

## Fishery Conservation and Management

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form, with all required fields accurately completed and all required documentation attached. This application must be submitted to NMFS using the methods described on the application.

[72 FR 52726, Sept. 14, 2007, as amended at 76 FR 40633, July 11, 2011; 77 FR 59871, Oct. 1, 2012]

### § 679.91 Amendment 80 Program annual harvester privileges.

(a) *Assigning an Amendment 80 QS permit to an Amendment 80 cooperative or Amendment 80 limited access fishery—(1) General.* (i) Each calendar year, each Amendment 80 QS permit, associated Amendment 80 vessel, and Amendment 80 LLP license must be assigned to an Amendment 80 cooperative or the Amendment 80 limited access fishery in order to use that Amendment 80 QS permit, associated Amendment 80 vessel, and Amendment 80 LLP license to catch, process, or receive Amendment 80 species, crab PSC, or halibut PSC assigned to the Amendment 80 sector.

(ii) NMFS will assign an Amendment 80 QS permit(s), associated Amendment 80 vessel(s), and Amendment 80 LLP license(s) held by an Amendment 80 QS holder to an Amendment 80 cooperative if that Amendment 80 QS permit(s), associated Amendment 80 vessel(s), and Amendment 80 LLP license(s) is designated on an application for CQ that is approved by the Regional Administrator as described under paragraph (b) of this section.

(iii) NMFS will assign an Amendment 80 QS permit(s), associated Amendment 80 vessel(s), and Amendment 80 LLP license(s) held by an Amendment 80 QS holder to the Amendment 80 limited access fishery if that Amendment 80 QS permit(s), associated Amendment 80 vessel(s), and Amendment 80 LLP license(s) is assigned to the Amendment 80 limited access fishery.

(2) *Amendment 80 QS permits issued after issuance of CQ or ITAC.* Any Amendment 80 QS permits, or Amendment 80 QS units on an Amendment 80 QS permit, assigned to an Amendment 80 QS holder after NMFS has issued CQ or ITAC to the Amendment 80 sector for a calendar year will not result in any additional:

(i) CQ being issued to an Amendment 80 cooperative if that Amendment 80 QS holder has assigned his Amendment 80 QS permit(s) to an Amendment 80 cooperative for that calendar year; or

(ii) ITAC being issued to the Amendment 80 limited access fishery if that Amendment 80 QS holder has assigned his Amendment 80 QS permit(s) to the Amendment 80 limited access fishery for that calendar year.

(3) *Failure to submit an application for an Amendment 80 fishery.* (i) If an Amendment 80 QS permit is not designated on a timely and complete application for CQ that is approved by the Regional Administrator as described under paragraph (b) of this section, the Regional Administrator will not assign that Amendment 80 QS permit, associated Amendment 80 vessel, or Amendment 80 LLP license to an Amendment 80 cooperative for the applicable calendar year.

(ii) The Regional Administrator will assign an Amendment 80 QS permit, associated Amendment 80 vessel, or Amendment 80 LLP license to the Amendment 80 limited access fishery for the applicable calendar year if that Amendment 80 QS permit, associated Amendment 80 vessel, or Amendment 80 LLP license is designated on a timely and complete application for an Amendment 80 limited access fishery, or if that Amendment 80 QS permit, associated Amendment 80 vessel, or Amendment 80 LLP license is not designated on a timely and complete application for CQ that is approved by the Regional Administrator as described under paragraph (b) of this section.

(b) *Application for CQ and Application for the Amendment 80 limited access fishery—(1) General.* An application for CQ or an application for the Amendment 80 limited access fishery may only be submitted to NMFS using any one of 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.

(iv) Electronic: <http://alaskafisheries.noaa.gov>.

(2) *Application forms.* Application forms are available on the NMFS Alaska Region website at <http://alaskafisheries.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.L.T. on November 1 of the year prior to the calendar year for which the applicant is applying, or if sent by U.S. mail, the application must be postmarked by that time.

(4) *Application for CQ—(i) Amendment 80 cooperative identification.* The Amendment 80 cooperative's legal name; tax ID number, the type of business entity under which the Amendment 80 cooperative is organized; the state in which the Amendment 80 cooperative is legally registered as a business entity; permanent business address; business telephone number; business fax number; e-mail address (if available); and printed name of the Amendment 80 cooperative's designated representative.

(ii) *Identification of Amendment 80 QS permit holders and ownership documentation.* Full name of each Amendment 80 cooperative member; NMFS person ID of each member; Amendment 80 QS permit number(s), the names of all persons, to the individual level, holding an ownership interest in the Amendment 80 QS permit(s) assigned to the Amendment 80 cooperative and the percentage ownership each person and individual holds in the Amendment 80 QS permit(s).

