.I.t. on September 1, may be harvested by either trawl or longline gear vessels in the rockfish entry level fishery.

(3) *Opening of the rockfish entry level fishery.* The Regional Administrator maintains the authority to not open the rockfish entry level fishery if he deems it appropriate for conservation or other management measures. Factors such as the total allocation, anticipated harvest rates, and number of participants will be considered in making any such decision.

(b) [Reserved]

[71 FR 67252, Nov. 20, 2006, as amended at 72 FR 37681, July 11, 2007]

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

(a) *Recordkeeping and reporting.* See §679.5(r).

(b) *Permits.* See §679.4(n).

(c) *Catch monitoring requirements for catcher/processors assigned to a rockfish cooperative or rockfish limited access fishery.* The requirements under paragraphs (c)(1) through (9) of this section apply to any catcher/processor vessel participating in a rockfish cooperative or the rockfish limited access fishery, and that is subject to a sideboard limit as described in this section. At all times when a vessel has groundfish onboard that were harvested under a CQ permit that were harvested during a rockfish limited access fishery, or that were harvested by a vessel subject to a sideboard limit as described under §679.82(d) through (g), as applicable, the vessel owner or operator must ensure that:

(1) *Catch weighing.* All groundfish are weighed on a NMFS-approved scale in compliance with the scale requirements at §679.28(b). Each haul must be weighed separately and all catch must be made available for sampling by a NMFS-certified observer.

(2) *Observer sampling station.* An observer sampling station meeting the requirements at §679.28(d) is available at all times.

(3) *Observer coverage requirements.* The vessel is in compliance with the observer coverage requirements described at §679.50(c)(7)(i).

(4) *Operational line.* The vessel has no more than one operational line or other conveyance for the mechanized movement of catch between the scale used to weigh total catch and the location where the observer collects species composition samples.

(5) *Fish on deck.* No fish are allowed to remain on deck unless an observer is present, except for fish inside the codend and fish accidentally spilled from the codend during hauling and dumping. Fish accidentally spilled from the codend must be moved to the fish bin.

(6) *Sample storage.* The vessel owner or operator provides sufficient space to accommodate a minimum of 10 observer sampling baskets. This space must be within or adjacent to the observer sample station.

(7) *Pre-cruise meeting.* The Observer Program Office is notified by phone at 1-907-271-1702 at least 24 hours prior to departure when the vessel will be carrying an observer who had not previously been deployed on that vessel within the last 12 months. Subsequent to the vessel's departure notification, but prior to departure, NMFS may contact the vessel to arrange for a pre-cruise meeting. The pre-cruise meeting must minimally include the vessel operator or manager, and any observers assigned to the vessel.

(8) *Belt and flow operations.* The vessel operator stops the flow of fish and clear all belts between the bin doors and the area where the observer collects samples of unsorted catch when requested to do so by the observer.

(9) *Vessel crew in tanks or bins.* The vessel owner or operator must comply with the bin monitoring standards specified in §679.28(i).

(d) *Catch monitoring requirements for catcher/processors assigned to the opt-out fishery.* At all times any catcher/processor vessel assigned to the opt-out fishery has groundfish onboard that vessel that were harvested subject to a sideboard limit as described under §679.82(d) through (h), as applicable, the vessel owner or operator must ensure catch from an individual haul is not mixed with catch from another haul prior to sampling by a NMFS-certified observer, that all catch be made available for sampling by a NMFS-certified observer, and that the requirements in paragraphs (c)(3), (4), (5), (8), and (9) of this section are met.

(e) *Catch monitoring requirements for catcher vessels.* The owner or operator of a catcher vessel must ensure the vessel complies with the observer coverage requirements described at §679.50(c)(7)(ii) at all times the vessel is participating in a rockfish cooperative, rockfish limited access fishery, or rockfish sideboard fishery described in this section.

(f) *Catch monitoring requirements for shoreside and stationary floating processors —(1) Catch monitoring and control plan (CMCP).* The owner or operator of a shoreside or stationary floating processor receiving deliveries from a catcher vessel described at §679.50(c)(7)(ii) must ensure the shoreside or stationary floating processor complies with the CMCP requirements described at §679.28(g).

(2) *Catch weighing.* All groundfish landed by catcher vessels described at §679.50(c)(7)(ii) must be sorted, weighed on a scale approved by the State of Alaska as described at §679.28(c), and be made available for sampling by a

NMFS-certified observer. The observer must be allowed to test any scale used to weigh groundfish to determine its accuracy.

(3) *Notification requirements.* The plant manager or plant liaison must notify the observer of the offloading schedule for each delivery of groundfish harvested in a Rockfish Program fishery at least 1 hour prior to offloading. An observer must be available to monitor each delivery of groundfish harvested in a Rockfish Program fishery. The observer must be available the entire time the delivery is being weighed or sorted.

(g) *Catch accounting* —(1) *Primary rockfish species and secondary species.* All primary rockfish species and secondary species harvested by a vessel, including harvests in adjacent waters open by the State of Alaska for which it adopts a Federal fishing season, that is named on an LLP license that is assigned to a rockfish cooperative and fishing under a CQ permit will be debited against the CQ for that rockfish cooperative from May 1:

(i) Until November 15; or

(ii) Until that rockfish cooperative has submitted a rockfish cooperative termination of fishing declaration that has been approved by NMFS.

(2) *Rockfish halibut PSC.* All rockfish halibut PSC used by a vessel, including halibut PSC used in the adjacent waters open by the State of Alaska for which it adopts a Federal fishing season, that is named on an LLP license that is assigned to a rockfish cooperative and fishing under a CQ permit will be debited against the CQ for that rockfish cooperative from May 1:

(i) Until November 15; or

(ii) Until the designated representative of that rockfish cooperative has submitted a rockfish cooperative termination of fishing declaration that has been approved by NMFS.

(3) *Groundfish sideboard limits.* All groundfish harvested by a vessel, except groundfish harvested by a vessel fishing under a CQ permit in the Central GOA including groundfish harvested in the adjacent waters open by the State of Alaska for which it adopts a Federal fishing season, that is subject to a sideboard limit for that groundfish species as described under §679.82(d) through (h), as applicable, from July 1 until July 31 will be debited against the sideboard limit established for that sector or rockfish cooperative, as applicable.

