

*J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations*

Executive Order 12898 (59 FR 7629, Feb. 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it increases the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority or low-income population. This direct final rule merely adds an automatic waiver provision to encourage Great Lakes steamship owners to repower their vessels with cleaner marine diesel engines. To the extent Great Lakes steamship owners take advantage of this incentive program, their action will provide immediate air quality and energy benefits, due to the improved fuel efficiency of the diesel engines, and even larger benefits in the long term, when the repowered ship will use fuel that complies with the 1,000 ppm sulfur limit on the Great Lakes. These emission reductions will improve air quality for all people who live in the Great Lakes region, including minority and low-income populations.

*K. Congressional Review Act*

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A Major rule cannot take effect until 60 days after it is published in the **Federal Register**.

This action is not a “major rule” as defined by 5 U.S.C. 804(2). This rule will be effective on March 19, 2012.

*L. Statutory Authority*

The statutory authority for this action comes from section 1903 of the Act to Prevent Pollution from Ships (33 U.S.C. 1901 *et seq.*). The Act to Prevent Pollution from Ships implements Annex VI to the International Convention for the Prevention of Pollution from Ships (MARPOL) and makes those requirements enforceable domestically. Section 1903 gives the Administrator the authority to prescribe any necessary or desired regulations to carry out the provisions of Regulations 12 through 19 of MARPOL Annex VI.

**List of Subjects in 40 CFR Part 1043**

Environmental protection, Administrative practice and procedure, Air pollution control, Confidential business information, Economic hardship waiver, Great Lakes, North American Emission Control Area, Reporting and recordkeeping requirements, Steamships.

Dated: January 11, 2012.

**Lisa P. Jackson**,  
*Administrator.*

For the reasons set out in the preamble, Title 40, Chapter I of the Code of Federal Regulations is amended as follows:

**PART 1043—CONTROL OF NO<sub>x</sub>, SO<sub>x</sub>, AND PM EMISSIONS FROM MARINE ENGINES AND VESSELS SUBJECT TO THE MARPOL PROTOCOL**

■ 1. The authority citation for part 1043 continues to read as follows:

**Authority:** 33 U.S.C. 1901–1915.

■ 2. Section 1043.95 is amended by redesignating paragraphs (b) and (c) as paragraphs (c) and (d), respectively, and adding a new paragraph (b) to read as follows:

**§ 1043.95 Interim provisions.**

\* \* \* \* \*

(b) The fuel-use requirements of this part do not apply through December 31, 2025, for a ship qualifying under paragraph (a) of this section if it was in service as a steamship on October 30, 2009 and it is repowered with one or more marine diesel engines, subject to the following conditions and requirements:

(1) Engines must meet exhaust emission standards using one of the following approaches:

(i) All the installed replacement engines must be certified to applicable standards under 40 CFR part 1042 based

on the date the vessel enters dry dock for service.

(ii) We may approve the use of an engine meeting less stringent standards if the owner can demonstrate that it took possession of the engine before October 30, 2009, and that engine is a new engine that has not been installed in a non-marine application. Such an engine must at a minimum be certified to the Annex VI NO<sub>x</sub> emission standard in § 1043.60 that applies based on its build date.

(2) The vessel owner must notify us regarding the intent to use this provision. The notification must include a description of the vessel and a summary of the project, including the expected timeline, and other relevant information.

(3) The vessel owner must notify the Designated Certification Officer when the project is complete. We will send the owner a statement that the repowered ship is exempt from fuel sulfur requirements through December 31, 2025; this statement must be kept onboard the vessel for compliance purposes.

(4) All other requirements under this part 1043 continue to apply, including requirements related to bunker delivery notes.

(5) This paragraph (b) applies only for vessels whose hull remains intact through the repowering process. For example, if a steamship is converted to a barge for use with tugboats, those vessels must use fuel meeting the requirements of this part 1043.

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[FR Doc. 2012–819 Filed 1–17–12; 8:45 am]

**BILLING CODE 6560–50–P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 679**

[Docket No. 110314196–1725–02]

**RIN 0648–BA97**

**Fisheries of the Exclusive Economic Zone Off Alaska; Groundfish of the Gulf of Alaska; Amendment 88**

*Correction*

**§ 679.81 [Corrected]**

In rule document 2011–32873 appearing on pages 81248–81293 in the issue of December 27, 2011, make the following correction:

On pages 81283–81283, the table at § 679.81(i)(3) is reprinted in its entirety:

| Requirement  | Catcher vessel sector   | Catcher/processor sector   |
|--|---|--|
| (i) Who may join a rockfish cooperative? .....   | Only persons who hold rockfish QS may join a rockfish cooperative.  |  |
| (ii) What is the minimum number of LLP licenses that must be assigned to form a rockfish cooperative?  | No minimum requirement.   |  |
| (iii) Is an association with a rockfish processor required?  | Yes, a rockfish QS holder may only be a member of a rockfish cooperative formed in association with a rockfish processor. The rockfish cooperative may not receive rockfish CQ unless a shoreside processor eligible to receive rockfish CQ has indicated that it may be willing to receive rockfish CQ from that cooperative in the application for CQ, as described under §679.81, that is submitted by that cooperative. | No.  |
| (iv) Is a rockfish cooperative member required to deliver catch to the rockfish processor with whom the rockfish cooperative is associated?                                | No .....  | N/A.   |
| (v) Is there a minimum amount of rockfish QS that must be assigned to a rockfish cooperative for it to be allowed to form?   | No .....  | No.  |
| (vi) What is allocated to the rockfish cooperative?  | CQ for rockfish primary species, rockfish secondary species, and rockfish halibut PSC, based on the rockfish QS assigned to all of the LLP licenses that are assigned to the cooperative.   |  |
| (vii) 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 may transfer all or a portion of this CQ to another rockfish cooperative.  |  |
| (viii) Is there a season during which designated vessels may catch CQ?   | Yes, any vessel designated to catch CQ for a rockfish cooperative is limited to catching CQ during the season beginning on 1200 hours, A.I.t., on May 1 through 1200 hours, A.I.t., on November 15.   |  |
| (ix) Can any vessel catch a rockfish cooperative's CQ?   | No, only vessels that are named on the application for CQ for that rockfish cooperative may catch the CQ assigned to that rockfish cooperative. A vessel may be assigned to only one rockfish cooperative in a calendar year.   |  |
| (x) Can a member of a rockfish cooperative transfer CQ individually to another rockfish cooperative 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. Any such transfer must be approved by NMFS as established under paragraph (i)(4)(ii) of this section.   |  |
| (xi) Can a rockfish cooperative in the catcher/processor sector transfer its sideboard limit?  | N/A .....   | No, a sideboard limit 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. |
| (xii) Is there a hired master requirement? .....   | No, there is no hired master requirement.   |  |
| (xiii) Can an LLP license be assigned to more than one rockfish cooperative in a calendar year?  | No, an LLP license may only be assigned to one rockfish cooperative in a calendar year. A person holding multiple LLP licenses with associated rockfish QS may assign different LLP licenses to different rockfish cooperatives subject to any other restrictions that may apply.   |  |
| (xiv) Can a rockfish processor be associated with more than one rockfish cooperative?  | Yes .....   | N/A.   |
| (xv) Can an LLP license be assigned to a rockfish cooperative and opt-out of participating in a rockfish cooperative?  | N/A .....   | No, each calendar year an LLP license must either be assigned to a rockfish cooperative or opt-out.  |
| (xvi) 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.   |  |
| (xvii) 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 to NMFS with the cooperative's application for CQ.   |  |

| Requirement  | Catcher vessel sector  | Catcher/processor sector |
|--|--|--------------------------|
| (xviii) What happens if the rockfish cooperative exceeds its CQ amount?  | A rockfish cooperative is not authorized to catch fish in excess of its CQ and must not exceed its CQ amount at the end of the calendar year. Exceeding a CQ is a violation of the Rockfish Program 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.  |                          |
| (xix) Is there a limit on how much CQ a rockfish cooperative may hold or use?  | Yes, see § 679.82(a) for the provisions that apply.  |                          |
| (xx) Is there a limit on how much CQ a vessel may harvest?   | Yes, see § 679.82(a) for the provisions that apply.  |                          |
| (xxi) Is there a requirement that a rockfish cooperative pay rockfish cost recovery fees?  | Yes, see § 679.85 for the provisions that apply.   |                          |
| (xxii) When does catch count against my CQ permit?   | Any vessel fishing checked-in (and therefore fishing under the authority of a CQ permit must count any catch of rockfish primary species, rockfish secondary species, or rockfish halibut PSC against that rockfish cooperative's CQ from May 1 until November 15, or until the effective date of a rockfish cooperative termination of fishing declaration that has been approved by NMFS).   |                          |
| (xxiii) If my vessel is checked-out and 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? | No. If you are fishing in a directed flatfish fishery and checked-out of the Rockfish Program fisheries, you are not fishing under the authority of a CQ permit. Groundfish harvests would not be debited against the rockfish cooperative's CQ permit. In this case, any catch of halibut would be attributed to the halibut PSC limit for that directed target fishery and gear type and any applicable sideboard limit.   |                          |
| (xxiv) 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.  |                          |
| (xxv) 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 that year. See § 679.5(r)(6) for the reporting requirements.   |                          |
| (xxvi) What is required in the annual rockfish cooperative report?   | <p>The annual rockfish cooperative report must include at a minimum:</p> <ul style="list-style-type: none"> <li>(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;</li> <li>(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;</li> <li>(C) A description of the method used by the rockfish cooperative to monitor fisheries in which rockfish cooperative vessels participated; and</li> <li>(D) A description of any civil actions taken by the rockfish cooperative in response to any members that exceeded their allowed catch.</li> </ul> |                          |