(iii) *Identification of Amendment 80 cooperative member vessels and Amendment 80 LLP licenses.* Vessel name; ADF&G vessel registration number; USCG documentation number; and Amendment 80 LLP license number.

(iv) *Identification of vessels on which the CQ issued to the Amendment 80 cooperative will be used.* Vessel name, ADF&G vessel registration number, and USCG documentation number.

(v) *EDR submission.* For 2009 and thereafter, indicate (YES or NO) whether each member of the Amendment 80 cooperative has submitted a timely and complete EDR for each Amendment 80 QS permit held by that person as required under § 679.94.

(vi) *Certification of cooperative authorized representative.* The cooperative's authorized representative 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. Explicit authorization to complete the application on behalf of the members of the cooperative must accompany the application.

(vii) *Copy of membership agreement or contract.* Attach a copy of the membership agreement or contract that includes terms that list:

(A) How the Amendment 80 cooperative intends to catch its CQ; and

(B) The obligations of Amendment 80 QS holders who are members of an Amendment 80 cooperative to ensure the full payment of Amendment 80 fee liabilities that may be due.

(5) *Application for the Amendment 80 limited access fishery—(i) Applicant identification.* The applicant's name, NMFS Person ID (if applicable), tax ID number (required), permanent business mailing address, business telephone number, fax number, and e-mail (if available).

(ii) *Amendment 80 vessel identification.* The name, ADF&G vessel registration number(s), and USCG documentation number(s) of the Amendment 80 vessel(s) owned by the applicant.

(iii) *Amendment 80 LLP identification.* The Amendment 80 LLP license number(s) held by the applicant.

(iv) *Amendment 80 QS permit information.* The Amendment 80 QS permit number(s) held by the applicant.

(v) *Amendment 80 QS ownership documentation.* The names of all persons, to the individual person level, holding an ownership interest in the Amendment 80 QS permit(s) held by the applicant and the percentage ownership each person and individual holds in the Amendment 80 QS permit(s).

(vi) *EDR submission.* For 2009 and thereafter, indicate (YES or NO) whether the applicant has submitted a timely and complete EDR for each Amendment 80 QS permit held by that person as required under § 679.94.

(vii) *Applicant signature and certification.* The applicant must sign and date the application certifying that all

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information is true, correct, and complete to the best of his or her knowledge and belief. If the application is completed by a designated representative, then explicit authorization signed by the applicant must accompany the application.

(c) *Allocations of Amendment 80 species*—(1) *General*. Each calendar year, the Regional Administrator will determine the tonnage of Amendment 80 species that will be assigned to the BSAI trawl limited access sector and the Amendment 80 sector. For participants in the Amendment 80 sector, the tonnage of fish will be further assigned between Amendment 80 cooperatives and the Amendment 80 limited access fishery.

(2) *Calculation*—(i) *Determination of TAC and ITAC*. NMFS will determine the TAC and ITAC for each Amendment 80 species in a calendar year in the annual harvest specification process in § 679.20.

(ii) *Annual apportionment of ITAC*. The annual apportionment of ITAC for each Amendment 80 species between the Amendment 80 sector and the BSAI trawl limited access sector in a given calendar year is established in Tables 33 and 34 to this part.

(3) *Allocation of CQ to Amendment 80 cooperatives*—(i) *General*. The amount of ITAC for each Amendment 80 species assigned to an Amendment 80 cooperative is equal to the amount of Amendment 80 QS units assigned to that Amendment 80 cooperative by Amendment 80 QS holders divided by the total Amendment 80 QS pool multiplied by the Amendment 80 sector ITAC for that Amendment 80 species in that management area. Once ITAC for an Amendment 80 species in a management area is assigned to an Amendment 80 cooperative, it is issued as CQ specific to that Amendment 80 cooperative.

(ii) *CQ allocation for Amendment 80 species except BSAI Atka mackerel*. The amount of CQ for each Amendment 80 species except BSAI Atka mackerel that is assigned to a Amendment 80 cooperative is expressed algebraically as follows:

CQ in a management area = [(Amendment 80 sector ITAC in a management area) × (Amendment 80 QS units assigned to that Amendment

80 cooperative/Amendment 80 QS pool)].

(iii) *CQ allocation for BSAI Atka mackerel*. The amount of CQ for BSAI Atka mackerel that is assigned to each Amendment 80 cooperative in each management area is determined by the following procedure:

(A) Determine the amount of non-mackerel ITAC in each management area using the following equation:

Non-mackerel ITAC in a management area = (Amendment 80 non-mackerel QS units designated for that management area/Total Atka mackerel QS pool) × Amendment 80 sector ITAC in all management areas.

(B) Determine the amount of mackerel ITAC in each management area using the following equation:

Mackerel ITAC in a management area = Amendment 80 sector ITAC in that management area - Non-mackerel ITAC in that management area.