(4) *Halibut sideboard limits.* All halibut PSC used by a vessel, except halibut PSC used by a vessel fishing under a CQ permit, or in a rockfish limited access fishery including halibut PSC used in the adjacent waters open by the State of Alaska for which it adopts a Federal fishing season, that is subject to a sideboard limit as described under §679.82(d) through (h), as applicable, from July 1 until July 31 will be debited against the sideboard limit established for that sector or rockfish cooperative, as applicable.

[71 FR 67252, Nov. 20, 2006, as amended at 72 FR 37681, July 11, 2007; 72 FR 52726, Sept. 14, 2007; 73 FR 76166, Dec. 15, 2008]

holding individual processing quota, and the provisions of subparagraphs (D), (E), and (L) of section 307(l) shall apply to any facility owned or controlled by a person holding individual processing quota.”

Establishment.
16 USC 1851
note.

SEC. 802. GULF OF ALASKA ROCKFISH DEMONSTRATION PROGRAM. The Secretary of Commerce, in consultation with the North Pacific Fishery Management Council, shall establish a pilot program that recognizes the historic participation of fishing vessels (1996 to 2002, best 5 of 7 years) and historic participation of fish processors (1996 to 2000, best 4 of 5 years) for pacific ocean perch, northern rockfish, and pelagic shelf rockfish harvested in Central Gulf of Alaska. Such a pilot program shall: (1) provide for a set-aside of up to 5 percent for the total allowable catch of such fisheries for catcher vessels not eligible to participate in the pilot program, which shall be delivered to shore-based fish processors not eligible to participate in the pilot program; and (2) establish catch limits for non-rockfish species and non-target rockfish species currently harvested with pacific ocean perch, northern rockfish, and pelagic shelf rockfish, which shall be based on historical harvesting of such bycatch species. The pilot program will sunset when a Gulf of Alaska Groundfish comprehensive rationalization plan is authorized by the Council and implemented by the Secretary, or 2 years from date of implementation, whichever is earlier.

16 USC 1851
note.
Effective date.

SEC. 803. ALEUTIAN ISLANDS FISHERIES DEVELOPMENT. (a) ALEUTIAN ISLANDS POLLOCK ALLOCATION.—Effective January 1, 2004 and thereafter, the directed pollock fishery in the Aleutian Islands Subarea [AI] of the BSAI (as defined in 50 CFR 679.2) shall be allocated to the Aleut Corporation (incorporated pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)). Except with the permission of the Aleut Corporation or its authorized agent, the fishing or processing of any part of such allocation shall be prohibited by section 307 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1857), subject to the penalties and sanctions under section 308 of such Act (16 U.S.C. 1858), and subject to the forfeiture of any fish harvested or processed.

(b) ELIGIBLE VESSELS.—Only vessels that are 60 feet or less in length overall and have a valid fishery endorsement, or vessels that are eligible to harvest pollock under section 208 of title II of division C of Public Law 105-277, shall be eligible to form partnerships with the Aleut Corporation (or its authorized agents) to harvest the allocation under subsection (a). During the years 2004 through 2008, up to 25 percent of such allocation may be harvested by vessels 60 feet or less in length overall. During the years 2009 through 2013, up to 50 percent of such allocation may be harvested by vessels 60 feet or less in length overall. After the year 2012, 50 percent of such allocation shall be harvested by vessels 60 feet or less in length overall, and 50 percent shall be harvested by vessels eligible under such section of Public Law 105-277.

(c) GROUNDFISH OPTIMUM YIELD LIMITATION.—The optimum yield for groundfish in the Bering Sea and Aleutian Islands Management Area shall not exceed 2 million metric tons. For the purposes of implementing subsections (a) and (b) without adversely affecting current fishery participants, the allocation under subsection (a) may be in addition to such optimum yield during the years 2004 through 2008 upon recommendation by the North Pacific Council

Notices

Federal Register

Vol. 73, No. 113

Wednesday, June 11, 2008

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Notice of Intent To Grant Exclusive License

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the U.S. Department of Agriculture, Agricultural Research Service, intends to grant to Oser Technologies LLC of Fairfield, New Jersey, an exclusive license to U.S. Patent Application Serial No. 11/471,327, "Method and Apparatus for Treatment of Food Products", filed on June 20, 2006.

DATES: Comments must be received within thirty (30) days of the date of publication of this Notice in the **Federal Register**.

ADDRESSES: Send comments to: USDA, ARS, Office of Technology Transfer, 5601 Sunnyside Avenue, Rm. 4-1174, Beltsville, Maryland 20705-5131.

FOR FURTHER INFORMATION CONTACT: June Blalock of the Office of Technology Transfer at the Beltsville address given above; telephone: 301-504-5989.

SUPPLEMENTARY INFORMATION: The Federal Government's patent rights in this invention are assigned to the United States of America, as represented by the Secretary of Agriculture. It is in the public interest to so license this invention as Oser Technologies LLC of Fairfield, New Jersey has submitted a complete and sufficient application for a license. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within thirty (30) days from the date of this published Notice, the Agricultural Research Service receives written evidence and argument which establishes that the grant of the license would not be consistent with the

requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Richard J. Brenner,

Assistant Administrator.

[FR Doc. E8-13081 Filed 6-10-08; 8:45 am]

BILLING CODE 3410-03-P

DEPARTMENT OF COMMERCE

[Docket No.: 080603727-8737-01]

Privacy Act System of Records

AGENCY: Department of Commerce.

ACTION: Notice of a new Privacy Act System of Records: COMMERCE/NOAA-19, Permits and Registrations for United States Federally Regulated Fisheries.

SUMMARY: The Department of Commerce (Commerce) publishes this notice to announce the effective date of a Privacy Act System of Records notice entitled COMMERCE/NOAA-19, Permits and Registrations for United States Federally Regulated Fisheries.

DATES: The system of records becomes effective on June 11, 2008.

ADDRESSES: For a copy of the system of records please mail requests to Ted Hawes, NOAA's National Marine Fisheries Service, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930.

FOR FURTHER INFORMATION CONTACT: Ted Hawes, NOAA's National Marine Fisheries Service, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930, 978-281-9296.

SUPPLEMENTARY INFORMATION: On April 17, 2008, the Department of Commerce published and requested comments on a proposed Privacy Act System of Records notice entitled COMMERCE/NOAA-19, Permits and Registrations for United States Federally Regulated Fisheries. No comments were received in response to the request for comments. By this notice, the Department is adopting the proposed system as final without changes effective June 11, 2008.

