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## Title 50 –Wildlife and Fisheries

### Chapter VI –Fishery Conservation and Management, National Oceanic and Atmospheric Administration, Department of Commerce

#### Part 679 –Fisheries of the Exclusive Economic Zone off Alaska

##### Subpart L –Pacific Cod Trawl Cooperative Program

Source: 88 FR 53735, Aug. 8, 2023, unless otherwise noted.

Authority: 16 U.S.C. 773 *et seq.*; 1801 *et seq.*; 3631 *et seq.*; Pub. L. 108-447; Pub. L. 111-281.

**Editorial Note:** Nomenclature changes to part 679 appear at 61 FR 56438, Nov. 1, 1996; 62 FR 2047, Jan. 15, 1997; 66 FR 27909, May 21, 2001; 67 FR 79739, Dec. 30, 2002; and 77 FR 6502, Feb. 8, 2012.

#### § 679.131 PCTC Program annual harvester privileges.

(a) *Assigning CQ to a PCTC Program cooperative –*

(1) *General.* (See also § 679.4(q)).

- (i) Every calendar year, PCTC Program QS assigned to LLP licenses and PCTC Program QS permits held by a PCTC Program processor must be assigned to a PCTC Program cooperative through a CQ permit to use the CQ derived from that PCTC Program QS to catch Pacific cod, crab PSC, or halibut PSC assigned to the PCTC Program.
- (ii) NMFS will issue a CQ permit to a PCTC Program cooperative based on the aggregate PCTC Program QS of all LLP licenses and associated processors designated on an application for CQ that is approved by the Regional Administrator as described under paragraph (a)(4) of this section.
- (iii) Processors must associate with a PCTC Program cooperative for the PCTC Program QS assigned to that processor's PCTC Program QS permit to be issued to a PCTC Program cooperative as CQ.

(2) *PCTC Program QS issued after issuance of CQ or Pacific cod trawl catcher vessel sector TAC.* Any PCTC Program QS assigned to an LLP license or PCTC Program QS permit after NMFS has issued CQ for a calendar year will not result in any additional CQ being issued to a PCTC Program cooperative even if that QS holder has assigned their LLP license or PCTC Program QS permit to a PCTC Program cooperative for that calendar year.

(3) *Failure to designate QS to a PCTC Program cooperative.* Failure to designate an LLP license with PCTC Program QS or a PCTC Program QS permit on a timely and complete application for CQ that is approved by the Regional Administrator as described under paragraph (a)(4) of this section, will result in the Regional Administrator not assigning that QS to a PCTC Program cooperative for the applicable calendar year.

(4) *Application for PCTC Program CQ.* PCTC Program cooperatives must submit a complete application by November 1 to receive CQ that includes the following:

- (i) PCTC Program cooperative identification, including but not limited to the name of the cooperative and the taxpayer identification number;

- (ii) PCTC Program QS holders and ownership documentation;
- (iii) PCTC Program cooperative member vessels and LLP licenses;
- (iv) PCTC Program cooperative associated processors;
- (v) Vessels with FFPs on which the CQ issued to the PCTC Program cooperative will be used;
- (vi) Certification of cooperative representative;
- (vii) An attached copy of the membership agreement or contract that includes the following terms:
  - (A) How the cooperative intends to harvest its CQ;
  - (B) The obligations of QS holders who are members of a PCTC Program cooperative to ensure the full payment of PCTC Program fee liabilities that may be due;
  - (C) How cooperatives monitor and report leasing activity in GOA fisheries; and
  - (D) For a cooperative intending to harvest any amount of the CQ set-aside, the cooperative's plan for coordinating harvest and delivery of the CQ set-aside with an Aleutian Islands shoreplant as defined § 679.2.
- (viii) Each year, all cooperatives must establish an inter-cooperative agreement. This inter-cooperative agreement must be included as part of each annual cooperative application and is required before NMFS will issue CQ. The inter-cooperative agreement must establish how the cooperatives intend to harvest the CQ set-aside in years when it applies and ensure harvests in the BS do not exceed the minimum set-aside as specified at § 679.132(a)(4)(i). For the calendar year 2023, NMFS will allow each cooperative to submit the inter-cooperative agreement prior to December 31, 2023.

