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Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands Management Area; New Cost Recovery Fee Programs; Proposed Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 140304192–4999–01]

RIN 0648–BE05

Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands Management Area; New Cost Recovery Fee Programs

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues a proposed rule to implement cost recovery fee programs for the Western Alaska Community Development Quota (CDQ) Program for groundfish and halibut, and three limited access privilege programs: The American Fisheries Act (AFA), Aleutian Islands Pollock, and Amendment 80 Programs. The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) authorizes and requires the collection of cost recovery fees for the CDQ Program and limited access privilege programs. Cost recovery fees recover the actual costs directly related to the management, data collection, and enforcement of the programs. The Magnuson-Stevens Act mandates that cost recovery fees not exceed 3 percent of the annual ex-vessel value of fish harvested by a program subject to a cost recovery fee. This action is intended to promote the goals and objectives of the Magnuson-Stevens Act, the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP), and other applicable laws.

DATES: Comments must be received no later than February 6, 2015.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2014–0031, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2014-0031,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to NMFS at the above address and by email to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Electronic copies of the Regulatory Impact Review (RIR), and the Initial Regulatory Flexibility Analysis (IRFA) prepared for this action are available from *http://www.regulations.gov* or from the NMFS Alaska Region Web site at *http://alaskafisheries.noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Karen Palmigiano, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fisheries in the Federal exclusive economic zone (EEZ) of the Bering Sea and Aleutian Islands Management Area (BSAI) under the FMP. The North Pacific Fishery Management Council prepared the FMP under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.* Regulations governing U.S. fisheries and implementing this FMP appear at 50 CFR parts 600 and 679.

The International Pacific Halibut Commission (IPHC) and NMFS manage fishing for Pacific halibut through regulations established under the authority of the Northern Pacific Halibut Act of 1982 (Halibut Act). The IPHC promulgates regulations governing the halibut fishery under the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea (Convention). The IPHC's regulations are subject to approval by the Secretary of State with the concurrence of the Secretary of Commerce (Secretary). NMFS publishes the IPHC's regulations as annual management measures pursuant to 50 CFR 300.62. The Halibut Act, at sections 773c (a) and (b), provides the Secretary with general responsibility to carry out the Convention and the Halibut Act.

Table of Contents

I. Statutory Authority
A. Limited Access Privilege Programs
B. CDQ Program Provisions
C. Maximum Amount and Collection of Cost Recovery Fees
D. Applicability of Section 303A of the Magnuson-Stevens Act
E. Summary of Relevant Magnuson-Stevens Act Provisions
F. Existing Cost Recovery Fee Programs, Policies, and Guidance
II. Background
A. AFA Program
B. Aleutian Islands Pollock Program
C. Amendment 80 Program
D. CDQ Program
III. Cost Recovery—General
A. Person and Permit Subject to Cost Recovery Fee Liability
B. Fee Percentage
C. Ex-Vessel Value
D. Ex-Vessel Prices
E. Information Used to Calculate Ex-Vessel Value
1. Volume and Value Reports
2. IFQ Buyer Report
3. Commercial Operator's Annual Report (COAR)
F. Reimbursable Costs
G. Fee Liability Notice and Submission
H. Payment Compliance
I. Annual Reports
IV. The Proposed Action
A. Pollock Cost Recovery Fee Programs
1. AFA Cost Recovery Fee Program Applicable Entities
2. Aleutian Islands Pollock Cost Recovery Fee Program Applicable Entities
3. Cost, Values, and Fee Percentage
4. Calculation of Standard Price Information
B. Amendment 80 Cost Recovery Fee Program
1. Amendment 80 Cost Recovery Fee Program Applicable Entities
2. Cost, Values, and Fee Percentage
3. Calculation of Standard Price Information
C. CDQ Cost Recovery Fee Program
1. CDQ Cost Recovery Fee Program Applicable Entities
2. Cost, Values, and Fee Percentage
3. Calculation of Standard Price Information
V. Classification
A. Initial Regulatory Flexibility Analysis
B. Description of Significant Alternatives Considered
C. Additional Alternatives Considered
D. Collection-of-Information Requirements

I. Statutory Authority

The primary statutory authority for this proposed action is section 304(d) of the Magnuson-Stevens Act. Section 304(d) of the Magnuson-Stevens Act specifies that the Secretary is authorized and shall collect a fee to recover the

actual costs directly related to the management, data collection, and enforcement of any limited access privilege program and community development quota program that allocates a percentage of the total allowable catch of a fishery to such program. Section 304(d) also specifies that such fee shall not exceed three percent of the ex-vessel value of fish harvested under any such program.

A. Limited Access Privilege Programs

Relevant to section 304(d)(2)(A)(i), and the specific programs to which this proposed action would apply, section 3 of the Magnuson-Stevens Act defines a ''limited access privilege'' as including ''an individual fishing quota.'' Section 3 of the Magnuson-Stevens Act defines ''individual fishing quota'' as ''a Federal permit under a limited access system to harvest a quantity of fish, expressed by a unit or units representing a percentage of the total allowable catch of a fishery that may be received or held for exclusive use by a person. Such term does not include community development quotas as described in section 305(i).'' The Magnuson-Stevens Act and Federal regulations further define the terms ''permit,'' ''limited access system,'' ''total allowable catch,'' and ''person.''

Federal regulations at 50 CFR 679.2 define a ''permit'' as ''documentation granting permission to fish.'' Section 3 of the Magnuson-Stevens Act defines ''limited access system'' as ''a system that limits participation in a fishery to those satisfying certain eligibility criteria or requirements contained in a fishery management plan or associated regulation.''

Federal regulations at § 679.20 define the process for establishing a ''total allowable catch'' (TAC) on an annual basis for each groundfish fishery managed under the FMP. Each year, NMFS publishes a final rule to implement an annual harvest specification establishing a TAC amount for each groundfish fishery managed under the FMP. For the most recent example of the annual harvest specifications, see the final 2014 and 2015 harvest specifications (79 FR 12108, March 4, 2014). Each year, the IPHC establishes an annual catch limit that represents the TAC in the commercial halibut fishery pursuant to its authority under the Convention. The annual catch limit is adopted by the IPHC each year, and the Secretary of State of the United States, with the concurrence of the Secretary, can accept annual management measures adopted by the IPHC. If accepted, NMFS publishes the annual management measures adopted by the IPHC pursuant to 50 CFR 300.62. For the most recent example of the annual catch limit, see the 2014 annual management measures (79 FR 13906, March 12, 2014).

Section 3 of the Magnuson-Stevens Act defines ''person'' as ''any individual (whether or not a citizen or national of the United States), any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.''

These definitions mean that the Secretary is authorized and required to collect a cost recovery fee for fisheries in which the person receiving a permit to harvest a percentage of the TAC is an individual or some other type of non-individual entity, including a corporation, partnership, or fishery cooperative. Further, these definitions mean that the Secretary is authorized and required to collect a cost recovery fee for limited access systems established under section 303A of the Magnuson-Stevens Act, as well as individual fishing quotas that are not established under section 303A of the Magnuson-Stevens Act. The programs that would be subject to a cost recovery fee under this proposed action were not established under the provisions of section 303A of the Magnuson-Stevens Act, but would be subject to a cost recovery fee under the provisions applicable to individual fishing quota programs.

Section 304(d)(2)(A) of the Magnuson-Stevens Act authorizes and requires the Secretary to collect a cost recovery fee for limited access privilege programs. By definition under section 3 of the Magnuson-Stevens Act, limited access privilege programs include individual fishing quota programs. By definition under the Magnuson-Stevens Act, the AFA Program, Aleutian Islands Pollock Program, and Amendment 80 Program are individual fishing quota programs, because: (1) NMFS issues permits as part of a limited access system established under each of these programs; (2) these permits allow the harvest of a quantity of specific fisheries representing a portion of the TAC of the fisheries managed under each of these programs; and (3) these permits are received or held for exclusive use by specific persons as defined for each of these programs. Therefore, NMFS proposes to implement cost recovery fees for these programs as authorized and required in section 304(d)(2) of the Magnuson-Stevens Act. Sections III and IV of this preamble provide additional detail on the specific fisheries subject to cost recovery fees, the portions of the TACs allocated as a limited access privilege, the permits issued, and the persons receiving the permits for each of these limited access privilege programs.

NMFS also considered implementing a cost recovery fee program, under section 304(d) of the Magnuson-Stevens Act, for the BSAI Pacific cod allocation to the hook-and-line catcher/processors that are part of the Freezer Longline Coalition Cooperative. However, the BSAI Pacific cod allocation to the hook-and-line catcher/processors does not currently meet the definition of a limited access privilege program because the Freezer Longline Coalition Cooperative does not have an exclusive harvest privilege. This issue is addressed under the ''Additional Alternatives Considered'' heading in section V of this preamble.

B. CDQ Program Provisions

Section 304(d)(2)(ii) of the Magnuson-Stevens Act provides the Secretary with the authority and requirement to collect fees to recover costs from the CDQ Program for fisheries in which a percentage of the TAC of a fishery is allocated to the CDQ Program. Section 305(i) of the Magnuson-Stevens Act authorizes the CDQ Program and specifies the annual percentage of the TAC allocated to the CDQ Program in each directed fishery of the BSAI. Section 305(i) also specifies the method for further apportioning the TAC allocated to the CDQ Program to specific persons, *i.e.,* CDQ groups. Section 305(i) also defines these CDQ groups. NMFS previously implemented cost recovery fees for the amount of BSAI crab fishery TACs allocated to the CDQ Program under regulations implementing the Crab Rationalization Program (70 FR 10174, March 2, 2005, see regulations at § 680.44) under the authority of section 304(d)(2) of the Magnuson-Stevens Act. NMFS proposes to implement cost recovery fees for BSAI groundfish and halibut TACs allocated to the CDQ Program under the authority of section 304(d)(2) of the Magnuson-Stevens Act.

C. Maximum Amount and Collection of Cost Recovery Fees

Sections 304(d)(2)(B) and (C) of the Magnuson-Stevens Act specify an upper limit on cost recovery fees, when the fees must be collected, and where the fees must be deposited. Section 304(d)(2)(B) provides that the fee shall not exceed three percent of the ex-vessel value of fish harvested under either a limited access privilege program or a CDQ program that allocates a percentage of the TAC of a fishery to such a program. NMFS does not have the

authority to collect cost recovery fees under section 304(d)(2)(i) when a person does not hold or receive exclusive use of a percentage of the TAC.

Section 304(d)(2)(B) also states that the cost recovery fee must be collected at either the time of the landing, filing of a landing report, or sale of such fish during the fishing season, or in the last quarter of the calendar year in which the fish were harvested. NMFS proposes that all fees for all four programs included in this action would be due annually by December 31 of the calendar year in which the landings were made. This complies with the requirements of section 304(d)(2)(B). Section 304(d)(2)(C) requires that all fees be deposited in the Limited Access System Administration Fund, which was established under section 305(h)(5)(B). NMFS proposes to collect all fees electronically in U.S. dollars by automated clearing house, credit card, or electronic check drawn on a U.S. bank account. Those fees would be deposited in the Limited Access System Administration Fund. Sections III and IV of this preamble provide further details on how the fees will be assessed and collected for each of the limited access privilege programs and the CDQ Program.

D. Applicability of Section 303A of the Magnuson-Stevens Act

NMFS has determined that cost recovery fee provisions in section 303A do not apply to the cost recovery fee program proposed in this rule, specifically the requirements in section 303A(e). The CDQ Program is not a limited access privilege program as defined in section 3 of the Magnuson-Stevens Act. Therefore, section 303A(e) does not apply to the CDQ Program.

Section 303A(e) also does not apply to the AFA, Aleutian Islands Pollock, and Amendment 80 Programs. NMFS based this determination on section 303A(i) of the Magnuson-Stevens Act. Section 303A(i) states: ''[t]he requirements of this section [303A] shall not apply to any quota program, including any individual quota program, cooperative program, or sector allocation for which a Council has taken final action or which has been submitted by a Council to the Secretary, or approved by the Secretary, within 6 months after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006.'' The Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 was enacted on January 12, 2007 (Public Law 109–479). Therefore, a quota program, including any individual quota program, cooperative program, or sector allocation is not subject to the requirements of section 303A(e) if a Council took final action on the program, a Council submitted the program, or the program was approved by the Secretary before July 10, 2007. All three of the limited access privilege programs included in this proposed rule were either recommended by the North Pacific Fishery Management Council, or approved by the Secretary and implemented prior to July 10, 2007.

The AFA Program was approved by the Secretary as an FMP amendment on February 27, 2002, and implemented in a final rule on December 30, 2002 (67 FR 79692, December 30, 2002). The Aleutian Islands Pollock Program was approved by the Secretary as an FMP amendment on February 9, 2005 and implemented as a final rule on March 1, 2005 (70 FR 9856, March 1, 2005). The North Pacific Fishery Management Council took final action to recommend the Amendment 80 Program on June 9, 2006. Additional detail on the North Pacific Fishery Management Council's final action to recommend the Amendment 80 Program is found in the final rule implementing the Amendment 80 Program (72 FR 52668, September 14, 2007). Therefore, the requirements of section 303A(e) of the Magnuson-Stevens Act do not apply to the AFA, the Aleutian Islands Pollock, or the Amendment 80 Program.

Although the AFA, Aleutian Islands Pollock, and Amendment 80 Programs were not established under the authority of section 303A of the Magnuson-Stevens Act, they do meet the definition of a ''limited access privilege'' under section 3 of the Magnuson-Stevens Act. A ''limited access privilege'' includes an ''individual fishing quota.'' The AFA, Aleutian Islands Pollock, and Amendment 80 Programs meet the definition of an ''individual fishing quota'' under section 3 of the Magnuson-Stevens Act. Specifically, under each of these programs, NMFS issues ''a Federal permit under a limited access system to harvest a quantity of fish, expressed by a unit or units representing a percentage of the total allowable catch of a fishery that may be received or held for exclusive use by a person.''

E. Summary of Relevant Magnuson-Stevens Act Provisions

To summarize, the Magnuson-Stevens Act specifies the following with respect to the collection of cost recovery fees:

- Fees must be collected for all limited access privilege programs;
- Fees must be collected for the CDQ Program;
- Fees must recover actual costs directly related to management, data collection, and enforcement of the programs;
- Fees must not exceed three percent of the ex-vessel value of a fish harvested under a program subject to cost recovery;
- Fees are in addition to any other fees charged under the Magnuson-Stevens Act;
- Fees must be deposited in the Limited Access System Administrative Fund (LASAF) in the U.S. Treasury; and
- Fees must be collected at either the time of a legal landing, filing of a landing report, or sale of such fish during a fishing season or in the last quarter of the calendar year in which the fish is harvested.

For more detail on the Secretary and NMFS' authority to implement cost recovery fees, please see section 1.1 of the RIR/IRFA.

F. Existing Cost Recovery Fee Programs, Policies, and Guidance

NMFS has previously established cost recovery fee programs to implement the requirements of section 304(d)(2) of the Magnuson-Stevens Act. The specific fisheries, the NMFS Region where those cost recovery fee programs were implemented, and the date the cost recovery fee programs were implemented, are provided in Table 1. For a more detailed discussion of these programs, see section 1.8.2 of the RIR/IRFA.

TABLE 1—LIMITED ACCESS PRIVILEGE PROGRAMS WITH A COST RECOVERY COMPONENT BY NMFS REGION

NMFS Region	Limited Access Privilege Program
Greater Atlantic Region	Atlantic Sea Scallop Individual Fishing Quota (73 FR 20090, April 14, 2008).
	Golden Tilefish Individual Transferable Quota (74 FR 42580, August 24, 2009).
Southeast Region	Red Snapper Individual Fishing Quota (71 FR 67447, November 22, 2006).
	Grouper-Tilefish Individual Fishing Quota (74 FR 44732, August 31, 2009).

TABLE 1—LIMITED ACCESS PRIVILEGE PROGRAMS WITH A COST RECOVERY COMPONENT BY NMFS REGION—Continued

NMFS Region	Limited Access Privilege Program
West Coast Region	Groundfish Trawl Rationalization (75 FR 78344, December 15, 2010).
North Pacific Region	Halibut and Sablefish Individual Fishing Quota Program (65 FR 14919, March 20, 2000).
	Crab Rationalization Program (70 FR 10174, March 2, 2005).
	Rockfish Program (76 FR 81248, December 27, 2011).

The U.S. Government Accountability Office (GAO) examined cost recovery fee programs in 2005 (March 2005, GAO Report to Congressional Requestors GAO–05–24, available at *http://www.gao.gov/new.items/d05241.pdf*). At the time, NMFS had only established one cost recovery fee program for the Halibut and Sablefish Individual Fishing Quota Program (Halibut and Sablefish IFQ Program). NMFS had determined that the actual costs to recover for the Halibut and Sablefish IFQ Program were the incremental costs of the program, (*i.e.,* those costs that would not have been incurred but for the program).

The GAO report examined the Halibut and Sablefish IFQ Program and found that NMFS was recovering the costs of management and enforcement, as required by the Magnuson-Stevens Act (see p. 4 of GAO–05–241). The GAO report noted that the Magnuson-Stevens Act does not define ''actual costs'' as directly related to the management and enforcement of an ''individual fishing quota'' program. The GAO report noted that actual costs could be interpreted as the full costs of managing an individual fishing quota program rather than those costs that are directly attributable to the implementation of an individual fishing quota program (*e.g.,* incremental costs). However, after reviewing the methodology for calculating recoverable costs in the Halibut and Sablefish IFQ Program, the GAO report did not recommend that NMFS change its policy of collecting incremental costs (see p. 23 of GAO–05–241).

One of the two key recommendations of the GAO report is that NOAA should establish cost recovery fee programs as required and authorized by section 304(d)(2) of the Magnuson-Stevens Act for all management programs to which they would apply. The other recommendation was to develop guidance as to which costs are to be recovered and, when actual information is unavailable, how to estimate the costs (see p. 22 of GAO–05–241).

NOAA has established policy guidance to define the methods for determining costs and implementing cost recovery fee programs for limited access privilege programs (November 2007, NOAA Technical Memorandum NMFS–F/SPO–86, available at *http://spo.nwr.noaa.gov/tm/tm86.pdf*). NOAA clarified this policy guidance in the NOAA Catch Share Policy (November 2011, NOAA Catch Share Policy, available at *http://www.nmfs.noaa.gov/sfa/management/catch_shares/about/documents/noaa_cs_policy.pdf*. The NOAA Catch Share Policy states that:

> It is NOAA policy to compute and recover from participants only the incremental operating costs associated with limited access privilege programs. . . . The relevant costs to recover are the incremental costs, *i.e.,* those costs that would not have been incurred but for the limited access privilege program, since cost recovery is not authorized for non-limited access privilege program fisheries. Conceptually, measuring these costs involves a ''with and without'' comparison of the cost of running the management program for the specified fishery under the status quo non-limited access privilege program regime, relative to the costs attributable to implementing the limited access privilege program.

