

SUPPORTING STATEMENT
ALASKA REGION AMENDMENT 80 PERMITS AND REPORTS
OMB CONTROL NO. 0648-0565

This is a resubmission of a request for revision to an existing information collection, in conjunction with Final Rule RIN 0648-BD23. Two changes were made in response to public comment on the proposed rule: wording in two blocks in the Flatfish Exchange Application were clarified, and the Flatfish Exchange Report has been removed. Removal of the report reduces the originally estimated burden by 2 responses, 50 hours and \$37 in recordkeeping/reporting costs.

BACKGROUND

The Secretary of Commerce is responsible for the conservation and management of marine fishery resources within the Exclusive Economic Zone (EEZ) of the United States through National Oceanic and Atmospheric Administration/National Marine Fisheries Service (NOAA/NMFS). NMFS Alaska Region manages the groundfish fisheries in the EEZ off Alaska under the Fishery Management Plan (FMP) for Groundfish of the Bering Sea and Aleutian Islands (BSAI) Management Area. The North Pacific Fishery Management Council (Council) prepared the FMP under the authority of the [Magnuson-Stevens Fishery Conservation and Management Act](#), 16 U.S.C. 1801 *et seq.* (Magnuson-Stevens Act). Regulations implementing the FMP appear at [50 CFR part 679](#).

The Amendment 80 Program (A80) was established starting with the 2008 fishing year as a limited access privilege program. A80 was intended to reduce excessive fishing capacity, end the race, reduce bycatch, and reduce discards for commercial fishing vessels using trawl gear in the non-pollock groundfish fisheries in the BSAI. The improved retention and utilization of fishery resources by the A80 sector, was intended to increase the opportunities for A80 sector participants to maximize the value of harvested species.

The A80 encourages the formation of cooperatives and cooperative fishing practices among all persons holding A80 quota share (QS) permits. A80 cooperatives are eligible to receive cooperative quota (CQ), which represents an exclusive harvest privilege for a portion of these fishery resources annually. A80 sector participants who do not choose to join a harvesting cooperative must fish in the A80 limited access fishery, without an exclusive harvest privilege, and must continue in a race for fish with other participants in that fishery. The cooperatives that receive allocations of CQ allows vessel operators to make operational choices to improve fishery returns, reduce prohibited species catch (PSC) usage, and reduce fish discards, because the incentives of the limited access fishery - to maximize catch rates to capture a larger share of the available catch - are removed.

The A80 allocates QS to a person based on a vessel's catch history of six A80 species (Atka mackerel, Aleutian Islands Pacific ocean perch, flathead sole, Pacific cod, rock sole, and yellowfin sole) in the Bering Sea and Aleutian Islands Management Area (BSAI). Among other measures, A80 authorized the allocation of specified groundfish species to harvesting cooperatives and established a catch share program for trawl catcher/processors that are not

authorized to conduct directed fishing for pollock under the American Fisheries Act of 1998 (AFA) (Public Law 105-227, Title II of Division C). These trawl catcher/processors are referred to as non-AFA vessels, A80 vessels, or the A80 sector. The trawl catcher/processors are eligible to participate in the directed pollock target fisheries.

The Western Alaska Community Development Quota (CDQ) Program is administered by NMFS and the State of Alaska and was designed to improve the social and economic conditions in western Alaska communities by facilitating their economic participation in the BSAI fisheries. CDQ groups receive royalties from the successful harvest of CDQ by commercial fishing companies, as well as access to employment and training opportunities for their communities' residents. Royalties and income from CDQ harvesting activities are used to fund economic development projects in CDQ communities. Currently, six CDQ groups and 65 communities participate in the CDQ Program.

Vessel operators use trawl gear to harvest a mix of species in the BSAI flatfish fisheries. In this mixed species fishery, operators target certain species of flatfish but also take a variety of species incidentally, including halibut and crab, prohibited species, and other groundfish that typically occupy the same habitat at the same times of year. The composition of groundfish species taken in the BSAI flatfish fisheries varies by season and by fishing year.

Three of the most valuable target species in the BSAI flatfish fisheries are flathead sole, rock sole, and yellowfin sole. In the BSAI, flathead sole as currently managed represents two morphologically similar species managed by NMFS as a single complex. The flathead sole targeted in BSAI flatfish fisheries is comprised of flathead sole (*Hippoglossoides elassodon*) and Bering flounder (*Hippoglossoides robustus*); the harvest of both species accrues toward a flathead sole total allowable catch (TAC). Annually, the Council recommends and NMFS implements catch limits for flathead sole, rock sole, and yellowfin sole during the harvest specifications process. The TACs for these flatfish species are typically set below Acceptable Biological Catch (ABC) for several reasons including to help prevent the biomass of the aggregated TACs from meeting or exceeding the upper limit of the 2 million mt OY range for all groundfish in the BSAI.

INTRODUCTION

Amendment 105 to the FMP would establish a process for A80 cooperatives and CDQ groups to exchange harvest quota from one of three flatfish species for an equal amount of another of these three flatfish species, while maintaining total catch below acceptable biological catch limits.

This action would modify the annual harvest specification process to allow the Council to establish the maximum amount of ABC reserve that can be exchanged for flathead sole, rock sole, and yellowfin sole, quota share based on social, economic, or ecological considerations. This action is intended to mitigate the environmental, market, and operational variability that prevents the sectors from achieving, on a continuing basis, the optimum yield (OY) from the BSAI groundfish fisheries. Unless the Council recommends otherwise, the ABC reserve would be set equal to the ABC surplus for each species. Setting the ABC reserve as a portion of the

ABC surplus, or equal to the ABC surplus, would ensure that the total amount of each species that is accessible would not exceed the ABC.

This action would establish a process for A80 cooperatives and CDQ groups to exchange ABC reserve of flathead sole, rock sole, and yellowfin sole for an equivalent amount of available QS. Each year the Council would establish an ABC surplus amount for the three flatfish species -- the difference between the ABC and the TAC. The ABC reserve could be set at a precautionary amount of the ABC surplus to account for economic, social, and environmental conditions, if necessary. In addition, this action would allow each A80 cooperative and CDQ group to request that NMFS initiate up to three flatfish exchanges per year to maximize catch, retention, and utilization of target species while maintaining the catch of target and not-target species below catch limits.

The use of the ABC exchange mechanism is entirely voluntary on the part of all affected entities. If an entity chooses to make an exchange, it will need to follow the exchange procedure.

A. JUSTIFICATION

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

Although participants in the A80 cooperatives and the CDQ groups are currently able to trade quota species between cooperatives or between CDQ groups to increase overall harvesting opportunities, the Council and NMFS recognized that additional tools are necessary to help achieve the OY. Since the implementation of the A80 program in 2008, the A80 sector has been unable to fully harvest the TACs for flathead sole, rock sole, and yellowfin sole due to market limitations and limitations associated with allocations of certain species harvested incidentally in the directed flatfish fisheries.

Amendment 105 is intended to establish a new harvest and accounting methodology that would provide the A80 cooperatives and CDQ groups with additional opportunities to fully harvest yellowfin sole, rock sole, or flathead sole allocations. The new harvest and accounting methodology would enable A80 cooperatives and CDQ groups to maximize their harvest of these three species, while decreasing the likelihood that each individual species ABC and the overall OY is exceeded.

The principal objective of the proposed management measures is to promote the sustainable harvest of groundfish in the BSAI. Amendment 105 is designed to provide the tools necessary to maximize the sustainable harvest of flatfish species and thus increase the likelihood of achieving and maintaining, on a continuing basis, the OY in the BSAI groundfish fisheries. Although Amendment 105 is not intended to completely resolve the complex issues that have prevented the A80 cooperatives and CDQ sectors from fully harvesting their flatfish allocations, this proposed action is intended to provide the flexible management necessary to mitigate a diverse range of adverse conditions.

2. 1 Explain how, by whom, how frequently, and for what purpose the information will be used. 1 If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, then explain how the collection complies with all applicable Information Quality Guidelines.

ABC reserves are annually established for BSAI flathead sole, rock sole, and yellowfin sole. For each flatfish species, the ABC reserve is calculated as an amount less than or equal to the ABC surplus. NMFS, after consultation with the Council, may set the ABC reserve below the ABC surplus for flathead sole, rock sole, and yellowfin sole based on social, economic, or ecological considerations.

