

The FRFA incorporates the economic impacts and analysis summaries in the IRFA, a summary of the significant issues, if any, raised by the public in response to the IRFA, and NMFS' responses to those comments. A copy of the IRFA, the RIR, and the EA are available upon request (see **ADDRESSES**).

Statement of Objective and Need

In 2011, there was a herring catch limit overage in herring management area 1A equal to 1,425 mt. In accordance with regulations at § 648.201(a)(3), this action deducts the 2011 management Area 1A overage from the 2013 management Area 1A catch limits. Since the 2013 specifications will not be finalized by January 1, 2013, and the 2012 specifications will be in place at the start of the herring fishing year, this action revises the rolled over sub-ACL for Area 1A for 2013 from 26,546 mt to 25,121 mt to account for 2011 the catch overage. When NMFS finalizes the 2013 herring specifications, it will deduct the 1,425 mt from the final 2013 Area 1A sub-ACL.

A Summary of the Significant Issues Raised by the Public Comments in Response to the IRFA, a Summary of the Assessment of the Agency of Such Issues, and a Statement of Any Changes Made in the Final Rule as a Result of Such Comments

There were no issues related to the IRFA raised in public comments.

Description and Estimate of Number of Small Entities To Which the Rule Will Apply

All participants in the herring fishery are small entities as defined by the SBA under the Regulatory Flexibility Act, as none grossed more than \$4 million annually, so there would be no disproportionate economic impacts on small entities. In 2011, 93 vessels were issued limited access herring permits, and 2,149 were issued open access herring permits.

Total herring revenue in 2011 equaled approximately \$22.4 million for limited access vessels, and \$43,000 for open access vessels. NMFS estimates the reduced sub-ACL in Areas 1A to equal approximately \$400,000 in lost revenue for the fishery in 2013. While this action reduces the amount of fish available for harvest, both the fishery-wide and individual-vessel economic effects are anticipated to be minimal, because the reduction overall and per vessel is relatively minor, as compared with the fishery's overall revenue, and because it only affects one of the herring management areas.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

There are no new reporting or recordkeeping requirements contained in any of the alternatives considered for this action. In addition, there are no Federal rules that duplicate, overlap, or conflict with this rule.

Description of the Steps the Agency Has Taken To Minimize the Significant Economic Impacts on Small Entities Consistent With the Stated Objectives of Applicable Statutes, Including a Statement of the Factual, Policy, and Legal Reasons for Selecting the Alternative Adopted in the Final Rule and Why Each One of the Other Significant Alternatives to the Rule Considered by the Agency Which Affect the Impact on Small Entities Was Rejected

Amendment 4 analyzed the effects of deducting ACL/sub-ACL overages from the subsequent corresponding ACL/sub-ACL. During a year when the fishery exceeds the ACL/sub-ACL, fishery participants may benefit economically from higher catch. In the subsequent year, when NMFS deducts the amount of the overage from that ACL/sub-ACL and the amount of harvest is lower, fishery participants may experience negative economic impacts. Since the participants in the fishery from year to year vary, there could be a minor economic impact on the fishery participants operating in Area 1A in 2013 due to the overage deduction from 2011.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: February 19, 2013.

Alan D. Risenhoover,

Director, Office of Sustainable Fisheries, performing the functions and duties of the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 110321210-3057-02]

RIN 0648-BA93

Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands Management Area; Groundfish Retention Standard

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

ACTION: Final rule.