(C) Determine the amount of non-mackerel CQ assigned to the Amendment 80 cooperative using the following equation:

Non-mackerel CQ assigned to that Amendment 80 cooperative = (Amendment 80 non-mackerel QS units designated for that management area assigned to that Amendment 80 cooperative/Amendment 80 non-mackerel QS pool in that management area) × Non-mackerel ITAC for that management area.

(D) Determine the amount of mackerel CQ assigned to the Amendment 80 cooperative using the following equation:

Mackerel CQ in a management area = (Mackerel QS units assigned to that Amendment 80 cooperative/Mackerel QS pool) × Mackerel ITAC in that management area.

(E) The total amount of Atka mackerel CQ assigned to an Amendment 80 cooperative for a management area is equal to the sum of paragraphs (c)(3)(iii)(C) and (D) of this section.

(4) *Amendment 80 limited access fishery*. The amount of ITAC in a management

area for each Amendment 80 species assigned to the Amendment 80 limited access fishery is equal to the Amendment 80 sector ITAC remaining after subtracting all CQ issued to all Amendment 80 cooperatives for that Amendment 80 species in that management area.

(d) *Allocations of halibut PSC*—(1) *Amount of Amendment 80 halibut PSC for the Amendment 80 sector.* The amount of halibut PSC limit for the Amendment 80 sector for each calendar year is specified in Table 35 to this part. That halibut PSC is then assigned to Amendment 80 cooperatives and the Amendment 80 limited access fishery pursuant to paragraphs (d)(2) and (3) of this section. If one or more Amendment 80 vessels participate in the Amendment 80 limited access fishery, the halibut PSC limit assigned to the Amendment 80 sector will be reduced pursuant to paragraph (d)(3) of this section.

(2) *Amount of Amendment 80 halibut PSC assigned to an Amendment 80 cooperative.* For each calendar year, the amount of Amendment 80 halibut PSC assigned as CQ to an Amendment 80 cooperative is determined by the following procedure:

(i) Multiply the amount of halibut PSC established in Table 35 to this part by the percentage of the Amendment 80 halibut PSC apportioned to each Amendment 80 species as established in Table 36 to this part. This yields the halibut PSC apportionment for that Amendment 80 species.

(ii) For each Amendment 80 species, divide the amount of Amendment 80 QS units assigned to an Amendment 80 cooperative by the Amendment 80 QS pool. This yields the percentage of Amendment 80 QS units held by that Amendment 80 cooperative.

(iii) For each Amendment 80 species, multiply the halibut PSC apportionment for that Amendment 80 species established in paragraph (d)(2)(i) of this section by the percentage of the Amendment 80 QS pool assigned to an Amendment 80 cooperative for that Amendment 80 species established in paragraph (d)(2)(ii) of this section. This yields the amount of halibut PSC apportioned to that cooperative for that Amendment 80 species.

(iv) For each Amendment 80 cooperative, sum the results of paragraph (d)(2)(iii) of this section for all Amendment 80 species. This yields the amount of Amendment 80 halibut PSC assigned to that Amendment 80 cooperative as CQ.

(3) *Amount of Amendment 80 halibut PSC assigned to the Amendment 80 limited access fishery.* The amount of Amendment 80 halibut PSC assigned to the Amendment 80 limited access fishery is equal to the amount of halibut PSC assigned to the Amendment 80 sector, as specified in Table 35 to this part, subtracting the amount of Amendment 80 halibut PSC assigned as CQ to all Amendment 80 cooperatives as determined in paragraph (d)(2)(iv) of this section, multiplied by 80 percent.

(4) *Use of Amendment 80 halibut PSC in the Amendment 80 sector*—(i) *Amendment 80 halibut PSC assigned to a Amendment 80 cooperative.* An amount of Amendment 80 halibut PSC is assigned to the CQ permit issued to an Amendment 80 cooperative for use while fishing for all groundfish species in the BSAI or adjacent waters open by the State of Alaska for which it adopts a Federal fishing season. Any halibut PSC used by an Amendment 80 cooperative must be deducted from the amount of halibut PSC CQ on its CQ permit. Amendment 80 halibut PSC on a CQ permit may only be used by the members of the Amendment 80 cooperative to which it is assigned. Halibut PSC assigned as CQ is not subject to seasonal apportionment under § 679.21.

(ii) *Amendment 80 halibut PSC assigned to the Amendment 80 limited access fishery.* An amount of Amendment 80 halibut PSC is assigned to the Amendment 80 limited access fishery for use by all Amendment 80 vessels in the Amendment 80 limited access fishery while fishing for all groundfish species in the BSAI or adjacent waters open by the State of Alaska for which it adopts a Federal fishing season. Any halibut PSC used by Amendment 80 vessels assigned to the Amendment 80 limited access fishery must be deducted from the amount of halibut PSC assigned to the Amendment 80 limited access fishery. Amendment 80 halibut PSC assigned to the Amendment 80 limited

access fishery is subject to seasonal apportionment under § 679.21.