NOAA has determined that recovering incremental costs is appropriate because the Magnuson-Stevens Act specifies collection of a fee to recover the actual costs directly related to the management, data collection, and enforcement of limited access privilege program or the CDQ Program. Incremental costs refer only to the costs that are added because of the implementation of a limited access privilege program or the CDQ Program. For example, a fishery stock assessment would be required whether or not a limited access privilege program or CDQ Program existed. Under section 304(d)(2) of the Magnuson-Stevens Act, NMFS is not authorized to recover costs from non-limited access privilege program or non-CDQ Program fishery participants. Therefore, having participants in the limited access privilege programs or the CDQ Program pay fees to cover the costs of a stock assessment would not be consistent with current NOAA policy. However, if specific permits, monitoring and catch accounting provisions, or enforcement requirements are needed to manage, collect data, or enforce a limited access privilege program or CDQ Program, it would be appropriate to recover fees for those costs. See the ''Reimbursable Costs'' section of this preamble for additional detail on the costs subject to cost recovery fee collection. This proposed action is intended to be consistent with the recommendations of the 2005 GAO report and established NOAA policy on cost recovery fee programs.

II. Background

The following sections provide a brief background on each of the programs for which NMFS proposes to implement a cost recovery fee program. For a more detailed description of each of these programs, please see section 1.5 of the RIR/IRFA.

A. AFA Program

On October 21, 1998, the President signed into law the AFA, which was Title II-Fisheries, Subtitles I and II, within the Omnibus Appropriations Bill FY 1999, Public Law 105–277. The AFA, as enacted in 1998, is available on the NMFS Alaska Region Web site: *https://alaskafisheries.noaa.gov/sustainablefisheries/afa/afa1998.pdf*. The purpose of the AFA was to clarify U.S. ownership standards for U.S. fishing vessels and to provide the Bering Sea pollock fleet the opportunity to eliminate the race to harvest Bering Sea pollock through the allocation of a percentage of the TAC of Bering Sea pollock that may be received or held for exclusive use by a person. The AFA established specific allocations of Bering Sea pollock; requirements for participation by catcher vessels, catcher/processors, motherships, and processors; excessive share limits; monitoring and enforcement provisions; and annual reporting requirements.

NMFS allocates the Bering Sea pollock TAC to the AFA Program as a directed fishery allowance after subtracting the CDQ Program allocation of 10 percent of the TAC, and after subtracting a portion of the TAC as an incidental catch allowance to accommodate the incidental catch of pollock in non-pollock directed fisheries (*e.g.,* the incidental catch of pollock in the directed fishery for Pacific cod). The remaining TAC is further allocated to three AFA sectors: 50 percent allocation to catcher vessels harvesting pollock for processing by shoreside processors (inshore sector); 40

percent allocation to catcher vessels and catcher/processors harvesting pollock for processing by catcher/processors (catcher/processor sector); and a 10 percent allocation to catcher vessels harvesting pollock for processing by motherships (mothership sector). Under the AFA, a catcher vessel may only harvest pollock; a catcher/processor may harvest and process pollock; and a mothership may only receive and process pollock.

Section 208 of the AFA determined which vessels and which processors were eligible to participate in the inshore sector, the catcher/processor sector, and the mothership sector. NMFS issued AFA permits to 112 catcher vessels, 21 catcher/processors, and three mothership vessels. Section 210 of the AFA allowed the formation of fishery cooperatives in each AFA sector. Under a fishery cooperative, the members of a cooperative agree to divide the pollock allocation that the cooperative members. The AFA, in section 210(b), specifically regulated the formation of inshore cooperatives for catcher vessels. A catcher vessel with an AFA inshore endorsement has a choice of participating in the open access sector, and delivering pollock to any AFA inshore processor, or contributing its catch history to a cooperative, and delivering at least 90 percent of its pollock catch to the processor associated with the cooperative (AFA section 210(b); 50 CFR 679.4(l)(6)). Participants in the AFA open access sector would not be subject to cost recovery under this proposed rule because these persons do not receive an exclusive harvest privilege. Currently, all AFA vessels harvest and deliver pollock through a cooperative, rather than in open access.

Seven inshore cooperatives have formed. The amount of pollock allocated to an inshore cooperative is based on the amount of harvests of the members of the cooperative specified under section 206(b) of the AFA. For additional information on AFA inshore allocations, see NMFS Alaska Region Web site, *http://alaskafisheries.noaa/gov/sustainablefisheries/afa*.

A cooperative has formed in the catcher/processor sector to harvest the exclusive harvest allocation provided to this sector. Participants in the catcher/processor sector have a joint agreement called the ''Cooperative Agreement between Offshore Pollock Catchers' Cooperative and Pollock Conservation Cooperative'' (AFA Offshore Joint Cooperative) to facilitate efficient harvest management and accurate harvest accounting between the participants in the catcher/processor sector. The AFA Offshore Joint Cooperative is defined under annual cooperative reports submitted to NMFS (Cooperative Reports, NMFS Alaska Region Web site, *http://alaskafisheries.noaa.gov/sustainablefisheries/afa/afa_sf.htm*). All but one participant who harvests pollock allocated to the catcher/processor sector is a member of the AFA Offshore Joint Cooperative. Section 208(e)(21) of the AFA expressly limits the amount of harvest by the one participant in the catcher/processor sector who is not a member of the AFA Offshore Joint Cooperative to 0.5 percent of the TAC assigned to the catcher/processor sector, thereby providing an exclusive harvest privilege to all the AFA Offshore Joint Cooperative members. The participant who is not a member of the AFA Offshore Joint Cooperative would not be subject to a cost recovery fee for its harvest of pollock under this proposed rule. Section 1.5.3 of the RIR/IRFA provides additional detail on allocations to the AFA catcher/processor sector.

The owners of all 19 catcher vessels eligible to deliver to a mothership in the Bering Sea pollock fishery have joined a single cooperative to coordinate harvests. This cooperative harvests the exclusive harvest allocation provided to the mothership sector as specified under section 206(b) of the AFA. For additional detail see the Cooperative Reports, NMFS Alaska Region Web site, *http://alaskafisheries.noaa.gov/sustainablefisheries/afa/afa_sf.htm.*

Section 1.5.3 of the RIR/IRFA and the final rule implementing the AFA provide more detailed information (67 FR 79692, December 30, 2002). The amounts of the Bering Sea pollock TAC currently allocated to each AFA cooperative and sector are specified in the final 2014 and 2015 harvest specifications for the BSAI groundfish fisheries (79 FR 12108, March 4, 2014).

B. Aleutian Islands Pollock Program

Originally, the AFA applied to the directed pollock fishery in the entire BSAI (section 205(4), section 205(6), section 205(10) of original AFA). The BSAI consists of the Bering Sea subarea and the Aleutian Islands subarea (see regulatory definitions in § 679.2). In 2004, Congress separated the management of pollock between the Bering Sea and Aleutian Islands pursuant to the requirements of the Consolidated Appropriations Act of 2004 (Public Law 108–199). Under the requirements of the Consolidated Appropriations Act of 2004, NMFS allocates an exclusive harvest allocation representing a portion of the Aleutian Islands subarea pollock TAC to the Aleut Corporation.

NMFS implemented the requirements of the Consolidated Appropriations Act of 2004 with Amendment 82 to the FMP in 2005 (70 FR 9856, March 1, 2005). Regulations implementing Amendment 82 define the amount of pollock TAC that may be allocated in the Aleutian Islands subarea and how the Aleut Corporation may harvest its portion of this allocation. The Aleutian Islands pollock TAC is allocated to the Aleut Corporation for a directed pollock fishery after subtracting the CDQ Program allocation of 10 percent of the TAC, and after subtracting an incidental catch allowance to accommodate the incidental catch of pollock in non-pollock directed fisheries.

Prior to 2015, NMFS prohibited directed fishing for pollock inside Steller sea lion critical habitat in the Aleutian Islands as a measure to protect the endangered Steller sea lion (68 FR 204, January 2, 2003). Pollock in the Aleutian Islands occurs primarily inside Steller sea lion critical habitat. These closures of critical habitat in the Aleutian Islands to directed fishing precluded directed fishing in the Aleutian Islands. Therefore, prior to 2015, the allocation to the Aleut Corporation was not fully harvested and was reallocated each year to the Bering Sea pollock fishery. NMFS has implemented new regulations that allow directed fishing for pollock within critical habitat in the Aleutian Islands (79 FR 70286, November 25, 2014). This may provide additional harvest opportunities for the Aleut Corporation.

Section 1.5.3 of the RIR/IRFA and the final rule implementing the Aleutian Islands Pollock Program provide more detailed information (70 FR 9856, March 1, 2005). The amount of the Aleutian Islands pollock TAC currently allocated to the Aleut Corporation and reallocation to the Bering Sea is specified in the final 2014 and 2015 harvest specifications for the BSAI groundfish fisheries (79 FR 12108, March 4, 2014).

C. Amendment 80 Program

Amendment 80 to the FMP identified participants using trawl catcher/processors in the BSAI who are active in groundfish fisheries other than Bering Sea pollock (*i.e.,* the head-and-gut fleet or Amendment 80 vessels) and established a framework, known as the Amendment 80 Program, to regulate fishing by this fleet (72 FR 52668, September 14, 2007). The Amendment 80 Program allocates a portion of the TACs of six species in the BSAI: Atka mackerel, Pacific cod, flathead sole,

rock sole, yellowfin sole, and Aleutian Islands Pacific ocean perch between the Amendment 80 Program and other trawl fishery participants.

The Amendment 80 program created Amendment 80 quota share based on the historic catch of quota share species by Amendment 80 vessels, facilitated the development of cooperative arrangements (Amendment 80 cooperatives) among quota shareholders, and assigned an exclusive harvest privilege for a portion of the TAC of quota share species for participants in Amendment 80 cooperatives. The Amendment 80 Program also allocates crab and halibut prohibited species catch (PSC) limits to constrain bycatch of these species while Amendment 80 vessels harvest groundfish. The Amendment 80 Program added sideboard limits to protect other fisheries from the potential adverse effects arising from the exclusive harvest privileges provided under the Amendment 80 Program.

NMFS identified 28 catcher/processor vessels that are eligible to participate in the Amendment 80 Program and NMFS has issued quota share based on the historic catch of these vessels. NMFS has issued Amendment 80 quota share to 27 eligible persons. One person who owns an eligible catcher/processor did not elect to apply for and receive Amendment 80 quota share and would not be subject to the provisions of this proposed rule because this person does not receive an exclusive harvest privilege for a portion of the Amendment 80 species TACs. Amendment 80 quota shareholders may annually elect to form a cooperative with other Amendment 80 quota shareholders to receive an exclusive harvest privilege for the portion of Amendment 80 species TACs resulting from the cooperative member's aggregated quota share holdings. This ''cooperative quota'' (CQ) is the amount of Amendment 80 species TACs dedicated for exclusive use by that cooperative.

Annually, each Amendment 80 quota shareholder elects to participate either in a cooperative or the limited access fishery. Participants in the limited access fishery do not receive an exclusive allocation for a portion of the TACs allocated to the Amendment 80 Program. Participants in the Amendment 80 limited access fishery would not be subject to cost recovery under this proposed rule because these persons do not receive an exclusive harvest privilege. Since 2011, all quota shareholders have participated in one of two cooperatives. (For additional detail see Cooperative Reports, NMFS Alaska Region Web site, *http://alaskafisheries.noaa.gov/sustainablefisheries/amds/80/default.htm*).

Section 1.5.1 of the RIR/IRFA and the final rule implementing the Amendment 80 Program provide more detailed information (72 FR 52668, September 14, 2007). The allocations of Amendment 80 species TACs to each of the Amendment 80 cooperatives are provided in the final 2014 and 2015 harvest specifications for the BSAI groundfish fisheries (79 FR 12108, March 4, 2014).

D. CDQ Program

The CDQ Program was implemented by NMFS in 1992 (57 FR 46133, October 7, 1992). Since the implementation of the CDQ Program, Congress has amended the Magnuson-Stevens Act to define specific allocations to the CDQ Program, as well as eligibility to participate in the CDQ Program.

A total of 65 villages are authorized under section 305(i)(1)(D) of the Magnuson-Stevens Act to participate in the CDQ Program. Six CDQ groups represent these villages. The CDQ groups include the Aleutian Pribilof Island Community Development Association (APICDA), the Bristol Bay Economic Development Corporation (BBEDC), the Central Bering Sea Fishermen's Association (CBSFA), the Coastal Villages Region Fund (CVRF), the Norton Sound Economic Development Corporation (NSEDC), and the Yukon Delta Fisheries Development Association (YDFDA). CDQ groups manage and administer CDQ allocations and use the revenue derived from the harvest of their CDQ allocations to fund economic development activities and provide employment opportunities on behalf of the villages they represent. See section 1.5.2 of the RIR/IRFA for additional information on the CDQ Program.

Section 305(i)(B) of the Magnuson-Stevens Act specifies the proportion of the crab, groundfish, and halibut TACs in the BSAI allocated to the CDQ Program. Section 305(i)(C) of the Magnuson-Stevens Act specifies the proportion of the overall CDQ Program allocations assigned to each CDQ group. The proportion of the CDQ Program allocations of each species assigned to each of the six CDQ groups is described in a final rule defining the regulation of the CDQ Program (71 FR 51804, August 31, 2006). Each year, NMFS publishes the specific annual allocations of CDQ groundfish and halibut TACs to each CDQ group on the Alaska Region Web site at *http://www.alaskafisheries.noaa.gov/cdq/current_historical.htm.*

NMFS first allocates crab, halibut and groundfish TACs to the CDQ Program, and then apportions the remaining TAC among other non-CDQ fishery participants. Because CDQ crab allocations are already subject to a cost recovery fee program (70 FR 10174, March 2, 2005), they are not addressed further in this preamble. The groundfish species and species groups currently allocated to the CDQ Program, and that would be subject to this proposed cost recovery fee program, are specified in the final 2014 and 2015 harvest specifications for the BSAI groundfish fisheries (79 FR 12108, March 4, 2014). The process for allocating halibut TACs to the CDQ Program is described in a final rule implementing the Halibut and Sablefish IFQ Program (58 FR 59375, November 9, 1993). The allocation of halibut to the CDQ Program varies by halibut management area and ranges from 20 to 100 percent of the area TACs.

The fishery resources allocated to the CDQ Program and the CDQ groups are under Federal jurisdiction, and NMFS remains primarily responsible for groundfish and halibut CDQ fisheries management. However, the State of Alaska (State) also retains some management responsibility for the CDQ Program. The State may incur costs in the management and enforcement of the CDQ Program that would be subject to a cost recovery fee. Section 304(d)(2)(C)(ii) of the Magnuson-Stevens Act provides that NMFS transfer up to 33 percent of any cost recovery fee collected for the CDQ Program ''in order to reimburse such State for actual costs directly incurred in the management and enforcement of [the CDQ Program].'' This proposed rule anticipates that the State may apply to NMFS for reimbursement of its management and enforcement costs. The potential costs subject to reimbursement are described in section 1.5.2 of the RIR/IRFA and the ''CDQ Program'' section of this preamble.

Section 305(i)(1)(G) of the Magnuson-Stevens Act designates specific administrative oversight responsibilities for the CDQ Program to an Administrative Panel. Section 305(i)(1)(G) specifies that the Administrative Panel shall coordinate and facilitate activities of the CDQ groups and administer those aspects of the CDQ Program not otherwise addressed in section 305(i)(1), including economic development aspects of the CDQ Program. Currently, the Western Alaska Community Development Association (WACDA) serves as the

Administrative Panel specified in the Magnuson-Stevens Act.

III. Cost Recovery—General

As described in the ''Statutory Authority'' section of this preamble, cost recovery is the process by which NMFS would recover the actual costs associated with the management, data collection, and enforcement (also referred to as program costs) of the CDQ, AFA, Aleutian Islands Pollock, and Amendment 80 Programs. These program costs would be recovered annually through a fee paid by persons who hold a permit granting an exclusive harvesting privilege for a portion of the TAC in a fishery subject to cost recovery.

NMFS proposes to calculate the cost recovery fee for fish species that are allocated as exclusive harvest privileges under the CDQ groundfish and halibut, AFA, Aleutian Islands Pollock, and Amendment 80 Programs as a percentage of the ex-vessel value of allocated fish species harvested by the participants in each program. The cost recovery fee percentage would be determined annually by the Regional Administrator of the NMFS Alaska Region and published in a **Federal Register** notice each year. NMFS would calculate cost recovery fees only for fish that are landed and deducted from the TAC in the fisheries subject to cost recovery under the proposed action. NMFS would not calculate cost recovery fees for any portion of a permit holder's exclusive harvest privilege that was not landed and deducted from the TAC. For the purposes of this rule, ''permit holder'' refers to the person who holds the exclusive harvest privilege in the specific fishery. These methods for assessing cost recovery fees on landed catch and the designation of the permit holder are consistent with the cost recovery fee programs already implemented and NOAA policy guidance.

Section 304(d)(2)(B) of the Magnuson-Stevens Act specifies that a cost recovery fee ''shall be collected at either the time of the landing, filing of a landing report, or sale of such fish during a fishing season or in the last quarter of the calendar year in which the fish is harvested.'' NMFS proposes to collect the cost recovery fee for the CDQ groundfish and halibut, AFA, Aleutian Islands Pollock, and Amendment 80 Programs by December 31 of each year, which is in the last quarter of the calendar year in which the fish were harvested. NMFS would notify each permit holder of their calculated fee liability for the fishing year by December 1 each year in which the landings were made. Each permit holder would be responsible for submitting the fee to NMFS by December 31 of the year in which the landings were made. The fee liability payment would need to be submitted to NMFS electronically by the December 31 deadline.

This approach is consistent with other cost recovery fee programs implemented by NMFS. Annual collection of cost recovery fees minimizes the administrative burden on fishery participants and NMFS by limiting fee assessment and collection to one time per year rather than requiring assessment and collection at the time of each landing or at multiple times throughout the year. The use of electronic payment of cost recovery fees would reduce the administrative costs of processing payments, and provides an efficient method for permit holders to submit fees. In addition, all of the permit holders subject to a cost recovery fee regularly report to NMFS using electronic means and it is a submission method readily available to them. The details of the proposed procedures for the collection of cost recovery fees for the CDQ, AFA, Aleutian Islands Pollock, and Amendment 80 Programs are discussed in detail below in the ''Proposed Action'' section of this preamble.

