

Regulatory Impact Review / Initial Regulatory Flexibility Analysis to Amend Regulations for Participants in the Bering Sea/Aleutian Islands Regulatory Areas.

COST RECOVERY FROM AMENDMENT 80, GROUND FISH AND HALIBUT/SABLEFISH COMMUNITY DEVELOPMENT QUOTA, AMERICAN FISHERIES ACT AND ALEUTIAN ISLANDS POLLOCK QUOTA RECIPIENTS, AND THE FREEZER LONGLINE COALITION

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Abstract: This document is a Regulatory Impact Review/Initial Regulatory Flexibility Analysis analyzing implementation of a cost recovery program for the Amendment 80 program, the groundfish and halibut/sablefish Community Development program, the American Fisheries Act program, and the Freezer Longline Coalition. The measures under consideration would define the fee structure to collect of up to 3 percent of the ex-vessel value of species allocated to participants in these programs. The fee paid by beneficiaries of each program would offset the actual costs agencies incur that are directly related to the management, data collection, and enforcement of each program that would not have been incurred had the program not been implemented.

Executive Summary

The proposed actions would implement a Limited Access Permit (LAP) program/CDQ cost recovery fee for the American Fisheries Act (AFA) and Aleutian Islands (AI) pollock, Amendment 80, Community Development Quota (CDQ) program for halibut and groundfish, and the Freezer Longline Coalition (FLC) for Bering Sea and Aleutian Islands (BSAI) Pacific cod. The MSA both authorizes and requires the collection of cost recovery fees for LAP programs and CDQ programs. MSA cost recovery fees may not exceed 3 percent of the ex-vessel value and must recover costs associated with the management, data collection, and enforcement, of these programs that are directly incurred by government agencies tasked with overseeing these fisheries.

Cost recovery fees would be collected from the AFA cooperatives, the Aleut Corporation, Amendment 80 cooperatives, Freezer Longline Coalition¹, and CDQ groups. The cost recovery fee percentage would be determined annually by the Regional Administrator of the NMFS Alaska Region and published in a Federal Register (FR) notice. Along with the fee percentage, standard prices will be reported in an FR notice for each species directly allocated to the LAP program or CDQ program. Three options are considered to determine standardized prices. The first system would require Volume and Value reports to be implemented for all species except CDQ halibut and fixed gear sablefish. Prices for those species will be based on the current IFQ cost recovery reporting system. The second option would use Commercial Operator's Annual Report (COAR) data currently being submitted to the State of Alaska to estimate standard prices. The third option is to use the standard ex-vessel prices calculated for the Alaska state landings tax (using COAR data). The last two methods would use prices from the previous year as a proxy for current year prices. However, implementing that system would reduce the reporting burden on industry and would, in most years, only affect the fee percentage and not the cost recovery fee amount realized by an individual. Given the estimates of fee percentages that would be imposed on each program, it is unlikely that using the previous year's prices would result in the cost recover fee exceeding 3 percent of ex-vessel value in any year. Different pricing methodologies could be developed for different cost recovery fee programs, since the mix of species allocated and, therefore, the impacts of selecting prices, varies by program.

Based on the estimated gross ex-vessel revenue from the species directly allocated to the Amendment 80 sector over the years 2008 through 2011, the sector generated between \$77 million and \$112 million, annually. Relative to the estimated recoverable costs, these values result in a cost recovery fee of about 1.2 percent to 1.8 percent, depending on the year to generate a projected \$1.36 million to cover reimbursable costs. In 2011, the most recent year value data are available; the estimated fee is 1.22 percent. The CDQ program was estimated to annually generate between \$47 million and \$86 million during the years 2008 through 2011. Their recoverable costs are estimated to be \$630,000 per year. That translates to a fee percentage that ranges from 0.7 percent to about 1.3 percent over those years. The fee percentage for 2011, the most recent year data are available, was about 0.86 percent of the gross ex-vessel value of species directly allocated to the CDQ program. Over the same 2008 through 2011 period, the AFA/AI pollock fishery was estimated to annually generate from \$208 million to \$398 million. Recoverable costs for the AFA/AI pollock fisheries were estimated at \$1.21 million. These revenues and costs translate to an estimated fee percentage of 0.30 percent to 0.58 percent, with the most recent year being 0.34 percent of gross ex-vessel value. FLC annual revenues were estimated to be between \$42 million and \$99 million, from 2008 through 2011. Cost estimates for the sector were about \$370,000, based on 2012 estimates. The estimated cost recovery fees are estimated to range between 0.37 percent and 0.88 percent, based on recent conditions. None of the fisheries included under the proposed cost recovery programs are projected to have a