(5) *Halibut PSC assigned to the BSAI trawl limited access sector.* Halibut PSC assigned to the BSAI trawl limited access sector for groundfish fishing in the BSAI may only be used by the members of the BSAI trawl limited access sector unless modified by reallocation to Amendment 80 cooperatives according to the procedures in paragraph (f) of this section. Halibut PSC assigned to the BSAI trawl limited access sector is subject to seasonal apportionment under § 679.21.

(e) *Allocations of crab PSC—(1) Amount of Amendment 80 crab PSC assigned to the Amendment 80 sector.* The amount of Amendment 80 crab PSC assigned to the Amendment 80 sector for each Amendment 80 crab PSC in a calendar year is specified in Table 35 to this part. That amount of Amendment 80 crab PSC is then assigned to Amendment 80 cooperatives and the Amendment 80 limited access fishery.

(2) *Amount of Amendment 80 crab PSC assigned to an Amendment 80 cooperative.* For each calendar year, for each Amendment 80 crab PSC, the amount assigned as CQ to an Amendment 80 cooperative is determined by the following procedure:

(i) Multiply the amount of an Amendment 80 crab PSC established in Table 35 to this part by the percentage of the Amendment 80 crab PSC apportioned to each Amendment 80 species as established in Table 36 to this part. This yields the Amendment 80 crab PSC apportionment for that Amendment 80 species.

(ii) For each Amendment 80 species, divide the amount of Amendment 80 QS units assigned to an Amendment 80 cooperative by the Amendment 80 QS pool. This yields the percentage of Amendment 80 QS units held by that Amendment 80 cooperative.

(iii) For each Amendment 80 species, multiply the Amendment 80 crab PSC apportionment to that Amendment 80 species established in paragraph (e)(2)(i) of this section by the percentage of the Amendment 80 QS pool held by an Amendment 80 cooperative as established in paragraph (e)(2)(ii) of this section. This yields the amount of Amendment 80 crab PSC apportioned

to that Amendment 80 cooperative for that Amendment 80 species.

(iv) For each Amendment 80 crab PSC, sum the results of paragraph (e)(2)(iii) for all Amendment 80 species. This yields the amount of that Amendment 80 crab PSC assigned to that Amendment 80 cooperative.

(3) *Amount of Amendment 80 crab PSC assigned to the Amendment 80 limited access fishery.* The amount of each Amendment 80 crab PSC assigned to the Amendment 80 limited access fishery is equal to the amount of that Amendment 80 crab PSC assigned to the Amendment 80 sector specified in Table 35 to this part subtracting the amount of that crab PSC that has been assigned as CQ to all Amendment 80 cooperatives as determined in paragraph (e)(2)(iv) of this section.

(4) *Use of Amendment 80 crab PSC in the Amendment 80 sector—(i) Amendment 80 crab PSC assigned to an Amendment 80 cooperative.* An amount of Amendment 80 crab PSC is assigned to the CQ permit issued to an Amendment 80 cooperative for use while fishing for all groundfish species in the BSAI or adjacent waters open by the State of Alaska for which it adopts a Federal fishing season. Any Amendment 80 crab PSC used by an Amendment 80 cooperative must be deducted from the amount of Amendment 80 crab PSC CQ on its CQ permit. Amendment 80 crab PSC on a CQ permit may only be used by the members of the Amendment 80 cooperative to which it is assigned. Amendment 80 crab PSC assigned as CQ is not subject to seasonal apportionment under § 679.21.

(ii) *Amendment 80 halibut PSC assigned to the Amendment 80 limited access fishery.* An amount of Amendment 80 crab PSC is assigned to the Amendment 80 limited access fishery for use by all Amendment 80 vessels in the Amendment 80 limited access fishery while fishing for all groundfish species in the BSAI or adjacent waters open by the State of Alaska for which it adopts a Federal fishing season. Any Amendment 80 crab PSC used by Amendment 80 vessels assigned to the Amendment 80 limited access fishery must be deducted from the amount of Amendment

80 crab PSC assigned to the Amendment 80 limited access fishery. Amendment 80 crab PSC assigned to the Amendment 80 limited access fishery is subject to seasonal apportionment under § 679.21.