Dated: June 5, 2008.

Brenda Dolan,

U.S. Department of Commerce, Freedom of Information/Privacy Act Officer.

[FR Doc. E8-13051 Filed 6-10-08; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Submission for OMB Review; Comment Request

The United States Patent and Trademark Office (USPTO) will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). **AGENCY:** United States Patent and Trademark Office (USPTO).

Title: Applications for Trademark Registration.

Form Number(s): PTO Forms 4.8, 4.9, 1478, and 1478(a).

Agency Approval Number: 0651-0009.

Type of Request: Extension of a currently approved collection.

Burden: 84,821 hours annually.

Number of Respondents: 291,859 responses per year with an estimated 279,692 responses filed electronically.

Avg. Hours Per Response: The USPTO estimates that it will take the public between 15 to 23 minutes (0.25 to 0.38 hours) to complete the applications in this collection, depending on the form and the nature of the information. This includes the time to gather the necessary information, create the documents, and submit the completed application. The USPTO estimates that it takes slightly less time to complete the electronic counterparts of these forms. The time estimates for the electronic forms in this collection are based on the average amount of time needed to complete and electronically file the associated form.

Needs and Uses: This collection of information is required by the Trademark Act, 15 U.S.C. 1051 *et seq.* and is implemented through the Trademark rules set forth in 37 CFR Part 2. It provides for the registration of trademarks, service marks, collective trademarks and service marks, collective membership marks, and certification marks. Individuals and businesses who use their marks or intend to use their marks in commerce may file an application with the USPTO to register their marks. The USPTO uses the information in this collection to determine whether the marks may be registered. This collection contains

**National Oceanic and Atmospheric Administration
(NOAA)**

**Permits and Registrations for Fisheries under the
Jurisdiction of the National Marine Fisheries Service
(NMFS)**



**Permits and Registrations for Fisheries under the Jurisdiction of the
National Marine Fisheries Service (NMFS)**

Privacy Impact Assessment Statement

June 2008

Prepared by: Sarah Brabson, NOAA Office of the Chief Information Officer

Permits and Registrations for Fisheries under the Jurisdiction of the National Marine Fisheries Service (NMFS) Privacy Impact Assessment Statement

Project: Permits and Registrations for NMFS Commercial and Recreational Fisheries and Protected Resources

ID Number: 006-48-01-14-02-3305-00

OMB information collection control numbers:

OMB Control No.	Title of Collection	NOAA Security System Number
0648-0013	Southeast Region Dealer Permit Family of Forms	NOAA4300
0648-0084	Basic Requirements for Special Exception Permits and Authorizations to Take, Import, and Export Marine Mammals and Endangered and Threatened Species and for Maintaining a Captive Marine Mammal Inventory Under the Marine Mammal Protection Act, the Fur Seal Act, and the Endangered Species Act	NOAA4800
0648-0151	Applications and Reporting Requirements for Small Take of Marine Mammals by Specified Activities Under the Marine Mammal Protection Act	NOAA4800
0648-0194	Antarctic Marine Living Resources Conservation and Management Measures	NOAA4020
0648-0202	Northeast Region Permit Family of Forms	NOAA4100
0648-0203	Northwest Region Permit Family of Forms	NOAA4800
0648-0204	Southwest Region Permit Family of Forms	NOAA4010
0648-0205	Southeast Region Permit Family of Forms	NOAA4300
0648-0206	Alaska Region Permit Family of Forms	NOAA4700
0648-0218	South Pacific Tuna Act Permit Applications	NOAA4010
0648-0229	Northeast Region Dealer Permit Family of Forms	NOAA4100
0648-0230	Permits for Incidental Taking of Endangered or Threatened Species	NOAA4800
0648-0272	Individual Fishing Quotas for Pacific Halibut and Sablefish in the Alaska Fisheries	NOAA4700
0648-0304	High Seas Fishing Permits	NOAA4020
0648-0309	Scientific Research, Exempted Fishing, and Exempted Activity Submissions	NOAA4800
0648-0316	Prohibited Species Donation Program	NOAA4700
0648-0327	Atlantic Highly Migratory Species Vessels Permits	NOAA4011
0648-0334	Alaska License Limitation Program for Groundfish, Crab, and Scallops	NOAA4700
0648-0345	Southeast Region Bycatch Reduction Device Certification Family of Forms	NOAA4300
0648-0387	International Dolphin Conservation Program	NOAA4010
0648-0393	American Fisheries Act: Vessel and Processor Permit Applications	NOAA4700
0648-0402	Application and Reports for Scientific Research and Enhancement Permits Under the Endangered Species Act	NOAA4800
0648-0463	Pacific Islands Region Coral Reef Ecosystems Permits	NOAA4010
0648-0490	Pacific Islands Region Permit Family of Forms	NOAA4010
0648-0495	Atlantic Highly Migratory Species Vessel Chartering Permits	NOAA4011
0648-0514	Alaska Region BSAI Crab Permits	NOAA4700
0648-0545	Alaska Rockfish Pilot Program	NOAA4700
0648-0551	Southeast Region Gulf of Mexico Red Snapper IFQ Program	NOAA4300
0648-0569	Alaska Individual Fishing Quota Temporary Transfers	NOAA4700

Project Description

In order to manage U.S. fisheries, the [NOAA National Marine Fisheries Service](#) (NOAA Fisheries) requires the use of permits or registrations by participants in the United States. Applications for permits and registrations are collected from individuals under the authority of the Magnuson-Stevens Fisheries Conservation and Management Act; High Seas Fishing Compliance Act; American Fisheries Act; Atlantic Coastal Fisheries Cooperative Management Act; Atlantic Tunas Convention Authorization Act; Tuna Conventions Act of 1950, Northern Pacific Halibut Act; Antarctic Marine Living Resources Convention Act; Endangered Species Act; Marine Mammal Protection Act; International Fisheries Regulations regarding U.S. Vessels Fishing in Colombian Treaty Waters; and other international conventions and treaties to which the U.S. is a signatory.

NOAA Fisheries has established the National Permits System to accept and maintain all permit applications and related data. All regional and other program systems are either housed within this system, with mirror sites available at the region/program sites (Southwest Region and Pacific Islands Region) or are in the process of being linked with NPS.