¹ The FLC formed a cooperative called the Freezer Longline Coalition Cooperative (FLCC). That voluntary cooperative fishing program is designed to end the "race for fish" that has characterized the Alaska freezer longline fishery since its inception in the 1980s. Members of the FLC are also considered a person through their \$35.7 million federal loan to purchase freezer longliner groundfish licenses.

cost recovery fee of the maximum 3 percent when the program is implemented. However, fluctuations in TACs and ex-vessel prices in the future, or increases in agency costs could result in the fee increasing to the 3 percent maximum, or decreasing relative to the projected values provided in this analysis. Uncertainty associated with each of these factors precludes making specific projections of future trends. However, the 3 percent limit imposed on any cost recovery fee creates a cap that may not be exceeded, and any agency costs above that limit must be borne by the management agencies.

All costs recovery fees must be submitted to NMFS by the designated representative of the CDQ group, Cooperative, the Aleut Corporation, or the FLC. The entire fee liability payment must be submitted to NMFS using an approved electronic method by the deadline defined for their sector. However, NMFS would retain the option of reducing the allocation to a person² by the same percentage as the cost recovery fee that was not submitted. This flexibility would allow NMFS to issue quota to a cooperative so that members that paid the fee would not be penalized. Insufficient or late fee submissions may result in the sending of an IAD to the designated representative stating that the permit holder's estimated fee liability was not submitted and NMFS may disapprove any or part of the allocation or application for allocation transfers to or from the CQ permit holder.

It is expected that the cost of fee will be borne by the harvesting vessel owners (or shared by the owner and the harvesting crew as a cost of business). The amount of the fee will determine the annual impact, but the overall fee assessed is expected to be less than the benefits the quota recipients derive from harvesting or leasing their allocation. To the extent that a portion of the cost that is taken from the crew shares it will result in a reduction in crew revenue. The overall impact to the crew that results from the LAP programs will depend on how crew shares were modified under the program in general. Crew shares may be reduced, relative to the status quo, as a result of implementing the cost recovery program, regardless of whether their shares and crew payments increased or decreased after the LAP program was implemented.

Participants in the Amendment 80 and CDQ groundfish programs will be required to submit Volume and Value reports for the landings of species that are subject to the cost recovery fee. It is estimated, based on previous Volume and Value reports for the Central Gulf Rockfish Program that each annual submission will require two hours of staff time from the processors, in addition to their time spent filing numerous other required reports. Participants in the AFA and FLC cooperative may use price data that are currently submitted, or request that NMFS impose a Volume and Value Report to determine prices.

Communities are not expected to be substantially impacted by this action. This action will not change the amount of fish landed under the subject LAP programs and the CDQ program, nor will the action change the location of deliveries. The greatest potential impact to communities, as represented by the CDQ groups or the Aleut Corporation, would occur if the CDQ groups or the Aleut Corporation are unable to pass the cost of the fee on to their harvesters/partners when contracts are negotiated. Other communities may realize very modest impacts through reduced income of residents, and therefore reduced expenditures. Residents include any vessel owners or crew that realize reduced income as a result of cost recovery fee payments.

Because the cost recovery fee is a transfer payment³, it is excluded from net benefit calculations. Therefore, this action will not impact net benefits to the nation.

² Person in this case refers to the CDQ groups or the cooperatives that are formed in the LAP programs

³ Payments that are made without any good or service being directly received in return. They are essentially a redistribution of income within a market system.

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1 REGULATORY IMPACT REVIEW

This Regulatory Impact Review (RIR) examines the costs and benefits of a proposed regulatory amendment to implement a cost recovery fee program on the Amendment 80, Community Development Quota (CDQ) groundfish and halibut/sablefish, American Fisheries Act (AFA)/Aleutian Islands pollock fishery, and Freezer Longline Coalition (FLC) programs. An Environmental Assessment is not provided because this action qualifies for a Categorical Exclusion⁴.

Cost recovery fees are a maximum of 3 percent of the ex-vessel gross value of the directly allocated fish that are harvested by participants of each program. The fee percentage is determined by the direct cost of management, data collection, and enforcement of each program, divided by the ex-vessel gross value of the landings of species subject to the fee.