CDQ ABC reserves are:

- ◆ An amount equal to 10.7 percent of the ABC reserves for flathead sole, rock sole, and yellowfin sole will be allocated to a CDQ ABC reserve for each of these species by management area, subarea, or district. The CDQ ABC reserves will be further allocated to each CDQ group as described under § 679.31.
- ◆ If the groundfish harvest specifications change a TAC category for yellowfin sole, rock sole, or flathead sole by combining or splitting a species, species group, or management area, then the same percentage of the CDQ ABC reserve apportioned to CDQ groups will apply to the new TAC categories.

The ABC reserve would be available to A80 cooperatives and CDQ groups during the fishing year in response to change in economic, regulatory, or environmental constraint that may prevent the achievement of OY. Limiting participants to an equivalent exchange of TAC for ABC or CDQ reserve would best meet the goals of achieving the OY while preventing participants from exceeding the individual ABCs for each species and would not increase the likelihood that an ABC would be exceeded.

a. Flatfish Exchange Application [NEW]

A CDQ group or A80 cooperative may request that NMFS transfer yellowfin sole, rock sole or flathead sole cooperative quota (CQ) into its account in exchange for reducing its CQ by an equal amount of yellowfin sole, rock sole, or flathead sole. A80 cooperatives may request exchanges by submitting a completed Flatfish Exchange Application (see § 679.91(i)(4)). NMFS approval of a flatfish exchange application is required prior to the exchange.

ABC reserves may be accessed by an A80 cooperative or CDQ group by submitting the Flatfish Exchange Application. Identifying the exchange in this manner would link the exchange from the ABC reserve into the entity's quota account for one eligible flatfish species with an exchange for a different eligible flatfish species out of the entity's quota account. This would ensure that the overall CQ or CDQ allocation assigned to that entity would not be exceeded.

NMFS approval of a Flatfish Exchange Application is required prior to the usage of the flatfish TAC. No exchange, adjustment, apportionment of flatfish may take effect until notification has

been published in the *Federal Register* with a statement of the findings upon which the apportionment or adjustment is based. Each NMFS-approved flatfish exchange application would be debited as one transaction, upon the effective date of the notice of adjustment or apportionment in the *Federal Register*.

Example: An A80 cooperative is requesting 4,112 mt of yellowfin sole, in exchange for 4,112 mt of flathead sole. No net change in the total flatfish available to the cooperative would occur, but the cooperative would give up flathead sole to gain additional access to yellowfin sole.

Example Transfer for A80 Cooperative

Account	Flatfish Species	Starting CQ or Reserve Amount	Mid-year Transfer	Ending CQ or Reserve Amount
A80 Coop CQ	Flathead sole	20,506	-4,112	16,394
	Rock sole	48,691	--	48,691
	Yellowfin sole	81,776	+4,112	85,888
A80 Coop ABC Reserve	Flathead sole	32,482	+4,112	36,594
	Rock sole	78,122	--	78,122
	Yellowfin sole	4,112	-4,112	0

When complete, the Flatfish Exchange Application must be submitted

Online: <http://alaskafisheries.noaa.gov>

For additional information, contact Sustainable Fisheries Division at 907-586-7228.

Flatfish Exchange Application

Date of transfer request

Fishing year

Type of participant

Block A – CDQ Group or A80 Cooperative Information

CDQ Group or A80 Cooperative Name

CDQ Group or A80 Cooperative ID Number

Business telephone number, business fax number, business e-mail address

Representative name and signature (this signature certifies that all information is true, correct and complete)

Block B – Amount Exchanged

Adjustment to ABC Reserve Amount

Species code

Amount (if CDQ, nearest 0.001 mt; if A80, nearest mt)

Adjustment to CQ Amount

Species code

Amount (if CDQ, nearest 0.001 mt; if A80, nearest mt)

Block C -- Certification

Signature and printed name of designated representative

Date signed

Each A80 cooperative or CDQ group is limited to three exchanges per calendar year. In 2013, there are two A80 cooperatives (Alaska Seafood Cooperative and Alaska Groundfish Cooperative) and six CDQ groups which equates to a total of 24 exchanges available per year.

Flatfish Exchange Application, Respondent	
Number of respondents	8
2 A80 coop	
6 CDQ	
Total annual responses	24
Responses per respondent = 3	
Total burden hours	12 hrs
Time per response = 30 min	
Total personnel cost (\$37/hr x 12)	\$444
Total miscellaneous costs (1.60)	\$2
Photocopy cost (0.05 x 1pp x 24 = 1.20)	
Online (.05 x 8 = 0.40)	

Flatfish Exchange Application, Federal Government	
Total annual responses	24
Total burden hours	12 hrs
Time per response = 30 min	
Total personnel cost (\$37/hr x 12)	\$444
Total miscellaneous cost	0

b. Preliminary A80 Cooperative Flatfish Exchange Report [REMOVED]

NMFS proposed to require Amendment 80 cooperatives to annually submit a report reviewing the cooperative's use of Amendment 80 ABC reserve for flathead sole, rock sole, and yellowfin sole.

As described in the response to Comment 8, NMFS already collects each data element of the proposed reporting requirement and could provide the information to the Council and the public. NMFS removes the requirement for each Amendment 80 cooperative to submit a Preliminary Amendment 80 Cooperative Flatfish Exchange Report in this final rule because it would be an unnecessary reporting burden on Amendment 80 cooperatives.

c. A80 cooperative report [REVISED]

There are currently two cooperatives -- Alaska Seafood Cooperative and Alaska Groundfish Cooperative. Each A80 cooperative must annually report the actual retained and discarded catch of CQ species and GOA sideboard species.

The annual A80 cooperative report for fishing activities under a CQ permit issued for the prior calendar year must be received by the Regional Administrator not later than 1700 hours A.l.t. on March 1 of each year.

The annual A80 cooperative report must be submitted:

Online <http://alaskafisheries.noaa.gov/ram/webapps.htm>

By fax: 907-586-7557

or by mail:

Regional Administrator
NMFS Alaska Region
P.O. Box 21668
Juneau, AK 99802-1668

A80 cooperative report

Actual retained and discarded catch of CQ and GOA sideboard limited fisheries (if applicable)
by statistical area
on a vessel-by-vessel basis;

Method used to monitor fisheries in which cooperative vessels participated

Actions taken against specific members in response to a member exceeding the amount of CQ assigned

Percent of groundfish retained by A80 cooperative of the aggregate groundfish retained
by all A80 coop vessels

Number of vessels eligible to participate in the A80 catch share program

Amount (i.e., CQ, CDQ, and GOA sideboard limit fisheries (if applicable)) of yellowfin sole,
rock sole, and flathead sole harvested by the A80 cooperative

Review of flatfish exchanges, authorized at § 679.91(i)(3) that includes

Date of each exchange initiated by the A80 cooperative

Type(s) of A80 CQ transferred (i.e., flatfish species)

Type(s) of ABC reserve received (i.e., flatfish species)

Amount of flatfish exchanged by species, in metric tons

Review of inter-cooperative transfers of A80 cooperative CQ that includes the

Date of each inter-cooperative transfer

Type(s) of CQ transferred (i.e., A80 species)

Type(s) of CQ received (i.e., A80 species)

Amount of CQ exchanged for each A80 species, in metric tons

For each A80 cooperative, a third party must audit the A80 cooperative's annual groundfish retention calculations.

The A80 cooperative must include the finding of the third party audit in its A80 annual cooperative report

Currently, there are 21 catcher/processors that participate in the A80 program in the BSAI, organized into two cooperatives. Number of respondents is changed from 1 to 2. Personnel costs are changed from \$25/hr to \$37/hr.