(5) *Amendment 80 crab PSC assigned to the BSAI trawl limited access sector.* Amendment 80 crab PSC assigned to the BSAI trawl limited access sector for groundfish fishing in the BSAI may only be used by the members of the BSAI trawl limited access sector unless modified by reallocation to Amendment 80 cooperatives according to the procedures in paragraph (f) of this section. Amendment 80 crab PSC assigned to the BSAI trawl limited access sector is subject to seasonal apportionment under § 679.21.

(f) *Rollover—Annual reallocation of an Amendment 80 species ICA or ITAC, crab PSC, and halibut PSC from the BSAI trawl limited access sector to Amendment 80 cooperatives—*(1) *General.* The Regional Administrator may reallocate a portion of an ICA or ITAC of an Amendment 80 species, crab PSC, or halibut PSC amount assigned to the BSAI trawl limited access sector to Amendment 80 cooperatives if the amount assigned to the BSAI trawl limited access sector is projected not to be harvested or used. Any reallocation will result in an amended CQ permit for each Amendment 80 cooperative. The timing of a reallocation will be at the discretion of the Regional Administrator.

(2) *Factors considered.* The Regional Administrator may consider the following factors when reallocating an ICA, a directed fishing allowance of an Amendment 80 species, or crab PSC, or halibut PSC amounts from the BSAI trawl limited access sector to Amendment 80 cooperatives:

- (i) The risk of biological harm to a groundfish species or species group;
- (ii) The risk of socioeconomic harm to other domestic fishery participants;
- (iii) The impact that the allocation might have on the socioeconomic well-being of Amendment 80 cooperatives;
- (iv) Current catch and PSC use in the BSAI trawl limited access sector;
- (v) Historic catch and PSC use in the BSAI trawl limited access sector;

(vi) Harvest capacity and any stated intent on the future harvesting patterns of vessels in the BSAI trawl limited access sector;

(vii) Administrative requirements to reissue CQ permits; and

(viii) Any other relevant biological, socioeconomic, or administrative factors.

(3) *Rollover of Amendment 80 species.* If, during a fishing year, the Regional Administrator determines that a reallocation of a portion of the ITAC or ICA of an Amendment 80 species assigned to the BSAI trawl limited access sector to Amendment 80 cooperatives is appropriate, the Regional Administrator will issue a revised CQ permit to reallocate that amount of Amendment 80 species to each Amendment 80 cooperative according to the following formula:

Amount of additional CQ issued to an Amendment 80 cooperative =  
 Amount of Amendment 80 species available for reallocation to Amendment 80 cooperatives ×  
 (Amount of CQ for that Amendment 80 species initially assigned to that Amendment 80 cooperative /  
 $\Sigma$  CQ for that Amendment 80 species initially assigned to all Amendment 80 cooperatives).

(4) *Rollover of halibut PSC.* If, during a fishing year, the Regional Administrator determines that a reallocation of a portion of the halibut PSC assigned to the BSAI trawl limited access sector to Amendment 80 cooperatives is appropriate, the Regional Administrator will issue a revised CQ permit to reallocate that amount of halibut PSC to each Amendment 80 cooperative according to the following procedure:

(i) Multiply the amount of the halibut PSC limit to be reallocated by 95 percent (0.95). This yields the maximum amount of halibut PSC available for allocation to Amendment 80 cooperatives; and

(ii) Determine the halibut PSC CQ issued to each Amendment 80 cooperative according to the following formula:

Amount of additional CQ issued to an Amendment 80 cooperative = Maximum amount of halibut PSC available for reallocation to Amendment

80 cooperatives  $\times$  (Amount of halibut PSC CQ initially assigned to that Amendment 80 cooperative /  $\Sigma$  halibut PSC CQ initially assigned to all Amendment 80 cooperatives).

(5) *Rollover of crab PSC.* If, during a fishing year, the Regional Administrator determines that a reallocation of a portion of a crab PSC assigned to the BSAI trawl limited access sector to Amendment 80 cooperatives is appropriate, the Regional Administrator will issue a revised CQ permit to reallocate that amount of crab PSC to each Amendment 80 cooperative according to the following formula:

Amount of CQ issued to an Amendment 80 cooperative = Amount of that crab PSC available for allocation to Amendment 80 cooperatives  $\times$  (Amount of that crab PSC CQ initially assigned to that Amendment 80 cooperative /  $\Sigma$  that crab PSC CQ initially assigned to all Amendment 80 cooperatives).

(g) *Application for inter-cooperative transfer of Amendment 80 CQ—(1) Completed application.* NMFS will process an application for inter-cooperative transfer of Amendment 80 cooperative quota (CQ) provided that a paper or electronic application is completed by the transferor and transferee, with all applicable fields accurately filled in, and all required additional documentation is attached.

(2) *Amendment 80 species CQ assignment.* Amendment 80 species CQ must be assigned to a member of the Amendment 80 cooperative receiving the CQ for purposes of use cap calculations. No member of an Amendment 80 cooperative may exceed the CQ use cap applicable to that member.