1.1 Statutory Authority

Under the Magnuson-Stevens Act (16 USC 1801, et seq.), the United States has exclusive fishery management authority over all marine fishery resources found within the EEZ. The management of these marine resources is vested in the Secretary of Commerce (Secretary) and in the regional fishery management councils. The proposed actions under this amendment may be developed by NOAA Fisheries through authority granted under the MSA (See Appendix A). The Alaska Region has taken the lead role in developing this action, but has and will continue to consult with the North Pacific Fishery Management Council (NPFMC) and provide opportunities for the NPFMC to review the program as it moves forward. Upon approval by the Secretary, the National Marine Fisheries Service (NMFS) is charged with carrying out the federal mandates of the Department of Commerce with regard to marine and anadromous fish.

Halibut are managed under the convention between the United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea. The Northern Pacific Halibut Act (Halibut Act of 1982, 16 U.S.C. 773-773k), included in that convention, defines the Secretary of Commerce as having the general responsibility to carry out the Convention and the Halibut Act.

Bering Sea/Aleutian Islands groundfish fisheries in the EEZ off Alaska are managed under the FMP for Groundfish of the Bering Sea/Aleutian Islands. The cost recovery fee measures under consideration would amend federal regulations at 50 CFR 679. Actions taken to amend regulations governing these fisheries must meet the requirements of federal law and regulations. The key provisions of the MSA that are relevant for consideration in this analysis are provided below.

Section 303A of the revised Magnuson Stevens Act (MSA 2007) states under part (e) that:

(e) COST RECOVERY.—In establishing a limited access privilege program, a Council shall—

- 1. develop a methodology and the means to identify and assess the management, data collection and analysis, and enforcement programs that are directly related to and in support of the program; and*
- 2. provide, under section 304(d)(2), for a program of fees paid by limited access privilege holders that will cover the costs of management, data collection and analysis, and enforcement activities.*

⁴ The proposed actions are minor changes to previously analyzed and approved actions. The proposed changes have no effect individually or cumulatively on the human environment (as defined in NAO 216-6). The actions only address changes in requirements for persons to pay cost recovery fee liabilities, as required under the MSA and will have no effect on the human environment, beyond those examined in the EIS or EA for each action implementing the LAP program.

Section 303A states under part (i) that:

(i) TRANSITION RULES.—

(1) IN GENERAL.—The requirements of this section 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, except that—

(A) the requirements of section 303(d) of this Act in effect on the day before the date of enactment of that Act shall apply to any such program;

(B) the program shall be subject to review under subsection (c)(1)(G) of this section not later than 5 years after the program implementation; and

(C) nothing in this subsection precludes a Council from incorporating criteria contained in this section into any such plans.

MSA 304(d)(1) provides the authority for the Secretary to, by regulation, establish the level of any fees which are authorized to be charged pursuant to section 303(b)(1). MSA 304(d)(2)(A)(i) states that LAP programs are subject to fee collection to offset specific cost that directly incurred as a result of implementing the program. Section 304(d) of the MSA states that:

(d) ESTABLISHMENT OF FEES.—

(1) The Secretary shall by regulation establish the level of any fees which are authorized to be charged pursuant to section 303(b)(1). The Secretary may enter into a cooperative agreement with the States concerned under which the States administer the permit system and the agreement may provide that all or part of the fees collected under the system shall accrue to the States. The level of fees charged under this subsection shall not exceed the administrative costs incurred in issuing the permits.

(2)(A) Notwithstanding paragraph (1), 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—

(i) limited access privilege program; and

(ii) community development quota program that allocates a percentage of the total allowable catch of a fishery to such program.

(B) Such fee shall not exceed 3 percent of the ex-vessel value of fish harvested under any such program, and 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.

(C) (i) Fees collected under this paragraph shall be in addition to any other fees charged under this Act and shall be deposited in the Limited Access System Administration Fund established under section 305(h)(5)(B).

(ii) Upon application by a State, the Secretary shall transfer to such State up to 33 percent of any fee collected pursuant to subparagraph (A) under a community development quota program and deposited in the Limited Access System Administration Fund in order to reimburse such State for actual costs directly incurred in the management and enforcement of such program.