1. What information is to be collected (e.g., nature and source)?

All NOAA Fisheries Regions collect and maintain information needed to issue fisheries permits and registrations. There are six [NOAA Fisheries Regions](#): Northeast, Southeast, Northwest, Southwest, Alaska, and Pacific Islands. Each of these Regions issues fisheries permits and registrations programs.

Additionally, there are three NMFS Headquarters Offices that issue permits. The [Office of International Affairs](#) (IA) issues permits as part of its responsibility to administer international fisheries agreements. Under a 1982 international convention, IA issues Antarctic Marine Living Resources (AMRL) Trade Permits to protect and conserve the marine living resources in the waters surrounding Antarctica. IA also issues high seas fishing permits under the High Seas Fishing Compliance Act.

The [Office of Protected Resources](#) issues endangered species permits pursuant to Endangered Species Act and marine mammal permits under the Marine Mammal Protection Act.

The Office of Sustainable Fisheries, [Highly Migratory Species Division](#) issues Atlantic Highly Migratory Species Vessel Permits as part of its responsibility to manage highly migratory species.

Information collected and maintained by all the NMFS Regions and Headquarters Offices includes the name, contact information and date of birth for the applicant and other individuals (e.g., vessel owner) on the application; information about the vessel (e.g.,

identification numbers and physical characteristics); and current permit number, status, and expiration date.

The Tax Identification Number (TIN), which may be either the Employer Identification Number (EIN) or a sole proprietor's Social Security Number (SSN), is required for all permits, under the authority of the Debt Collection Improvement Act, 31 U.S.C. 7701.

Individual NMFS Regions and Headquarters Offices may require additional information from the applicant, e.g., photograph of applicant, depending upon specific regulatory or program requirements. The specific data elements collected by each are identified in the [Appendix](#).

2. Why is the information being collected (e.g., to determine eligibility)?

This information is necessary to evaluate the qualifications of fisheries permit applicants, maintain a record of participants in the fisheries, and manage the fisheries in accordance with U.S. laws and international treaties and conventions.

3. What is the intended use of the information (e.g., to verify existing data)?

This information will allow NMFS to identify owners and holders of permits and non-permit registrations and vessel owners and operators, evaluate permit applications, and document agency actions relating to the issuance, renewal, transfer, revocation, suspension or modification of a permit or registration.

4. With whom the information will be shared (e.g., another agency for a specified programmatic purpose)?

A Privacy Act system of records notice (SORN), COMMERCE/NOAA #19, Permits and Registrations for United States Federally Regulated Fisheries, was published in the Federal Register on April 17, 2008 (73 FR 20914) and became effective on June 11, 2008 (73 FR 33065). COMMERCE/NOAA #12, Marine Mmmals, Endangered and Threatened Species, Permits and Exempted Applicants has been revised to include the collection of the TIN and date of birth, and the revision is under review at NMFS.

The SORNs provide, where applicable, that the records may be shared under the following circumstances:

- a. In the event that a system of records maintained by the Department of Commerce to carry out its functions indicates a violation or potential violation of law or contract, or the necessity to protect an interest of the Department of Commerce, the relevant records may be referred to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigation or prosecuting such violation or charged with enforcing or implementing the statute or contract, or rule, regulation or order issued pursuant thereto, or protecting the interest of the Department of Commerce.

A record may also be disclosed:

- b. In the course of presenting evidence to a court, magistrate or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
- c. To a Member of Congress submitting a request involving an individual when the individual has requested assistance from the Member with respect to the subject matter of the record.
- d. To the Department of Justice in connection with determining whether the Freedom of Information Act (5 U.S.C. 552) requires disclosure.
- e. To the Department of Treasury for the purpose of reporting and recouping delinquent debts owed the United States pursuant to the Debt Collection Improvement Act of 1996.
- f. To the Department of Homeland Security for the purposes of determining the admissibility of certain seafood imports into the United States.
- g. To a contractor of the Department of Commerce having need for the information in the performance of the contract.
- h. To approved persons at the state or interstate level within the applicable Marine Fisheries Commission for the purpose of co-managing a fishery or for making determinations about eligibility for permits when state data are all or part of the basis for the permits.
- i. To the applicable Fishery Management Council (Council) staff and contractors tasked with development of analyses to support Council decisions about Fishery Management Programs.
- j. To the applicable NMFS Observer Program for purposes of identifying current permit owners and vessels and making a random assignment of observers to vessels in a given fishing season.
- k. To the applicable Regional or International Fisheries Management Body for the purposes of identifying current permit owners and vessels pursuant to applicable statutes or regulations and/or conservation and management measures adopted by a Regional or International Fisheries Management Body; the Food and Agriculture Organization of the United Nations; Commission for the Conservation of Antarctic Marine Living Resources; Inter-American Tropical Tuna Commission; International Pacific Halibut Commission; and International Commission for the Conservation of Atlantic Tunas.
- l. To appropriate agencies, entities, and persons when: (1) it is suspected or confirmed that the security or confidentiality of information in the system of records has been compromised; (2) the Department has determined that, as a result of the suspected or confirmed compromise, there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

5. What opportunities do individuals have to decline to provide information (i.e., where providing information is voluntary) or to consent to particular uses of the information (other than required or authorized uses), and how can individuals grant consent?

The personal information is collected when the individual completes the appropriate application. Prior to completion of the application, the individual is advised that providing the information is voluntary. However, NMFS will not be able to issue a permit if the individual does not provide each item of information requested. The individual may choose to decline to provide the required personal information or to consent to the particular use of his/her personal information at that time.

6. How will the information be secured (e.g., administrative and technological controls)?

Management Controls:

Databases are located either at NOAA Headquarters in Silver Spring, Maryland, or in regional offices or science centers, in building with doors that are locked during and after business hours. Visitors to all buildings must register with security guards and be accompanied by a federal official at all times. Paper records are stored in locked file cabinets.

Operational Controls:

Electronic records are protected by a user identification/password. The user identification/password is issued to NMFS employees that have a need to access the system as part of their duties and as approved by the appropriate authorizing official.

Technical Controls:

All NMFS Permit systems are currently considered to have “adequate security”, through the Certification and Accreditation process, as defined in [OMB Circular A-130](#). Certification and Accreditation (C&A) is the process of formal assessment, testing (certification), and acceptance (accreditation) of system security controls that protect IT systems and data stored in and processed by those systems. It is a process that encompasses the system’s life cycle and ensures that the risk of operating a system is recognized, evaluated, and accepted.