SUMMARY: NMFS publishes a regulatory amendment to modify the groundfish retention standard (GRS) program in the Bering Sea and Aleutian Islands Management Area (BSAI). This final rule removes certain regulatory requirements that mandate minimum levels of groundfish retention by the owners and operators of trawl catcher/processor (C/P) vessels not listed in the American Fisheries Act (AFA), commonly referred to as either non-AFA trawl C/Ps or Amendment 80 vessels, and Amendment 80 cooperatives participating in the BSAI groundfish fisheries. The GRS program was implemented to increase the retention and utilization of groundfish; however, NMFS has discovered that the regulatory methodology used to calculate compliance with the GRS requires individual Amendment 80 vessels and Amendment 80 cooperatives to retain groundfish at rates well above the minimum retention rates recommended by the Council or implemented by NMFS. As a result, the GRS imposes significantly higher than predicted compliance costs on vessel owners and operators due to the increased level of retention needed to meet the minimum retention rates. Additionally, NMFS discovered that enforcement of the GRS has proven far more complex, challenging, and potentially costly than anticipated by NMFS. This action is necessary to relieve Amendment 80 vessels and Amendment 80 cooperatives from undue compliance costs stemming from the minimum retention rates while continuing to promote the GRS program goals of increased groundfish retention and utilization. This action maintains current monitoring requirements for the Amendment 80 fleet and establishes a new requirement for Amendment 80 cooperatives to annually report

groundfish retention performance as part of the report submitted to NMFS. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the fishery management plan, and other applicable law.

DATES: Effective March 27, 2013.

ADDRESSES: Electronic copies of the Environmental Assessment (EA), Regulatory Impact Review (RIR), and Final Regulatory Flexibility Analysis (FRFA) prepared for this action may be obtained from <http://www.regulations.gov> or from the Alaska Region Web site at <http://alaskafisheries.noaa.gov>.

Written comments regarding the burden-hour estimates or other aspects of the collection of information requirements contained in this final rule may be submitted by mail to NMFS, Alaska Region, P.O. Box 21668, Juneau, AK 99802-1668, Attn: Ellen Sebastian, Records Officer; in person at NMFS, Alaska Region, 709 West 9th Street, Room 420A, Juneau, AK; or by email to OIRA_submission@omb.eop.gov or fax to (202) 395-7285.

FOR FURTHER INFORMATION CONTACT: Seanbob Kelly, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the U.S. groundfish fisheries of the BSAI in the Exclusive Economic Zone (EEZ) under the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP). The North Pacific Fishery Management Council (Council) prepared the FMP pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and other applicable laws. Regulations implementing the FMP appear at 50 CFR part 679. General regulations that pertain to U.S. fisheries appear at subpart H of 50 CFR part 600.

This final rule implements a regulatory amendment to modify the GRS program by removing certain retention requirements. Under this final rule, Amendment 80 vessels and Amendment 80 cooperatives are relieved from undue compliance costs stemming from the mandatory GRS rates; however, NMFS is implementing new reporting requirements intended to maintain the increased retention rates achieved by the fleet under the GRS program. NMFS published a proposed rule for this regulatory amendment in the **Federal Register** on October 15, 2012 (77 FR 62482). The 30-day comment period on the proposed rule ended on November 14, 2012. NMFS received two comment letters during the

comment period on the proposed rule. These letters contained two unique comments. A summary of these comments and NMFS' responses are provided in the "Comments and Responses" section of this preamble. There were no changes to the regulatory text between the proposed rule and this final rule.

Background

The following discussion provides a brief review of the rationale for this action and the regulatory changes to the management of Amendment 80 vessels and Amendment 80 cooperatives in the BSAI that are implemented with this final rule. A detailed review of the provisions of this regulatory amendment is provided in the preamble to the proposed rule (77 FR 62482, October 15, 2012). The proposed rule is available from the NMFS Alaska Region web site (see **ADDRESSES**).

In June 2003, the Council adopted Amendment 79 to the FMP and the GRS program. Amendment 79 revised section 2.2.1 of the FMP to include the management objective of improving the retention of groundfish where practicable, through establishment of minimum groundfish retention standards. The GRS program required certain non-AFA trawl C/Ps to annually retain a minimum percentage of groundfish catch. Table 1 shows the minimum GRS percentages established for the GRS program. The rationale for the GRS is described in the preamble to the final rule implementing the GRS program published on April 6, 2006 (71 FR 17362). The GRS program became effective in 2008.