(b) *Allocations of Pacific cod to the PCTC Program* –

- (1) **General.** Each calendar year, the Regional Administrator will determine the amount of the BSAI trawl catcher vessel sector's Pacific cod A and B season allocations that will be assigned to the PCTC Program as follows:
  - (i) **Incidental catch allowance (ICA).** For the A and B seasons, the Regional Administrator will establish an ICA to account for projected incidental catch of Pacific cod by trawl catcher vessels engaged in directed fishing for groundfish other than PCTC Program Pacific cod.
  - (ii) **Directed fishing allowance (DFA).** The remaining trawl catcher vessel sector's Pacific cod A and B season allocations are established as a DFA for the PCTC Program.
- (2) **Calculation** –
  - (i) **Determination of Pacific cod trawl catcher vessel TAC allocated to the PCTC Program.** NMFS will determine the Pacific cod trawl catcher vessel TAC in a calendar year in the annual harvest specification process at § 679.20.
  - (ii) **Annual apportionment of Pacific cod trawl catcher vessel TAC.** The annual apportionment of Pacific cod in the A and B seasons between the PCTC Program DFA and the ICA in a given calendar year is established in the annual harvest specifications.
- (3) **Allocations of Pacific Cod DFA to PCTC Program** –

- (i) **Harvester percentage of DFA.** NMFS will assign 77.5 percent of the PCTC Program DFA to the QS attached to LLP licenses assigned to PCTC Program cooperatives. Each LLP license's QS units will correspond to a portion of the DFA according to the following equation:  $(\text{LLP license QS units} / (\text{sum of all LLP license QS units})) \times (.775 \times \text{DFA})$ .
- (ii) **Processor percentage of DFA.** NMFS will assign 22.5 percent of the PCTC Program DFA to the QS attached to PCTC Program QS permits assigned to PCTC Program cooperatives. Each QS permit's QS units will correspond to a portion of the DFA according to the following equation:  $(\text{PCTC Program QS permit QS units} / (\text{sum of all PCTC Program QS permit QS units})) \times (.225 \times \text{DFA})$ .

(4) **Allocation of CQ to PCTC Program cooperatives –**

- (i) **General.** Annual CQ will be issued to each PCTC Program cooperative by NMFS based on the aggregate QS attached to LLP licenses and PCTC Program QS permits that are assigned to the cooperative. NMFS will issue CQ by A and B season and cooperatives will ensure the seasonal limits are not exceeded. Unused A season CQ may be rolled over to the B season. Annual CQ may be harvested from either BS or AI subareas subject to any limitations on BS harvest when the AI set-aside is in effect.
- (ii) **CQ allocation to PCTC Program cooperatives.** The amount of CQ that is issued to a PCTC Program cooperative is calculated according to the following formula:

CQ derived from QS assigned to LLP holders =  $[(.775 \times \text{DFA})$

$\times (\text{Total LLP license QS units assigned to that cooperative} / \text{sum of all LLP license QS units})]$

CQ derived from QS assigned to PCTC Program QS permit holders =  $[(.225 \times \text{DFA})$

$\times (\text{Total PCTC Program Permit QS units assigned to that cooperative} / \text{sum of all PCTC Program QS permit QS units})]$

The total CQ issued to that cooperative =

CQ derived from LLP license holders +

CQ derived from PCTC Program QS permit holders

- (iii) **Issuance of CQ.** A and B season trawl catcher vessel Pacific cod sector DFAs will be issued to PCTC Program cooperatives as CQ. Annual CQ for each PCTC cooperative will include separate A and B season CQ.
- (iv) **AI set-aside.** When in effect, the AI set-aside will be established annually as specified further at § 679.132.