To calculate the annual fee liability for each permit holder in the CDQ, AFA, Aleutian Islands Pollock, and Amendment 80 Programs, NMFS would (1) calculate the standard price for each fishery species allocated under a program; (2) calculate the ex-vessel value of each fishery species allocated under a program by multiplying the standard price by the total amount of landings in each fishery under a program; (3) calculate the total ex-vessel value of all fisheries landed under a program by adding together the ex-vessel values of each fishery species under a program; (4) calculate the total program cost by adding together the costs of managing each fish species under a program; (5) calculate a fee percentage (not to exceed three percent of the ex-vessel value of fish harvested under any such program) for a program by dividing total program costs by the total ex-vessel value for all fishery species under a program; and (6) calculate the fee amount that will be assessed for each permit holder by multiplying the fee percentage by the permit holder's total ex-vessel value of the fishery landings under a program. The final figure would be the annual fee owed by each permit holder.

An effective cost recovery fee program requires using existing data or collecting additional data to calculate species ex-vessel values, using a standardized methodology to assess program costs, assigning the appropriate fee to each person holding a permit, and ensuring that fees are submitted in full and on time. The primary components of the cost recovery fee programs proposed in this action include defining the: (1) Person and permit subject to cost recovery fee liability; (2) fee percentage; (3) ex-vessel value; (4) ex-vessel prices; (5) information sources; (6) reimbursable costs; (7) fee liability notice and submission method; (8) payment compliance; and (9) annual reporting. Each of these components is discussed in the following sections of the preamble.

A. Person and Permit Subject to Cost Recovery Fee Liability

To implement a cost recovery fee program, NMFS must identify the person and permit that are subject to the fee liability. As described above in the ''Statutory Authority'' section, the Magnuson-Stevens Act definition of ''person'' includes any individual, corporation, partnership, association, or other non-individual entity. The permit is the documentation that grants a person an exclusive harvest privilege.

In each of the cost recovery fee programs proposed in this action there is documentation that grants a person permission to fish for a certain percentage or specific amount of the TACs allocated to that program. The person receiving the exclusive harvesting privilege and the nature of the permit providing that privilege is different for each of the proposed cost recovery fee programs, as shown in Table 2. A more detailed description of the person and permit that would be subject to cost recovery for each program is provided in the ''Proposed Action'' section of this preamble.

TABLE 2—SUMMARY OF PROPOSED COST RECOVERY FEE PROGRAMS, PERSON(S) RECEIVING THE EXCLUSIVE HARVEST PRIVILEGE, AND THE "PERMIT" AUTHORIZING THE HARVEST PRIVILEGE

Proposed Cost Recovery Fee Program	Person receiving an exclusive harvest privilege for a portion of a fishery TAC	Annual permit authorizing exclusive harvest privilege for a portion of a fishery TAC
CDQ Program	CDQ group	Annual CDQ Group Quota Allocations matrix on Alaska Region Web site at *http://alaskafisheries.noaa.gov*.
AFA Inshore Sector	AFA Inshore Cooperative	AFA inshore cooperative fishing permit.
AFA Catcher/Processor Sector	AFA Offshore Joint Cooperative	Table 3 of the BSAI final groundfish harvest specifications published in the **Federal Register**.
AFA Mothership Sector	AFA Mothership Cooperative	Table 3 of the BSAI final groundfish harvest specifications published in the **Federal Register**.
Aleutian Islands Pollock	Aleut Corporation	Table 3 of the BSAI final groundfish harvest specifications published in the **Federal Register**.
Amendment 80	Amendment 80 cooperative	Amendment 80 CQ permit.

In addition to specifying the person subject to cost recovery, NMFS would require program participants to designate an individual who would be responsible for submitting the cost recovery fee to NMFS. A more detailed description of this proposed requirement is provided in section IV of this preamble.

B. Fee Percentage

Section 304(d)(2) of the Magnuson-Stevens Act specifies that a cost recovery fee may not exceed three percent of the ex-vessel value of the fish harvested under the fisheries subject to cost recovery. Sections 1.8.4, 1.8.5, and 1.8.6 of the RIR/IRFA estimate the cost recovery fee percentage for the CDQ, AFA, Aleutian Islands Pollock, and Amendment 80 Programs based on estimated ex-vessel revenue and program costs from 2010 through 2013. The estimated annual cost recovery fee percentages for the proposed cost recovery fee programs range from a minimum of 0.29 percent of the ex-vessel value of Bering Sea pollock allocated to AFA inshore cooperatives to a maximum of 1.62 percent of the ex-vessel value of fisheries allocated to Amendment 80 cooperatives. To reach the maximum fee percentage, program costs would have to increase significantly or fishery revenue would need to decline significantly. NMFS does not anticipate increases in management costs or declines in fishery revenue by amounts large enough to reach the three percent level in the foreseeable future in any of the proposed cost recovery fee programs.

The cost recovery fee percentage for a cost recovery program would be equal to the program costs divided by the ex-vessel value of the fishery species covered by that program. The program costs would be the program costs for the most recent Federal fiscal year, and the ex-vessel value of the fishery species is the ex-vessel value of the landings subject to the cost recovery fee liability for the current calendar year. Under the proposed regulations, the fee percentage is calculated using the program costs from the most recent Federal fiscal year. Specifically, a cost recovery fee program participant would be required to pay their fee by December 31 of a calendar year, based on the costs incurred for management, data collection, and enforcement of that program from October 1 of the previous calendar year through September 30 of the current calendar year.

NMFS intends to use this accounting method to ensure that program costs associated with the management, data collection, and enforcement of a limited access privilege program and the CDQ Program can be reviewed, by NMFS, prior to the time that the cost recovery fee is due. It would also reduce administrative burden and costs to track program costs as they currently accrue and are debited from specific accounts, on a Federal fiscal year basis. NMFS would calculate and publish the fee percentage for the CDQ groundfish and halibut, AFA and Aleutian Islands Pollock, and Amendment 80 Programs in the **Federal Register** by December 1 of the year in which landings subject to cost recovery were made.

C. Ex-Vessel Value

The ex-vessel value of fish harvested under a permit would equal the sum of all payments of monetary worth made for the sale of raw, unprocessed catch of the species subject to cost recovery. This would include any retroactive payments (*e.g.* bonuses, delayed partial payments, post-season payments) made for fish harvested under a permit for previously landed fishery species. Retroactive payments would be part of the ex-vessel value and as such have a fee liability. The fee liability for retroactive payments would be based on the fee percentage in effect at the time the fish was received by the processor.

For example, if a retroactive payment is received after the initial payment was made at the time of landing, but during the same calendar year in which the landing was made, the cost recovery fee for those retroactive payments also would be due by December 31 of the year in which the landings were made. If retroactive payments are received by permit holders during the year following the calendar year when those fish were landed, then cost recovery fees associated with those post-season retroactive payments would be due by December 31 of the calendar year the retroactive payments were received and be subject to the cost recovery fee in effect for the calendar year in which the retroactive payment was made. This method for calculating ex-vessel value is similar to the method used in the cost recovery fee program for the Rockfish Program (76 FR 81248, December 27, 2011). Section 1.7.2 of the RIR/IRFA provides additional detail on the calculation of ex-vessel value and retroactive payments.

D. Ex-Vessel Prices

NMFS would use standard prices rather than actual prices to calculate the ex-vessel value of landings for each fishery species. A standard price would be determined using information on landings purchased (volume) and ex-vessel value paid (value). The processors of fish harvested under the CDQ groundfish and halibut, AFA, Aleutian Islands Pollock, and Amendment 80 Programs would provide this information. NMFS would annually summarize volume and value information for landings of all fishery species subject to cost recovery in order to estimate a standard price for each fishery species, except for rock sole.

Rock sole is allocated to and harvested by vessels participating in the Amendment 80 and CDQ Programs. Rock sole volume and value reports would be reported once each year, but

fees would be assessed based on the volume and value of landings of rock sole that occur in the first quarter of the year (January 1 through March 31), and fees would be assessed based on the aggregated volume and value of landings in the last three quarters of the year (April 1 through December 31). The difference in reporting requirements for rock sole arises from the need to capture significant differences in price and value in the rock sole that are landed in the first quarter of the year compared to the price and value in the remaining part of the year. See Section 1.7.2.2.5 of the RIR/IRFA for additional detail on rock sole prices.

Use of a standard price is not precluded under section 304(d)(2) of the Magnuson-Stevens Act. NMFS uses a standard price in the cost recovery fee programs for the Crab Rationalization Program and the Rockfish Program. The use of an actual price would require that the permit holder or a designated representative document all landings and prices for fishery species subject to cost recovery. This additional documentation can impose additional costs on permit holders to document and retain information on all landings and prices. The cost recovery fee program for the Halibut and Sablefish IFQ Program allows permit holders to use either standard or actual prices. However, very few Halibut and Sablefish IFQ permit holders have used actual prices. Based on that experience, NMFS proposes to use a standard price in all cost recovery fee programs proposed under this action. NMFS would publish the standard prices by fishery species in the **Federal Register** by December 1 of year in which the landings subject to cost recovery were made.

E. Information Used to Calculate Ex-Vessel Value

NMFS proposes three methods for collecting and aggregating volume and value data to calculate standard prices. The first method would implement data collection using two new volume and value reports to calculate standard prices for all fishery species other than halibut and pollock. The second method would use data already collected under the IFQ Buyer Report to calculate standard prices for halibut. The third method would use data already collected under the Commercial Operator's Annual Report (COAR) to calculate standard prices for pollock. NMFS proposes to implement the two new volume and value reports for fishery species other than halibut and pollock because sufficient information is not otherwise available on a timely basis from other sources to determine a standard price paid by processors for a fishery species subject to cost recovery. This approach minimizes the cost and burden of recordkeeping and reporting requirements on fishery participants.

In developing the proposed rule, NMFS held public workshops in Anchorage, AK, and Seattle, WA, in 2013 to receive input from affected industry participants on appropriate methods for calculating the standard price for specific fishery species (78 FR 25426, May 1, 2013). Participants in these public workshops supported the methods proposed for calculating the standard price in this rule. The following sections of the preamble describe the methods NMFS would use to collect and aggregate volume and value data to calculate standard prices and ex-vessel values.

1. Volume and Value Reports

Two types of new volume and value reports would be required under the proposed action—a Pacific Cod Ex-Vessel Volume and Value Report and a First Wholesale Volume and Value Report.

This proposed rule would require shoreside processors, designated on a Federal Processor Permit (FPP), and motherships, designated on a Federal Fisheries Permit (FFP), that process landings of either CDQ Pacific cod or BSAI Pacific cod harvested by a vessel using trawl gear to submit a Pacific Cod Ex-vessel Volume and Value Report. The Pacific Cod Ex-vessel Volume and Value Report would require shoreside processors and motherships to submit information including the total pounds of Pacific cod purchased, the total gross ex-vessel value paid by gear type (trawl and fixed gear), as well as identifying information for the processor (*i.e.* Federal processor permit number, mailing address, contact phone number, etc.). The total pounds of Pacific cod purchased and the total gross ex-vessel value paid by each gear type from January 1 through October 31 of each year would be reported as aggregated data. NMFS notes that shoreside processors and motherships already collect these data as part of their existing business operations, and to comply with other data collection requirements. Therefore, only the submission of this information to NMFS by November 10 would be a new requirement.

The information submitted would be used by NMFS to calculate an annual standard price for Pacific cod for Amendment 80 cooperatives and CDQ groups. NMFS would calculate a separate standard price for Pacific cod harvested by trawl gear and Pacific cod harvested by fixed gear. The fixed gear standard price would apply to all landings made by vessels subject to cost recovery and using hook-and-line, jig, or pot gear. A standard price would be determined for trawl and fixed gear separately because the ex-vessel value of Pacific cod can differ between trawl and fixed gear (see section 1.7.2.2 of the RIR/IRFA for additional detail).

The standard price for trawl gear would be used for Amendment 80 cooperatives and for trawl vessels harvesting Pacific cod allocated to CDQ groups. The standard price for fixed gear would be used for vessels harvesting Pacific cod for CDQ groups using hook-and-line, jig, or pot gear. Because Amendment 80 cooperatives only harvest Pacific cod using trawl gear, NMFS does not anticipate using a standard price derived from fixed gear vessels for Amendment 80 cooperatives.

The second type of new volume and value report that would be required is the First Wholesale Volume and Value Report. A First Wholesale Volume and Value Report would be used to collect volume and value data for all fishery species of groundfish allocated to the Amendment 80 and CDQ Program except for fixed gear sablefish, halibut, Pacific cod, and pollock. Section 1.7 of the RIR/IRFA lists each fishery species that would be subject to the requirements of a First Wholesale Volume and Value Report. The instructions on the First Wholesale Volume and Value Report would also list these species on an annual basis.

This proposed rule would require that Amendment 80 vessel owners submit a First Wholesale Volume and Value Report. NMFS would use data from Amendment 80 vessels to calculate standard prices for species covered by the First Wholesale Volume and Value Report because these species are harvested primarily, if not almost exclusively, by Amendment 80 vessels (see Section 1.7.2.1 of the RIR/IRFA for additional detail). The First Wholesale Volume and Value Report would require information on the fishery species and pounds harvested, the first wholesale value of the fishery species, as well as identifying information for the catcher/processor (*i.e.,* Federal Fisheries Permit number, mailing address, contact phone number, etc.). The pounds harvested and first wholesale value from January 1 through October 31 each year would be reported as aggregated data, with one exception for rock sole. Section 1.7.2.2.5 of the RIR/IRFA notes that rock sole wholesale values differ substantially between first quarter values and second to fourth quarter values. During the first

quarter of the year (January 1 through March 31) rock sole contain roe and this product is worth substantially more than rock sole product that does not contain roe landed later in the year. Therefore, NMFS would collect data from January 1 through March 31 to establish a standard price for rock sole landed during this period, and use data from April 1 through October 31 to establish a standard price for rock sole landed for the remainder of the calendar year. Amendment 80 vessel owners already collect these data to comply with other data collection requirements. Therefore, only the submission of this information to NMFS in the First Wholesale Volume and Value Report by November 10 of the year in which the landings were made would be a new requirement.

The data from the First Wholesale Volume and Value Report would satisfy requirements in section 304(d)(2) of the Magnuson-Stevens Act that cost recovery fees be based on the ex-vessel value of fish. The First Wholesale Volume and Value Report would be used to obtain volume and value information for directed fisheries where fishery species are harvested and processed exclusively, or almost exclusively, by trawl catcher/processors. For these fishery species, there is no reliable ex-vessel price generated from the sale of fish from a harvester to a processor. Therefore, the ex-vessel price for those fishery species must be estimated. An ex-vessel price can be estimated by using information on the first wholesale price. The first wholesale price is the market price of the primary processed fishery product.

Since the late 1990s, the Alaska Fisheries Science Center (AFSC) has imputed an ex-vessel price for fish from the first wholesale price based on a fraction of the processed-product price. The imputed ex-vessel price, also referred to as the proxy price, is the value of processed products from catcher/processor vessels divided by the retained round-weight (unprocessed weight) of catch and multiplied by a factor of 0.4 to correct for the value added to the fish product by processing. Processed product values and round weights would be derived from the First Wholesale Volume and Value reports submitted by Amendment 80 vessels. A more detailed discussion of the methods for determining a proxy price can be found in section 1.7.2 of the RIR/IRFA prepared for this action.

The reporting period for the Pacific Cod Ex-vessel Volume and Value Report and the First Wholesale Volume and Value Report would be from January 1 to October 31. These reports would be due on November 10. NMFS proposes this time period to allow enough time for submitter to prepare the reports and for NMFS to prepare the standardized prices to be published in the **Federal Register** by December 1 of the year in which the landings were made. These reports would need to be submitted electronically through the Alaska Region Web site at *http://alaskafisheries.noaa.gov.* Electronic submittal would reduce costs, administrative burden, and ensure that the reports are submitted in a timely fashion.

The standard price for the entire calendar year for species subject to cost recovery fees other than fixed-gear sablefish, halibut, and pollock would be based on volume and value data from January 1 through October 31. NMFS expects these data would provide an accurate ex-vessel price for fish harvested in November and December for several reasons. First, for many fisheries, effort in November and December subsides. Therefore, landings in those fisheries in November and December represent a small proportion of overall annual harvests. For example, landings of Atka mackerel, sablefish, Pacific cod, and Pacific ocean perch have generally concluded by October 31 and few landings are made in November and December relative to the rest of the year. Second, NMFS reviewed information from existing data sources, such as the COAR, and determined that ex-vessel values for fishery species proposed for cost recovery do not differ substantially in November and December relative to ex-vessel values prior to October. Therefore, even if data were collected from landings in November and December it would not be expected to have a substantive effect on the annual estimate of ex-vessel price for a fishery species (See Section 1.7.2.2 of the Analysis for additional detail). Although rock sole prices do fluctuate during a calendar year, NMFS would be collecting data during the first quarter of the year (from January 1 through March 31) and from the remainder of the year (April 1 through October 31) to reflect those intra-annual variations in prices. In the specific case of rock sole, prices after April 1 and through October 31 are relatively constant and similar to prices in November and December. Therefore, collecting data on rock sole prices after October would not provide additional detail needed to establish a standard price for rock sole for the last three quarters of the year (April through December 31). Finally, during public workshops, NMFS discussed limiting the volume and value reporting period to the first ten months of the year (January 1 through October 31). Members of the industry that participated in the public workshops did not raise concerns about this approach. NMFS notes that it would continue to monitor ex-vessel prices received through the COAR, as well as through feedback from affected industry participants. If needed, NMFS can adjust the reporting period in the future through subsequent rulemaking to reflect any variations in prices that may be observed.

2. IFQ Buyer Report

NMFS currently requires participants in the Halibut and Sablefish IFQ Program to submit a cost recovery fee based on either actual prices, or standard prices, for IFQ halibut and sablefish. Standard prices are determined based on information from an IFQ Buyer Report (see § 679.5(l)(7)(i)). An IFQ Buyer Report is required from each IFQ registered buyer that operates as a shoreside processor and that receives and purchases IFQ halibut or sablefish or CDQ halibut. The IFQ Buyer Report includes information regarding volume and value of IFQ halibut and sablefish and CDQ halibut landings by month, port, and IFQ registered buyer.