TABLE 1—ANNUAL GROUND FISH RETENTION STANDARD

GRS Schedule	Annual GRS (percent)
2008	65
2009	75
2010	80
2011 and each year after	85

Amendment 80 to the FMP and its implementing regulations modified the GRS program to encourage participants in the fishery to join an Amendment 80 cooperative (72 FR 52668, September 14, 2007). Vessels that are assigned Amendment 80 quota share (QS) and that are eligible to fish in the Amendment 80 sector are commonly called Amendment 80 vessels. Under Amendment 80, all Amendment 80 vessels, regardless of size, and Amendment 80 cooperatives were required to meet the GRS. Eligible

vessels participating in an Amendment 80 cooperative were authorized to aggregate the total catch and total retained catch by all vessels in the cooperative for purposes of calculating the cooperative's compliance with the GRS. These changes created an incentive for vessels with lower groundfish retention rates to join a cooperative that included vessels with higher groundfish retention rates, which would offset the lower retention rates of those vessels.

Concerns With the GRS Program

In June 2010, NMFS reported to the Council two key concerns with the enforcement and prosecution of the GRS: (1) The regulatory method used to calculate compliance with the GRS required the fleet to retain groundfish at a higher rate than the rate initially considered by the Council; and (2) the agency was encountering difficulties in effectively enforcing and prosecuting the GRS for an individual vessel, and these difficulties would be exacerbated in the prosecution of a single cooperative comprised of several vessels, or multiple cooperatives. NMFS explained that compliance with and enforcement of the GRS had proven far more complex and challenging, as well as potentially more costly, than anticipated at the time it approved the GRS program. NMFS determined that the likelihood that additional vessels may be unable to meet the GRS, as calculated by NMFS, in future years would unnecessarily increase compliance and enforcement costs. NMFS also noted that since the GRS program was implemented, the retention rate of groundfish by the Amendment 80 fleet had increased substantially and available information indicated that the Council's objectives for groundfish retention had been met.

Representatives of the Amendment 80 sector also testified that vessel operators that met the GRS in 2009 would face significant additional challenges in meeting the increasing standard. Vessel operators reiterated NMFS' concerns that it may not be possible for vessels operating individually in the Amendment 80 limited access fishery, or collectively in a cooperative, to achieve the highest GRS required in regulation. Additional information on the concerns raised by NMFS and Amendment 80 participants can be found in the proposed rule for this action (77 FR 62482, October 15, 2012).

Emergency Action

After considering NMFS' report and public comment, the Council recommended that NMFS take

emergency action to relieve vessel owners and operators from mandatory compliance with the GRS. On December 15, 2010, NMFS published an emergency rule that exempted Amendment 80 vessels and cooperatives from GRS regulations during 2010 and 2011 (75 FR 78172). The preamble of the emergency rule describes NMFS' and the Council's justification for emergency action, and it is not repeated here. An extension of this emergency action was published on June 2, 2011, and was effective until December 17, 2011 (76 FR 31881).

Rationale for This Final Rule

This final rule is intended to provide a long-term solution to the problems identified by NMFS and the Council with the GRS program. NMFS and the Council determined that this action is necessary because the circumstances that justified the GRS have changed. NMFS and the Council determined that the regulatory constraints imposed by the GRS no longer achieve the goals that led to their establishment. This action is intended to mitigate higher than expected compliance costs of the GRS borne by the Amendment 80 sector. Furthermore, NMFS and the Council have determined that this action is needed to mitigate management and enforcement costs that were not foreseen when the regulation was promulgated. NMFS and the Council have determined that the additional and potentially significant compliance costs associated with the GRS are not warranted because the improvements in retention rates by Amendment 80 vessels through 2010 have met the Council's objectives of improved retention and utilization, and reduced bycatch.