Information by region/program in response to the OMB requirement in Memoranda [M-06-16](#) and [M-07-16](#) that operating units must log all computer-readable data extracts from databases holding sensitive information and verify that each extract including sensitive data has been erased within 90 days or determine that its use is still required (see next page).

National Permits System

All regional and other program systems are either housed within this system, with mirror sites available at the region/program sites (currently Southwest Region and Pacific Islands Region) or are in the process of being linked with NPS.

The Certification and Accreditation (C&A) for this system is current and is in force. The C&A certifies that the system meets Department of Commerce Minimum IT Security Standards, and must be approved before the system can go into operation. Also, all related IT security plans are current.

The NMFS National Permits System (NPS) is an information system for administering and processing commercial fishing permits, housed in an Oracle database at the NMFS Office of the CIO (OCIO) in Silver Spring. Access to the NPS environment at the OCIO includes permit processing managers and staff from NMFS regional offices along with limited IT staff who are maintaining the system. Future plans will extend use access to law enforcement and other pertinent data users. When Permit processors complete online application forms (from paper forms mailed by the applicant) they are accessing or providing PII information as part of the online permit application processes.

Although the NPS system does not directly support a database extract by the end-users, information (name, address, masked/encrypted SSN) can be viewed online, in reports, and through a letter generator module. The reports and letter generator information can be saved outside of the NPS database.

A user's access to NPS information is limited, based on his/her role or set of privileges. Different areas of the system are restricted based on these privileges, and only users with the appropriate role/privilege can obtain access. For instance, the Data-User role cannot access the letter generator or view unmasked SSN.

Excluding the process of applying for a permit, the permit holder's SSN remains masked and encrypted. Other PII information such as name and address are used for several tasks such as generate letters to permit holders for sending pre-filled renewal form via postal mail. The users of the system are trained on the sensitivity of information they are handling.

NPS does not conduct any automated follow up to investigate if information has been destroyed. In many cases the information has been mailed to the applicant or filed. We will add a notice that says "Personally Identifiable information must be destroyed after 90 days if no longer needed" on the report and letter generator pages.

Certain users of the system are considered "Regional Administrators". They are responsible for creating and monitoring their users and their activities on this system.

The system is backed up every day and each transaction is recorded.

Northeast Region

A C&A was completed for this system and is current and in force.

Data extracts are defined in this context as records of information that are downloaded or copied from a NMFS Northeast Regional Office (NERO) database system, such as the Electronic Document Management System (EDMS) or hard copy records of information that are accessed by NERO staff and maintained in electronic format outside of the originating system. Actions described here are limited to data extracts that contain personally identifiable information (PII) that is considered to be very sensitive in nature, such as SSNs, credit card and bank account numbers, medical information, and certain information from charges, complaints, or cases that are not yet filed in court.

NERO is attempting to reduce the number of data extracts that are subject to this requirement by reducing the amount of sensitive information, including sensitive PII, in its databases and by limiting users' ability to perform extracts from databases with sensitive information. NERO will also grant only authorized users access to the scanned and hard copy permit documents.

Redaction

NERO will use data scrubbing techniques to remove sensitive information from scanned documents before they are made accessible to authorized staff. Data scrubbing (redaction of PII) will remove sensitive information permanently from electronic scanned documents prior to posting on the NERO EDMS (Docushare). Docushare will be used as the primary method for data access of NERO records. Thus, data accessed through Docushare will not contain sensitive information. PII contained on the original hard copy documents will not be redacted and will thus remain unchanged. However, the hard copy documents will not be maintained on site and will be archived periodically with the National Archives and Records Administration (NARA).

Prior to redaction, Permit staff will have temporary access to electronic records that contain PII during the document conversion process (scanning). Unredacted electronic files will not be maintained on the NERO network longer than 90 days. Permit staff will perform all redaction and extracts containing sensitive information in a central and secure location so that other general users cannot directly access extracts containing PII. Once a document has been scanned, it will be reviewed for PII and if found, PII will be permanently redacted from the original scanned document. This redacted document will then be made available to the authorized users of the electronic permit files. Redaction responsibilities will be limited to one or two Permit staff.

There is a possibility that sensitive PII will be missed during the review and redaction process and will thus be accessible through the DocuShare system. To minimize the effects of this, users of the Docushare system will be required to sign a statement of non-disclosure which will contain rules about not downloading files to their computer and other devices and not disseminating electronic files. If PII is detected in the documents available through DocuShare, a system will be established to alert the Permit office of potential PII and procedures to fix the issue if necessary.

Hard copy records

There may be an infrequent need for NERO staff to access the official hard copy documents. When a data extract of a hard copy document is requested, the Permit office will maintain a log for requested and extracted hard copy records that contain sensitive PII. The log will include the date the data was extracted and removed from NARA archive box and provided to the requestor, a description of the data extracted, the purpose of the extract, the expected date of disposal or return, and the actual date of return or deletion. Requestors will conduct their review of the hard copy records within the Permit office domain and extracted hard copy records will not be physically removed from the Permit office when they are received from NARA. The Permit office will also ensure that any extract which is no longer needed is returned to NARA premises and that this activity is recorded on the log.

Alaska Region

A C&A was completed for this system and is current and in force.

Data extracts are performed only on an infrequent basis, usually when formally requested by the State of Alaska or another federal government agency such as the Internal Revenue Service. When an extract must be generated, Restricted Access Management staff develops the extract routine and generates the data, provides the appropriate non-disclosure notices, and formally transmits the data to the requesting party. Currently, this logging process is entirely manual. In those cases where an extract that contains sensitive PII data is required, the extract is tracked via manual entry and a determination is made up front to verify the duration of the extracted data.

A notice is provided that the data on NMFS computers must be destroyed after 90 days if it is no longer required. The manual logs of who currently has extracted PII data are reviewed monthly.

Northwest Region

A C&A was completed for this system and is current and in force.

No data extracts are made. Only the system administrator has the capability of extracting data, but there is currently no reason to do so. If the status changes, an update will be provided. The audit logs described above are reviewed by the system administrators daily, and are kept for at least one year.

Office of International Affairs

A C&A was completed for this system and is current and in force.

Audits are conducted through the development of history tables. These tables track any changes occurring to the database objects at any given time, by whom, and what has been updated.

User access at the database level is manually checked by the system administrator daily. Since there is not a need to extract data, the automatic audit at the database level has not been activated.