Finally, section 303(b)(1) states:

(b) DISCRETIONARY PROVISIONS.—Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, may—

(1) require a permit to be obtained from, and fees to be paid to, the Secretary, with respect to—

(A) any fishing vessel of the United States fishing, or wishing to fish, in the exclusive

economic zone [or special areas,] or for anadromous species or Continental Shelf fishery resources beyond such zone [or areas]*;*
(B) the operator of any such vessel; or
(C) any United States fish processor who first receives fish that are subject to the plan;

1.2 Purpose and Need Statement

The purpose of this action is to comply with Section 304(d) of the MSA which authorizes and requires the collection of cost recovery fees for LAP programs and CDQ programs. The proposed action would implement a cost recovery fee program, not to exceed 3 percent of ex-vessel value, to cover the costs of the management, data collection, and enforcement, of the Amendment 80 program, CDQ Groundfish and Halibut/Sablefish programs, Freezer Longline Coalition, and the American Fisheries Act and Aleutian Islands Pollock programs. These fees will be used to mitigate costs directly incurred by government agencies that are authorized to be recovered under the MSA. Current and foreseeable budgetary constraints imposed on management agencies make collection of cost recovery fees more critical, since they will help ensure sufficient funding to effectively manage the LAP program and CDQ program fisheries.

1.3 Description of the Actions

Action 1: Review and consider amending existing LAP programs and the CDQ program to implement cost recovery programs as required under the MSA

Alternative 1 (Status quo) *Cost recovery fees would not be collected from entities that receive an allocation with exclusive harvests privileges under the following management programs:*

- a) Amendment 80*
- b) CDQ (groundfish and halibut/sablefish)*
- c) AFA/AI Pollock*
- d) Freezer Longline Coalition (BSAI Pacific Cod)*

Alternative 2 (Preferred Alternative) *Revise the current BSAI FMP to comply with Section 304(d) of the MSA which both authorizes and requires the collection of fees from limited access privilege based programs and CDQ programs to offset direct management, data collection, and enforcement costs. The cost recovery fee percentage will be determined annually and will not exceed 3 percent of ex-vessel value of species allocated under the following programs:*

- a) Amendment 80*
- b) CDQ (groundfish and halibut/sablefish)*
- c) AFA/AI Pollock*
- d) Freezer Longline Coalition (BSAI Pacific cod)*

1.4 Limited Access Privilege Programs

LAP programs are defined in section 303(A) of the MSA. NOAA Fisheries developed a technical memorandum in 2007 that discussed the attributes and features of LAP programs (Anderson). The three programs identified as being subject to costs recovery, in addition to the CDQ program, were determined to meet the definition of a LAP program (see Appendix A). In the broadest sense, LAP programs allocate a harvest privilege to a person for their exclusive use. The MSA of 2007 explicitly excluded CDQs from being considered a LAP program. However, the CDQ program is specifically identified as being subject to cost recovery under Section 304(d)(2)(A)(ii) of the MSA as discussed in Section 1.1.

1.5 Description of the Fisheries Subject to Action 1

Fisheries and sectors subject to the proposed cost recovery fees are described in this section. The description includes information regarding the structure of each management program that bestows the harvest privilege, species allocated under each program, and information on participants in the program as well as other entities that are depend on these fisheries.

It should be noted that it is NMFS intent to collect the cost recovery fee from the cooperatives/associations that represent defined groups of vessels under the LAP programs. This approach is consistent with the methodology used in the Central Gulf Rockfish Program. In the comments to the final rule for the Rockfish program NMFS noted that,

“in the MSA section 304(d)(2) requires NMFS to collect fees for the Rockfish Program equal to the actual costs directly related to the management, enforcement, and data collection. This fee may not exceed 3 percent of ex-vessel value of fish harvested under the Rockfish Program. The analysis noted in section 2.4.18 that a cost recovery fee would be collected by NMFS and that any participant granted a limited access privilege (a Federal permit) would be responsible for the payment of cost recovery fees. This means that NMFS collects the fee from the person who is authorized to fish under the authority of the permit. The person authorized to receive the Rockfish Program annual permit is the rockfish cooperative. Assigning a fee to the members who hold QS in the rockfish cooperative poses considerable administrative challenges. QS holders do not receive a permit authorizing the harvest of a specific portion of the TAC, and therefore, NMFS does not have a method for determining the specific pounds or timing of landings that should be assigned to each individual QS holder within the rockfish cooperative. Additionally, NMFS may not develop a method for determining specific pounds or timing of landings based on the amount of fish each QS holder harvested on the cooperative report, because the Council intended for CQ permits to be assigned to the rockfish cooperative and not to specific QS holders. Even if NMFS had a method for determining the specific pounds or timing of landings, NMFS would not have a mechanism to effectively determine which specific landings should be assigned to each QS holder. This is because there is no requirement for QS holders to actually make the legal landings for their QS associated with the CQ permit.”

