

(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.

[71 FR 67252, Nov. 20, 2006, as amended at 75 FR 51518, Oct. 7, 2009]

§ 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 license 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;

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(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/

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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) *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)(3)(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)(3)(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 groundfish fisheries.* Except for the rockfish limited access fishery and sablefish harvested under the IFQ Program, a vessel may not participate in any GOA groundfish fishery and adjacent waters open by the State of Alaska for which it adopts the applicable Federal fishing season for that species, 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, if:

(i) The vessel is named on an LLP license used in the rockfish limited access fishery; and

(ii) The vessel 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.

(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; 74 FR 51518, Oct. 7, 2009; 74 FR 56733, Nov. 3, 2009]

§ 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 collec-

tively 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.l.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