Office of Protected Resources

Sensitive information, i.e. TINs, will not be stored electronically, but in locked cabinets with access only by one staff member. Any extracts made for the purpose of submitting debt checks to the Treasury Department will be destroyed as soon as the information is transmitted.

Atlantic Highly Migratory Species

A C&A was completed for this system and is current and in force.

The system performs exports of the entire database three times daily. Logging of these exports is reviewed weekly for unusual entries. The daily exports are currently posted to a File Transfer Protocol (FTP) site which NMFS in turn pulls down and then imports into their system. Development for a new method of posting and pulling these exports is underway and scheduled to be released in the upcoming months. Daily exports are programmatically overwritten, when downloading, by the next day's export, so no export is kept for more than 24 hours.

Additionally, all NOAA systems adhere to the standards in National Institute of Standards and Technology ([NIST](#)) computer security publications, including [NIST SP 800-18](#), Guide for Developing Security Plans for Federal Information Systems; [NIST SP 800-26](#), Security Self-Assessment Guide for Information Technology Systems; and [NIST SP 800-53](#), Recommended Security Controls for Federal Information Systems.

7. Is a system of records being created under the Privacy Act, 5 U.S.C. 552a?

A Privacy Act system of records notice (SORN), COMMERCE/NOAA #19, Permits and Registrations for United States Federally Regulated Fisheries, was published in the Federal Register on April 17, 2008 (73 FR 20914) and became effective on June 11, 2008 (73 FR 33065). COMMERCE/NOAA #12, Marine Mammals, Endangered and Threatened Species, Permits and Exempted Applicants has been revised to include the collection of the TIN and date of birth, and the revision is under review at NMFS.

8. Are these records covered by an approved records control schedule?

Yes. Fishing Vessel Permit Files are covered in the [NOAA Records Disposition Handbook, item 1504-11](#). Chapter 1500 was approved by [NARA](#) in September 2006 under Job Nos. N1-370-06-2 and 3. Permit files for foreign vessels authorized to fish in the U.S. economic zone are destroyed 15 years after expiration or rejection of the permit application. For U.S. vessels fishing in the U.S. zone or foreign zones, the retention period is six years after expiration or rejection.

Program Contact Person:

Ted Hawes
Fishery Information Specialist, NMFS Northeast Regional Office
(978) 281-9296

APPENDIX

All Permits and Registrations

The information collected and/or maintained by all NMFS Regions and Headquarters Offices includes, where applicable, the current permit number, permit status, type of permit applied for, name of applicant and other individuals on the application (vessel owner(s), owner's agent, operator, dealer, corporation members), Tax Identification Number (Employer Identification Number or Social Security Number), dates of birth, addresses, and telephone numbers (business, cellular, and/or fax), U.S. Coast Guard Certificate of Documentation number or state vessel registration number and date of expiration, name of corporation and articles and date of incorporation, and vessel name, function, and characteristics, including length, breadth, external markings, hull or superstructure color, gross and net tonnage, type of construction, fuel capacity and type, horsepower of engine and pump, and product storage facility.

Additional information is collected and/or maintained by individual regions and permit programs, as indicated below.

Northeast Region

For transferable permits: hair and eye color, height and weight, ID-sized photograph, medical records for resolution of permit dispute, enforcement actions, court and legal documents, and permit sanction notices files by General Counsel, credit card and or/checking account numbers, cancelled checks, tax returns; internal permit number specific to each limited entry permit, baseline specifications on limited entry permit; country, captain's license, State and Federal Dealer Numbers (if applicable), coast on which dealer does business, processing sector, facilities where fish received, vessel landing receipts and records, dealer purchase receipts, bills of sale; type of vessel registration, NMFS unique vessel ID, year vessel built, hailing port, hailing port state, principal port, principal state, vessel operations type (catching and/or processing: for at-sea processing permit), fish hold capacity, passenger capacity, VMS status, crew size; fishery type, fishery management plan and category, maximum days at sea, quota allocation and shares, regional fishery management organization, species or species code; type of gear, gear code and rank, buoy and trap/pot color, number of tags assigned to vessel, number of traps, dredge size and number.

Southeast Region

Fee payment information; business e-mail address, website, gender, hair and eye color, height and weight, ID-sized photograph, Dunn and Bradstreet Corporation Number, NMFS internal identification number, county, country, marriage certificate, divorce decree, death certificate, trust documents, probated will, enforcement actions, court and legal documents, and permit sanction notices files by General Counsel; name of vessel permit applicant if not owner, and relationship to owner, type of vessel ownership, captain's license, original permit, permit payment information, name of permit transferor

and number of permit before transfer, permit and vessel sale price (for permit transfers), date of permit transfer signature, notarized, sale and lease agreement with lease start and end dates if applicable, income or license qualifier for certain fisheries, Income Qualification Affidavit for income qualified fisheries; U.S. importer number, State and Federal dealer numbers (if applicable), plant name and operator; hull identification number, hailing port and hailing port state, year vessel built, location where vessel built, fish hold capacity, live well capacity, radio call sign, vessel communication types and numbers, crew size, passenger capacity; fishery type; quota shares, vessel landing receipts and records, bills of sale, processing facility where fish are received; gear type, species/gear endorsements, buoy/trap color code, number of traps, trap tag number series, trap dimensions, trap mesh size, designated fishing zone; aquaculture reports: site description, material deposited and harvested, value of material, Highly Migratory Species workshop certificate, informational telephone calls recorded with member of public's knowledge, for customer service evaluation and constituent statement records.

Northwest Region

Fee payment information; business e-mail address, NMFS internal identification number, ownership rank if applicable; permit payment information, credit card and/or checking account numbers, canceled checks, tax returns; divorce decree, marriage certificate, city and state where married, death certificate, probated will, trust documents, medical records for emergency transfer of certain permits only, enforcement actions, court and legal documents, and permit sanction notices files by General Counsel; name of permit transferor and number of permit before transfer, period of permit lease, permit price; location where vessel built, fishery type, quota shares, species and gear endorsements; gear code, amount of landed fish or processed fish product, operation as mother ship with start and end date.