A80 cooperative report, Respondent	
Number of respondents	2
Total annual responses	2
Responses per respondent = 1	
Total burden hours	50 hrs
Time per response = 25 hr	
Total personnel cost (\$37/hr x 50)	\$1,850
Total miscellaneous costs (386.65)	\$387
Third party audit = \$350	
Photocopy cost (0.05 x 6pp x 2 = 0.6)	
Online (0.05 x 1 = 0.05)	
Fax (\$6 x 6pp x 1 = \$36)	

A80 cooperative report, Federal Government	
Total annual responses	2
Total burden hours	4 hrs
Time per response = 2 hr	
Total personnel cost (\$37/hr x 4)	\$148
Total miscellaneous cost	0

d. Application for Inter-Cooperative Transfer of Amendment 80 CQ [REVISED]

NMFS implemented management measures that encourage the consistent achievement of optimum yield in the BSAI multispecies flatfish fisheries. These include the ability of cooperative participants to transfer allocations among vessels within cooperatives and the ability to transfer CQ between cooperatives.

NMFS will approve an application for inter-cooperative transfer of A80 CQ completed by the transferor and transferee, with all applicable fields accurately filled in, and all required additional documentation. All parties to the proposed transfer (including the proposed transferor, the proposed transferee, and the receiving Qualifying Member) must meet all the requirements and conditions of the A80 Program. In order for an inter-cooperative CQ transfer to be approved, both parties must be already established and recognized by NMFS as a cooperative. NMFS will notify the transferor and transferee once the application has been received and approved.

1A80 cooperatives may transfer CQ during a calendar year with the following restrictions.

- ◆ May only transfer CQ to another A80 cooperative;
- ◆ May only receive CQ from another A80 cooperative; and
- ◆ When receiving A80 species CQ by transfer, must assign that A80 species CQ to a member(s) of the A80 cooperative for use caps calculation (see § 679.92(a)).

NOTE: Any person who held an A80 CQ permit during a calendar year must submit to NMFS an economic data report (EDR) (see OMB Control No. 0648-0564) for that calendar year for each A80 CQ permit held by that person (see § 679.94). The annual EDR submission deadline is June 1.

The application may be submitted to NMFS:

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

By fax to: 907-586-7354

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

Hand deliver to:
NMFS Alaska Region (RAM)
Federal Building
709 W. 9th Street, Suite 713
Juneau, Alaska 99801

Attachment to an e-mail: RAM.Alaska@noaa.gov

Online to: <http://www.alaskafisheries.noaa.gov>

When using the online submittal method, the respondent must provide a NMFS Person ID and transfer key. These two pieces of information are provided by NMFS after an applicant is approved for participation in the A80 Program.

Application for Inter-Cooperative Transfer of A80 CQ

Identification of transferor cooperative

Name and NMFS Person ID of transferor
Name of transferor's designated representative
Permanent business mailing address (and temporary mailing address if appropriate)
Business telephone number, business fax number, and business e-mail address (if available)
Indicate whether transferor submitted an EDR, if required under § 679.94

Identification of transferee cooperative

Name and NMFS Person ID of transferee
Name of transferee's designated representative
Permanent business mailing address (and temporary mailing address if appropriate)
Business telephone number, business fax number, and business e-mail address (if available)
Indicate whether transferee submitted an EDR, if required to do so under § 679.94

Identification of A80 CQ to be transferred (leased) to transferor cooperative member(s)

A80 Species CQ
Type of CQ (Area/Species)
Amount (mt)
A80 PSC CQ
Type of PSC (Area/Species)
Amount (mt)
Number of QS units

Identification of A80 transferee cooperative member(s)

Name and NMFS Person ID of the qualifying member(s) of the receiving A80 cooperative to whom the CQ pounds being transferred will be attributed
Species
Amount of CQ

Certification of transferor

Transferor's designated representative signature, printed name, and date signed
Attach representative's authorization

Certification of transferee

Transferee's designated representative signature, printed name, and date signed
Attach representative's authorization

Since the establishment of a second A80 cooperative, the number of inter-cooperative transfers increased to maximize the harvest of CQ in the BSAI flatfish fisheries.

Number of respondents is changed from 1 to 2. Personnel costs are changed from \$25/hr to \$37/hr. Post rate is changed from \$0.44 to 0.45.

Application for Inter-coop CQ Transfer, Respondent	
Number of respondents	2
Total annual responses	2
Responses per respondent = 1	
Total burden hours	4 hrs
Time per response = 2 hr	
Total personnel cost (\$37/hr)	\$148
Total miscellaneous costs (0.20)	\$1
Attachment to email (0.05 x 1 = 0.05)	
Online (0.05 x 1 = 0.05)	
Photocopy cost .05 x 2 = 0.10	

Application for Inter-coop CQ Transfer, Federal Government	
Total annual responses	2
Total burden hours	1
Time per response = 0.50	
Total personnel cost (\$37/hr)	\$37
Total miscellaneous cost	0

e. Application for Amendment 80 Quota Share (QS) [REVISED]

Quota share (QS) is the basis for the annual calculation of the amount of fish that may be harvested or used if that QS is assigned to an A80 cooperative. An A80 QS permit authorizes the QS holder to fish in the A80 sector. NMFS will issue an A80 QS permit to a person who is eligible to receive A80 QS units and based on the legal landings of an A80 vessel if that person:

- ◆ Owns that A80 vessel at the time of application for A80 QS as demonstrated on an abstract of title or United States Coast Guard (USCG) documentation.
- ◆ Holds an A80 License Limitation Program (LLP) license (see OMB Control No. 0648-0334) at the time of application for A80 QS.
- ◆ Is a U.S. citizen.
- ◆ Submits a timely application for Amendment 80 QS that is approved by NMFS.

Once a person receives NMFS approval, an application for A80 QS is not required to be resubmitted.

An application may be submitted using any one of the following methods:

By mail: NMFS Alaska Region, Administrator
c/o Restricted Access Management Program
P.O. Box 21668
Juneau, AK 99802-1668

By fax: 907-586-7354

By hand delivery or carrier:
NMFS, Room 713
709 West 9th Street
Juneau, AK 99801

Application forms are available through the internet on the NMFS Alaska Region Web site at <http://www.fakr.noaa.gov/sustainablefisheries/amds/80/default.htm#apps> or by contacting NMFS at 800-304-4846, Option 2.

A completed application for A80 QS must be received by NMFS no later than 1700 hours A.l.t. on October 15 of the year prior to the fishing year for which the applicant is applying, or if sent by U.S. mail, postmarked by that time. Applications received or postmarked after the deadline are not eligible to receive an A80 QS permit for the upcoming fishing year.

Application for A80 Quota Share

Indicate whether applying as the owner of an A80 vessel or the holder of an A80 LLP

Block A -- Applicant identification

- Applicant name and NMFS person ID
- Permanent business mailing address
- Business telephone number, business fax number, and business e-mail address (if available)
- If applicant is a U.S. citizen, enter date of birth
- If applicant is a U.S. corporation, partnership, association, or other business entity, enter the date of incorporation
- If applicant is a successor-in-interest to a deceased individual or to a non-individual no longer in existence, attach evidence of death or dissolution

Block B -- Agreement with A80 Official Record

- Indicate whether you
- agree with the A80 Official Record Summary
 - do not agree with the A80 Official Record Summary, or
 - did not receive an A80 Official Record Summary from NMFS
- Regardless of your agreement or non-agreement with the Official Record, if you are applying for QS as the holder of an A80 LLP license originally assigned to an A80 vessel that cannot participate in the program due to the actual total loss, constructive loss, or permanent ineligibility of that vessel, you must complete Block D and provide the required documentation described in that block.

Block C -- Owner of A80 Vessel

For an applicant claiming A80 legal landings associated with an A80 vessel, enter the following information for each A80 vessel. You may be required to provide documentation, such as an abstract of title or U.S. Coast Guard Certificate of Documentation, establishing your ownership of each Amendment 80 vessel for which you are applying for A80 QS.

- Vessel name
- LLP No., ADF&G No., and USCG No.

Block D -- Holder of A80 LLP License

The holder of an A80 LLP license may only receive an initial allocation of A80 QS if an A80 vessel(s) originally assigned to the A80 LLP license(s) is no longer able to participate in the A80 Program due to actual total loss, total constructive loss, or is permanently ineligible to receive a fishery endorsement under 46 U.S.C. 12108. If the A80 vessel does not fit these requirements, the A80 QS derived from that vessel's catch must be applied for by the owner of the vessel.

List

- For each A80 vessel originally assigned to each LLP license number
 - Name of A80 vessel
 - ADF&G registrations number
 - USCG documentation number

Attachments

Clear and unambiguous documentation in written form that the A80 vessel has suffered an actual total loss, total constructive loss, or is permanently ineligible to receive a fishery endorsement under 46 U.S.C. 12108.