Summary of the Regulations Implemented by This Final Rule

There were no changes between the proposed and final regulations in this final rule. This action establishes the following changes at 50 CFR part 679:

- Removes the definition of "Groundfish Retention Standard (GRS)" from § 679.2;
- Adds requirements for cooperative reporting and third party audits to § 679.5(s)(6)(iii)(D) and (E);
- Removes the prohibitions specific to the GRS at § 679.7(m);
- Removes the requirement that Amendment 80 cooperatives meet a minimum GRS at § 679.7(o)(4)(iv);
- Revises improved retention and improved utilization regulations at § 679.27(b)(4);
- Removes regulations implementing the GRS at § 679.27(j); and

- Revises regulations at § 679.93(c)(1). The final rule removes regulations implementing the GRS at §§ 679.7 and 679.27. To meet Council intent for this action, NMFS revises regulatory text at § 679.27(b)(4) to remove references to the GRS program and removes § 679.27(j), which contained the bulk of the GRS program's regulations. This final rule does not change the use caps, sideboard limits, permitting, monitoring, or catch accounting requirements established for the Amendment 80 sector. This final rule retains regulations at § 679.27(b)(4) that require Amendment 80 vessels to meet a 15 percent utilization standard for all retained groundfish species listed in Table 2a to part 679 that are used in the calculation for percent of retained groundfish.

Current regulations at § 679.5(s)(6) require each Amendment 80 cooperative receiving allocations of Amendment 80 species to annually submit a report to NMFS detailing the use of the cooperative's quota. This final rule adds a requirement at § 679.5(s)(6) for an Amendment 80 cooperative to calculate and report its annual aggregate groundfish retention rate using the methodology initially established in regulation at § 679.27(j)(3). This additional reporting requirement is intended to provide NMFS with information as to whether the groundfish retention rates achieved under the GRS are being maintained by the Amendment 80 fleet.

The catch and production data needed to calculate annual groundfish retention are generally available to both NMFS and the Amendment 80 entity responsible for meeting current observer and production reporting requirements established for the Amendment 80 fleet. The authorized representative of an Amendment 80 cooperative could request that NMFS verify these data (see **ADDRESSES**). These data could then be used by an Amendment 80 cooperative to calculate its annual groundfish retention rate. In addition, this final rule requires each Amendment 80 cooperative to have a third party audit the cooperative's groundfish retention calculations and include these findings as part of the annual Amendment 80 cooperative report. Each third party audit will require the Amendment 80 cooperative to retain a third party to complete an audit of the cooperative's groundfish retention calculations. The third party audit will also require the cooperative to coordinate with NMFS and the appropriate Amendment 80 entities for a release of confidential observer and production data to the third party auditor.

This final rule does not require the owners of vessels participating in the Amendment 80 limited access fishery to report annual groundfish retention to NMFS. Instead, NMFS determined that it will prepare information on groundfish retention performance for Amendment 80 vessels participating in the Amendment 80 limited access fishery. NMFS currently produces these data as part of its inseason management report to the Council and will continue to report these retention rates to the Council during the October Council meeting.

This final rule also revises regulations at § 679.93(c)(1) to continue to require that the Amendment 80 sector weigh all catch, and to prohibit the pre-sorting of catch prior to weighing.

Comments and Responses

NMFS received two comment letters during the public comment period for the proposed rule to implement this regulatory amendment. One comment letter was received from a representative of the affected fishing industry and contained two unique comments; the other comment letter was received from a member of the public and did not contain any comments relevant to the proposed rule. A summary of the comments and NMFS' responses follow.

Comment 1: The commenter expressed general support for the proposed regulatory amendment.

Response: NMFS acknowledges this comment.

Comment 2: The proposed rule would require an Amendment 80 cooperative to report its groundfish retention rate in its annual cooperative report and would continue the requirement that Amendment 80 cooperative reports be submitted to NMFS. The information contained in the cooperative reports is confidential under NOAA Administrative Order (NAO) 216-100, 50 CFR 600.405, and section 402(b)(1) of the Magnuson-Stevens Act. Although NMFS states in the preamble of the proposed rule on page 62487 that it would provide Amendment 80 cooperative reports to the Council, NMFS is prevented from providing the cooperative reports to the Council given the confidential nature of information contained in the reports.