Southwest Region

Business e-mail address, applicant's name and relationship to owner or owner manager if not owner or operator, country, Dunn and Bradstreet Corporation Number, other federal, state and commercial licenses held by operator, name of permit transferor and number of permit before transfer; type of vessel (commercial fishing, charter), vessel photograph, hull identification number, hailing port, hailing port state, principal port, principal port state, year vessel built, where vessel built, maximum vessel speed, fish hold capacity, processing equipment, passenger capacity, crew size, international radio call sign, Vessel Monitoring System (VMS) status, dolphin safety gear on board, previous vessel flag, previous vessel name and effective dates; species/gear endorsements, fishery type; type of fishing gear, gear code, fishing status (active or inactive), intent to make intentional purse seine sets on marine mammals, date, location, and provider of most recent tuna purse seine marine mammal skipper workshop.

Alaska Region

Business e-mail address, country, NMFS internal identification number, citizenship, reference names, owner beneficiary, death certificate, marriage certificate, divorce decree, trust documents, probated will, medical information for emergency transfer of certain permits only, enforcement actions, court and legal documents, and permit sanction notices files by General Counsel, credit card and/or bank account numbers, canceled checks, tax returns; name of Alaska Native tribe; community of residence; fishery community organization, community governing body contact person, nonprofit name, community represented by nonprofit, cooperative representative; percent of ownership interest; permit restrictions, quota type, names of other quota holders if affiliated with any, cooperative member receiving quota against cap, names and relationship of permit transferor and transferee, transfer eligibility certificate, sector and region before transfer; relationship of transferor and transferee, reason for transfer, broker's name and fee, lien information (if applicable), quota transfer costs; permit financing source, permit fee, sale/lease agreement, period of lease, agreement to return shares (if applicable), for crab rationalization: affidavit that right of first refusal contracts were signed; number of units and pounds of fish transferred; applicable dealer license numbers, processing plant name and identification, operation type and operator; type of vessel registration, State of Alaska registration number, NMFS vessel identification number, hull identification number, hailing port and hailing port state, numbers of existing permits if applicable to current application, documentation of loss or destruction of a vessel, list of vessels in a vessel cooperative, vessel operations type in terms of catching and/or processing; species/gear endorsements for fisheries requiring vessel monitoring systems, fishery type, species or species code, fishery management plan, days at sea allocations, quota shares; type of fishing gear, gear code; vessel landing receipts and records, bills of sale, delivery receipts, dealer purchase receipts, processing sector and facility where fish are received, statement from processor that there is a market for rockfish received from applicant for entry level harvester permit.

Pacific Islands Region

Photograph identification, citizenship, credit card and/or checking account numbers, cancelled checks, owner of checking account from which permit fees made, enforcement actions, court and legal documents, and permit sanction notices files by General Counsel; name of permit transferor and number of permit before transfer, International Maritime Organization number, NMFS vessel identification number, international radio call sign, year vessel built, location where vessel built; fishery type, percent of ownership interest, ownership and catch history as basis for exemption eligibility, days at sea allocations, quota shares; vessel landing receipts and records, dealer purchase receipts, bills of sale.

Office of International Affairs

High Seas Fishing Permits

Citizenship, internal identification number, percent/rank of ownership interest, hull identification number, type of vessel registration, year vessel built, where vessel built, fish hold capacity, hailing port, hailing port state, crew size, international radio call sign,

previous vessel flag, previous vessel name, fishery type, fishery management plan, regional fishery management organization, type of fishing gear, and gear code.

Antarctic Marine Living Resources Trade Permits

Nationality, type of vessel (commercial fishing, charter), where vessel built, year vessel built, fish hold capacity, International Maritime Organization number, if issued, vessel communication types and serial numbers, details of tamper-proof VMS elements, ice classification, processing equipment, international radio call sign, foreign vessel flag, previous vessel flag, previous vessel name, permit number of supporting foreign vessel, crew size, species code, and type of fishing gear.

Office of Protected Species

Endangered Species and Marine Mammal Permits

Qualifications and e-mail addresses of individuals listed on the applications and a description of proposed activities.

Office of Sustainable Fisheries

Atlantic Highly Migratory Species Vessel Permits

Business email, Website, Dunn and Bradstreet Corporation Number, percent/rank of ownership interest, lease start/end date, income or license qualifier for certain fisheries, U.S. Importer Number (dealers), state and federal Dealer Numbers if applicable, processing facility where fish are received, type of vessel registration, hull identification number, passenger capacity, crew size, hailing port, hailing port state, principal port, principal port state, fish hold capacity, year vessel built, fishery type, species or species code, type of fishing gear, and gear code.

National Saltwater Angler Registry Program

These categories only: name, TIN, address, telephone number, designation as owner or operator of for-hire vessel, vessel name and registration/documentation number and a statement of the region(s) in which the registrant fishes.

Participation Requirements

All parties interested in participating in the Commercial Service Trade Mission to Colombia must complete and submit an application package for consideration by the Department of Commerce. All applicants will be evaluated on their ability to meet certain conditions and best satisfy the selection criteria as outlined below. A minimum of 6 and maximum of 11 companies with up to two participants per company will be selected to participate in the mission from the applicant pool. U.S. companies already doing business with Colombia, as well as U.S. companies seeking to enter the Colombian market for the first time may apply.

Fees and Expenses

After a company has been selected to participate on the mission, a payment to the Department of Commerce in the form of a participation fee is required. The participation fee will be \$2,500 for a small- or medium-sized enterprise (SME) * and \$3,250 for large firms. The fee for the additional firm representative (large firm or SME) is \$450. This entitles the company to one appointment schedule. Expenses for travel to and from Colombia, airfare between Bogota and Cartagena, lodging, incidentals and most meals will be the responsibility of each mission participant. Bus transportation from Cartagena to Barranquilla is included in the above cost. Bus transportation to Santa Marta is not included in the cost and will be at the participant's expense. Participants have the option of returning to the United States from Barranquilla or, if they participate in the mine site visit, from Cartagena.

Conditions for Participation

- An applicant must submit a completed and signed mission application and supplemental application materials, including adequate information on the company's products and/or services, primary market objectives, and goals for participation. If the Department of Commerce receives an incomplete application, the Department may reject the application, request additional information, or take the lack of

* An SME is defined as a firm with 500 or fewer employees or that otherwise qualifies as a small business under SBA regulations (see http://www.sba.gov/services/contracting_opportunities/sizestandardstocps/index.html). Parent companies, affiliates, and subsidiaries will be considered when determining business size. The dual pricing reflects the Commercial Service's user fee schedule that became effective May 1, 2008 (for additional information see <http://www.export.gov/newsletter/march2008/initiatives.html>).

information into account when evaluating the applications.