(3) *Total amount of Amendment 80 species CQ.* For purposes of Amendment 80 species CQ use cap calculations, the total amount of Amendment 80 species CQ held or used by a person is equal to all metric tons of Amendment 80 species CQ derived from all Amendment 80 QS units on all Amendment 80 QS permits held by that person and assigned to the Amendment 80 cooperative and all metric tons of Amendment 80 species CQ assigned to that person by the Amendment 80 cooperative from approved transfers.

(4) *Amendment 80 QS units.* The amount of Amendment 80 QS units held by a person, and CQ derived from those Amendment 80 QS units, is calculated using the individual and collective use cap rule established in § 679.92(a).

(5) *Certification of transferor—(i) Non-electronic submittal.* The transferor's designated representative must sign and date the application certifying that all information is true, correct, and complete. The transferor's designated representative must submit the paper application as indicated on the application.

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

(6) *Certification of transferee—(i) Non-electronic submittal.* The transferee's designated representative must sign and date the application certifying that all information is true, correct, and complete.

(ii) *Electronic submittal.* The transferee's designated representative must log into the system and accept the transfer request as indicated on the computer screen. By using the transferee's NMFS ID, password and Transfer Key, the designated representative certifies that all information is true, correct, and complete.

(h) *Amendment 80 cooperative—(1) General.* This section governs the formation and operation of Amendment 80 cooperatives. The regulations in this section apply only to Amendment 80 cooperatives that have formed for the purpose of applying for and fishing with CQ issued annually by NMFS. Members of Amendment 80 cooperatives should consult legal counsel before commencing any activity if the members are uncertain about the legality under the antitrust laws of the Amendment 80 cooperative's proposed conduct. Membership in an Amendment 80 cooperative is voluntary. No person may be required to join an Amendment 80 cooperative. If a person becomes the owner of an Amendment

80 vessel or a holder of an Amendment 80 LLP/QS license that has been assigned to an Amendment 80 cooperative, then that person may join that Amendment 80 cooperative as a member upon receipt of that Amendment 80 vessel or Amendment 80 LLP/QS license. Members may leave an Amendment 80 cooperative, but any CQ contributed by the Amendment 80 QS permit(s) held by that member will remain with that Amendment 80 cooperative for the duration of the calendar year.

(2) *Legal and organizational requirements.* An Amendment 80 cooperative must meet the following legal and organizational requirements before it is eligible to receive CQ:

(i) Each Amendment 80 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 Amendment 80 cooperative must appoint an individual as the designated representative to act on the Amendment 80 cooperative's behalf and to serve as a contact point for NMFS for questions regarding the operation of the Amendment 80 cooperative. The designated representative may be a member of the Amendment 80 cooperative, or some other individual designated by the Amendment 80 cooperative to act on its behalf;

(iii) Each Amendment 80 cooperative must submit a timely and complete application for CQ; and

(iv) Each Amendment 80 cooperative must meet the mandatory requirements established in paragraphs (h)(3) and (4) of this section applicable to that Amendment 80 cooperative.

(3) *Mandatory requirements.* The following table describes the requirements to form an Amendment 80 cooperative:

(i) Who may join an Amendment 80 cooperative? .....	Any Amendment 80 QS holder named on a timely and complete application for CQ for that calendar year that is approved by NMFS. Individuals who are not Amendment 80 QS holders may be employed by, or serve as the designated representative of an Amendment 80 cooperative, but are not members of the Amendment 80 cooperative.
(ii) What is the minimum number of Amendment 80 QS permits that must be assigned to an Amendment 80 cooperative to allow it to form?	Any combination of at least seven Amendment 80 QS permits which would include Amendment 80 LLP/QS licenses.
(iii) How many Amendment 80 QS holders are required to form an Amendment 80 cooperative?	At least two Amendment 80 QS holders each of whom may not have a ten percent or greater direct or indirect ownership interest in any of the other Amendment 80 QS holders.
(iv) Is there a minimum amount of Amendment 80 QS units that must be assigned to an Amendment 80 cooperative for it to be allowed to form?	No.
(v) What is allocated to the Amendment 80 cooperative?	CQ for each Amendment 80 species, crab PSC, and halibut PSC, based on the amount of Amendment 80 QS units assigned to the cooperative.
(vi) Is this CQ an exclusive catch and use privilege?	Yes, the members of the Amendment 80 cooperative have an exclusive privilege to collectively catch and use this CQ, or an Amendment 80 cooperative can transfer all or a portion of this CQ to another Amendment 80 cooperative.
(vii) Is there a period in a calendar year during which designated vessels must catch CQ?	Yes, any Amendment 80 vessel designated to catch CQ for an Amendment 80 cooperative is prohibited from catching CQ during the season closure for trawl gear in the BSAI specified at § 679.23(c) unless regulations at § 679.23 applicable to an Amendment 80 species in the BSAI are more restrictive than those established in § 679.23(c), in which case the more restrictive regulations will apply.
(viii) Can any vessel catch an Amendment 80 cooperative's CQ?	No, only Amendment 80 vessels that are assigned to that Amendment 80 cooperative for that calendar year in the application for CQ may catch and process the CQ assigned to that Amendment 80 cooperative.
(ix) Can a member of an Amendment 80 cooperative transfer CQ individually without the approval of the other members of the Amendment 80 cooperative?	No, only the designated representative of the Amendment 80 cooperative, and not individual members, may transfer its CQ to another Amendment 80 cooperative; and only if that transfer is approved by NMFS as established under paragraph (g) of this section.
(x) Are GOA sideboard limits assigned to specific persons or Amendment 80 cooperatives?	No, GOA sideboard limits are not assigned to specific persons or Amendment 80 cooperatives. GOA sideboard limits are assigned to the Amendment 80 sector.