If the holder of the LLP license is not the same person(s) who owns the A80 vessel, attach a copy of the express terms of a written contract held by the applicant that clearly and unambiguously indicates that the owner of the A80 vessel that has suffered an actual total loss, total constructive loss, or is permanently ineligible to receive a fishery endorsement under 46 U.S.C. 12108 has transferred all rights and privileges to use A80 legal landings and any resulting A80 QS or exclusive harvest privilege from that A80 vessel to the person holding the A80 LLP license originally assigned to that A80 vessel.

Block E -- Applicant certification

Printed name and signature of applicant and date signed

If representative, **attach** authorization

Once a person submits a timely and complete application for Amendment 80 QS that is approved by NMFS, an application for Amendment 80 QS is not required to be resubmitted. Currently, 28 A80 QS holders are listed; this number of respondents has remained constant through the last few years. The summary below allows for one new respondent to apply.

Number of respondents is changed from 28 to 1 because the application for Amendment 80 QS is required only once. Although no new participants are expected in this program, the number of new applications is set at one. Personnel costs are changed from \$25/hr to \$37/hr. Post rate is changed from \$0.44 to 0.45.

Application for A80 QS, Respondent	
Number of respondents	1
Total annual responses	1
Responses per respondent = 1	
Total burden hours	2 hrs
Time per response = 2 hr	
Total personnel cost (\$37/hr)	\$74
Total miscellaneous costs (1.80)	\$2
Postage (0.45 x 1 = 0.45)	
Photocopy cost (0.05 x 1 x 7 pp form + 20pp contract] = 1.35])	

Application for A80 QS, Federal Government	
Total annual responses	1
Total burden hours (0.5)	1 hrs
Time per response = 30 minutes	
Total personnel cost (\$37/hr)	\$37
Total miscellaneous cost	0

f. Application for A80 cooperative and CQ Permit [REVISED]

A Cooperative Quota (CQ) permit is issued annually to an A80 cooperative that submits a complete and timely application for CQ and each member of the A80 cooperative holding A80 QS has submitted an A80 Economic Data Report (see OMB 0648-0564) that is subsequently approved by the Regional Administrator.

An A80 CQ permit authorizes a cooperative to participate in the A80 Program. The cooperative must designate an authorized representative to be responsible for submitting the CQ application on behalf of all the members.

NMFS uses the CQ application information

- ◆ to assign CQ quantities to each cooperative prior to the fishing year
- ◆ to determine the A80 species interim total allowable catch assignments to the A80 limited access fishery
- ◆ to determine which vessels must be tracked for catch accounting
- ◆ to review ownership and control information for various QS holders to ensure that QS and CQ use caps are not exceeded.

To be considered timely, the application must be received by NMFS no later than 1700, Alaska local time, on November 1 of the year prior to fishing under the CQ permit.

The application may be submitted to NMFS by mail, fax, or in person.

By mail to: Regional Administrator, NMFS
Restricted Access Management Program (RAM)
P.O. Box 21668,
Juneau, AK 99802-1668

By hand delivery or carrier to:
Federal Building, Room 713
709 West 9th Street
Juneau, AK 99801.

By fax to: 907-586-7354.

Forms are available through the Internet on the NMFS Alaska Region website at http://www.fakr.noaa.gov/ram/amd80/coop_cq_permitapp.pdf or by contacting NMFS at 800-304-4846, Option 2.

Application for A80 cooperative and CQ Permit

Block A -- Cooperative identification.

- Cooperative's legal name
- Type of business entity under which the A80 Cooperative is organized
- State in which the A80 Cooperative is legally registered as a business entity
- Permanent business address
- Business telephone number, business fax number, and e-mail address (if available)
- Printed name of A80 designated representative

Block B -- Members of the A80 Cooperative (A80 QS Permit Holder and Ownership Documentation)

Full name and NMFS Person ID 1of all members

A80 QS Permit Number(s)

Names of all persons, to the individual level, holding an ownership interest in the QS Permit

Percentage ownership each person holds in the A80 QS Permit(s)

Block C --Identification of A80 cooperative member vessels and A80 LLP licenses

Vessel name

ADF&G vessel registration No. and USCG documentation number

A80 LLP number

Block D -- Identification of vessels on which the CQ issued to the A80 Cooperative will be used

Vessel name

ADF&G vessel registration No. and USCG documentation number

Block E -- EDR submittal

Indicate whether the each member submitted a timely and complete EDR for each A80 QS permit

Block F -- Certification of cooperative authorized representative

Printed name and signature of Cooperative authorized representative and date signed

Attachments

explicit authorization to complete the application on behalf of the members of the cooperative
copy of the cooperative membership agreement or contract

Number of respondents is changed from 1 to 2. Personnel costs are changed from \$25/hr to \$37/hr. Postal rate is changed from \$0.44 to \$0.45.

Application for A80 cooperative and CQ permit, Respondent	
Number of respondents	2
Total annual responses	2
Responses per respondent = 1	
Total burden hours	4 hrs
Time per response = 2 hr	
Total personnel cost (\$37/hr)	\$148
Total miscellaneous costs (9.25)	\$9
Postage (0.45 x 1 = 0.45)	
Fax (\$6 x 1 = 6.00)	
Photocopy cost (0.05 x 2 x 8pp (form) + 20pp contract = 2.80)	

Application for A80 cooperative and CQ permit, Federal Government	
Total annual responses	2
Total burden hours	1 hr
Time per response = 30 min	
Total personnel cost (\$37/hr)	\$37
Total miscellaneous cost	0

g. Application for an A80 limited access fishery permit [REVISED]

An A80 limited access fishery permit is required for an A80 QS holder to:

- ◆ catch, process, and receive A80 species assigned to the A80 limited access fishery, or
- ◆ use halibut and crab PSC assigned to the A80 limited access fishery.

An A80 limited access fishery permit is issued annually to an A80 QS holder who has submitted a timely and complete:

- ◆ Application for the A80 limited access fishery (see § 679.91(b)(4)) that is approved by NMFS; and
- ◆ A80 EDR for all A80 QS permits held by that person (see § 679.94). An A80 EDR is required from any person who held an A80 QS permit during the previous calendar year. An EDR must be submitted for each A80 QS permit held by a person. The annual EDR submission deadline is June 1.

An application must be submitted:

By mail to: Regional Administrator, NMFS
Restricted Access Management Program (RAM)
P.O. Box 21668,
Juneau, AK 99802-1668

By hand delivery or carrier to:

Federal Building, Room 713
709 West 9th Street
Juneau, AK 99801.

By fax to: 907-586-7354.

This application must be submitted annually and received by NMFS no later than 1700 hours Alaska local time on October 15 of the year prior to the year for which the applicant wishes to participate in an A80 fishery; or if sent by U.S. mail, the application must be postmarked by that time.

Forms are available through the Internet on the NMFS Alaska Region website at <http://www.fakr.noaa.gov/ram/amd80/fisheryapp.pdf> or by contacting NMFS at 800-304-4846, Option 2.

Application for an A80 limited access fishery

Block A -- Applicant identification.

Applicant's name and NMFS person ID
Permanent business mailing address
Business telephone number, business fax number, and business e-mail address (if available)

Block B -- A80 Vessel identification.

Name
ADF&G vessel registration number
USCG documentation number of applicant's vessel

Block C -- A80 LLP identification

A80 LLP license number(s) held by the applicant

Block D -- A80 QS permit information

A80 QS permit number(s) held by the applicant

Block E -- A80 QS ownership documentation.

Names of all persons, to individual level, holding an ownership interest in the A80 QS permit
 Percentage ownership each person holds in the A80 QS permit

Block F -- EDR Submission

Indicate whether the applicant has submitted a timely and complete EDR for each A80 QS permit

Block G -- Applicant certification.

Applicant printed name, signature, and date signed.
 If completed by authorized representative, **attach** authorization

Personnel costs are changed from \$25/hr to \$37/hr. Post rate is changed from \$0.44 to 0.45.