- Each applicant must also certify that the products and services it seeks to export through the mission are either produced in the United States, or, if not, marketed under the name of a U.S. firm and have at least 51 percent U.S. content of the value of the finished product or service.

Selection Criteria: Selection will be based on the following criteria:

- Suitability of the company's products or services to the Colombian market.
- Applicant's potential for business in Colombia, including likelihood of exports resulting from the mission.
- Consistency of the applicant's goals and objectives with the stated scope of the mission.

Referrals from political organizations and any documents containing references to partisan political activities (including political contributions) will be removed from an applicant's submission and not considered during the selection process.

Timeframe for Recruitment and Applications

Mission recruitment will be conducted in an open and public manner. Outreach will include posting on the Commerce Department trade mission calendar (<http://www.ita.doc.gov/doctm/tmcal.html>) and other Internet Web sites, press releases to general and trade media, direct mail, broadcast fax, notices by industry trade associations and other multiplier groups, and publicity at industry meetings, symposia, conferences, and trade shows. The International Trade Administration will explore and welcome outreach assistance from other interested organizations, including other U.S. Government agencies.

The mission is open on a first come first served basis. Recruitment for the mission will begin immediately and close as soon as 10 applicants have been selected and registered, and no later than February 16, 2009. Late applications will be considered only if space and scheduling constraints permit. Applications will be available from the New Orleans U.S. Export Assistance Center. They can also be obtained by contacting the mission contact listed below.

Contacts

Brie Knox, New Orleans Export Assistance Center, U.S. Department of

Commerce, Tel: 504-589-6703, E-mail: Brie.Knox@mail.doc.gov.

Sean Timmins,

Global Trade Programs, Commercial Service Trade Missions Program.

[FR Doc. E9-2489 Filed 2-5-09; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Alaska Rockfish Pilot Program

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before April 7, 2009.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 7845, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at dHynek@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Patsy A. Bearden, (907) 586-7008 or patsy.bearden@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

In Section 802 of the Consolidated Appropriations Act of 2004, the United States (U.S.) Congress included a directive to the Secretary of Commerce to establish, in consultation with the North Pacific Fishery Management Council, a pilot program for management of three rockfish fisheries in the Central Gulf of Alaska (CGOA) in the exclusive economic zone off the coast of Alaska. The Rockfish Pilot Program provides exclusive harvesting and processing privileges for a specific set of rockfish species and associated species harvested incidentally to those CGOA rockfish; an area from 140° W. long. to 168° W. long.

II. Method of Collection

Paper reports are required from participants; these reports are transmitted by U.S. mail or facsimile.

III. Data

OMB Control Number: 0648-0545.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 1,142.

Estimated Time per Response: 2 hours each for: Application for Cooperative Quota, Application for Limited Access Fishery, Application for Entry-level Fishery, and Application to Opt-out; 2 hours for Application for Inter-Cooperative Transfer of Cooperative Quota and Application to Participate; 4 hours for Annual Rockfish Cooperative Report; 6 minutes for Rockfish Catch Report; 15 minutes for Cooperative Termination of Fishing Declaration; 30 minutes for Vessel Check-in and Check-out; and 4 hours for Appeals.

Estimated Total Annual Burden Hours: 3,270.

Estimated Total Annual Cost to Public: \$5,909.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: February 2, 2009.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E9-2496 Filed 2-5-09; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Madrid Protocol

ACTION: Proposed collection; comment request.

SUMMARY: The United States Patent and Trademark Office (USPTO), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on the revision of a continuing information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before April 7, 2009.

ADDRESSES: You may submit comments by any of the following methods:

- *E-mail:* Susan.Fawcett@uspto.gov. Include "0651-0051 comment" in the subject line of the message.
- *Fax:* 571-273-0112, marked to the attention of Susan K. Fawcett.
- *Mail:* Susan K. Fawcett, Records Officer, Office of the Chief Information Officer, Customer Information Services Group, Public Information Services Division, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450.
- *Federal Rulemaking Portal:* <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information should be directed to Jennifer Chicoski, Attorney Advisor, Office of the Commissioner for Trademarks, United States Patent and Trademark Office, P.O. Box 1451, Alexandria, VA 22313-1451; by telephone at 571-272-8943; or by e-mail to Jennifer.Chicoski@uspto.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

This collection of information is required by the Trademark Act of 1946, 15 U.S.C. 1051 *et seq.*, which provides for the Federal registration of trademarks, service marks, collective trademarks and service marks, collective membership marks, and certification marks. Individuals and businesses that use or intend to use such marks in commerce may file an application to register the marks with the United States Patent and Trademark Office (USPTO).

The Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks ("Madrid Protocol") is an international treaty that

allows a trademark owner to seek registration in any of the participating countries by filing a single international application. The International Bureau ("IB") of the World Intellectual Property Organization ("WIPO") in Geneva, Switzerland, administers the international registration system. The Madrid Protocol Implementation Act of 2002 amended the Trademark Act to provide that: (1) The owner of a U.S. application or registration may seek protection of its mark in any of the participating countries by submitting a single international application to the IB through the USPTO, and (2) the holder of an international registration may request an extension of protection of the international registration to the United States. The Madrid Protocol became effective in the United States on November 2, 2003, and is implemented under 15 U.S.C. 1141 *et seq.* and 37 CFR Part 2 and Part 7.

An international application submitted through the USPTO must be based on an active U.S. application or registration and must be filed by the owner of the application or registration. The USPTO reviews the international application to certify that it corresponds to the data contained in the existing U.S. application or registration before forwarding the international application to the IB. The IB then reviews the international application to determine whether the Madrid filing requirements have been met and the required fees have been paid. If the international application is unacceptable, the IB will send a notice of irregularity to the USPTO and the applicant. The applicant must respond to the irregularities to avoid abandonment, unless a response from the USPTO is required. After any irregularities are corrected and the application is accepted, the IB registers the mark, publishes the registration in the *WIPO Gazette of International Marks*, and sends a certificate to the holder.

When the mark is registered, the IB notifies each country designated in the application of the request for extension of protection. Once an international registration has been issued, the holder may also file subsequent designations to request an extension of protection to additional countries.

Under Section 71 of the Trademark Act, a registered extension of protection to the United States will be cancelled unless the holder of the international registration periodically files affidavits of continued use in commerce or excusable nonuse. These affidavits cannot be filed until five years after the USPTO registers an extension of protection. Since the USPTO will not be