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(xi) Can an Amendment 80 QS permit, Amendment 80 LLP license, or Amendment 80 vessel be assigned to more than one Amendment 80 cooperative in a calendar year?	No, an Amendment 80 QS permit, Amendment 80 LLP license, or Amendment 80 vessel may be assigned to only one Amendment 80 cooperative in a calendar year. A person holding multiple Amendment 80 QS permits, Amendment 80 LLP licenses, or owning multiple Amendment 80 vessels is not required to assign all Amendment 80 QS permits, Amendment 80 LLP licenses, or Amendment 80 vessels to the same Amendment 80 cooperative or the Amendment 80 limited access fishery.
(xii) Can an Amendment 80 QS permit, Amendment 80 LLP license, or Amendment 80 vessel be assigned to an Amendment 80 cooperative and the Amendment 80 limited access fishery?.	No, an Amendment 80 QS permit, Amendment 80 LLP license, or Amendment 80 vessel assigned to an Amendment 80 cooperative may not be assigned to the Amendment 80 limited access fishery for that calendar year. Prior to the 2014 fishing year, a person holding multiple Amendment 80 QS permits, Amendment 80 LLP licenses, or owning multiple Amendment 80 vessels is not required to assign all Amendment 80 QS permits, Amendment 80 LLP licenses, or Amendment 80 vessels to the same Amendment 80 cooperative or the Amendment 80 limited access fishery. Starting with the 2014 fishing year and thereafter, a person holding multiple Amendment 80 QS permits, Amendment 80 LLP licenses, or owning multiple Amendment 80 vessels must assign all Amendment 80 QS permits, Amendment 80 LLP licenses, or Amendment 80 vessels to either one or more Amendment 80 cooperatives, or the Amendment 80 limited access fishery.
(xiii) Which members may catch the Amendment 80 cooperative's CQ?	Use of a cooperative's CQ permit is determined by the Amendment 80 cooperative contract signed by its members. Any violations of this contract by a cooperative member may be subject to civil claims by other members of the Amendment 80 cooperative.
(xiv) Does an Amendment 80 cooperative need a membership agreement or contract?	Yes, an Amendment 80 cooperative must have a membership agreement or contract. A copy of this agreement or contract must be submitted to NMFS with the application for CQ. The membership agreement or contract must specify: (A) How the Amendment 80 cooperative intends to catch its CQ; and (B) The obligations of Amendment 80 QS holders, who are members of an Amendment 80 cooperative, to ensure the full payment of Amendment 80 fee liabilities that may be due.
(xv) What happens if the Amendment 80 cooperative membership agreement or contract is modified during the fishing year?	A copy of the amended Amendment 80 membership agreement or contract must be sent to NMFS in accordance with § 679.4(a)(4).
(xvi) What happens if the Amendment 80 cooperative exceeds its CQ amount?	An Amendment 80 cooperative is not authorized to catch Amendment 80 species or use crab PSC or halibut PSC in excess of the amount on its CQ permit. Exceeding a CQ permit is a violation of the regulations. Each member of the Amendment 80 cooperative is jointly and severally liable for any violations of the Amendment 80 Program regulations while fishing under the authority of a CQ permit. This liability extends to any persons who are hired to catch or receive CQ assigned to an Amendment 80 cooperative. Each member of an Amendment 80 cooperative is responsible for ensuring that all members of the cooperative comply with all regulations applicable to fishing under the Amendment 80 Program.
(xvii) Is there a limit on how much CQ an Amendment 80 cooperative may hold or use?	No, but each Amendment 80 QS holder is subject to use caps, and an Amendment 80 vessel may be subject to vessel use caps. See § 679.92(a).
(xviii) Is there a limit on how much CQ a vessel may catch? ....	Yes, an Amendment 80 vessel may not catch more than 20 percent of the aggregate Amendment 80 species ITAC assigned to the Amendment 80 sector for that calendar year. See § 679.92(a) for use cap provisions.
(xix) Are there any special reporting requirements? .....	Yes, the designated representative of the Amendment 80 cooperative must submit an annual Amendment 80 cooperative report as described under § 679.5(s). In addition, each member of an Amendment 80 cooperative must submit a timely and complete EDR as described under § 679.94.
(xx) Is there a requirement that an Amendment 80 cooperative pay Amendment 80 cost recovery fees?.	Yes, see § 679.95 for the provisions that apply.