Application for an A80 limited access fishery permit, Respondent	
Number of respondents	8
Total annual responses	8
Responses per respondent = 1	
Total burden hours	16 hrs
Time per response = 2 hr	
Total personnel cost (\$37/hr)	\$592
Total miscellaneous costs (26.20)	\$26
Photocopy (0.05 x 8 = 0.40)	
Postage (0.45 x 4 = 1.80)	
Fax (\$6 x 4 = 24)	

Application for an A80 limited access fishery permit, Federal Government	
Total annual responses	8
Total burden hours	4 hrs
Time per response = 30 minutes	
Total personnel cost (\$37/hr)	\$148
Total miscellaneous cost	0

h. 1Application to Transfer A80 QS [REVISED]

On an annual basis a QS holder may choose either to assign his/her QS to a cooperative with other eligible QS holders, or assign that QS to the A80 limited access fishery. Applicant must be a U.S. corporation, partnership, association, or other business entity. NMFS approves QS transfers to track ownership and use cap accounting.

Once issued, an A80 vessel owner assigned QS could transfer (or sell) that QS in one of three ways:

- ◆ Transfer the A80 vessel and the QS permit assigned to that A80 vessel to another person eligible to own a U.S. fishing vessel (i.e., document that A80 vessel under U.S. Department of Transportation, Maritime Administration (MARAD) regulations);
- ◆ Transfer the A80 QS permit to the LLP license originally issued for that A80 vessel upon the actual loss, total constructive loss, or permanent ineligibility of an A80 vessel assigned QS. Clear and unambiguous written documentation must be attached from which NMFS can verify that the A80 vessel for which that A80 LLP license was

originally assigned is no longer able to be used in the Program due to the actual total loss, constructive total loss, or permanent ineligibility of that vessel.

- ◆ Transfer an A80 LLP license with QS assigned to it to another person through the existing LLP transfer provisions (see 50 CFR 679.4(k)(7)). All A80 QS units for all species on that A80 QS permit must be transferred in their entirety. An A80 QS permit assigned to an A80 LLP license as an endorsement on that LLP license may not be transferred separately from that A80 LLP license.

An application must be submitted to NMFS:

By mail to: Regional Administrator, NMFS
Restricted Access Management Program (RAM)
P.O. Box 21668,
Juneau, AK 99802-1668

By hand delivery or carrier to:
Federal Building, Room 713
709 West 9th Street
Juneau, AK 99801.

Or, by fax to: 907-586-7354.

Forms are available through the Internet on the NMFS Alaska Region website at <http://www.fakr.noaa.gov/ram/amd80/transferappqs.pdf> or by contacting NMFS at 800-304-4846, Option 2.

Application to Transfer A80 QS

Indicate the type of transfer being requested

Block A -- Identification of transferor

Name and NMFS person ID
Date of incorporation or date of birth
Permanent business mailing address
Business telephone number, business fax number, and e-mail address (if available)

Block B -- Identification of transferee

Name and NMFS person ID
Date of incorporation or date of birth
Permanent business mailing address
Business telephone number, fax number, and e-mail (if available)

Block C -- Transfers of A80 QS permits to another person

Identify A80 QS Permit(s) being transferred

Attachment: If transferring an A80 QS permit to another person, attach abstract of title or USCG documentation which clearly and unambiguously indicates that the A80 QS transferee is named on the abstract of title or USCG documentation as the owner of the A80 vessel to which that A80 QS permit would be assigned

Attachment: original QS Permit(s) being transferred

Block D -- Transfers of A80 QS to an A80 LLP license

Identify A80 LLP license to which the A80 QS Permit is transferring

Identify A80 QS Permit(s) being transferred

Attachment: If transferring A80 QS from an A80 QS permit to the A80 LLP license originally assigned to that A80 vessel, provide clear and unambiguous written documentation that can be verified by NMFS that the A80 vessel for which that A80 LLP license was originally issued is no longer able to be used in the A80 Program

due to the actual loss, constructive total loss, or permanent ineligibility of that vessel of that vessel to receive a fishery endorsement

Block E -- Certification of transferor.

Transferor signature, printed name, and date signed
 If representative, **attach** authorization

Block F -- Certification of transferee

Transferee signature, printed name, and date signed
 If completed by representative, **attach** authorization

Number of respondents is changed from 25 to 28. Personnel costs are changed from \$25/hr to \$37/hr. Postal rate is changed from \$0.44 to \$0.45.

Application to Transfer A80 QS, Respondent	
Number of respondents	28
Total annual responses	28
Responses per respondent = 1	
Total burden hours	56 hrs
Time per response = 2 hr	
Total personnel cost (\$37/hr)	\$2,072
Total miscellaneous costs (58.40)	\$58
Postage (0.45 x 20 = 9)	
Photocopy cost (0.05 x 28 = 1.40)	
Fax cost (\$6 x 8 = 48)	

Application to Transfer A80 QS, Federal Government	
Total annual responses	28
Total burden hours	14
Time per response = 30 minutes	
Total personnel cost (\$37/hr)	\$518
Total miscellaneous cost	0

i. Application for Amendment 80 Vessel Replacement [REVISED]

The owner of an A80 vessel may replace a vessel for any purpose. The replacement vessel will be eligible to participate in the A80 fisheries in the same manner as the original vessel. The owner of the replacement vessel is responsible for all monitoring, enforcement, permitting, recordkeeping and reporting, prohibitions, and general sideboard measures that apply to A80 vessels in the GOA or BSAI.

A vessel will be approved by the Regional Administrator as an A80 vessel following the submission and approval of a completed Application for A80 Vessel Replacement, provided that only one replacement vessel is used as a replacement for any one replaced vessel at a given time and that the replacement vessel:

- ◆ Does not exceed 295 feet length overall (LOA)
- ◆ Was built in the United States and, if ever rebuilt, rebuilt in the United States

- ◆ Is classed and loadlined or meets the requirements of the USCG Alternative Compliance and Safety Agreement (ACSA)

The applicant must complete a separate application for each vessel. Application forms and instructions are available on the NMFS, Alaska Region website at <https://alaskafisheries.noaa.gov>.

To demonstrate vessel ownership applicant must provide:

- ◆ For USCG Documented Vessels, a copy of the USCG Abstract of Title or Certificate of Documentation
- ◆ For undocumented vessels, a copy of the State of Alaska vessel license or registration.

Submit the completed application:

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

By fax to: 907-586-7354

Or, hand deliver to: Federal Building
709 W. 9th Street, Suite 713
Juneau, AK 99801

Application for A80 Vessel Replacement

Identification of the A80 vessel being replaced

Vessel name

A80 QS permit number, ADF&G vessel registration number, and USCG documentation number

Last year in which vessel harvested or processed groundfish in an A80 fishery

Name and NMFS person ID number of applicant

Business mailing address(es). Indicate whether permanent or temporary

Business telephone number, Business Fax number, and Business e-mail address of owner(s)

Indicate one:

vessel was lost at sea;

vessel is permanently ineligible to participate; or

not applicable

Identification of the A80 replacement vessel

Vessel name

ADF&G vessel registration number and USCG documentation number

If the replacement vessel cannot be classed and loadlined, does the vessel meet the requirements of the USCG Alternative Compliance and Safety Agreement

Indicate YES or NO whether vessel is classed

Indicate YES or NO whether vessel is loadlined

Indicate YES or NO whether the vessel was built in the United States

Indicate YES or NO whether the vessel has ever been rebuilt

If YES, whether it was rebuilt in the United States

Name of vessel owner and NMFS person ID number

Business mailing address(es); indicate whether permanent or temporary
 Business telephone number(s), business Fax number(s), and business e-mail address(es) of the owner(s)

Applicant signature and certification

Printed name and signature of applicant, title, and date signed
 If designated representative, **attach** authorization

Attachments

To demonstrate vessel ownership, **attach**
 For USCG Documented Vessels, a copy of the USCG Abstract of Title or Certificate of Documentation
 For undocumented vessels, a copy of the State of Alaska vessel license or registration.

Respondents changed from 2 to 28. Personnel costs are changed from \$25/hr to \$37/hr.