The IFQ Buyer Report is based upon a reporting period from October 1 of the previous year to September 30 of the current year. The IFQ Buyer Report is due on October 15 each year. NMFS proposes using the standard prices calculated from the IFQ Buyer Report for the Halibut and Sablefish IFQ Program to establish standard prices and ex-vessel values for CDQ halibut and fixed gear sablefish by month. NMFS would use standard prices and ex-vessel values calculated from information already required to be submitted under current regulations to avoid duplication with other data collection programs, and eliminate the costs and burden associated with developing a new data collection method for establishing standard prices and ex-vessel value for the CDQ fisheries. NMFS would be able to determine a standard prices and ex-vessel values for the CDQ halibut and fixed-gear sablefish fisheries harvested from October 1 of the previous calendar year through September 30 of the current year and provide that information to CDQ groups by December 1 of the current calendar year as part of their annual fee liability statement.

3. Commercial Operator's Annual Report (COAR)

NMFS proposes to use the COAR to determine the standard price and ex-

vessel value for the Bering Sea and Aleutian Islands pollock fisheries. Federal regulations at § 679.5(p) require all processors of fishery resources harvested in Alaska to submit the COAR. The COAR collects data on the species landed, area where the fish were harvested, processor receiving delivery, gear used, pounds purchased, and total amount paid. The information collected in the COAR provides the data needed to establish a standard price and ex-vessel value for AFA and Aleutian Islands pollock based on deliveries made to AFA inshore processors.

Because data from the COAR are not available until November following the calendar year in which they are collected, they are not suitable for use for establishing a standard price where values change substantially from year to year. Section 1.7.2.2.1 of the RIR/IRFA notes that aggregate prices of pollock do not change substantially from year to year, particularly when aggregated over an entire calendar year as proposed in this rule. Therefore, COAR data collected in the previous calendar year could effectively be used to establish a standard price for BSAI pollock fisheries during the current calendar year.

Because the aggregate prices of pollock tend to remain stable from year-to-year, the quantity of harvest is the most significant factor in determining the ex-vessel value of pollock. Therefore, NMFS does not anticipate that using standard prices calculated from the COAR would substantively affect the amount of cost recovery fees an AFA cooperative or the Aleut Corporation would have to pay if the fee liability is not expected to exceed three percent of the standard ex-vessel value. As noted earlier, NMFS does not expect the fee for the AFA or Aleutian Island Pollock Programs to exceed three percent in the foreseeable future. Since the estimates of the cost recovery fees are less than the three-percent limit, the precision of the data used to establish the standard price and the standard ex-vessel value will have negligible impact on the fee liability that would be paid by each entity.

Input from members of the affected industry during the public workshops indicated that they support using annual COAR data to estimate prices for the AFA and Aleutian Islands pollock fisheries, even though it would require that previous year's prices are used to establish a standard ex-vessel value. The use of COAR data to establish a standard ex-vessel value for the BSAI pollock fisheries would provide a reasonable method to establish a standard price, would avoid duplication with existing data collection programs, and eliminate the costs and burden associated with developing a new data collection method. The standard price, as calculated using COAR data from AFA inshore processors, would be used to determine the standard price for all AFA and Aleutian Islands pollock landings. For more information on the COAR, please see *http://www.adfg.alaska.gov/index.cfm?adfg=fishlicense.coar.*

F. Reimbursable Costs

NMFS proposes to recover the incremental costs associated with the management, data collection, and enforcement of the CDQ groundfish and halibut, AFA, Aleutian Islands pollock, and Amendment 80 Programs. As described above in the ''Statutory Authority'' section of this preamble, this is consistent with NOAA policy for implementing cost recovery fee programs. Section 1.8.3 of the RIR/IRFA and Tables 1–34 and 1–35 in the RIR/IRFA includes detailed information about the types of costs that NMFS incurs in the management of the CDQ groundfish and halibut, AFA, Aleutian Islands pollock, and Amendment 80 Programs. These types of incremental costs that NMFS incurs are summarized in Table 3 below.

TABLE 3—SUMMARY OF THE TYPES OF INCREMENTAL COSTS ASSOCIATED WITH COST RECOVERY PROGRAMS

Cost	Example
Equipment Inspections	Inspecting at-sea scales that are required and implemented as part of the a cost recovery program to accurately weight harvests (e.g., AFA catcher/processors, Amendment 80 vessels).
Information collection and data management	Creating and maintaining software programs necessary to track the use of exclusive harvest privileges allocated under a program subject to cost recovery.
Rulemaking	Labor costs associated with developing and implementing regulations that modify a program subject to cost recovery.
Investigations	Investigating and enforcing violations associated with a cost recovery program (e.g., costs incurred investigating and enforcing provisions intended to limit the maximum permissible amount of quota share a person may hold and use).
Staff meeting travel and outreach	Attending and participating in meetings required to address issues related to a cost recovery meeting (e.g., travel associated with providing outreach on new regulatory provisions applicable to a program subject to cost recovery).
Catch accounting	Modifying catch accounting to specifically track the use of exclusive harvest privileges.
Catch monitoring	Deploying staff to monitor and track catch for a program subject to a cost recovery program (e.g., the Catch Monitoring and Control Plan Specialist used to monitor catch in the Rockfish Program).

NMFS does not currently account for incremental costs for each of these programs, because there is not a cost recovery fee program in place for these programs. NMFS has provided estimates of costs for managing the AFA, Aleutian Islands pollock, Amendment 80, and CDQ groundfish and halibut Programs based on the best available information, but lacks information to provide more precise estimates. NMFS would provide a detailed accounting of costs once this rule became effective, if approved.

NMFS would capture the incremental costs of managing the fisheries through an established accounting system that allows NMFS to track labor, travel, and procurement. This process is described in Section 1.8.3 of the RIR/IRFA. This accounting system for management costs is consistent with the methods NMFS uses to account for costs in the Halibut and Sablefish IFQ Program, Crab Rationalization Program, and Rockfish Program.

Once the incremental costs for the most recent Federal fiscal year are identified, that amount is recovered from all permit holders in the program. NMFS would adjust the total management costs, annually, to account for any adjustments or payments received during the previous calendar

year. For example, if payments received by CDQ groups in 2017 were slightly greater than the actual management costs incurred for the CDQ Program for that fee collection period, then NMFS would adjust the total management costs, which would then slightly lower the fee percentage due by the CDQ groups in 2018. Some slight adjustment in the total management costs to account for rounding, overpayment, or corrections to actual costs after the fee liability is due is anticipated. NMFS would accommodate these factors on an annual basis by adjusting the fee percentages in the following year for the affected program. In all cases, the fee percentage could not be set at an amount higher than three percent of the ex-vessel value of a program fisheries even if the actual costs for the previous year exceeded three percent of the standard ex-vessel value for the landings subject to cost recovery.

During public workshops held on this proposed action, participants in some fisheries that would be subject to a cost recovery fee requested that NMFS consider crediting, or reducing, the cost recovery fee for expenses that participants incur to cooperatively manage and monitor harvests. NMFS acknowledges that industry has taken an active role in establishing industry-based measures to coordinate and communicate information in fisheries for which participants receive an exclusive harvest privilege for a portion of the TAC, particularly in fisheries that utilize harvest cooperatives. However, regardless of these industry-based measures, NMFS has identified actual costs that it incurs that are directly related to the management, data collection, and enforcement of these programs.

Expenses that industry incurs that directly reduce the NMFS' costs for implementing and maintaining the program would reduce the cost recovery fee. That is, NMFS would not assess a fee for any costs it does not incur due to changes in fishing patterns with the implementation of a limited access privilege program. Section 1.8 of the RIR/IRFA provides additional detail on costs that are due to the implementation of the AFA, Aleutian Islands Pollock, Amendment 80, and CDQ Programs including the establishment of new permitting, regulatory provisions, monitoring requirements, data management, and other costs.

G. Fee Liability Notice and Submission

Each year by December 1, NMFS would send each permit holder or their designated representative a fee liability summary letter for the fees required for that year. The fee liability summary letter would calculate each permit holders' fee liability. The fee liability would be calculated by NMFS based on: (1) The standard price determined by using data from the applicable volume and value report, IFQ Buyer Report, or the COAR; (2) the total amount of landings by a permit holder from January 1 through November 30 of that year; (3) NMFS's estimate of landings for a permit holder from December 1 through December 31 of that year; and (4) and NMFS' actual costs from October 1 of the previous calendar year through September 30 of the current calendar year. The total cost recovery fee would need to be submitted electronically to NMFS no later than December 31 of the calendar year in which the landings were made.

Because the fee liability notice would be sent on December 1, and the fee liability is assessed through the end of the year (December 31), NMFS would estimate landings for each permit holder that would be made between December 1 and December 31. NMFS would provide an estimate of landings between December 1 and December 31 because it is not possible to prepare and provide a fee liability notice to each permit holder for landings through December 31, and require payment from each permit holder before fishing begins on January 1 of the following year.

NMFS notes that estimates of landings would only be required for some of the fisheries subject to a cost recovery fee. In the case of the AFA and Aleutian Islands Pollock Programs, directed fishing for pollock is prohibited after November 1 (see regulations at § 679.23(e)(2)(ii)), therefore there would be no need to estimate landings from December 1 through December 31. Some CDQ fisheries are closed prior to December 1, including Atka mackerel, fixed-gear sablefish, and halibut (see regulations at § 679.23(e)(4)(iii)). Therefore, there would be no additional landings in December for these fisheries, and an estimate of landings would not be required from December 1 through December 31.

For other Amendment 80 and CDQ groundfish fisheries (*e.g.,* Pacific ocean perch, Pacific cod, yellowfin sole, and other flatfish fisheries), historic data indicate that the amount of landings during December are small relative to landings during the previous 11 months, and NMFS is likely to be able to accurately estimate landings based on the amount of a permit holder's remaining allocation during a year and projections of landings after December 1. Section 1.10 of the RIR/IRFA contains additional information on landings of catch in December and methods NMFS would use to estimate landings for each program.

Any actual landings from December 1 through December 31 that were less than the estimated landings during this period would be accounted for in reporting for the following year and would result in a credit to the permit holder and would be deducted from the permit holder's fee liability for the following year. Any actual landings that were greater than the estimated landings would be accounted for in reporting for the following year and would result in a debit to the permit holder and would be added to the permit holder's fee liability for the following year. Section 1.10 of the RIR/IRFA also describes how NMFS would adjust the fee liability for a permit holder from one year to the next to account for differences in actual and estimated landings from December 1 through December 31.

A permit holder would incur a fee liability for all fish that is landed and debited against the permit authorizing the permit holder to land fish in a program subject to cost recovery. This proposed rule would require a permit holder to designate a representative who would be responsible for submitting this payment to NMFS on or before the due date of December 31 of the year in which the landings were made. NMFS notes that the permit holder must self-collect the amount due for all landings on his or her permit(s). NMFS advises program participants subject to cost recovery to ensure that adequate funds are retained on an annual basis to ensure that the fee liability can be paid. For example, during the first year of implementation, it may be advisable for the permit holder to retain a fixed percentage of the value of ex-vessel prices paid to harvesters for CDQ groundfish and halibut, AFA, Aleutian Islands Pollock, and Amendment 80 species throughout the year. This would ensure that the permit holder could pay the required fees for fishing during the calendar year when the fee is due on December 31 of that calendar year. The ''Proposed Action'' section of this preamble provides estimates of the range of fee percentages that may be required for each of the cost recovery fee programs, and could be used as a basis to establish a reasonable amount for each permit holder to retain.

H. Payment Compliance

This proposed rule would require a permit holder to designate a representative to submit the fee on the permit holder's behalf. Any permit holder who has incurred a fee liability would be required to pay the fee

electronically to NMFS by December 31 of the year in which the landings were made. A permit holder would need to ensure full payment for their cost recovery fee liability by December 31 of the year in which the landings were made.

This proposed rule would establish an exception to this general requirement for the full payment of a cost recovery fee liability for the AFA Offshore Joint Cooperative. During public workshops prior to the development of this proposed rule, participants in the AFA Offshore Joint Cooperative noted the challenges of adequately coordinating among all members of their cooperative given the relatively large numbers of participants in the AFA Offshore Joint Cooperative. Industry participants suggested that withholding the entire Bering Sea pollock directed fishery allocation to the AFA Offshore Joint Cooperative if a complete and timely payment is not received would not be an appropriate management response. NMFS proposes that if the designated representative for the AFA Offshore Joint Cooperative has made a timely payment to NMFS of an amount less than the fee liability NMFS estimated, NMFS may choose to issue a quota allocation corresponding to the same percentage of the cost recovery fee received from the cooperative or group. For example, if only 90 percent of the fee liability were received on a timely basis, NMFS would only issue 90 percent of the Bering Sea pollock directed fishery TAC to the AFA Offshore Joint Cooperative.

NMFS does not propose to extend this provision to AFA inshore cooperatives, or the AFA mothership cooperative, because participants in other AFA cooperatives did not raise similar concerns about coordination. NMFS would not propose to extend this same provision to the Amendment 80 or CDQ Programs because these programs receive allocations from more than one species, and determining which allocation to withhold due to a partial payment is not possible. In addition, NMFS has not received a request from participants in the Amendment 80 or CDQ Programs to establish such a provision. NMFS specifically requests comment on the need and applicability of this proposed provision for the AFA Offshore Joint Cooperative.

If a permit holder or designated representative fails to submit full payment for their cost recovery fee liability by December 31 of the year in which the landings were made, under this proposed rule, NMFS could 1) at any time thereafter send an initial administrative determination (IAD) to the permit holder or designated representative stating their fee liability; and 2) disapprove any application to transfer quota to or from the permit holder or group which receives an annual allocation. The IAD would state that the permit holder's estimated fee liability due from the permit holder had not been paid. Any such formal determination may be appealed.

NMFS has recently established a National Appeals Office (NAO) located at NMFS Headquarters in Silver Spring, Maryland. In 2014, NMFS adopted rules of procedure for NAO appeals in 15 CFR part 906 (79 FR 7056, February 6, 2014). The appeal procedures in 15 CFR part 906 are mandatory for appeals in limited access privilege programs developed under section 303A of the Magnuson-Stevens Act. None of the programs subject to cost recovery in this proposed rule were developed under section 303A of the Magnuson-Stevens Act, and appeals are not required to be heard under the procedural rules at 15 CFR part 906. NMFS may, however, use the NAO to review appeals in programs where NAO does not have mandatory jurisdiction. NMFS proposes that the NAO review any appeals submitted under the provisions of this proposed action. These appeals would use NAO procedural rules.

Under NAO procedural rules, an applicant, a permit holder in this case, who appeals an IAD would not receive a permit designating an exclusive harvest privilege for a portion of the TAC in limited access privilege program or CDQ fisheries until the appeal was resolved in the applicant's favor. Finally, upon final agency action, NMFS may continue to prohibit issuance of permits or quota allocation for any subsequent calendar years until NMFS receives full payment of any unpaid fees. If payment is not received within 30 days after final agency action, the agency may pursue collection of the unpaid fees.

Upon issuance of final agency action, payment submitted to NMFS in excess of any cost recovery fee liability determined to be due by the final agency action will be returned to the permit holder unless he or she requests the agency to credit the excess amount against the permit holder's future cost recovery fee liability. Payment processing fees may be deducted from any fees returned to the permit holder or designated representative.

Administrative fees may be assessed if the account drawn on to pay cost recovery fee liability has insufficient funds, or if the account is delinquent. Additionally, interest would begin accruing the day after the due date up until payment is received. The interest rate is set annually by the Department of Treasury. If payment has not been received 90 days after the due date, NMFS may also assess a one-time penalty fee of six percent of the amount owned.

I. Annual Reports

NMFS would annually publish a report for each of the proposed cost recovery fee programs about the performance of the program. The annual report would provide information regarding the amount of the fees received by NMFS, the disposition of the fees, and the program costs used in determining the fee for the previous year. The annual report is consistent with the reports NMFS provides for the three other cost recovery fee programs implemented in the Alaska Region.

IV. The Proposed Action

The proposed action would implement a cost recovery fee program for the AFA, Aleutian Islands Pollock, Amendment 80, and CDQ groundfish and halibut Programs. The following sections provide additional detail on the primary components of each of the proposed cost recovery fee programs, and a discussion of the estimated reimbursable costs and cost recovery fees for each program. A detailed description of each proposed cost recovery fee program can be found in section 1.10 of the RIR/IRFA.

A. Pollock Cost Recovery Fee Programs

1. AFA Cost Recovery Fee Program Applicable Entities

As described in the ''American Fisheries Act Program'' section of this preamble, the AFA allocates the Bering Sea pollock TAC to three sectors—catcher/processor, mothership, and inshore. Each of these sectors created one or more cooperatives to promote the rational and orderly harvest and processing of pollock (see Table 5 of this preamble). Because management costs can differ among these three sectors, NMFS proposes to assess management fees for the each of the AFA sectors separately. These are explained in greater detail in Table 7 of this preamble, and section 1.8.6 of the RIR/IRFA.

NMFS proposes adding regulations at § 679.61(e)(1)(vi) that require each AFA cooperative include a requirement that lists the obligations of members of a cooperative to ensure the full payment of all AFA fee liabilities that may be due. This proposed regulation does not proscribe the specific measures that an AFA cooperative may choose to

establish, but does require that those provisions are listed in the cooperative agreement. This requirement is intended to encourage and facilitate coordination among AFA cooperative members for the timely and complete payment of fees. NMFS implemented a similar requirement in the Rockfish Program to facilitate coordination in that cost recovery fee program, and the provisions proposed in this rule would be appropriate for the AFA cooperatives. NMFS is proposing a similar requirement for Amendment 80 cooperatives.

The AFA Offshore Joint Cooperative would be subject to an AFA cost recovery fee. The AFA Offshore Joint Cooperative receives an exclusive harvest privilege of up to 99.5 percent of the TAC allocated to the catcher/processor sector. As noted earlier in this preamble, the one statutorily defined catcher/processor participant who is not a member of the AFA Offshore Joint Cooperative is not subject to an AFA cost recovery fee. The individual responsible for submitting the cost recovery fee for the catcher/processor sector would be the AFA Offshore Joint Cooperative's designated representative.

The AFA Mothership Fleet Cooperative would be subject to an AFA cost recovery fee. The AFA Mothership Fleet Cooperative receives an exclusive harvest privilege for the AFA mothership sector. All participants in the AFA mothership sector are members of the AFA Mothership Fleet Cooperative. The individual responsible for submitting the cost recovery fee for the mothership sector is the Mothership Fleet Cooperative's designated representative.

AFA inshore sector cooperatives would be subject to an AFA cost recovery fee. The AFA Inshore Catcher Vessel Cooperative Permit (see § 679.5(l)(6)) lists the AFA catcher vessels and processors that are members of an inshore cooperative and the percentage of the AFA inshore sector allocation that a cooperative receives. The individual responsible for submitting the cost recovery fee for each inshore cooperative would be the designated cooperative representative identified in a cooperative's application for an AFA Inshore Catcher Vessel Cooperative Permit.