Response: In the preamble statement highlighted by the commenter, NMFS incorrectly stated that it would provide the annual cooperative report to the Council for purposes of this rule. Instead, NMFS anticipates providing to the Council and the public information on groundfish retention rates. NMFS will do so, consistent with section 402(b) of the Magnuson-Stevens Act and

applicable agency regulations and policies regarding any confidential information.

Classification

The Administrator, Alaska Region, NMFS, determined that this final rule is necessary for the conservation and management of the groundfish fisheries off Alaska and that it is consistent with the Magnuson-Stevens Act and other applicable laws.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as "small entity compliance guides." The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. The preambles to the proposed rule and this final rule serve as the small entity compliance guide. This action does not require any additional compliance from small entities that is not described in the preambles. Copies of the proposed rule are available from NMFS at the following Web site: <http://alaskafisheries.noaa.gov>.

Executive Order 12866

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

Final Regulatory Flexibility Analysis

This FRFA incorporates the Initial Regulatory Flexibility Analysis (IRFA), a summary of the significant issues raised by the public comments, NMFS' responses to those comments, and a summary of the analyses completed to support the action. NMFS published the proposed rule on October 15, 2012 (77 FR 62482), with comments invited through November 14, 2012. An IRFA was prepared and summarized in the "Classification" section of the preamble to the proposed rule. NMFS received no comments to the IRFA. The description of this action, its purpose, and its legal basis are described in the preamble to the proposed rule and are not repeated here. The FRFA describes the impacts on small entities, which are defined in the IRFA for this action and not repeated here. Analytical requirements for the FRFA are described in the Regulatory Flexibility Act (RFA), sections 604(a)(1) through (5), and summarized below.

The FRFA must contain:

1. A succinct statement of the need for, and objectives of, the rule;
2. A summary of the significant issues raised by the public comments in response to the initial regulatory flexibility analysis, a summary of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments;
3. A description and an estimate of the number of small entities to which the rule will apply, or an explanation of why no such estimate is available;
4. A description of the projected reporting, recordkeeping, and other compliance requirements of the rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; and
5. A description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.

The "universe" of entities to be considered in a FRFA generally includes only those small entities that can reasonably be expected to be directly regulated by the final rule. If the effects of the rule fall primarily on a distinct segment of the industry, or portion thereof (e.g., user group, gear type, geographic area), that segment would be considered the universe for purposes of this analysis. In preparing a FRFA, an agency may provide either a quantifiable or numerical description of the effects of a rule (and alternatives to the rule), or more general descriptive statements, if quantification is not practicable or reliable.

Summary of Significant Issues Raised During Public Comment

No comments were received that raised significant issues in response to the IRFA specifically; therefore, no changes were made to the rule as a result of comments on the IRFA.

Number and Description of Small Entities Regulated by the Final Rule

The entities directly regulated by this action are those C/Ps that are members of the Amendment 80 sector that target flatfish, Atka mackerel, Pacific cod, and Pacific ocean perch in the EEZ of the BSAI. The Small Business

Administration has established size criteria for all major industry sectors in the United States, including fish harvesting and fish processing businesses. Effective January 5, 2006, a business involved in fish harvesting is a small business if it is independently owned and operated, not dominant in its field of operation (including its affiliates), and if it has combined annual gross receipts not in excess of \$4.0 million for all its affiliated operations worldwide. A seafood processor is a small business if it is independently owned and operated, not dominant in its field of operation, and employs 500 or fewer persons on a full-time, part-time, temporary, or other basis, at all its affiliated operations worldwide. A business involved in both the harvesting and processing of seafood products is a small business if it meets the \$4.0 million criterion for fish harvesting operations.

NMFS estimated the number of small versus large entities by matching the gross earnings from all fisheries of record for 2009 with the vessels, the known ownership of those vessels, and the known affiliations of those vessels in the BSAI or Gulf of Alaska groundfish fisheries for that year. NMFS has specific information on the ownership of vessels and the affiliations that exist based on data provided by the Amendment 80 sector, as well as a review of ownership data independently available to NMFS from Federal fishing permit and license limitation program license applications. The vessels with a common ownership linkage in 2010, and therefore affiliation, are reported in Table 2 in Section 2.2.5 of the analysis for this action (see ADDRESSES). In addition, those vessels that are assigned to an Amendment 80 cooperative and receive an exclusive harvest privilege are categorized as large entities for the purpose of the RFA, under the principles of affiliation, due to their participation in a harvesting cooperative.