Application for A80 Vessel Replacement, Respondent	
Number of respondents	28
Total annual responses	28
Responses per respondent = 1	
Total burden hours	56 hrs
Time per response = 2 hr	
Total personnel cost (\$37/hr)	\$2,072
Total miscellaneous costs (58.40)	\$58
Postage (0.45 x 20 = 9)	
Fax cost (\$6 x 8 = 48)	
Photocopy cost (0.05 x 28 = 1.40)	

Application for A80 Vessel Replacement, Federal Government	
Total annual responses	28
Total burden hours	14 hrs
Time per response = 30 minutes	
Total personnel cost (\$37/hr)	\$518
Total miscellaneous cost	0

k. 1Appeals [REVISED]

If an applicant is notified by an Initial Administrative Determination (IAD) that inconsistent claims made by the applicant on a permit application have been denied, that applicant may appeal that IAD under the provisions described at § 679.43.1 A direct link to the Alaska Appeals regulations may be found at <http://www.alaskafisheries.noaa.gov/regs/679d43.pdf> under heading “Management Programs” and under subheading “Determinations and Appeals Procedure.”

Personnel costs are changed from \$25/hr to \$37/hr. Post rate is changed from \$0.44 to 0.45.

Appeals, Respondent	
Number of respondents	1
Total annual responses	1
Responses per respondent = 1	
Total burden hours	4 hrs
Time per response = 4 hr	
Total personnel cost (\$37/hr)	\$148
Total miscellaneous costs (0.65)	\$1
Postage (0.45 x 1 = 0.45)	
Photocopy cost (0.05 x 4pp x 1 = 0.20)	

Appeals, Federal Government	
Total annual responses	1
Total burden hours	4
Time per response = 4 hr	
Total personnel cost (\$50/hr)	\$200
Total miscellaneous cost	0

It is anticipated that the information collected will be disseminated to the public or used to support publicly disseminated information. NOAA Fisheries will retain control over the information and safeguard it from improper access, modification, and destruction, consistent with NOAA standards for confidentiality, privacy, and electronic information. See response to Question 10 of this supporting statement for more information on confidentiality and privacy. The information collection is designed to yield data that meet all applicable information quality guidelines. Prior to dissemination, the information will be subjected to quality control measures and a pre-dissemination review pursuant to [Section 515 of Public Law 106-554](#).

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

The Flatfish Exchange Application and Application for Inter-cooperative Transfer of A80 cooperative quota may be submitted online at <http://www.alaskafisheries.noaa.gov>. The cooperative report may be submitted as an attachment to email to RAM.Alaska@noaa.gov. Applications are “fillable” on the computer screen by participant at the NMFS Alaska Region Home Page at www.alaskafisheries.noaa.gov, then downloaded, printed, and faxed or mailed to NMFS. Future plans include interactive permit applications completed through the Internet.

4. Describe efforts to identify duplication.

No duplication exists with other information collections.

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

Both CDQ groups and A80 cooperatives are directly regulated through this proposed action and both are allocated direct harvesting privileges for the three flatfish species, flathead sole, rock sole, and yellowfin sole. All the vessels and companies participating in the A80 sector have been affiliated with one of two A80 cooperatives, the Alaska Seafood Cooperative or the Alaska Groundfish Cooperative, since 2011. The most recent gross revenue data for this fishery is from 2011 and this data indicates that the total gross revenues earned by the vessels in each of these cooperatives exceed \$19.0 million. Thus, the vessels and companies participating in this fishery are all large entities, either by virtue of their own gross revenues or by virtue of their affiliation with other large entities through their cooperative membership.

The six CDQ groups are all small entities by virtue of their non-profit status. These groups include Aleutian Pribilof Island Community Development Association, Bristol Bay Economic Development Corporation, Central Bering Sea Fishermen’s Association, Coastal Villages Region Fund, Norton Sound Economic Development Corporation, and Yukon Delta Fisheries Development Association. Each of these groups is organized as an independently owned and operated not-for-profit entity and none is dominant in its field; consequently, each is a “small entity” under the RFA.

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

The flatfish fleet has not fully utilized the flatfish resource, even though since 2008, catch and utilization rates have improved substantially. The implementation of the A80 program, however, precipitated a situation where there is an incentive to set artificially high TACs for the species for which participants are hard capped, in order to account for an environment in which the sector is operating under multiple and unpredictable catch constraints. If the collection were not conducted, the harvest specifications process and pre-season incidental catch planning may not be able to relieve constraints that arise midseason, in response to changes in incidental catch conditions. In some instances, this situation may inhibit the achievement of OY.

The new approach would allow A80 cooperatives and CDQ groups access to flathead sole, rock sole, or yellowfin sole in excess of the TAC allocations; however the establishment of the ABC reserve would prevent the ABC of any species being exceeded. The increase of one quota and decrease of another quota would also prevent any additional risk of exceeding the overall 2 million mt OY cap.

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

Not Applicable.

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

NMFS published a proposed rule for Amendment 105 in the *Federal Register* on June 30, 2014 (79 FR 36702). The 30-day comment period on the proposed rule ended July 30, 2014. NMFS received a total of five comment letters from three unique persons during the comment periods. The comment letters contained 13 substantive comments.

NMFS made one change to the final rule in response to public comments. NMFS removed the proposed regulations at § 679.5(s)(7) to require each Amendment 80 cooperative that receives

CQ to submit a Preliminary Amendment 80 Cooperative Flatfish Exchange Report to the Council by December 1 each year. As described on page 36714 of the preamble to the proposed rule (June 30, 2014, 79 FR 36702), NMFS proposed to require Amendment 80 cooperatives to annually submit a report reviewing the cooperative's use of Amendment 80 ABC reserve for flathead sole, rock sole, and yellowfin sole.

As proposed, each Amendment 80 cooperative was required to report 1) the number of vessels used to harvest its CQ, 2) the number of Flatfish Exchanges and dates those exchanges were approved, 3) the types of and amounts of CQ and Amendment 80 ABC reserves utilized, and 4) the dates, types, and amounts of inter-cooperative CQ transfers. As described in the response to Comment 8, NMFS already collects each data element of the proposed reporting requirement and could provide the information to the Council and the public. NMFS has removed the requirement for each Amendment 80 cooperative to submit a Preliminary Amendment 80 Cooperative Flatfish Exchange Report in this final rule because it would be an unnecessary reporting burden on Amendment 80 cooperatives.

In addition, NMFS revised Block A and Block B of the Flatfish Exchange Application form according to suggestions in Comments 10 and 11.

During the public comment periods for the Notice of Availability for Amendment 105 and the proposed rule to implement Amendment 105, NMFS received five comment letters from three unique persons (two from different members of the public and three from the same industry representative) that contained thirteen substantive comments. NMFS' responses to these comments are presented below.

Comment 1:

One commenter expressed support for this action.

Response:

NMFS acknowledges this comment.

Comment 2:

The commenter expressed general disapproval with fisheries management.

Response:

NMFS acknowledges this comment.

Comment 3:

One commenter suggested that this action would result in overfishing in this fishery and adversely affect marine mammals.

Response:

NMFS disagrees. Sections 1.5.1 and 1.6.1 of the RIR prepared for this action and the background section of the preamble to the proposed rule note that the flatfish stocks are not overfished and overfishing is not occurring in BSAI groundfish fisheries. The Council typically

recommends, and NMFS implements, flatfish TACs that are lower than the ABCs. Moreover, flatfish catch is consistently below TAC for both the Amendment 80 sector and the CDQ fisheries for reasons described in more detail in the RIR/IRFA prepared for this action (See ADDRESSES).

This final rule will provide CDQ groups and Amendment 80 cooperatives with additional opportunities to fully harvest flathead sole, rock sole, or yellowfin sole allocations, while ensuring ABCs for each of those species cannot be exceeded. This final rule will not affect the sustainability or catch levels of groundfish in the BSAI, because the fishery will continue to be managed under the current harvest specifications process. Similarly, this final action will generally improve the likelihood of achieving and maintaining, on a continuing basis, the optimum yield (OY) of the BSAI groundfish fisheries, to the extent that it provides an opportunity for increased use of available TAC.

This action will not increase the likelihood that ABCs or the 2 million mt OY limit for the BSAI groundfish fisheries would be exceeded. NMFS and the Secretary of Commerce have determined that fishing activities conducted under this rule would have no adverse impact on marine mammals. As described in the Categorical Exclusion (See ADDRESSES) prepared for this action, Amendment 105 and its implementing regulations make only minor revisions to the existing regulations which will have no effects on marine mammals beyond those already expected from the BSAI groundfish fisheries as described in the Harvest Specifications EIS and SIR (See ADDRESSES).