Table 4 summarizes the information used to determine standard prices, any additional reporting requirement, calculation of the standard ex-vessel value, the person responsible for submitting the fee payment, and submittal requirements and deadlines for each AFA cooperative.

TABLE 4—SUMMARY OF THE AFA COST RECOVERY FEE PROGRAM ELEMENTS

What species are subject to a cost recovery fee?	Bering sea pollock.
How is the standard price determined?	NMFS would calculate a standard price based on data from the COAR from the previous calendar year.
Are there additional reporting requirements for AFA cooperatives to determine the standard price?	No.
How will NMFS determine the Standard Ex-vessel Value?	NMFS will add total reported landings of Bering Sea pollock from January 1 through November 30, estimate total landings from December 1 through December 31, if any, for each AFA cooperative and multiply that amount by the standard price determined by COAR data to calculate a Standard Ex-vessel value for each AFA cooperative.
Who is responsible for fee payment and (how many cooperatives are estimated to receive a fee liability notice)?	AFA Catcher/Processor Sector: AFA Offshore Joint Cooperative designated representative (1). AFA Mothership Sector: AFA Mothership Fleet Cooperative designated representative (1). AFA Inshore Sector: designated cooperative representative on each AFA Inshore Catcher Vessel Cooperative Permit application (7).
When are the standard prices published in the **Federal Register** and when are fee liability notices sent?	The standard prices are published in the **Federal Register** by December 1 of each calendar year, and the fee liability notices will be sent to each designated representative by December 1 of each calendar year.
When are fee liability payments due and how are they submitted?	Fee liability notices are due by December 31 of each year, and must be submitted online. Submittal forms are available online at: *http://www.alaskafisheries.noaa.gov.*

2. Aleutian Islands Pollock Cost Recovery Fee Program Applicable Entities

The annual Aleutian Islands pollock TAC is allocated to the Aleut Corporation. The representative designated by the Aleut Corporation would be responsible for submitting the cost recovery fee. The CEO of the Aleut Corporation is the designated representative, unless the Aleut Corporation Board of Directors notifies the Regional Administrator in writing of an alternate designated representative. Table 5 summarizes the information used to determine standard prices, any additional reporting requirement, calculation of the standard ex-vessel value, the person responsible for submitting the fee payment, and submittal requirements and deadlines for each AFA cooperative.

TABLE 5—SUMMARY OF THE ALEUTIAN ISLANDS POLLOCK COST RECOVERY FEE PROGRAM ELEMENTS

What species are subject to a cost recovery fee?	Aleutian Islands pollock.
How is the standard price determined?	NMFS would calculate a standard price based on data from the COAR from the previous calendar year. The standard price would be applied to all landings during a calendar year.
Are there additional reporting requirements for the Aleut Corporations to determine the standard price?	No.
How will NMFS determine the Standard Ex-vessel Value?	NMFS will add total reported landings of Aleutian Islands pollock from January 1 through November 30, estimate total landings from December 1 through December 31, if any, and multiply that amount by the standard price determined by COAR data to calculate a Standard Ex-vessel value for each AFA cooperative.

TABLE 5—SUMMARY OF THE ALEUTIAN ISLANDS POLLOCK COST RECOVERY FEE PROGRAM ELEMENTS—Continued

Who is responsible for fee payment and (how many cooperatives are estimated to receive a fee liability notice)?	Aleut Corporation (1).
When are the standard prices published in the **Federal Register** and when are fee liability notices sent?	The standard prices are published in the **Federal Register** by December 1 of each calendar year, and the fee liability notices will be sent to each designated representative by December 1 of each calendar year.
When are fee liability payments due and how are they submitted?	Fee liability notices are due by December 31 of each year, and must be submitted online. Submittal forms are available online at: *http://www.alaskafisheries.noaa.gov*.

3. Costs, Values, and Fee Percentage

Table 6 provides a summary of AFA and Aleutian Islands pollock gross ex-vessel revenue, recoverable costs, and what the resulting cost recovery fee percentage would have been for 2009 through 2013. Recoverable costs are based on management costs estimated to be incurred by several divisions within the Alaska Region of NMFS, NOAA Office of Law Enforcement (NMFS OLE), and the NMFS Observer Program (Observer Program). NMFS notes that recoverable costs were not identified in the RIR/IRFA for the Alaska Department of Fish and Game (ADF&G), the Alaska Fisheries Science Center (AFSC), or the North Pacific Fishery Management Council. NMFS notes that a directed fishery for Aleutian Islands pollock has not occurred since the implementation of the Aleutian Islands Pollock Program in 2005, and NMFS has reallocated the available allocation of Aleutian Islands pollock to the Bering Sea fishery. Because the directed pollock fishery in the Bering Sea is managed under the AFA, the revenues and costs from the reallocated Aleutian Islands pollock are associated with the AFA. This means that during this time period, the recoverable costs would have been associated with the AFA Program. Those revenues and costs are described in Table 6 of this preamble. If directed pollock fishing occurs in the Aleutian Islands in future years, NMFS would assess the Aleut Corporation a cost recovery fee for the directed Aleutian Islands pollock fishery.

If the same fee percentage were applied to all AFA sectors, the fee would have ranged from a high of 0.58 percent in 2010 to a low of 0.29 percent in 2012. Because the management costs associated with the AFA catcher/processor, inshore, and mothership sectors are known to vary, Table 6 provides estimates of the cost recovery fee percentage when it is established for each sector—catcher/processor (C/P), mothership (MS), and inshore. Those data indicate that the catcher/processor sector would pay a greater cost recovery fee than the mothership or inshore sector. The catcher/processor sector would pay a greater cost recovery fee percentage because enforcement and observer program costs are greater for that sector, relative to the others. Additional detail on the costs associated with each of the AFA sectors is provided in section 1.8.6 of the RIR/IRFA.

TABLE 6—SUMMARY OF AFA AND ALEUTIAN ISLANDS POLLOCK PROGRAM ESTIMATED COSTS, EX-VESSEL VALUE, AND FEE PERCENTAGE BY YEAR AND BY SECTOR

Entity incurring costs	Cost incurred for each AFA sector			
	C/P	MS	Inshore	Total
Costs (estimated for all years)				
NMFS Alaska Region	$97,832	$47,518	$179,452	$324,802
NMFS OLE	246,460	49,292	197,168	492,920
Observer Program	239,096	53,911	96,454	389,461
Total (Millions)	0.58	0.15	0.47	1.21
AFA Sector	Year			
	2010	2011	2012	2013
Ex-vessel Value per year ($ Millions)				
C/P	$83	$141	$168	$155
MS	21	35	42	39
Inshore	104	176	208	194
AFA sector	Year			
	2010	2011	2012	2013
Estimated Fee Percentage (Percent of Ex-vessel Value)				
C/P	0.70%	0.41	0.35	0.38
MS	0.72%	0.43	0.36	0.39
Inshore	0.45%	0.27	0.23	0.24

In each year considered in Table 6, the fee percentage for each sector was less than 0.75 percent of the ex-vessel value of the fishery. This means that AFA program costs would need to increase by a minimum of 400 percent,

or program revenue would need to fall by the same percentage in order for the fee percentage to reach the maximum fee limit of three percent of ex-vessel value. Therefore, the fee percentage that would be implemented for this program is expected to be small.

4. Calculation of Standard Price Information

BSAI ex-vessel pollock prices will be derived from the COAR. The rationale for using the COAR has been described earlier in this preamble. Pollock standard prices would be the average ex-vessel price for the year. The average ex-vessel price, calculated using the inshore sectors' COAR data, would be used to determine the annual standard price for all AFA, Aleutian Islands, and CDQ pollock landings. The assessment of fees for pollock harvested by CDQ Groups is described in the ''CDQ Cost Recovery Fee Program'' section of this preamble. The inshore price would be used as a standard price for all BSAI pollock landings because it provides an ex-vessel price based on the sale of pollock, rather than imputing an ex-vessel price from wholesale value to estimate a standard price.

Once the standard price has been calculated, NMFS would determine the fee percentages and announce the percentage in a **Federal Register** notice by December 1 of the year in which the landings were made. The fee must be submitted electronically to NMFS by December 31 of the calendar year in which the landings were made.

B. Amendment 80 Cost Recovery Fee Program

1. Amendment 80 Cost Recovery Fee Program Applicable Entities

NMFS issues the CQ permit to an Amendment 80 cooperative based on an annual CQ permit application submitted by each Amendment 80 cooperative. The Amendment 80 CQ permit application specifies the cooperative's designated representative. The Amendment 80 cooperative's designated representative would be responsible for submitting the cost recovery fee for the cooperative under this proposed action. Amendment 80 quota shareholders who do not choose to join an Amendment 80 cooperative may participate in the Amendment 80 limited access fishery. The Amendment 80 limited access fishery does not meet the definition of a limited access privilege program, and participants in that fishery would not be subject to a cost recovery fee. Since 2011, all 27 catcher/processors participating in the Amendment 80 Program are members of one of two cooperatives—the Alaska Seafood Cooperative or the Alaska Groundfish Cooperative. No Amendment 80 quota shareholders have elected to participate in the limited access fishery.

NMFS proposes adding regulations at § 679.91(b)(4)(vii) that would require that Amendment 80 cooperative agreements list the obligations of Amendment 80 cooperative members to ensure full payment of cost recovery fees among their members. This proposed regulation does not proscribe the specific provisions that Amendment 80 cooperatives may choose to ensure full payment of cost recovery fees among their members, but it does require that those provisions are listed in the cooperative agreement. This requirement is intended to encourage and facilitate coordination among Amendment 80 cooperative members for the timely and complete payment of fees. As noted earlier in this preamble, NMFS implemented a similar requirement in the Rockfish Program, and is proposing similar provisions for the AFA and Amendment 80 cooperatives.

Table 7 summarizes the information used to determine standard prices, any additional reporting requirement, calculation of the standard ex-vessel value, the person responsible for submitting the fee payment, and submittal requirements and deadlines for each Amendment 80 cooperative.

TABLE 7—SUMMARY OF THE AMENDMENT 80 COST RECOVERY FEE PROGRAM ELEMENTS

What species are subject to a cost recovery fee?	Amendment 80 species: (BSAI Atka Mackerel, BSAI flathead sole, BSAI Pacific cod, Aleutian Islands Pacific ocean perch, BSAI rock sole, and BSAI yellowfin sole).
How is the standard price determined?	NMFS would calculate a standard price for BSAI Pacific cod based on data from the Pacific Cod Volume and Value Report. The standard price would be applied to all landings during a calendar year. NMFS would calculate a standard price for all other species other than BSAI Pacific cod from the First Wholesale Volume and Value Report. The standard price would be applied to all landings during a calendar year, except for BSAI rock sole. NMFS would calculate one standard price for landings made from January 1 through March 31, and a separate standard price for landings made from April 1 through December 31 of each year.
Are there additional reporting requirements to determine the standard price?	Yes. Each Amendment 80 vessel owner that lands Amendment 80 species during a calendar year is required to submit a First Wholesale Volume and Value Report.
How will NMFS determine the Standard Ex-vessel Value?	NMFS will add total reported landings of Amendment 80 species from January 1 through November 30, estimate total landings from December 1 through December 31, if any, for each cooperative and multiply that amount by the standard price determined by the applicable volume and value report.
Who is responsible for fee payment and (how many cooperatives are estimated to receive a fee liability notice)?	The Amendment 80 Cooperative's designated representative listed on the Cooperative Quota (CQ) application (2).
When are the standard prices published in the **Federal Register**, and when are fee liability notices sent?	The standard prices are published in the **Federal Register** by December 1 of each calendar year, and the fee liability notices will be sent to each designated representative by December 1 of each calendar year.
When are fee liability payments due and how are they submitted?	Fee liability notices are due by December 31 of each year, and must be submitted online. Submittal forms are available online at: *http://www.alaskafisheries.noaa.gov.*

2. Cost, Values, and Fee Percentage

Table 8 provides an estimate of the management costs subject to the cost recovery program, gross ex-vessel revenue from fishery species allocated to the Amendment 80 Program, and estimates of the cost recovery fee percentages from 2010 through 2013. Total management costs subject to a cost recovery fee were estimated to be approximately $1.36 million per year. Recoverable fees are estimated based on management costs incurred by several divisions within the Alaska Region of NMFS, NMFS OLE, AFSC, and the

Observer Program. Section 1.8.4 of the RIR/IRFA provides additional detail about the estimated management costs associated with the Amendment 80 Program.

TABLE 8—SUMMARY OF AMENDMENT 80 PROGRAM ESTIMATED COSTS, GROSS EX-VESSEL REVENUE, AND FEE PERCENTAGE

Entity incurring costs	Cost incurred
Costs (estimated for all years)	
NMFS Alaska Region	$486,364
NMFS OLE	492,920
Alaska Fisheries Science Center	49,627
Observer Program	333,548
Total ($ Millions)	1.36

Entity	Year			
	2010	2011	2012	2013
Ex-Vessel Value per year ($ Millions)				
Amendment 80 Cooperatives	$89	$112	$98	$84

Entity	Year			
	2010	2011	2012	2013
Estimated Fee Percentage (Percent of Ex-Vessel Value)				
Amendment 80 Cooperatives	1.54%	1.22%	1.49%	1.62%

Based on the estimated gross ex-vessel revenue from the fishery species subject to a cost recovery fee under the Amendment 80 Program, vessels in the Amendment 80 Program generated between $84 million and $112 million of ex-vessel value per year during the period analyzed. Relative to the estimated recoverable costs, these ex-vessel values result in a cost recovery fee ranging from 1.22 percent to 1.62 percent, depending on the year, to generate $1.36 million to cover reimbursable management costs. In each year considered in Table 8, the cost recovery fee was estimated to be less than 1.7 percent of the estimated ex-vessel value landed by the Amendment 80 cooperatives. Based on these percentages, the cost of managing the Amendment 80 Program would need to double, or revenue would need to decrease by half before the maximum fee of three percent of ex-vessel value would be reached. Therefore, the fee percentage that would be implemented for this program is expected to be small.

3. Calculation of Standard Price Information

To generate timely standard prices NMFS would collect first wholesale data on round (unprocessed) pounds and value from the First Wholesale Volume and Value Report. Annual standard prices will be used for all Amendment 80 species except rock sole. As noted earlier in this preamble, two standard prices will be estimated for rock sole, one for the first quarter (from January 1 through March 31), and one for the remainder of the year (April 1 through December 31). Standard prices and the cost recovery fee percentage will be reported in a **Federal Register** notice by December 1 and the fee liability payment will be due on December 31st. This billing cycle enables NMFS to base the cost recovery fee liability on that year's ex-vessel revenue to the extent possible (January 1 through October 31), while allowing NMFS to collect the cost recovery fees prior to issuing a CQ permit to Amendment 80 cooperatives for the upcoming fishing year that begins in January.

C. CDQ Cost Recovery Fee Program

1. CDQ Cost Recovery Fee Program Applicable Entities

This proposed rule defines each CDQ group as the person subject to cost recovery fees for CDQ groundfish and halibut fisheries. The designated representative of a CDQ group is the individual responsible for remitting payment for their CDQ group (see Table 9 of this preamble).

NMFS annually allocates a portion of groundfish and halibut TACs to the CDQ groups as described above in the ''CDQ Program'' section of this preamble. NMFS annually publishes the allocations of groundfish and halibut TACs to each CDQ group on the Alaska Region Web site at *http://www.alaskafisheries.noaa.gov/cdq/current_historical.htm.* The information in this publication would represent the permit that provides an exclusive harvest privilege to the CDQ group to harvest its allocation of groundfish and halibut TACs. Each CDQ group would be responsible for submitting to NMFS the cost recovery fee associated with landings made from its allocation of groundfish and halibut TACs. This method is consistent with the method NMFS uses to collect fees for crab CDQ in the Crab Rationalization cost recovery fee program (see § 680.44).

In developing this proposed action, NMFS considered defining the Administrative Panel authorized in section 305(i)(1)(G) as the person subject to cost recovery fees for CDQ groundfish and halibut fisheries. Under this option, NMFS would submit a single cost recovery fee liability notice for all CDQ Program cost recovery fees to WACDA, the entity currently serving as the Administrative Panel for the CDQ Program. NMFS did not select this approach because it would not be consistent with the current management structure of the CDQ groundfish and halibut fisheries. As described earlier in the ''CDQ Program'' section of this preamble and in section 1.5.2.1 of the

RIR/IRFA, existing CDQ groundfish and halibut catch monitoring and reporting requirements are structured to ensure that each CDQ group actively monitors the harvest of its allocations, and that each group takes action to constrain its fishing activities should its harvest approach or reach a particular allocation. Furthermore, CDQ group representatives did not support combining cost recovery fees for all CDQ groups into one fee liability notice for the CDQ Program. These representatives noted that combining responsibility for all CDQ Program cost recovery fee liabilities could disadvantage some CDQ groups if one or more groups do not submit their fee by the deadline and NMFS withheld groundfish or halibut allocations to the CDQ Program in the next year. Making each CDQ group responsible for its own fees eliminates the potential for a CDQ group to be held accountable and potentially have its CDQ withheld if another CDQ group fails to submit a timely and complete fee payment.

Table 9 summarizes the information used to determine standard prices, any additional reporting requirement, calculation of the standard ex-vessel value, the person responsible for submitting the fee payment, and submittal requirements and deadlines for each CDQ group.