1.5.1 Amendment 80

The Amendment 80 sector fishes under an LAP program that divides the available quota among cooperatives based on the vessels that join a cooperative. If a vessel or vessels remain in the open access component of the fishery, they are allowed to compete for the open access allocation, but are not allowed to utilize quota assigned to an Amendment 80 cooperative. The Amendment 80 permits allow vessels to take a specified amount of each species apportionment of the BSAI TACs into the cooperative they join. That harvest privilege allows members of the Amendment 80 cooperatives to harvest a specified percentage of the TAC. Amendment 80 fishing cooperatives are formed to control each member’s harvest of allocated species and effort through contracts agreed to by all members⁵. Agreements between cooperative members enable the buying, selling, or leasing of quota from other members of that cooperative. Quota may not be leased across cooperatives when more than one cooperative forms.

⁵ As a result of their association through the cooperative contract, an Amendment 80 cooperative is considered to be a person. The term person means an individual, corporation, partnership, trust, association, or any other private entity; or any officer, employee, agent, department, or instrumentality of the Federal Government, of any State, municipality, or political subdivision of a State, or of any foreign government; any State, municipality, or political subdivision of a State; or any other entity subject to the jurisdiction of the United States.

1.5.1.1 Amendment 80 Program History and Structure

Amendment 80 was adopted by the NPFMC in June 2006 and was implemented for the 2008 fishing year by NMFS. During the development of the program, industry participants were notified that they may be subject to cost recovery fees. Page 304 of the Final EA/RIR/IRFA⁶ stated that “...these costs... will be initially incurred by NMFS, but might be recovered under a cost recovery program, if these costs are found to be integral to the share-based cooperative program.” The final rule developed to implement the Amendment 80 program stated that “administration of LAP programs typically requires greater effort and cost than non-LAPP fisheries due to the greater precision in catch accounting required to track the harvest of fish and to ensure proper debiting of accounts.” Finally, the proposed rule⁷ for Amendment 80 stated that “should NMFS determine that the Program meets these definitions and the MSA does not otherwise prohibit collection of fees in this Program, the Secretary would be authorized to collect fees to recover costs not to exceed three percent of the exvessel value of fish harvested under Program under section 304(d)(2)(B)... NMFS may develop future rule making to implement fee collection.” Together these statements notified the Amendment 80 sector that they could be subject to cost recovery in the future and their LAP program would likely increase administrative costs. The additional costs that result from the program are proposed to be recovered.

Amendment 80 was implemented to: (1) improve retention and utilization of fishery resources by the non-AFA trawl catcher/processor fleet by extending the groundfish retention standard (GRS) to non-AFA trawl catcher/processor vessels of all lengths; (2) allocate fishery resources among BSAI trawl harvesters in consideration of historic and present harvest patterns and future harvest needs; (3) authorize the allocation of groundfish species to harvesting cooperatives and establish a LAP program for the non-AFA trawl catcher/processors to reduce potential GRS compliance costs, encourage fishing practices with lower discard rates, and improve the opportunity for increasing the value of harvested species; and (4) limit the ability of non-AFA trawl catcher/processors to expand their harvesting capacity into other fisheries not managed under a LAP program. Extensive detail on the structure of the Amendment 80 Program is provided in the final rule implementing the Amendment 80 Program (72 FR 52668) and the final EA/RIR/IRFA. This section briefly summarizes the key components of the Amendment 80 Program.

The Amendment 80 Program incorporates statutory mandates in the Magnuson-Stevens Fishery Conservation and Management Act as amended by Section 416 of the Coast Guard and Maritime Transportation Act of 2006 (Public Law No. 109-241; July 11, 2006), and the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act (Public Law No. 109-479, January 12, 2007). These provisions modify the percentage of the total allowable catch (TAC) for directed fisheries that are allocated to the CDQ Program, and the percentage of halibut, crab, and salmon prohibited species catch (PSC) allocated to the CDQ Program as prohibited species quota.