(c) **Allocations of halibut PSC –**

- (1) **Halibut PSC limit for the PCTC Program.** NMFS specifies the overall halibut PSC limit for the PCTC Program for each calendar year in the harvest specifications pursuant to the procedures specified at § 679.21(b). NMFS calculates the halibut PSC limit according to the formula described in this paragraph. NMFS assigns that halibut PSC limit to PCTC Program cooperatives pursuant to paragraph (a)(1)(i) of this section.
    - (i) Multiply the halibut PSC limit apportioned to the BSAI trawl limited access sector's Pacific cod fishery category by 98 percent, which yields the halibut PSC apportioned to the trawl catcher vessel sector. The remaining 2 percent is apportioned to the AFA catcher/processor sector as specified at § 679.21(b)(4).
    - (ii) Assign 95 percent of the trawl catcher vessel sector's halibut PSC limit to the A and B seasons and 5 percent to the C season.
    - (iii) Each year after apportioning halibut PSC to the trawl catcher vessel sector for the A and B season, apply one of the following reductions to the A and B season trawl catcher vessel halibut PSC limit to determine the overall PCTC Program halibut PSC limit:
      - (A) In the first year of the PCTC Program, reduce the A and B season halibut PSC limit by 12.5 percent.
      - (B) In the second year, and each year thereafter, reduce the A and B season halibut PSC limit by 25 percent.
  - (2) **Halibut PSC assigned to each PCTC Program cooperative.** For each calendar year, the amount of halibut PSC assigned to a cooperative is determined by the following procedure and the amount will be specified on the CQ permit:
    - (i) Divide the amount of CQ units assigned to each PCTC Program cooperative by the amount of CQ allocated to all cooperatives. This yields the percentage of CQ units held by each cooperative.
    - (ii) Multiply the overall PCTC Program halibut PSC limit by the percentage of the CQ assigned to a cooperative. This yields the amount of halibut PSC issued to that cooperative as CQ.
  - (3) **Use of halibut PSC in the PCTC Program.** Halibut PSC limits assigned to the CQ permit issued to a PCTC Program cooperative may only be used by the members of that PCTC Program cooperative while harvesting CQ in the BSAI. Any halibut PSC used by a cooperative must be deducted from the amount of halibut PSC on its CQ permit. Halibut PSC limits for cooperatives are not subject to seasonal apportionment under § 679.21. Halibut PSC limits are issued to the PCTC Program for the duration of the A and B seasons. Unused halibut PSC limits may be reapportioned to the C season.
- (d) **Allocations of crab PSC –**
- (1) **Crab PSC limits for the PCTC Program.** NMFS specifies the overall crab PSC limit for the PCTC Program for each calendar year in the harvest specifications pursuant to the procedures specified at § 679.21(e). NMFS calculates the crab PSC limit according to the formula described in this paragraph. NMFS then assigns that crab PSC limit to PCTC Program cooperatives with CQ pursuant to paragraph (a)(1)(i) of this section.