TABLE 9—SUMMARY OF THE CDQ COST RECOVERY FEE PROGRAM ELEMENT

What species are subject to a cost recovery fee?	Groundfish species allocated to the CDQ Program: (BSAI Atka Mackerel, BSAI flathead sole, Bering Sea Greenland turbot, BSAI Pacific cod, Aleutian Islands Pacific ocean perch, BSAI Pollock, BSAI rock sole, BSAI sablefish, and BSAI yellowfin sole), and BSAI halibut.
How is the standard price determined?	NMFS would calculate a standard price for BSAI Pacific cod based on data from the Pacific Cod Volume and Value Report. The standard price would be applied to all landings during a calendar year. NMFS would calculate a standard price for all other species other than BSAI pollock, BSAI Pacific cod, BSAI sablefish, and BSAI Halibut from the First Wholesale Volume and Value Report. The standard price would be applied to all landings during a calendar year, except for BSAI rock sole. NMFS would calculate one standard price for landings made from January 1 through March 31, and a separate standard price for landings made from April 1 through December 31 of each year. NMFS would calculate a standard price for BSAI pollock based on data from the COAR from the previous calendar year. The standard price would be applied to all landings during a calendar year. NMFS would calculate a standard price for BSAI sablefish and BSAI halibut from the IFQ Buyer Report. The standard price would be applied to all landings during a calendar year.
Are there additional reporting requirements from CDQ groups to determine the standard price?	No.
How will NMFS determine the Standard Ex-vessel Value?	NMFS will add total reported landings of the above mentioned species from January 1 through November 30, estimate total landings from December 1 through December 31, if any, for each cooperative and multiply that amount by the standard price determined by the Volume and Value reports.
Who is responsible for fee payment and (how many cooperatives are estimated to receive a fee liability notice)?	The CDQ group's designated representative (6).
When are the standard prices published in the **Federal Register** and when are the fee liability notices sent?	The standard prices are published in the **Federal Register** by December 1 of each calendar year, and the fee liability notices will be sent to each designated representative by December 1 of each calendar year.
When are fee liability payments due and how are they submitted?	Fee liability notices are due by December 31 of each year, and must be submitted online. Submittal forms are available online at: *http://www.alaskafisheries.noaa.gov.*

2. Cost, Values, and Fee Percentage

NMFS, NMFS OLE, the Observer Program, and ADF&G all contribute to the management of the CDQ Program. Table 10 provides a summary of the management costs subject to the cost recovery fee program, gross ex-vessel revenue from species allocated to the CDQ Program, and estimates of the cost recovery fee percentages from 2010 through 2013. Fees were estimated to be about $0.63 million per year, at current levels. These fees included the costs of developing reports on halibut landings, providing support for information systems (*e.g.,* e-Landings catch and production reporting system), and stationing observers on vessels. Section 1.8.4 of the RIR/IRFA provides additional detail about the estimated management costs associated with the Amendment 80 Program.

TABLE 10—SUMMARY OF CDQ GROUNDFISH AND HALIBUT ESTIMATED COSTS, GROSS EX-VESSEL REVENUE, AND FEE PERCENTAGE

Entity incurring costs	Cost incurred
Costs (estimated for all years)	
NMFS Alaska Region	$234,796
NMFS OLE	246,460
ADF&G	65,612
Observer Program	84,799
Total ($ Millions)	0.63

Entity	Year			
	2010	2011	2012	2013
Ex-vessel Value per year ($ Millions)				
CDQ Groups	$47	$74	$87	$76
Entity	Year			
	2010	2011	2012	2013
Estimated Fee Percentage (Percent of Ex-vessel Value)				
CDQ Groups	1.33%	0.86%	0.73%	0.83%

The CDQ Program fee percentage was estimated to range from 0.73 percent to 1.33 percent per year from 2010 through 2013. The estimated fee percentage for 2013 was less than 1.0 percent of the gross ex-vessel value of species directly allocated to the CDQ Program. In each year, considered in Table 10, the fee percentage was less than 1.4 percent. Based on these percentages, the cost of managing the CDQ Program would need to double, or revenue would need to decrease by half before the maximum fee of three percent of ex-vessel value would be reached. Therefore, the fee percentage that would be implemented for this program is expected to be small.

3. Calculation of Standard Price Information

NMFS would calculate cost recovery fees for CDQ halibut and fixed gear sablefish based on the standard prices calculated and reported by NMFS for the Halibut and Sablefish IFQ Program cost recovery fee. NMFS would use the IFQ Buyer Report to determine standard prices for CDQ halibut and sablefish. NMFS determined that IFQ standard prices would be appropriate for CDQ halibut and sablefish because buyers of CDQ halibut and sablefish are required by § 679.5(l)(7)(i) to submit the IFQ Buyer Report. Therefore, price data for CDQ halibut and sablefish are already reported. The standard prices for pollock allocations harvested by CDQ groups would be derived from the COAR data. The standard prices for Pacific cod allocations harvested by CDQ groups would be derived from the Pacific Cod Ex-vessel Volume and Value Report. The standard prices for the remaining CDQ groundfish species, other than Pacific cod, pollock, halibut, and fixed gear sablefish, would be derived from the First Wholesale Volume and Value Report.

V. Classification

Pursuant to section 305(d) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined this proposed rule is consistent with the FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment. This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

A. Initial Regulatory Flexibility Analysis

An IRFA was prepared, as required by section 603 of the Regulatory Flexibility Act. The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. Copies of the RIR/IRFA prepared for this proposed rule are available from NMFS (see **ADDRESSES**).

The IRFA for this proposed action describes the action, why this action is being proposed, the objectives and legal basis for the proposed rule, the type and number of small entities to which the proposed rule would apply, and the projected reporting, recordkeeping, and other compliance requirements of the proposed rule. It also identifies any overlapping, duplicative, or conflicting Federal rules and describes any significant alternatives to the proposed rule that would accomplish the stated objectives of the Magnuson-Stevens Act and other applicable statues and that would minimize any significant adverse economic impact of the proposed rule on small entities. The description of the proposed action, its purpose, and its legal basis are described in the preamble and are not repeated here.

This proposed rule would directly regulate six CDQ groups that support and manage the activities of the CDQ communities. The groups include the Aleutian Pribilof Island Community Development Association, the Bristol Bay Economic Development Corporation, the Central Bering Sea Fishermen's Association, the Coastal Villages Region Fund, the Norton Sound Economic Development Corporation, and the Yukon Delta Fisheries Development Association. These groups represent 65 villages and maintain a non-profit status. Each of the CDQ 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 Small Business Administration's definition for ''small organization''. Section 2.6 of the IRFA prepared for this proposed rule provides more information on these entities.

In addition, this action would regulate Amendment 80 and AFA cooperatives, and the vessels that are harvesting exclusive harvest privileges under the Amendment 80 and AFA programs; The Aleut Corporation; and processors and motherships that receive CDQ Pacific cod deliveries and trawl-caught Pacific cod. The Small Business Administration defines a small commercial finfish fishing entity as one that has annual gross receipts, from all activities of all affiliates, of less than $20.5 million (79 FR 33647, July 14, 2014). None of these entities are considered to be small entities based on the SBA's size standard.

B. Description of Significant Alternatives Considered

The Magnuson-Stevens Act requires that those participating in limited access privilege programs and the CDQ Program pay up to three percent of the ex-vessel value of the fish they are allocated to cover specific costs that are incurred by the management agencies as a direct result of implementing the programs. Given the specific requirements of the Magnuson-Stevens Act to implement a cost recovery fee, no other alternatives would accomplish the stated objective.

NMFS considered and analyzed a range of specific options to determine standard prices for calculating standard ex-vessel value data, due dates for volume and value reports, and fee submission, as described in the IRFA. NMFS selected those options that would minimize reporting burden and costs on small entities consistent with the stated objective when possible.

For the options to determine standard prices for calculating standard ex-vessel value data, NMFS considered options to use COAR data to determine standard prices and standard ex-vessel values for all species subject to cost recovery, but did not select that option for species other than BSAI pollock because COAR data is not an accurate data source for species where the price changes on a year-by-year basis. NMFS did select options that minimized reporting requirements on small entities by using existing data sources (*e.g.,* COAR for BSAI pollock, and the IFQ buyer report for BSAI sablefish and BSAI halibut).

For the provision setting the deadline date for two new reports that would be required under this proposed rule: The Pacific Cod Ex-Vessel Volume and Value Report and the First Wholesale Volume and Value Report, NMFS considered December 1 for the due date for volume and value reports, as well as whether or not the volume and value reports should aggregate all prices for the year. NMFS selected November 1 for the submission of reports, because it provided the most current data available while still allowing fee liabilities to be calculated on a timely basis so they could be sent out by December 1. For the fee submission deadline, NMFS considered selecting an earlier (November 30) and later fee submission due date (January 15), but ultimately selected December 31 to ensure all fees for all landings are included for each year. These dates would also minimize the potential impact on small entities relative to other dates considered.

C. Additional Provisions Considered

NMFS also considered implementing a cost recovery fee for the Freezer Longline Coalition Cooperative (FLCC). NMFS considered this alternative because initial analysis indicated that the FLCC exclusively harvested the allocation assigned to the hook-and-line catcher/processor sector (79 FR 12108, March 4, 2014). However, vessels that are not part of the FLCC harvest a portion of the allocation assigned to hook-and-line catcher/processor sector. A limited number of vessels harvest Pacific cod as hook-and-line catcher/processors within State waters and are not required to use an FFP or License Limitation Program license. These State water harvests are deducted from the proportion of the BSAI Pacific cod TAC assigned to the hook-and-line catcher/processor sector. The harvest by these vessels is deducted from the Federal TAC and is not subject to limitation by NMFS. Therefore, the FLCC does not have an exclusive harvest privilege for a proportion of the TAC assigned to hook-and-line catcher/processor sector, and the FLCC is not considered a limited access privilege program for purposes of this proposed action. NMFS will continue to review the status of the FLCC, and would implement a cost recovery fee program for the FLCC in the future, if applicable.

D. Collection-of-Information Requirements

This proposed rule contains collection-of-information requirements subject to review and approval by OMB under the Paperwork Reduction Act (PRA). NMFS has submitted these requirements to OMB for approval. The requirements are listed below by OMB collection number.

OMB Control No. 0648–0318

With this action, the observer fee submittal (15 minutes) is removed from this collection and added to the new fee collection.

OMB Control No. 0648–0398

With this action, this IFQ Cost Recovery collection is removed and superseded by the new cost recovery collection.

OMB Control No. 0648–0401

Public reporting burden per response is estimated to average four hours for Cooperative Contract.

OMB Contract No. 0648–0545

With this action, the Rockfish volume and value form (two hours) is removed from this collection.

OMB Control No. 0648–0565

Public reporting burden per response is estimated to average two hours for Application for Amendment 80 Cooperative Quota.

OMB Control No. 0648–0570

With this action, the Crab Rationalization Program Cost Recovery collection is removed and superseded by the new cost recovery collection.

OMB Control No. 0648–New

Public reporting burden per response is estimated to average one minute for cost recovery fee or observer fee submission; five minutes for value and volume report; four hours for appeals.

Estimates for public reporting burden include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Public comment is sought regarding: Whether these proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to NMFS at the **ADDRESSES** above and email to *OIRA_Submission@omb.eop.gov,* or fax to (202) 395–5806.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number. All currently approved NOAA collections of information may be viewed at: *http://www.cio.noaa.gov/services_programs/prasubs.html.*

List of Subjects in 50 CFR Part 679

Alaska, Cost recovery, Fisheries, Reporting and recordkeeping requirements.

Dated: December 29, 2014.

Eileen Sobeck,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

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

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

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

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

■ 2. In § 679.2, add definitions for ''AFA equivalent pounds''; ''AFA fee liability''; ''AFA fee percentage''; ''AFA standard ex-vessel value''; ''AFA standard price''; ''Aleutian Islands pollock equivalent pounds''; ''Aleutian Islands pollock fee liability''; ''Aleutian Islands pollock fee percentage''; ''Aleutian Islands pollock standard ex-vessel value''; ''Aleutian Islands pollock standard price''; ''Amendment 80 equivalent pounds''; ''Amendment 80 fee liability''; ''Amendment 80 fee percentage''; ''Amendment 80 standard ex-vessel value''; ''Amendment 80 standard price''; ''CDQ equivalent pounds''; ''CDQ fee liability''; ''CDQ fee percentage''; ''CDQ standard ex-vessel

value''; and ''CDQ standard price''; in alphabetical order to read as follows:

§ 679.2 Definitions.

* * * * *

AFA equivalent pounds means the weight recorded in pounds, for landed AFA pollock and calculated as round weight.

AFA fee liability means the amount of money for Bering Sea pollock cost recovery, in U.S. dollars, owed to NMFS by an AFA cooperative as determined by multiplying the appropriate AFA standard ex-vessel value of a cooperative's landed Bering Sea pollock by the appropriate AFA fee percentage.

AFA fee percentage means that positive number no greater than 3 percent (0.03) determined by the Regional Administrator and established for use in calculating the AFA fee liability for a cooperative.

* * * * *

AFA standard ex-vessel value means the total U.S. dollar amount of landed Bering Sea pollock as calculated by multiplying the number of landed pounds of Bering Sea pollock by the appropriate AFA standard price determined by the Regional Administrator.

AFA standard price means the price for landed Bering Sea pollock as determined by the Regional Administrator and is expressed in U.S. dollars for an AFA pollock equivalent pound.

* * * * *

Aleutian Islands pollock equivalent pounds means the weight recorded in pounds, for landed Aleutian Islands pollock and calculated as round weight.

Aleutian Islands pollock fee liability means the amount of money for Aleutian Islands directed pollock cost recovery, in U.S. dollars, owed to NMFS by the Aleut Corporation as determined by multiplying the appropriate standard ex-vessel value of its landed Aleutian Islands pollock by the appropriate Aleutian Islands pollock fee percentage.

Aleutian Islands pollock fee percentage means that positive number no greater than 3 percent (0.03) determined by the Regional Administrator and established for use in calculating the Aleutian Islands pollock fee liability for the Aleut Corporation.

Aleutian Islands pollock standard ex-vessel value means the total U.S. dollar amount of landed Aleutian Islands pollock as calculated by multiplying the number of landed pounds of Aleutian Islands pollock by the appropriate Aleutian Islands pollock standard price determined by the Regional Administrator.

Aleutian Islands pollock standard price means the price for landed Aleutian Islands pollock as determined by the Regional Administrator and is expressed in U.S. dollars for an Aleutian Islands pollock equivalent pound.

* * * * *

Amendment 80 equivalent pounds means the weight recorded in pounds, for landed Amendment 80 species CQ and calculated as round weight.

Amendment 80 fee liability means the amount of money for Amendment 80 cost recovery, in U.S. dollars, owed to NMFS by an Amendment 80 CQ permit holder as determined by multiplying the appropriate standard ex-vessel value of landed Amendment 80 species CQ by the appropriate Amendment 80 fee percentage.

Amendment 80 fee percentage means that positive number no greater than 3 percent (0.03) determined by the Regional Administrator and established for use in calculating the Amendment 80 fee liability for an Amendment 80 CQ permit holder.

* * * * *

Amendment 80 standard ex-vessel value means the total U.S. dollar amount of landed Amendment 80 species CQ as calculated by multiplying the number of landed Amendment 80 species CQ equivalent pounds by the appropriate Amendment 80 standard price determined by the Regional Administrator.

Amendment 80 standard price means the price for landed Amendment 80 species as determined by the Regional Administrator and is expressed in U.S. dollars for an Amendment 80 equivalent pound.

* * * * *

CDQ equivalent pounds means the weight recorded in pounds, for landed CDQ groundfish and halibut, and calculated as round weight.

CDQ fee liability means the amount of money for CDQ groundfish and halibut cost recovery, in U.S. dollars, owed to NMFS by a CDQ group as determined by multiplying the appropriate standard ex-vessel value of landed CDQ groundfish and halibut by the appropriate CDQ fee percentage.

CDQ fee percentage means that positive number no greater than 3 percent (0.03) determined by the Regional Administrator and established for use in calculating the CDQ groundfish and halibut fee liability for a CDQ group.

* * * * *

CDQ standard ex-vessel value means the total U.S. dollar amount of landed CDQ groundfish and halibut as calculated by multiplying the number of landed CDQ groundfish and halibut equivalent pounds by the appropriate CDQ standard price determined by the Regional Administrator.

CDQ standard price means the price for landed CDQ groundfish and halibut as determined by the Regional Administrator and is expressed in U.S. dollars for a CDQ equivalent pound.

* * * * *

■ 3. In § 679.5, add paragraph (u) to read as follows:

§ 679.5 Recordkeeping and reporting (R&R).

* * * * *

(u) *BSAI Cost Recovery Volume and Value Reports*—(1) *Pacific Cod Ex-vessel Volume and Value Report*—(i) *Applicability.* A shoreside processor designated on an FPP, or a mothership, designated on an FFP, that processes landings of either CDQ Pacific cod or BSAI Pacific cod harvested by a vessel using trawl gear must submit annually to NMFS a complete Pacific Cod Ex-vessel Volume and Value Report, as described in this paragraph (u)(1), for each reporting period for which the shorebased processor or mothership receives this Pacific cod.

(ii) *Reporting period.* The reporting period of the Pacific Cod Ex-vessel Volume and Value Report shall extend from January 1 to October 31 of the year in which the landings were made.

(iii) *Due date.* A complete Pacific Cod Ex-vessel Volume and Value Report must be received by NMFS no later than November 10 of the year in which the processor or mothership received the Pacific cod.

(iv) *Information required.* (A) The submitter must log in using his or her password and NMFS person ID to submit a Pacific Cod Ex-vessel Volume and Value Report. The User must review any auto-filled cells to ensure that they are accurate. A completed report must have all applicable fields accurately filled-in.

(B) *Certification.* By using the NMFS person ID and password and submitting the report, the submitter certifies that all information is true, correct, and complete to the best of his or her knowledge and belief.

(v) *Submittal.* The submitter must complete and submit online to NMFS the Pacific Cod Ex-vessel Volume and Value Report available at *https://alaskafisheries.noaa.gov.*

(2) *First Wholesale Volume and Value Report*—(i) *Applicability.* An Amendment 80 vessel owner that harvests Amendment 80 species, other than Pacific cod, must submit annually to NMFS a complete First Wholesale Volume and Value Report, as described

in this paragraph (u)(2), for each reporting period for which the Amendment 80 vessel harvests Amendment 80 species, other than Pacific cod.

(ii) *Reporting period.* (A) The reporting period of the First Wholesale Volume and Value Report for all species except rock sole shall extend from January 1 to October 31 of the year in which the landings were made.

(B) The first reporting period of the First Wholesale Volume and Value Report for rock sole shall extend from January 1 to March 31, and the second reporting period shall extend from April 1 to October 31.

(iii) *Due date.* A complete First Wholesale Volume and Value Report must be received by NMFS no later than November 10 of the year in which the Amendment 80 vessel received the Amendment 80 species, other than Pacific cod.

(iv) *Information required.* (A) The Amendment 80 vessel owner must log in using his or her password and NMFS person ID to submit a First Wholesale Volume and Value Report. The vessel owner must review any auto-filled cells to ensure that they are accurate. A completed application must contain the information specified on the First Wholesale Volume and Value Report with all applicable fields accurately filled in.

(B) *Certification.* By using the NMFS person ID and password and submitting the report, the Amendment 80 vessel owner certifies that all information is true, correct, and complete to the best of his or her knowledge and belief.