NMFS knows that as many as 28 Amendment 80 vessels could be active in the Amendment 80 fishery. Those persons who apply for and receive Amendment 80 quota share (QS) are eligible to fish in the Amendment 80 sector, and those QS holders will be directly regulated by the final rule. Vessels that are assigned Amendment 80 QS and that are eligible to fish in the Amendment 80 sector are commonly known as Amendment 80 vessels. Currently, there are 27 Amendment 80 vessels that will be directly regulated based on this action. One vessel owner, who could be eligible for the Amendment 80 program and could

apply for Amendment 80 QS, has not applied to NFMS to participate in this sector. Therefore, this vessel will not be directly regulated by the final rule unless and until the owner is approved to participate in the Amendment 80 sector and is assigned Amendment 80 QS. Based on the known affiliations and ownership of the Amendment 80 vessels, all but one of the Amendment 80 vessel owners are categorized as large entities for the purpose of the RFA. Thus, this analysis estimates that only one small entity will be directly regulated by the final rule. This one small entity could be linked by company affiliation to a large entity, which then could qualify the entity as large entity. Complete information, however, is not available to determine any such linkages.

Recordkeeping and Reporting

This action is projected to have a de minimis impact on the recordkeeping and reporting requirements of small entities participating in the BSAI groundfish fisheries. Some recordkeeping and reporting may be required of individual firms. Those firms that already record and report catch data will likely not be significantly impacted by this final action. It is not possible to determine which firms will be most impacted by the requirements, since the information each firm collects is based on what it needs to operate its business and the current reporting requirements. The regulations implemented by this final rule are not expected to impact the recordkeeping and reporting requirements for any other entities in the fishery.

Under this action, NMFS will not require the individual owners and operators of Amendment 80 vessels participating in the limited access fishery to annually report groundfish retention performance. Instead, NMFS will prepare retention estimates for each vessel in the limited access fishery and present these data to the Council annually as part of the inseason management report.

Description of Significant Alternatives to the Final Rule

The suite of potential actions included two alternatives. A detailed description of these alternatives is provided in Section 2 of the analysis for this action (see **ADDRESSES**). Alternative 1 is the “no action” alternative. Alternative 1 does not address the unintended and unforeseen burden of the GRS on directly regulated small entities and is not consistent with the purpose and need of this action.

The Council’s preferred alternative, Alternative 2, has been selected as the action alternative. It removes the GRS from the GRS program for the Amendment 80 sector. Removal of the GRS will result in significant operational benefits and cost savings to all directly regulated entities. An Amendment 80 cooperative will monitor the cooperative’s aggregate groundfish retention rate and will report its annual groundfish retention performance to NMFS, avoiding mandatory compliance standards and their associated costs.

The Council also considered an alternative to revise the GRS to require groundfish retention at rates similar to the estimates presented in the analysis prepared for the GRS program. The Council determined that, while revising the GRS could reduce economic hardship imposed on the Amendment 80 sector by more closely correlating groundfish retention rates with historical retention rates, it would not address the monitoring, enforcement, and prosecution issues that arise from the requirements for annual determination of vessel compliance with the GRS program. Because this alternative would not resolve the problems for the program, the Council decided not to forward this alternative in the analysis for the proposed action.