Comment 4:

This action should only be implemented if it is paired with regulations that strengthen accountability and enforcement for the participants that benefit from the flatfish flexibility program.

Response:

NMFS disagrees that additional monitoring and enforcement regulations are needed to ensure compliance with Amendment 105. As described in this preamble, NMFS prohibits any CDQ group or Amendment 80 cooperative from exceeding its allocation of CDQ or CQ (see regulations at § 679.7(d)(3) and (o)(4)(iv)). Moreover, vessels harvesting CDQ and CQ are already subject to 100% observer coverage which includes at least two observers for each day that the vessel is used to catch, process, or receive groundfish harvested in a federally managed or parallel groundfish fishery (see regulations at § 679.51(a)(2)(vi)(C)). Vessels harvesting CDQ and CQ are also subject to additional monitoring and enforcement provisions, including the use of vessel monitoring systems, at-sea scales, and daily reporting requirements (see regulations at §§ 679.51(a) and 679.5(n) and (s)).

As noted in this preamble, each Flatfish Exchange must be approved by NMFS and published in the *Federal Register* prior to any transfer (see regulations at § 679.4(p)). NMFS will have the authority to disapprove an application if NMFS determines it is likely that the CDQ group or Amendment 80 cooperative does not have 1) an adequate amount of unused CDQ or CQ remaining, or 2) the CDQ group or Amendment 80 cooperative does not have adequate ABC reserve remaining. NMFS will review each Flatfish Exchange Application and consider

approval or disapproval in light of incidental catch levels occurring in other groundfish fisheries. NMFS will not approve any Flatfish Exchange that could result in exceeding an ABC or ABC reserve for a species, though such a situation is highly unlikely given methods in place to track harvest of BSAI groundfish.

Comment 5:

The proposed rule states that the ABC reserve would be set after consultation with the Council or could be reduced if NMFS determines there is a need to set the ABC reserve below the ABC surplus. The Council motion and RIR prepared for this action did not contemplate that NMFS could independently determine ABC reserve levels. While NMFS may have a legitimate need to set the ABC reserve below the ABC surplus, we encourage NMFS to work with Amendment 80 cooperatives to address any concerns it has with setting the ABC reserve.

Response:

NMFS intends to coordinate and consult with the Council to determine the appropriate level of the ABC reserve during the annual specifications process. NMFS anticipates that it can effectively communicate with Amendment 80 cooperatives, CDQ groups, and the Council to determine the appropriate ABC reserve. However, NMFS has the authority and responsibility to ensure that ABCs are not exceeded. This authority and responsibility is included in the FMP and regulations at § 679.20. Therefore, NMFS will not modify this final rule to preclude the ability for NMFS to set an ABC reserve at a level that differs from the one recommended by the Council if NMFS determines a different ABC reserve is necessary and appropriate.

The FMP and its implementing regulations require NMFS, after consultation with the Council, to specify annually the TAC for each target species category. Regulations at § 679.20(c)(1) further require NMFS to publish proposed harvest specifications in the *Federal Register* and solicit public comments on proposed annual TACs and apportionments thereof, prohibited species catch allowances, prohibited species quota reserves established by § 679.21, seasonal allowances of pollock, Pacific cod, and Atka mackerel TAC, American Fisheries Act allocations, Amendment 80 allocations, and CDQ reserve amounts established by § 679.20(b)(1)(ii). Under regulations at § 679.20(c)(3), NMFS publishes the final harvest specifications after (1) considering comments received within the comment period, (2) consulting with the Council at its annual December meeting, and (3) considering information presented in the Supplementary Information Report that assesses the need to prepare a Supplemental Alaska Groundfish Harvest Specifications Final Environmental Impact Statement and the final Stock Assessment and Fishery Evaluation reports prepared for the BSAI groundfish fisheries. NMFS will approve the Council's recommended OFLs, ABCs, and TACs if NMFS finds them consistent with the FMP, MSA, and other applicable law. However, NMFS may determine that a Council recommendation, including a Council recommendation for an ABC reserve, is not consistent with the FMP, MSA, and other applicable law. Therefore, removing a specific regulatory provision that would allow NMFS to establish an ABC reserve that may differ from the one recommended by the Council would be contrary to existing authority established by the MSA, FMP, and regulations. The final 2014 and 2015 harvest specifications provide additional detail on this process (79 FR 12108, March 4, 2014).

Comment 6:

A representative for Amendment 80 vessels supported the rule and noted that the rule will provide CDQ groups and Amendment 80 vessels with the same harvesting flexibility, which he believes will result in greater demand for and additional harvesting of CDQ quota.

Response:

NMFS agrees that CDQ groups would have the same opportunity as the Amendment 80 cooperatives to access the ABC surplus and ABC reserve, and consequently would also be able to benefit from the flexibility in choice of target flatfish afforded by Amendment 105 and its implementing regulations.

NMFS acknowledges the commenter's assertion that this action will result in greater harvesting of CDQ quota of flatfish. NMFS cannot say, however, whether this will actually occur because, as noted in section 1.8.2.2 of the RIR/IRFA prepared for this action, it is impossible to quantitatively assess the impacts of this action on the values of CDQ allocations of flathead sole, rock sole, and yellowfin sole. A qualitative assessment suggests that as the supply of these three species increases for the Amendment 80 sector, the demand for leasing CDQ flatfish quota would decrease, along with the lease rates. The risk of this decline may exist only in the short term because, over the longer term, the demand for CDQ flatfish quota is likely to increase as more efficient vessels specifically designed for participation in the BSAI trawl fisheries replace the aging fleet, and Amendment 80 allocations are fully utilized. As Amendment 80 vessels increase their efficiency, they will continue to seek other fishing opportunities, such as leasing CDQ quota. Further, while the CDQ groups have leased their flatfish quota to Amendment 80 vessels to harvest, other partners have recently entered the market, which may lead to increased competition for CDQ leases.

As noted on page 39708 of the proposed rule, this action is not intended to resolve the complex issues that have constrained the CDQ groups and Amendment 80 cooperatives from fully harvesting their flatfish allocations. This proposed action is intended to provide the flexible management necessary to mitigate a diverse range of conditions that may limit catch of flathead sole, rock sole, and yellowfin sole. The Council and NMFS expect that the regulatory tools implemented in this final rule will promote increased harvest of CDQ and CQ allocations.

Comment 7:

The preamble suggests that NMFS is in the process of interpreting Magnuson-Stevens Act confidentiality provisions, but that the current interpretation limits disclosure of certain information. These provisions were implemented by Congress to protect the confidentiality of data submitters so that business or trade secrets are not revealed. We feel that limiting data disclosure to aggregations of three vessels or more adequately protects the interest of submitters and provides information to the Council to assess the effects of this rule.

Response:

NMFS acknowledges this comment and notes that this final rule would not require Amendment 80 cooperatives to submit confidential information to the Council or the public. Moreover, NMFS will not disclose data to the Council or the public that would be considered confidential, consistent with section 402(b) of the Magnuson-Stevens Act and applicable agency

regulations and policies regarding any confidential information. The scope of Amendment 105 and this rule do not modify existing data disclosure procedures.

Comment 8:

All of the information to be submitted in the Preliminary Amendment 80 Flatfish Exchange Report is available to NMFS. NMFS could therefore provide the Council with this information at its December meeting instead of requiring Amendment 80 cooperatives to submit a separate report to the Council by December 1 of each year. The proposed annual reporting requirement creates an unnecessary reporting burden, increases costs for Amendment 80 cooperatives, and should be removed.

Response:

NMFS agrees and has removed from the final rule the requirement for Amendment 80 cooperatives to submit a Preliminary Amendment 80 Flatfish Exchange Report to the Council by December 1 every year. See the “Changes from the Proposed Rule” section above in this preamble for additional detail.

Comment 9:

Proposed regulations at § 679.5(s)(7)(iii) describe information requirements for the Preliminary Amendment 80 Flatfish Exchange Report as all of the information required on the Preliminary Amendment 80 Flatfish Exchange Report form and all required additional documentation. The form was not available for review, so it is difficult to comment on this proposed regulation. However, the requirements seem vague and we request that the final rule clarify the reporting requirements.