(v) *Submittal.* The Amendment 80 vessel owner must complete and submit online to NMFS the First Wholesale Volume and Value Report available at *https://alaskafisheries.noaa.gov.*

■ 4. In § 679.7, add paragraphs (c)(6), (d)(8), (k)(9), (l)(6), (o)(4)(vii), and (o)(9) to read as follows:

§ 679.7 Prohibitions.

* * * * *

(c) * * *

(6) For a shoreside processor designated on an FPP, or a mothership designated on an FFP, that processes landings of either CDQ Pacific cod or BSAI Pacific cod harvested by a vessel using trawl gear to fail to submit a timely and complete Pacific Cod Ex-vessel Volume and Value Report as required under § 679.5(u)(1).

(d) * * *

(8) Fail to submit a timely and complete CDQ cost recovery fee submission form and fee as required under § 679.33.

* * * * *

(k) * * *

(9) Fail to submit a timely and complete AFA cost recovery fee submission form and fee as required under § 679.66.

(l) * * *

(6) Fail to submit a timely and complete Aleutian Islands pollock cost recovery fee submission form and fee as required under § 679.67.

* * * * *

(o) * * *

(4) * * *

(vii) Fail to submit a timely and complete Amendment 80 cost recovery fee submission form and fee as required under § 679.95.

* * * * *

(9) *First Wholesale Volume and Value Report.* For an Amendment 80 vessel owner to fail to submit a timely and complete First Wholesale Volume and Value Report as required under § 679.5(u)(2).

* * * * *

■ 5. Add § 679.33 to Subpart E to read as follows:

§ 679.33 Cost recovery.

(a) *Cost Recovery Fee Program for CDQ groundfish and halibut*—(1) *Who is Responsible?* The person documented with NMFS as the CDQ group representative at the time of a CDQ landing.

(i) Subsequent transfer, under § 679.31(c), of a CDQ allocation by a CDQ group does not affect the CDQ group representative's liability for noncompliance with this section.

(ii) Changes in amount of a CDQ allocation to a CDQ group do not affect the CDQ group representative's liability for noncompliance with this section.

(2) *Fee collection.* Each CDQ group that receives a CDQ allocation of groundfish and halibut is responsible for submitting the cost recovery payment for all CDQ landings debited against that CDQ group's allocations.

(3) *Payment*—(i) *Payment due date.* A CDQ group representative must submit all CDQ fee liability payment(s) to NMFS at the address provided in paragraph (a)(3)(iii) of this section no later than December 31 of the calendar year in which the CDQ groundfish and halibut landings were made.

(ii) *Payment recipient.* Make electronic payment payable to NMFS.

(iii) *Payment address.* Submit payment and related documents as instructed on the fee submission form. Payments must be made electronically through the NMFS Alaska Region Web site at *http://alaskafisheries.noaa.gov.* Instructions for electronic payment will be made available on both the payment Web site and a fee liability summary letter mailed to the CDQ group representative.

(iv) *Payment method.* Payment must be made electronically in U.S. dollars by automated clearing house, credit card, or electronic check drawn on a U.S. bank account.

(b) *CDQ standard ex-vessel value determination and use*—(1) *General.* A CDQ group representative must use the CDQ standard prices determined by NMFS under paragraph (b)(2) of this section.

(2) *CDQ standard prices*—(i) *General.* Each year the Regional Administrator will publish CDQ standard prices for groundfish and halibut in the **Federal Register** by December 1 of the year in which the CDQ groundfish and halibut landings were made. The CDQ standard prices will be described in U.S. dollars per equivalent pound for CDQ groundfish and halibut landings made during the current calendar year.

(ii) *Effective duration.* The CDQ standard prices published by NMFS shall apply to all CDQ groundfish and halibut landings made during the current calendar year.

(iii) *Determination.* A CDQ group representative must use the CDQ standard prices when determining the CDQ group's fee liability based on CDQ standard ex-vessel value. A CDQ group representative must base all fee liability calculations on the CDQ standard price that correlates to landed CDQ groundfish and halibut by gear type that is recorded in CDQ equivalent pounds.

(A) *CDQ halibut and CDQ fixed gear sablefish.* NMFS will calculate the CDQ standard prices for CDQ halibut and CDQ fixed gear sablefish to reflect, as closely as possible by port or port-group, the variations in the actual ex-vessel values of CDQ halibut and fixed-gear sablefish based on information provided in the IFQ Registered Buyer Ex-vessel Volume and Value Report described at § 679.5(l)(7). The Regional Administrator will base CDQ standard prices on the following types of information:

(*1*) Landed pounds of IFQ halibut and sablefish and CDQ halibut in the Bering Sea port-group;

(*2*) Total ex-vessel value of IFQ halibut and sablefish and CDQ halibut in the Bering Sea port-group; and

(*3*) Price adjustments, including retroactive payments.

(B) *CDQ Pacific cod.* NMFS will use the standard prices calculated for Pacific cod based on information provided in the Pacific Cod Ex-vessel Volume and Value Report described at § 679.5(u)(1) for CDQ Pacific cod.

(C) *CDQ pollock.* NMFS will use the standard prices calculated for AFA pollock described at § 679.66(b) for CDQ pollock.

(D) *Other CDQ groundfish including sablefish caught with trawl gear.* (*1*) The Regional Administrator will base all CDQ standard prices for all other CDQ groundfish species on the First Wholesale Volume and Value reports specified in § 679.5(u)(2).

(*2*) The Regional Administrator will establish CDQ standard prices for all other CDQ groundfish species on an annual basis; except the Regional Administrator will establish a CDQ standard price for rock sole for all landings from January 1 through March 31, and a second CDQ standard price for rock sole for all landings from April 1 through December 31.

(*3*) The average first wholesale product prices reported will be multiplied by 0.4 to obtain a proxy for the ex-vessel prices of those CDQ groundfish species.

(c) *CDQ fee percentage*—(1) *Established percentage.* The CDQ fee percentage for CDQ groundfish and halibut is the amount as determined by the factors and methodology described in paragraph (c)(2) of this section. This amount will be announced by publication in the **Federal Register** in accordance with paragraph (c)(3) of this section. This amount must not exceed 3.0 percent pursuant to 16 U.S.C. 1854(d)(2)(B).

(2) *Calculating fee percentage value.* Each year NMFS shall calculate and publish the CDQ fee percentage according to the following factors and methodology:

(i) *Factors.* NMFS will use the following factors to determine the fee percentage:

(A) The catch to which the CDQ groundfish and halibut cost recovery fee will apply;

(B) The ex-vessel value of that catch; and

(C) The costs directly related to the management, data collection, and enforcement of the CDQ Program for groundfish and halibut.

(ii) *Methodology.* NMFS will use the following equations to determine the fee percentage: $100 \times DPC/V$, where:

DPC = the direct program costs for the CDQ Program for groundfish and halibut for the most recent Federal fiscal year (October 1 through September 30) with any adjustments to the account from payments received in the previous year.

V = total of the CDQ standard ex-vessel value of the catch subject to the CDQ fee liability for the current year.

(3) *Publication*—(i) General. NMFS will calculate and announce the CDQ fee percentage in a **Federal Register** notice by December 1 of the year in which the CDQ groundfish and halibut landings were made. NMFS shall calculate the CDQ fee percentage based on the calculations described in paragraph (c)(2) of this section.

(ii) *Effective period.* The calculated CDQ fee percentage is applied to CDQ groundfish and halibut landings made between January 1 and December 31 of the same year.

(4) *Applicable percentage.* The CDQ group representative must use the CDQ fee percentage applicable at the time a CDQ groundfish and halibut landing is debited from a CDQ group's allocation to calculate the CDQ fee liability for any retroactive payments for that CDQ species.

(5) *Fee liability determination for a CDQ group.* (i) Each CDQ group will be subject to a CDQ fee liability for any CDQ groundfish and halibut debited from that CDQ group's allocation during a calendar year.

(ii) The CDQ fee liability assessed to a CDQ group will be based on the proportion of the standard ex-vessel value of CDQ groundfish and halibut debited from a CDQ group's allocation relative to all CDQ groups during a calendar year as determined by NMFS.

(iii) NMFS will provide a CDQ fee liability summary letter to each CDQ group representative by December 1 of each year. The summary will explain the CDQ fee liability determination including the current fee percentage, and details of CDQ pounds debited from the CDQ group allocations by permit, species, date, and prices.

(d) *Underpayment of fee liability*—(1) No CDQ group will receive its allocations of CDQ groundfish or halibut until the CDQ group representative submits full payment of that CDQ group's complete CDQ fee liability.

(2) If a CDQ group representative fails to submit full payment for its CDQ fee liability by the date described in paragraph (a)(3) of this section, the Regional Administrator may:

(i) At any time thereafter send an IAD to the CDQ group representative stating that the CDQ group's estimated fee liability, as indicated by his or her own submitted information, is the CDQ fee liability due from the CDQ group.

(ii) Disapprove any application to transfer CDQ to or from the CDQ group in accordance with § 679.31(c).

(3) If a CDQ group fails to submit full payment by December 31, no allocations of CDQ groundfish and halibut will be issued to that CDQ group for the following calendar year.

(4) Upon final agency action determining that a CDQ group representative has not paid the CDQ fee liability due for that CDQ group, the Regional Administrator may continue to prohibit issuance of allocations of CDQ groundfish and halibut for that CDQ group for any subsequent calendar years until NMFS receives the unpaid fees. If payment is not received by the 30th day after the final agency action, the agency may pursue collection of the unpaid fees.

(e) *Overpayment.* Upon issuance of final agency action, payment submitted to NMFS in excess of the CDQ fee liability determined to be due by the final agency action will be returned to the CDQ group representative unless the CDQ group representative requests the agency to credit the excess amount against the CDQ group's future CDQ fee liability. Payment processing fees may be deducted from any fees returned to the CDQ group representative.

(f) *Appeals.* A CDQ group representative who receives an IAD for incomplete payment of a CDQ fee liability may appeal under the appeals procedures set out at 15 CFR part 906.

(g) *Administrative Fees.* Administrative fees may be assessed if the account drawn on to pay the CDQ fee liability has insufficient funds to cover the transaction, or if the account becomes delinquent. Additionally, interest will begin to accrue on any portion of the fee that has not been paid due to insufficient funds.

(h) *Annual report.* NMFS will publish annually a report describing the status of the CDQ Cost Recovery Fee Program for groundfish and halibut.

■ 6. In § 679.61,

■ a. Revise paragraph (c)(1); and

■ b. Add paragraph (e)(1)(vi) to read as follows:

§ 679.61 Formation and operation of fishery cooperatives.

* * * * *

(c) * * *

(1) *What is a designated representative?* Any cooperative formed under this section must appoint a designated representative to fulfill regulatory requirements on behalf of the cooperative including, but not limited to, filing of cooperative contracts, filing of annual reports, submitting all cost recovery fees, and in the case of inshore sector catcher vessel cooperatives, signing cooperative fishing permit applications and completing and submitting inshore catcher vessel pollock cooperative catch reports. The designated representative is the primary contact person for NMFS on issues relating to the operation of the cooperative.

* * * * *

(e) * * *

(1) * * *

(vi) List the obligations of members of a cooperative, governed by § 679.61, to ensure the full payment of all AFA fee liabilities that may be due.

* * * * *

■ 7. Add § 679.66 to Subpart F to read as follows:

§ 679.66 AFA cost recovery.

(a) *Cost recovery fee program for AFA*—(1) *Who is responsible?* (i) The person designated on the AFA inshore cooperative permit as the cooperative representative at the time of a Bering Sea pollock landing.

(ii) The person designated as the representative of the listed AFA catcher/processors and high seas catcher vessels that deliver to them at the time of a Bering Sea pollock landing.

(iii) The person designated as the representative of the AFA mothership cooperative at the time of a Bering Sea pollock landing.

(2) *Responsibility.* (i) Subsequent transfer of AFA permits held by cooperative members does not affect the cooperative representative's liability for noncompliance with this section.

(ii) Changes in the membership in a cooperative, such as members joining or departing during the relevant year, or changes in the holdings of AFA permits of those members do not affect the cooperative representative's liability for noncompliance with this section.

(3) *Fee collection.* All cooperative representatives (as identified under paragraph (a)(1) of this section) are responsible for submitting the cost recovery payment for all Bering Sea pollock landings made under the authority of their cooperative.

(4) *Payment*—(i) Payment due date. The cooperative representative (as identified under paragraph (a)(1) of this section) must submit all AFA fee liability payment(s) to NMFS at the address provided in paragraph (a)(3)(iii) of this section no later than December 31 of the calendar year in which the Bering Sea pollock landings were made.

(ii) *Payment recipient.* Make electronic payment payable to NMFS.

(iii) *Payment address.* Submit payment and related documents as instructed on the fee submission form. Payments must be made electronically through the NMFS Alaska Region Web site at *http://alaskafisheries.noaa.gov*. Instructions for electronic payment will be made available on both the payment Web site and a fee liability summary letter mailed to the AFA cooperative member.

(iv) Payment method. Payment must be made electronically in U.S. dollars by automated clearing house, credit card, or electronic check drawn on a U.S. bank account.

(b) *AFA standard ex-vessel value determination and use*—(1) *General.* A cooperative representative must use the AFA standard price determined by NMFS under paragraph (b)(2) of this section.

(2) *AFA standard price*—(i) General. Each year the Regional Administrator will publish the AFA standard price in the **Federal Register** by December 1 of the year in which the landings were made. The AFA standard price will be described in U.S. dollars per equivalent pound for Bering Sea pollock landings made by AFA cooperative members during the current calendar year.

(ii) *Effective duration.* The AFA standard price published by NMFS shall apply to all Bering Sea pollock landings made by an AFA cooperative member during the current calendar year.

(iii) *Determination.* NMFS will calculate the AFA standard price to reflect, as closely as possible, the standard price of Bering Sea pollock landings based on information provided in the COAR for the previous year, as described in § 679.5(p). The Regional Administrator will base the AFA standard price on the following types of information:

(A) Landed pounds of Bering Sea pollock;

(B) Total ex-vessel value of Bering Sea pollock; and

(C) Price adjustments, including retroactive payments.

(c) *AFA fee percentages*—(1) *Established percentages.* The AFA fee percentages are the amounts as determined by the factors and methodology described in paragraph (c)(2) of this section. These amounts will be announced by publication in the **Federal Register** in accordance with paragraph (c)(3) of this section. These amounts must not exceed 3.0 percent pursuant to 16 U.S.C. 1854(d)(2)(B).

(2) *Calculating fee percentage value.* Each year NMFS shall calculate and publish AFA fee percentages for AFA inshore cooperatives, the cooperative representing the listed AFA catcher/processors and high seas catcher vessels that deliver to them, and the AFA mothership cooperative according to the following factors and methodology:

(i) Factors. NMFS will use the following factors to determine the fee percentages:

(A) The catch to which the AFA pollock cost recovery fee will apply;

(B) The ex-vessel value of that catch; and

(C) The costs directly related to the management, data collection, and enforcement of the directed AFA pollock fisheries.

(ii) Methodology. NMFS will use the following equations to determine the AFA fee percentage: $100 \times DPC/V$, where:

DPC = the direct program costs for the directed AFA pollock fisheries for the most recent fiscal year (October 1 through September 30) with any adjustments to the account from payments received in the previous year.

V = total of the standard ex-vessel value of the catch subject to the AFA fee liability for the current year.

(iii) Direct program costs will be calculated separately for:

(A) AFA inshore cooperatives;

(B) The cooperative representing the listed AFA catcher/processors and high seas catcher vessels that deliver to them; and

(C) The AFA mothership cooperative.

(3) *Publication*—(i) General. NMFS will calculate and announce the AFA fee percentages in a **Federal Register** notice by December 1 of the year in which the Bering Sea pollock landings were made. AFA fee percentages will be calculated separately for the AFA inshore cooperatives, the cooperative for listed AFA catcher/processors and high seas catcher vessels that deliver to them, and the AFA mothership cooperative. NMFS shall calculate the AFA fee percentages based on the calculations described in paragraph (c)(2) of this section.

(ii) *Effective period.* The calculated AFA fee percentages are applied to all Bering Sea directed pollock landings made between January 1 and December 31 of the current year.

(4) *Applicable percentage.* An AFA cooperative representative must use the AFA fee percentage applicable to that cooperative at the time a Bering Sea directed pollock landing is debited from an AFA pollock fishery allocation to calculate the AFA fee liability for any retroactive payments for that landing.

(5) *Fee liability determination.* (i) Each AFA cooperative will be subject to an AFA fee liability for any Bering Sea pollock debited from its AFA pollock fishery allocation during a calendar year.

(ii) The AFA fee liability assessed to an AFA inshore cooperative will be based on the proportion of the AFA fee liability of Bering Sea pollock debited from that AFA Inshore cooperative's AFA pollock fishery allocation relative to all AFA inshore cooperatives during a calendar year as determined by NMFS.

(iii) The AFA fee liability assessed to the cooperative of listed AFA catcher/processors and high seas catcher vessels that deliver to them will be based on the

standard ex-vessel value of Bering Sea pollock debited from this cooperative's AFA pollock fishery allocation during a calendar year as determined by NMFS.

(iv) The AFA fee liability assessed to the AFA mothership cooperative will be based on the proportion of the standard ex-vessel value of Bering Sea pollock debited from this cooperative's AFA pollock fishery allocation during a calendar year as determined by NMFS.

(v) NMFS will provide a fee liability summary letter to all AFA cooperative representatives by December 1 of each year. The summary will explain the AFA fee liability determination including the current fee percentage and details of Bering Sea pollock pounds debited from the AFA pollock fishery allocation by permit, species, date, and prices.

(d) *Underpayment of fee liability*—(1) No AFA inshore cooperative will receive its AFA allocation until the cooperative's representative submits full payment of the cooperative's AFA fee liability.

(2) The AFA mothership cooperative will not receive any Bering Sea pollock allocation until the cooperative representative submits full payment of that cooperative's AFA fee liability.

(3) AFA catcher/processor joint cooperative underpayment (i) The cooperative for listed AFA catcher/processors and high seas catcher vessels that deliver to them will not receive any Bering Sea pollock allocation until the cooperative representative submits full payment of that cooperative's AFA fee liability at the time of a Bering Sea pollock landing, except as provided in paragraph (d)(3)(ii) of this section.

(ii) If the cooperative representing the listed AFA catcher/processors and high seas catcher vessels that deliver to them pays only a portion of its AFA fee liability, the Regional Administrator may release a portion of the cooperative's Bering Sea pollock allocation equal to the portion of the fee liability paid.

(4) If an AFA cooperative representative fails to submit full payment for the AFA fee liability by the date described in paragraph (a)(4) of this section, the Regional Administrator may at any time thereafter send an IAD to the AFA cooperative representative stating that the cooperative's estimated fee liability, as indicated by his or her own submitted information, is the AFA fee liability due from the AFA cooperative representative.