(4) *Successors-in-interest.* If a member of an Amendment 80 cooperative dies (in the case of an individual) or dissolves (in the case of a business entity), the CQ derived from the Amendment 80 QS permits assigned to the Amendment 80 cooperative for that year from that person remains under the control of the Amendment 80 cooperative for the duration of that calendar year as specified in the Amendment 80 cooperative contract. Each Amendment 80 cooperative is free to establish its own internal procedures for admitting a successor-in-interest during the fishing season due to the death or dissolution of an Amendment 80 cooperative member.

(i) *Amendment 80 ABC reserves—(1) General.* The Regional Administrator will determine the Amendment 80 ABC reserves for flathead sole, rock sole, and yellowfin sole that will be assigned to the Amendment 80 sector as part of the annual harvest specifications described at § 679.20(c). Amendment 80 ABC reserves will be further allocated to Amendment 80 cooperative(s), as described in paragraph (i)(2) of this section.

(2) *Allocation of Amendment 80 ABC reserves to Amendment 80 cooperatives.* The amount of Amendment 80 ABC reserve for each species of flathead sole, rock sole, and yellowfin sole assigned to an Amendment 80 cooperative is equal to the amount of Amendment 80 QS units of that species assigned to that Amendment 80 cooperative by Amendment 80 QS holders divided by the total Amendment 80 QS pool for that species multiplied by the Amendment 80 ABC reserve for that species.

(3) *Accessing Amendment 80 ABC reserves.* An Amendment 80 cooperative may request that NMFS approve a Flatfish Exchange to add flathead sole, rock sole, or yellowfin sole CQ to its Amendment 80 CQ account in exchange for reducing its Amendment 80 CQ by an equal amount of flathead sole, rock sole, or yellowfin sole. An Amendment 80 cooperative may request Flatfish Exchanges by submitting a completed Flatfish Exchange Application as described in § 679.4(p).

[72 FR 52726, Sept. 14, 2007, as amended at 74 FR 51518, Oct. 7, 2009; 76 FR 68357, Nov. 4, 2011; 79 FR 56681, Sept. 23, 2014; 81 FR 171, Jan. 5, 2016; 81 FR 24733, Apr. 27, 2016]

#### § 679.92 Amendment 80 Program use caps and sideboard limits.

(a) *Use caps—(1) General.* Use caps limit the amount of Amendment 80 QS units and Amendment 80 species CQ that may be held or used by an Amendment 80 QS holder or Amendment 80 vessel. Use caps may not be exceeded unless the Amendment 80 QS holder or Amendment 80 vessel 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 two types of use caps: Person use caps and vessel use caps. All Amendment 80 QS unit use caps are based on the aggregate Amendment 80 species Amendment 80 initial QS pool set forth in Table 32 to this part. The use caps apply as follows:

(2) *Amendment 80 QS holder use cap—(i) QS and CQ use cap.* A person may not individually or collectively hold or use more than thirty (30.0) percent of the aggregate Amendment 80 QS units initially assigned to the Amendment 80 sector and resulting CQ unless that person receives those Amendment 80 QS units on an Amendment 80 permit(s) based on Amendment 80 legal landings assigned to Amendment 80 vessel(s) or Amendment 80 LLP license(s) held by that Amendment 80 QS holder:

(A) Prior to June 9, 2006; and

(B) At the time of application for Amendment 80 QS.

(ii) *CQ use cap calculation.* For purposes of calculating and applying the CQ use cap, a person is assigned CQ based on:

(A) The amount of CQ derived from the Amendment 80 QS units held by that person; and

(B) Any CQ assigned to that person in an Application for CQ transfer.

(iii) *Transfer limitations.* (A) An Amendment 80 QS holder that receives an initial allocation of aggregate Amendment 80 QS units that exceeds the use cap listed in paragraph (a)(2)(i) of this section cannot receive any Amendment 80 QS permit by transfer unless and until that person's holdings of aggregate Amendment 80 QS units are reduced to an amount below the use cap specified in paragraph (a)(2)(i) of this section.