- (i) Multiply the crab PSC limit apportioned to the BSAI trawl limited access sector's Pacific cod fishery category by 90.6 percent, which yields the percentage of crab PSC apportioned to the trawl catcher vessel sector. The remaining 9.4 percent goes to the AFA catcher/processor sector as specified at § 679.21(b)(4).
  - (ii) Assign 95 percent of the trawl catcher vessel sector's crab PSC limit to the A and B seasons and 5 percent to the C season.
  - (iii) Reduce the A and B season trawl catcher vessel crab PSC limit by 35 percent to determine the overall PCTC Program crab PSC limit.
- (2) **Crab PSC assigned to each PCTC Program cooperative.** For each calendar year, the amount of crab PSC limit assigned to a cooperative is determined by the following procedure and the amount will be specified on the CQ permit:
  - (i) Divide the amount of CQ assigned to each PCTC Program cooperative by the total CQ assigned to all cooperatives. This yields the percentage of CQ held by that cooperative.
  - (ii) Multiply the overall PCTC Program crab PSC limit by the percentage of the CQ pool assigned to a cooperative. This yields the crab PSC limit issued to that cooperative as CQ.
- (3) **Use of crab PSC in the PCTC Program.** Crab PSC limits assigned to the CQ permit issued to a PCTC Program cooperative may only be used by the members of that PCTC Program cooperative while harvesting CQ in the BSAI. Any crab PSC used by a cooperative must be deducted from the amount of crab PSC limit on its CQ permit. Crab PSC limits for cooperatives are not subject to seasonal apportionment under § 679.21. Crab PSC limits are issued to the PCTC Program for the duration of the A and B seasons. Unused crab PSC limits may be reapportioned to the C season.
- (e) **Transfer of PSC limits.** Halibut and crab PSC limits are transferable between cooperatives according to the same rules established for CQ in paragraph (i) of this section.
- (f) **Non-allocated Groundfish species.** The PCTC Program allocations are for directed fishing for Pacific cod by trawl catcher vessels. All groundfish species not allocated to PCTC Program cooperatives are managed to the maximum retainable amounts (MRAs), as described under § 679.20(e).
- (g) **Rollover of Pacific cod.** If, after June 10, the Regional Administrator determines that reallocating a portion of the Pacific cod ICA or DFA from the PCTC Program to the BSAI trawl limited access sector C season is appropriate, the Regional Administrator may do so through notification in the FEDERAL REGISTER consistent with regulations at § 679.20(a)(7)(iii).
- (h) **Rollover of PSC to the C Season.** If, after June 10, the Regional Administrator determines that reallocating a portion of the halibut or crab PSC limits from the PCTC Program to the BSAI trawl limited access sector C season is appropriate, the Regional Administrator may do so through notification in the FEDERAL REGISTER consistent with regulations at § 679.91(f)(4) and (5).
- (i) **Process for inter-cooperative transfer of CQ.** NMFS will process an application through the NMFS online system for an inter-cooperative transfer of CQ, including PSC, provided that all information is completed by the transferor and transferee, with all applicable fields accurately filled in, and all required documentation is provided.
- (j) **PCTC Program cooperatives –**

- (1) **General.** This section governs the formation and operation of PCTC Program cooperatives. The regulations in this section apply only to PCTC Program cooperatives that have formed for the purpose of applying for and fishing with CQ issued annually by NMFS. PCTC Program cooperatives and cooperative members are responsible for ensuring the conduct of cooperatives is consistent with any relevant State or Federal antitrust laws. Membership in a cooperative is voluntary. No person may be required to join a cooperative. Any LLP license holder with PCTC Program QS may join a PCTC Program cooperative and assign their QS to that cooperative. Members may leave a cooperative, but any CQ derived from the QS held by that member will remain with that cooperative for the duration of the calendar year.
- (2) **Legal and organizational requirements.** A PCTC Program cooperative must meet the following legal and organizational requirements before it is eligible to receive CQ:
  - (i) Each PCTC Program 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 PCTC Program cooperative must appoint an individual as the designated representative to act on the cooperative's behalf and to serve as a contact point for NMFS for questions regarding the operation of the cooperative. The designated representative may be a member of the cooperative, or some other individual designated by the cooperative to act on its behalf;
  - (iii) Each PCTC Program cooperative must submit a timely and complete application for CQ; and
  - (iv) Each PCTC Program cooperative must meet the mandatory requirements established in paragraph (j)(3) of this section.
- (3) **Elements of PCTC Program cooperatives.** The following table describes the necessary elements to form and operate a PCTC Program cooperative:

(i) Who may join or associate with a PCTC Program cooperative?	Any PCTC Program QS holder named on a timely and complete application for CQ for that calendar year that is approved by NMFS. Individuals who are not QS holders may be employed by, or serve as the designated representative of, a cooperative, but cannot be members of the cooperative. Any processor with an FPP may associate with a cooperative. A processor with an FPP must be named on an LLP license with a BSAI Pacific cod trawl mothership endorsement.
(ii) What is the minimum number of LLP licenses required to form a cooperative?	A minimum of three LLP licenses are needed to form a cooperative.
(iii) How many unique LLP license holders are required to form a cooperative?	There is no minimum number of unique LLP license holders required to form a cooperative.
(iv) Is there a minimum amount of PCTC	No.