(5) If an AFA cooperative representative fails to submit full payment for AFA fee liability by the date described at paragraph (a)(4) of this section, no Bering sea pollock allocation will be provided to that AFA cooperative for the following calendar year, except as provided in paragraph (d)(3) of this section.

(6) Upon final agency action determining that an AFA cooperative representative has not paid that cooperative's AFA fee liability, the Regional Administrator may continue to prohibit issuance of a directed Bering Sea pollock allocation for that cooperative for any subsequent calendar years until NMFS receives the unpaid fees. If payment is not received by the 30th day after the final agency action, the agency may pursue collection of the unpaid fees.

(e) *Overpayment.* Upon issuance of final agency action, payment submitted to NMFS in excess of the AFA fee liability determined to be due by the final agency action will be returned to the AFA cooperative unless the cooperative representative requests the agency to credit the excess amount against the cooperative's future AFA fee liability. Payment processing fees may be deducted from any fees returned to the cooperative.

(f) *Appeals.* An AFA cooperative representative who receives an IAD for incomplete payment of an AFA fee liability may appeal under the appeals procedures set out at 15 CFR part 906.

(g) *Administrative Fees.* Administrative fees may be assessed if the account drawn on to pay the CDQ fee liability has insufficient funds to cover the transaction, or if the account becomes delinquent. Additionally, interest will begin to accrue on any portion of the fee that has not been paid due to insufficient funds.

(h) *Annual report.* NMFS will publish annually a report describing the status of the AFA Cost Recovery Fee Program.

■ 8. A new § 679.67 is added to Subpart F to read as follows:

§ 679.67 Aleutian Islands pollock cost recovery.

(a) *Cost recovery fee program for Aleutian Islands pollock*—(1) *Representative.* The person identified as the representative, designated by the Aleut Corporation, at the time of an Aleutian Islands pollock landing is responsible for submitting all cost recovery fees.

(2) *Fee collection.* The designated representative (as identified under paragraph (a)(1) of this section) is responsible for submitting the cost recovery payment for all Aleutian Islands pollock landings made under the authority of Aleut Corporation.

(3) *Payment.* (i) *Payment due date.* The designated representative (as identified under paragraph (a)(1) of this section) must submit all cost recovery fee liability payment(s) to NMFS at the address provided in paragraph (a)(3)(iii) of this section no later than December 31 of the calendar year in which the Aleutian Islands pollock landings were made.

(ii) *Payment recipient.* Make electronic payment payable to NMFS.

(iii) *Payment address.* Submit payment and related documents as instructed on the fee submission form. Payments must be made electronically through the NMFS Alaska Region Web site at *http://alaskafisheries.noaa.gov.* Instructions for electronic payment will be made available on both the payment Web site and a fee liability summary letter mailed to the designated representative of the Aleut Corporation.

(iv) *Payment method.* Payment must be made electronically in U.S. dollars by automated clearing house, credit card, or electronic check drawn on a U.S. bank account.

(b) *Aleutian Islands pollock standard ex-vessel value determination and use*—(1) *General.* The designated representative of the Aleut Corporation must use the Aleutian Islands pollock standard price determined by NMFS under paragraph (b)(2) of this section.

(2) *Aleutian Islands pollock standard price*—(i) *General.* Each year the Regional Administrator will publish the Aleutian Islands pollock standard price in the **Federal Register** by December 1 of the year in which the landings were made. The Aleutian Islands pollock standard price will be described in U.S. dollars per equivalent pound for Aleutian Islands pollock landings during the current calendar year.

(ii) *Effective duration.* The Aleutian Islands pollock standard price published by NMFS shall apply to all Aleutian Islands pollock landings during the current calendar year.

(iii) *Determination.* NMFS will calculate the Aleutian Islands pollock standard price to reflect, as closely as possible, the standard price of Aleutian Islands pollock landings based on information provided in the COAR for the previous year, as described in § 679.5(p). The Regional Administrator will base Aleutian Islands pollock standard price on the following types of information:

(A) Landed pounds of Aleutian Islands pollock;

(B) Total ex-vessel value of Aleutian Islands pollock; and

(C) Price adjustments, including retroactive payments.

(c) *Aleutian Islands pollock fee percentage*—(1) *Established percentage.* The Aleutian Islands pollock fee percentage is the amount as determined

by the factors and methodology described in paragraph (c)(2) of this section. This amount will be announced by publication in the **Federal Register** in accordance with paragraph (c)(3) of this section. This amount must not exceed 3.0 percent pursuant to 16 U.S.C. 1854(d)(2)(B).

(2) *Calculating fee percentage value.* Each year NMFS shall calculate and publish the fee percentage according to the following factors and methodology:

(i) *Factors.* NMFS will use the following factors to determine the fee percentage:

(A) The catch to which the Aleutian Islands pollock cost recovery fee will apply;

(B) The ex-vessel value of that catch; and

(C) The costs directly related to the management, data collection, and enforcement of the Aleutian Islands directed pollock fishery.

(ii) *Methodology.* NMFS will use the following equations to determine the fee percentage: $100 \times DPC/V$, where:

DPC = the direct program costs for the Aleutian Islands directed pollock fishery for the most recent fiscal year (October 1 through September 30) with any adjustments to the account from payments received in the previous year.

V = total of the standard ex-vessel value of the catch subject to the Aleutian Islands pollock fee liability for the current year.

(3) *Publication*—(i) *General.* NMFS will calculate and announce the fee percentage in a **Federal Register** notice by December 1 of the year in which the Aleutian Islands pollock landings were made. NMFS shall calculate the Aleutian Islands pollock fee percentage based on the calculations described in paragraph (c)(2) of this section.

(ii) *Effective period.* The calculated Aleutian Islands pollock fee percentage is applied to all Aleutian Islands pollock landings made between January 1 and December 31 of the current year.

(4) *Applicable percentage.* The designated representative must use the Aleutian Islands pollock fee percentage applicable at the time an Aleutian Islands pollock landing is debited from the Aleutian Islands directed pollock fishery allocation to calculate the Aleutian Islands pollock fee liability for any retroactive payments for that pollock.

(5) *Fee liability determination.* (i) The Aleut Corporation will be subject to a fee liability for any Aleutian Islands pollock debited from the Aleutian Islands directed pollock fishery allocation during a calendar year.

(ii) NMFS will provide a fee liability summary letter to the Aleut Corporation by December 1 of each year. The summary will explain the fee liability determination including the current fee percentage, and details of Aleutian Islands pollock pounds debited from the Aleutian Islands directed pollock fishery allocation by permit, species, date, and prices.

(d) *Underpayment of fee liability*—(1) The Aleut Corporation will not receive its Aleutian Islands directed pollock fishery allocation until the Aleut Corporation's designated representative submits full payment of the Aleut Corporation's cost recovery fee liability.

(2) If the Aleut Corporation's designated representative fails to submit full payment for Aleutian Islands pollock fee liability by the date described in paragraph (a)(3) of this section, the Regional Administrator may at any time thereafter send an IAD to the Aleut Corporation's designated representative stating that the estimated fee liability, as indicated by his or her own submitted information, is the Aleutian Islands pollock fee liability due from the Aleut Corporation.

(3) If the Aleut Corporation's designated representative fails to submit full payment by the Aleutian Islands pollock fee liability payment deadline described at paragraph (a)(3) of this section, no Aleutian Islands directed pollock fishery allocation will be issued to the Aleut Corporation for that calendar year.

(4) Upon final agency action determining that the Aleut Corporation has not paid its Aleutian Islands pollock fee liability, the Regional Administrator may continue to prohibit issuance of the Aleutian Islands directed pollock fishery allocation for any subsequent calendar years until NMFS receives the unpaid fees. If payment is not received by the 30th day after the final agency action, the agency may pursue collection of the unpaid fees.

(e) *Overpayment.* Upon issuance of final agency action, payment submitted to NMFS in excess of the Aleutian Islands pollock fee liability determined to be due by the final agency action will be returned to the Aleut Corporation unless its designated representative requests the agency to credit the excess amount against the cooperative's future Aleutian Islands pollock fee liability. Payment processing fees may be deducted from any fees returned to the Aleut Corporation.

(f) *Appeals.* A representative of the Aleut Corporation who receives an IAD for incomplete payment of an Aleutian Islands pollock fee may appeal under the appeals procedures set out at 15 CFR part 906.

(g) *Administrative Fees.* Administrative fees may be assessed if the account drawn on to pay the CDQ fee liability has insufficient funds to cover the transaction, or if the account becomes delinquent. Additionally, interest will begin to accrue on any portion of the fee that has not been paid due to insufficient funds.

(h) *Annual report.* NMFS will publish annually a report describing the status of the Aleutian Islands Pollock Cost Recovery Fee Program.

■ 9. In § 679.91,

■ a. Revise paragraphs (b)(4)(vii) and (h)(3)(xiv); and

■ b. Add paragraph (h)(3)(xx) to read as follows:

§ 679.91 Amendment 80 Program annual harvester privileges.

* * * * *

(b) * * *

(4) * * *

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

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

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

* * * * *

(h) * * *

(3) * * *

(xiv) Does an Amendment 80 cooperative need a membership agreement or contract?	Yes, an Amendment 80 cooperative must have a membership agreement or contract. A copy of this agreement or contract must be submitted to NMFS with the application for CQ. The membership agreement or contract must specify: (A) How the Amendment 80 cooperative intends to catch its CQ; and (B) The obligations of Amendment 80 QS holders, who are members of an Amendment 80 cooperative, to ensure the full payment of Amendment 80 fee liabilities that may be due.
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* * *	* * * *
(xx) Is there a requirement that an Amendment 80 cooperative pay Amendment 80 cost recovery fees?	Yes, see § 679.95 for the provisions that apply.

* * * * *

■ 10. A new § 679.95 is added to subpart H to read as follows:

§ 679.95 Cost recovery.

(a) *Cost recovery fee program for Amendment 80*—(1) *Who is responsible*? The person designated as the Amendment 80 cooperative representative at the time of an Amendment 80 CQ landing must comply with the requirements of this section, notwithstanding:

(i) Subsequent transfer of Amendment 80 CQ or Amendment 80 QS held by Amendment 80 cooperative members;

(ii) Non-renewal of an Amendment 80 CQ permit; or

(iii) Changes in the membership in an Amendment 80 cooperative, such as members joining or departing during the relevant year, or changes in the amount of Amendment 80 QS holdings of those members.

(2) *Fee collection.* Amendment 80 cooperative representatives are responsible for submitting the cost recovery payment for Amendment 80 CQ landings made under the authority of their Amendment 80 CQ permit.

(3) *Payment*—(i) Payment due date. An Amendment 80 cooperative representative must submit all Amendment 80 fee liability payment(s) to NMFS at the address provided in paragraph (a)(3)(iii) of this section no later than December 31 of the calendar year in which the Amendment 80 CQ landings were made.

(ii) *Payment recipient.* Make electronic payment payable to NMFS.

(iii) *Payment address.* Submit payment and related documents as instructed on the fee submission form. Payments must be made electronically through the NMFS Alaska Region Web site at *http://alaskafisheries.noaa.gov.* Instructions for electronic payment will be made available on both the payment Web site and a fee liability summary letter mailed to the Amendment 80 CQ permit holder.

(iv) Payment method. Payment must be made electronically in U.S. dollars by automated clearing house, credit card, or electronic check drawn on a U.S. bank account.

(b) *Amendment 80 standard ex-vessel value determination and use*—(1) *General.* An Amendment 80 cooperative representative must use the Amendment 80 standard prices determined by NMFS under paragraph (b)(2) of this section.

(2) *Amendment 80 standard prices*—(i) General. Each year the Regional Administrator will publish Amendment 80 standard prices in the **Federal Register** by December 1 of the year in which the Amendment 80 species landings were made. The standard prices will be described in U.S. dollars per equivalent pound for Amendment 80 species landings made by Amendment 80 CQ permit holders during the current calendar year.

(ii) *Effective duration.* The Amendment 80 standard prices published by NMFS shall apply to all Amendment 80 species landings made by an Amendment 80 CQ permit holder during that calendar year.

(iii) *Determination.* An Amendment 80 cooperative representative must use the Amendment 80 standard prices when determining the Amendment 80 fee liability based on Amendment 80 standard ex-vessel value. An Amendment 80 cooperative representative must base all fee liability calculations on the Amendment 80 standard price that correlates to landed Amendment 80 species by gear type that is recorded in Amendment 80 equivalent pounds.

(A) *Pacific cod.* NMFS will use the standard prices calculated for Pacific cod based on information provided in the Pacific Cod Ex-vessel Volume and Value Report described at § 679.5(u)(1).

(B) *Amendment 80 species other than Pacific cod.* (*1*) The Regional Administrator will base Amendment 80 standard prices for all Amendment 80 species other than Pacific cod on the First Wholesale Volume and Value reports specified in § 679.5(u)(2).

(*2*) The Regional Administrator will establish Amendment 80 standard prices for all Amendment 80 species other than Pacific cod on an annual basis; except the Regional Administrator will establish an Amendment 80 standard price for rock sole for all landings from January 1 through March 31, and a second Amendment 80 standard price for rock sole for all landings from April 1 through December 31.

(*3*) The average first wholesale product prices reported on the First Wholesale Volume and Value reports, specified in § 679.5(u)(2), will be multiplied by 0.4 to obtain a proxy for the ex-vessel prices of Amendment 80 species other than Pacific cod.

(c) *Amendment 80 fee percentage*—(1) *Established percentage.* The Amendment 80 fee percentage is the amount as determined by the factors and methodology described in paragraph (c)(2) of this section. This amount will be announced by publication in the **Federal Register** in accordance with paragraph (c)(3) of this section. This amount must not exceed 3.0 percent pursuant to 16 U.S.C. 1854(d)(2)(B).

(2) *Calculating fee percentage value.* Each year NMFS shall calculate and publish the fee percentage according to the following factors and methodology:

(i) *Factors.* NMFS will use the following factors to determine the fee percentage:

(A) The catch to which the Amendment 80 cost recovery fee will apply;

(B) The ex-vessel value of that catch; and

(C) The costs directly related to the management, data collection, and enforcement of the Amendment 80 Program.

(ii) *Methodology.* NMFS will use the following equations to determine the fee percentage: $100 \times DPC/V$, where:

DPC = direct program costs for the Amendment 80 Program for the most recent fiscal year (October 1 through September 30) with any adjustments to the account from payments received in the previous year.

V = total of the standard ex-vessel value of the landings subject to the Amendment 80 fee liability for the current year.

(3) *Publication*—(i) General. NMFS will calculate and announce the Amendment 80 fee percentage in a

Federal Register notice by December 1 of the year in which the Amendment 80 landings were made. NMFS shall calculate the Amendment 80 fee percentage based on the calculations described in paragraph (c)(2) of this section.

(ii) *Effective period.* The calculated Amendment 80 fee percentage is applied to Amendment 80 CQ landings made between January 1 and December 31 of the same year.

(4) *Applicable percentage.* The Amendment 80 CQ permit holder must use the Amendment 80 fee percentage applicable at the time an Amendment 80 species landing is debited from an Amendment 80 CQ allocation to calculate the Amendment 80 fee liability for any retroactive payments for that Amendment 80 species.

(5) F*ee liability determination for an Amendment 80 CQ permit holder.* (i) All Amendment 80 CQ permit holders will be subject to a fee liability for any Amendment 80 species CQ debited from an Amendment 80 CQ allocation between January 1 and December 31 of the current year.

(ii) The Amendment 80 fee liability assessed to an Amendment 80 CQ permit holder will be based on the proportion of the standard ex-vessel value of Amendment 80 species debited from an Amendment 80 CQ permit holder relative to all Amendment 80 CQ permit holders during a calendar year as determined by NMFS.

(iii) NMFS will provide a fee liability summary letter to all Amendment 80 CQ permit holders by December 1 of each year. The summary will explain the fee liability determination including the current fee percentage, and details of Amendment 80 species CQ pounds debited from Amendment 80 CQ allocations by permit, species, date, and prices.

(d) *Underpayment of fee liability*—(1) No Amendment 80 cooperative will receive its Amendment 80 CQ until the Amendment 80 CQ permit holder submits full payment of an applicant's complete Amendment 80 fee liability.

(2) If an Amendment 80 CQ permit holder fails to submit full payment for its Amendment 80 fee liability by the date described in paragraph (a)(3) of this section, the Regional Administrator may:

(i) At any time thereafter send an IAD to the Amendment 80 cooperative's representative stating that the Amendment 80 CQ permit holder's estimated fee liability, as indicated by his or her own submitted information, is the Amendment 80 fee liability due from the Amendment 80 CQ permit holder.

(ii) Disapprove any application to transfer Amendment 80 CQ to or from the Amendment 80 CQ permit holder in accordance with § 679.91(g).

(3) If an Amendment 80 cooperative representative fails to submit full payment by the Amendment 80 fee liability payment deadline described at paragraph (a)(3) of this section:

(i) No Amendment 80 CQ permit will be issued to that Amendment 80 cooperative for the following calendar year; and

(ii) No Amendment 80 CQ will be issued based on the Amendment 80 QS held by the members of that Amendment 80 cooperative to any other CQ permit for that calendar year.

(4) Upon final agency action determining that an Amendment 80 CQ permit holder has not paid his or her Amendment 80 fee liability, the Regional Administrator may continue to prohibit issuance of an Amendment 80 CQ permit for any subsequent calendar years until NMFS receives the unpaid fees. If payment is not received by the 30th day after the final agency action, the agency may pursue collection of the unpaid fees.

(e) *Overpayment.* Upon issuance of final agency action, payment submitted to NMFS in excess of the Amendment 80 fee liability determined to be due by the final agency action will be returned to the Amendment 80 cooperative unless the Amendment 80 cooperative's representative requests the agency to credit the excess amount against the Amendment 80 CQ permit holder's future Amendment 80 fee liability. Payment processing fees may be deducted from any fees returned to the Amendment 80 cooperative.

(f) *Appeals.* An Amendment 80 cooperative representative who receives an IAD for incomplete payment of an Amendment 80 fee liability may appeal under the appeals procedures set out a 15 CFR part 906.

(g) *Administrative Fees.* Administrative fees may be assessed if the account drawn on to pay the CDQ fee liability has insufficient funds to cover the transaction, or if the account becomes delinquent. Additionally, interest will begin to accrue on any portion of the fee that has not been paid due to insufficient funds.

(h) *Annual report.* NMFS will publish annually a report describing the status of the Amendment 80 Cost Recovery Fee Program.

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