Based upon the best available scientific data and information, and consideration of the objectives of this action, there are no alternatives to the proposed action that have the potential to accomplish the stated objectives of the MSA and any other applicable statutes and that have the potential to minimize any significant adverse economic impact of the proposed rule on directly regulated small entities. The preferred alternative provides greater economic benefits for participants than Alternative 1 by allowing participants to maintain or improve the retention rates achieved under the GRS without the compliance costs associated with meeting a retention standard greater than that intended by the Council or NMFS. The lack of any quantitative data makes it impossible to rigorously assess the relative differences in expected economic impacts among the alternatives. The Council chose to recommend, and this final rule implements, the preferred alternative because it best meets the goals of this action and minimizes the potential negative impacts to directly regulated small entities by relieving regulatory requirements that no longer meet the intent of the GRS program.

Collection-of-Information Requirements

This rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA) that has been approved by OMB under control number 0648–0565. Public reporting burden for the Amendment 80 cooperative report is estimated to average 26.5 hours per response, which includes a new requirement for an additional third-party audit, estimated to average 1.5 hours per response. These estimated reporting burdens include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSEES**) and by email to OIRA_Submission@omb.eop.gov, or fax to (202) 395–7285.

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

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: February 20, 2013.

Alan D. Risenhoover,

Director, Office of Sustainable Fisheries, performing the functions and duties of the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 679 is amended as follows:

PART 679— FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

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

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

§ 679.2 [Amended]

■ 2. In § 679.2, remove the definition of “Groundfish Retention Standard (GRS).”

■ 3. In § 679.5, add paragraph (s)(6)(iii)(D) and paragraph (s)(6)(iii)(E) to read as follows:

§ 679.5 Recordkeeping and reporting (R&R).

* * * * *

- (s) * * *
- (6) * * *
- (iii) * * *

(D) For each Amendment 80 cooperative, the percent of groundfish retained by that Amendment 80 cooperative of the aggregate groundfish

retained by all Amendment 80 vessels assigned to that Amendment 80 cooperative using the following equations:

$$GF_{roundweight} = \sum_{i=1}^n (PW_{species_n} / PRR_{species_n})$$

Substituting the value for *GFroundweight* into the following equation:

$$GFR\% = (GF_{roundweight} / TotalGF) * 100$$

Where:

GFroundweight is the total annual round weight equivalent of all retained product weights retained by all Amendment 80 vessels assigned to that Amendment 80 cooperative for each IR/IU groundfish species.

PWspecies_n is the total annual product weight for each groundfish species listed in Table 2a to this part by product type as reported in the vessel's production report for all Amendment 80 vessels assigned to that Amendment 80 cooperative required at § 679.5(e).

PRRspecies_n is the standard product recovery rate for each groundfish species and product combination listed in Table 3 to this part.

GFR% is the groundfish retention percentage for an Amendment 80 cooperative calculated as *GFroundweight* divided by the total weight of groundfish catch.

TotalGF is the total groundfish round catch weight for all Amendment 80 vessels

assigned to that Amendment 80 cooperative as measured by the flow scale measurement, less any non-groundfish, PSC species or groundfish species on prohibited species status under § 679.20.

(E) For each Amendment 80 cooperative, a third party must audit the Amendment 80 cooperative's annual groundfish retention calculations and the Amendment 80 cooperative must include the finding of the third party audit in its Amendment 80 annual cooperative report.

§ 679.7 [Amended]

- 4. In § 679.7, remove and reserve paragraphs (m) and (o)(4)(iv).
- 5. In § 679.27,
 - a. Remove and reserve paragraph (j); and
 - b. Revise paragraph (b)(4) to read as follows:

§ 679.27 Improved Retention/Improved Utilization Program.

(b) * * *

(4) For catcher/processors not listed in § 679.4(l)(2)(i) using trawl gear in the BSAI, all species listed in Table 2a to this part, except for groundfish in prohibited species status.

■ 6. In § 679.93, revise paragraph (c)(1) to read as follows:

§ 679.93 Amendment 80 Program recordkeeping, permits, monitoring, and catch accounting.

(c) * * *

(1) *Catch weighing.* All catch are weighed on a NMFS-approved scale in compliance with the scale requirements at § 679.28(b). Each haul must be weighed separately, all catch must be made available for sampling by a NMFS-certified observer, and no sorting of catch may take place prior to weighing.

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