Response:

NMFS provided the form to the commenter and the public for review prior to the end of the public comment period on this proposed rule. However, NMFS has removed the Preliminary Amendment 80 Flatfish Exchange Report and the accompanying form from this final rule (see Comment 8). Therefore, this comment is no longer applicable to this final rule.

Comment 10:

Block B of the Preliminary Amendment 80 Flatfish Exchange Report form requires information about Amendment 80 Flatfish Exchanges. The headings in Block B are titled: “Species Exchanged Into Cooperative Quota” and “Species Exchanged Out of Reserves”. These headings are asking for the same information. As described in the proposed regulations, an Amendment 80 cooperative would be exchanging CQ of one species for CQ of another species. The current form confuses these two exchanges and should be corrected.

Response:

NMFS acknowledges this comment and notes that this final rule does not require Amendment 80 cooperatives to provide a Preliminary Amendment 80 Flatfish Exchange Report, as described in more detail in the response to Comment 8. Therefore, this comment is no longer applicable to this final rule.

Comment 11:

Block A of the Flatfish Exchange Application form asks whether the exchange is CDQ or Amendment 80. Block B also asks for the same information in both the “Species Exchanged In” and “Species Exchanged Out” columns. This suggests that an Amendment 80 cooperative may exchange CDQ for Amendment 80 CQ. We do not believe this was the intent of the proposed rule, and should be corrected. We believe it’s only necessary to state whether the exchange is CDQ or Amendment 80 in Block A.

Response:

NMFS agrees and has revised Block A and Block B of the Flatfish Exchange Application form accordingly.

Comment 12:

The Flatfish Exchange Application form instructions state that the exchange “will be exchanged as of the date NMFS approves the exchange application”. The instructions also state “No exchange, adjustment, apportionment of flatfish may take effect until NMFS publishes notification in the *Federal Register*”. NMFS should clarify if the “date NMFS approves the exchange application” is the same date that “NMFS publishes notification in the *Federal Register*.” Also, NMFS should clarify the process they will follow to ensure there is no delay in reviewing and approving the Flatfish Exchange Application.

Response:

NMFS agrees and has revised the Flatfish Exchange Application form instructions to clarify that a Flatfish Exchange is effective on the date that NMFS publishes notification in the *Federal Register*. Flatfish Exchanges are not effective upon approval of a Flatfish Exchange Application. As described on page 36712 of the preamble to the proposed rule, Section 1.4.2 of the RIR/IRFA prepared for this action, and this final rule preamble, each Flatfish Exchange Application received by NMFS must be approved by NMFS, and revised TACs must be published in the *Federal Register*, before unused CDQ or CQ could be exchanged for a portion of its CDQ ABC reserve or Amendment 80 reserve. NMFS’ approval of a Flatfish Exchange Application is necessary to ensure that ABC’s are not exceeded. NMFS will disapprove any application that could result in exceeding an ABC or ABC reserve for a species. NMFS will make every effort to review each Flatfish Exchange Application as expeditiously as possible while ensuring that it fully considers the requested exchange to ensure an ABC or ABC reserve to be exceeded.

Comment 13:

The commenter suggested that the proposed rule did not meet plain English standards for clearly written regulations.

Response:

NMFS disagrees. The preamble to proposed rule used plain language to describe the proposed regulatory text. The preamble to the proposed rule includes a Summary of Regulatory Changes proposed in a bulleted list on page 36709 that provides a broad overview of the proposed regulatory changes. NMFS provided a thorough description of the rationale for all the relevant components and effects of this action as clearly as possible in light of the complex

nature of fishery management programs. The proposed regulations, the preamble to the proposed rule, and this final rule are subject to an extensive review process, including legal review, to ensure that documents are consistent with the Magnuson-Stevens Act and other applicable law including Executive Orders (E.O.) 12866 and 12988. These two Executive Orders emphasize the need for plain language. For example E.O. 12866 requires that regulations be "simple and easy to understand, with the goal of minimizing uncertainty and litigation. . ." (Sec. 1, Par. (b) (12)) and E.O. 12988 requires that each regulation specify its effect "in clear language". (Sec. 3 Par. (b)(2)).

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

No payment or gift will be provided under this program.

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

As stated on the forms and in the regulations, the information collected is confidential under section 303(d) of the Magnuson-Stevens Act; and also under [NOAA Administrative Order \(AO\) 216-100](#), which sets forth procedures to protect confidentiality of fishery statistics.

All information collected is in a system of records: NOAA #19, notice published April 17, 2008 (an updated version was sent to DOC on May 30, 2013).

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

Not Applicable.

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

Estimated total unique respondents, 45 (2 coops, 28 vessels, 8 limited access permit holders, 6 CDQs, 1 appellant) increased from 39. Estimated total annual responses, 96, increased from 67. Estimated total annual burden, 204 hr, increased from 161 hr. Estimated total annual personnel cost, \$7,104, increased from \$4,350.

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

Estimated annual total miscellaneous costs, \$544, increased from \$532.

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

Estimated total annual responses, 72, increased from 67. Estimated total annual burden, 43 hr, decreased from 53 hr. Estimated total annual personnel cost, \$1,591, decreased from \$1,593.

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

Program Change: A new information collection is created by adding the Flatfish Exchange Application to the Amendment 80 Program, adding 24 responses, 12 hours and \$2 in miscellaneous costs.

Flatfish Exchange Application [NEW]

- An increase of 8 respondents, 8 instead of 0 (6 CDQ groups + 2 cooperatives)
- An increase of 24 responses, 24 instead of 0
- An increase of 12 hr burden, 12 hr instead of 0 hr
- An increase of \$444 personnel costs, \$444 instead of \$0
- An increase of \$2 miscellaneous costs, \$2 instead of \$0

Adjustments: Adjustments are made to the number of respondents, cost of postage, and personnel hourly wage. A net of 5 responses and 31 hours was added, and there was a net increase in miscellaneous costs of \$10.

A80 Annual Cooperative Report

- An increase of 1 respondent and response, 2 instead of 1
- An increase of 23 hr burden, 50 hr instead of 27 hr
- An increase of \$850 personnel costs, \$1,850 instead of \$1,000
- An increase of \$36 miscellaneous costs, \$387 instead of \$351

Application for Inter-cooperative Amend80 Transfer

- An increase of 1 respondent and response, 2 instead of 1
- An increase of 2 hr burden, 4 hr instead of 2 hr
- An increase of \$98 personnel costs, \$148 instead of \$50

Application for Amend80 QS [one-time request]

- A decrease of 27 respondents and responses, 1 instead of 28
- A decrease of 54 hr burden, 2 hr instead of 56 hr
- A decrease of \$1,326 personnel costs, \$74 instead of \$1,400
- A decrease of \$112 miscellaneous costs, \$2 instead of \$114

Application for Amend80 Cooperative and CQ

- An increase of 1 respondent and response, 2 instead of 1
- An increase of 2 hr burden, 4 hr instead of 2 hr
- An increase of \$98 personnel costs, \$148 instead of \$50
- An increase of \$7 miscellaneous costs, \$9 instead of \$2

Application for Amend80 Limited Access Permit

An increase of \$192 personnel costs, \$592 instead of \$400
An increase of \$3 miscellaneous costs, \$26 instead of \$23

Application to Transfer Amend80 QS

An increase of 3 respondents and responses, 28 instead of 25
An increase of 6 hr burden, 56 hr instead of 50 hr
An increase of \$822 personnel costs, \$2,072 instead of \$1,250
An increase of \$23 miscellaneous costs, \$58 instead of \$35

Application for Amend80 Vessel Replacement

An increase of 26 respondents and responses, 28 instead of 2
An increase of 52 hr burden, 56 hr instead of 4 hr
An increase of \$822 personnel costs, \$2,072 instead of \$1,250
An increase of \$52 miscellaneous costs, \$58 instead of \$6

Amend80 Appeals Letter

An increase of \$48 personnel costs, \$148 instead of \$100.

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

The information collected will not be published.

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

1Not Applicable.

18. Explain each exception to the certification statement.

1Not Applicable.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not employ statistical methods.