Program QS units that must be assigned to a PCTC Program cooperative?	
(v) What is allocated to the PCTC Program cooperatives?	A and B season CQ for Pacific cod, halibut PSC limits, and crab PSC limits, based on the total QS units assigned to the cooperative by its members.
(vi) Is this CQ an exclusive catch and use privilege?	Yes, the cooperative has an exclusive privilege to collectively catch and use this CQ. A cooperative can transfer all or a portion of this CQ to another cooperative.
(vii) Is there a period in a calendar year during which PCTC Program cooperative vessels may catch Pacific cod?	Yes, any cooperative vessel may harvest CQ during the during the A and B seasons specified at § 679.130(a)(2).
(viii) Can any vessel catch a PCTC Program cooperative's Pacific cod?	No, only vessels that are listed on the cooperative's Application for PCTC Program CQ may catch Pacific cod assigned to that cooperative.
(ix) Can a member of a PCTC Program cooperative transfer CQ individually without the approval of the other members of the cooperative?	No, only the designated representative of the cooperative, and not individual members, may transfer CQ to another cooperative, and only if that transfer is approved by NMFS.
(x) Are GOA sideboard limits assigned to specific persons or PCTC Program cooperatives?	Existing sideboard limits apply to individual vessels or LLP license holders, not cooperatives.
(xi) Can PCTC Program QS assigned to an LLP license or QS held by processors be assigned to more than one PCTC Program cooperative in a calendar year?	QS assigned to an LLP license may be assigned to only one cooperative in a calendar year. Multiple QS permits or LLP licenses held by a single person are not required to be assigned to the same cooperative. A processor may associate with more than one cooperative and any QS held by the processor would be divided between the associated cooperatives in the same proportion as the CQ derived from the LLP licenses.
(xii) Which members may catch the PCTC Program cooperative's CQ?	Use of a cooperative's CQ is determined by the 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 cooperative.
(xiii) Does a PCTC Program cooperative	Yes, a cooperative must have a membership agreement or contract. A copy of this agreement or contract must be submitted to NMFS with the

need a membership agreement or contract?	application for CQ. The membership agreement or contract must specify: (A) How the cooperative intends to harvest its CQ; and (B) The obligations of QS holders, who are members of a cooperative, to ensure the full payment of fee liabilities that may be due.
(xiv) What happens if the PCTC Program cooperative membership agreement or contract is modified during the fishing year?	A copy of the amended membership agreement or contract must be sent to NMFS in accordance with § 679.131.
(xv) What happens if the cooperative exceeds its CQ amount?	A cooperative is not authorized to catch Pacific cod or use halibut or crab PSC limits in excess of the amount on its CQ permit. Exceeding a CQ permit is a violation of the regulations.
(xvi) Is there a limit on how much CQ a PCTC Program cooperative may hold?	No, but each QS holder is subject to ownership caps, and a vessel may be subject to vessel use caps. See § 679.133.
(xvii) Is there a limit on how much Pacific cod a vessel may catch?	Yes, generally a vessel may not catch more than 5 percent of the Pacific cod assigned to the PCTC Program for that calendar year. See § 679.133 for use cap provisions.
(xviii) Are there any special reporting requirements?	The designated representative of the cooperative may submit an annual PCTC Program cooperative report to the North Pacific Fishery Management Council.
(xix) Is there a requirement that a PCTC Program cooperative pay PCTC Program cost recovery fees?	Yes, see § 679.135 for the provisions that apply. PCTC Program cooperatives are responsible for paying cost recovery fees.
(xx) Is there any restriction on deliveries of CQ?	Sometimes, if the AI CQ set-aside is in effect for the fishing year as specified at § 679.132. Cooperatives must establish, through an inter-cooperative agreement, how 12 percent of the BSAI A season CQ will be set aside for delivery to an Aleutian Islands shoreplant.

- (4) **Successors-in-interest.** If a member of a PCTC Program cooperative dies (in the case of an individual) or dissolves (in the case of a business entity), the CQ derived from the QS assigned to the cooperative for that year from that person remains under the control of the cooperative for the duration of that calendar year as specified in the cooperative contract. Each 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 a cooperative member.