Amendment 80 incorporates statutory mandates in section 219 of the Consolidated Appropriations Act of 2005 (Public Law No. 108-447; December 8, 2004) to establish two sectors of BSAI trawl fishery participants: (a) the Amendment 80 sector; and (b) the “BSAI trawl limited access sector”. The Amendment 80 sector is comprised of non-AFA trawl catcher/processor harvesters eligible to fish Amendment 80 species covered under that statute.

Amendment 80 assigns quota shares (QS) for Amendment 80 species to the owners of Amendment 80 vessels. Amendment 80 QS could be used to yield an exclusive harvest privilege for a portion of the Amendment 80 sector ITAC. Amendment 80 establishes criteria for harvesters in the Amendment 80 sector to apply for and receive QS, NMFS to initially allocate and transfer QS.

⁶ <http://www.fakr.noaa.gov/sustainablefisheries/amds/80/earirfrfa0907.pdf>

⁷ <http://www.alaskafisheries.noaa.gov/prules/72fr30052.pdf> p.30060

Amendment 80 assigns Amendment 80 QS based on historic participation of Amendment 80 vessels during the years 1998 through 2004. QS allocations are based on the relative proportion of an Amendment 80 species harvested by an Amendment 80 vessel compared with the proportion harvested by all other Amendment 80 vessels. Amendment 80 species are defined as Aleutian Islands Pacific ocean perch, BSAI Atka mackerel, BSAI flathead sole, BSAI Pacific cod, BSAI rock sole, and BSAI yellowfin sole. These six species are economically valuable and have historically been targeted by non-AFA trawl catcher/processors

QS are only assigned to eligible persons who submit a complete application for Amendment 80 QS that is subsequently approved by NMFS. In most cases, Amendment 80 QS is assigned to an Amendment 80 vessel owner. In specific cases where an Amendment 80 vessel has been lost or is otherwise permanently ineligible to fish in U.S. waters, the Amendment 80 QS will be assigned to the holder of the License Limitation Program (LLP) license originally assigned to that Amendment 80 vessel. Once Amendment 80 QS is assigned to an Amendment 80 vessel, it cannot be divided or transferred separately from that Amendment 80 vessel. If Amendment 80 QS is assigned to the LLP license originally issued for an Amendment 80 vessel, it cannot be transferred separately from that LLP license. These linkages were included in the program, in part, to prevent QS from being sold independently of the LLP or vessel.

Each year, NMFS allocates amounts of Amendment 80 species and crab and halibut PSC. The allocation of Amendment 80 species are based on the amount of TAC remaining after allocation to the CDQ Program and the incidental catch allowance (ICA) requirements in other fisheries. This allocation amount is termed the initial TAC (ITAC). The Amendment 80 Program further divides this allocation to two distinct sectors, the Amendment 80 sector which is comprised of Amendment 80 vessels, and the BSAI trawl limited access sector that is comprised of non-Amendment 80 vessels -- typically these are AFA trawl vessels participating in the Amendment 80 species fisheries. The ITAC that is allocated to the Amendment 80 sector may either be harvested by vessels that participate in Amendment 80 cooperatives or in an Amendment 80 limited access fishery. Amendment 80 cooperatives provide an exclusive harvest privilege and would be subject to the cost recovery fees considered here. The Amendment 80 limited access fishery may not receive an exclusive harvest privilege and is not addressed in great depth within this analysis. Currently, all Amendment 80 vessels participating in the Amendment 80 Program are assigned to Amendment 80 cooperatives. Persons who receive Amendment 80 QS may, on an annual basis, elect to form a cooperative with other Amendment 80 QS holders to receive an exclusive harvest privilege for the portion of the ITAC resulting from their aggregated QS holdings. This "cooperative quota" (CQ) is the amount of annual Amendment 80 species ITAC dedicated for exclusive use by that cooperative. Amendment 80 establishes the requirements for forming an Amendment 80 cooperative as well as procedures for the allocation of annual CQ to a cooperative and transfers of CQ between cooperatives. The cooperative structure presents a number of operational and economic benefits to its members since cooperative participants could consolidate fishing operations on a specific Amendment 80 vessel or subset of Amendment 80 vessels, thereby reducing monitoring and enforcement (M&E) and other operational costs, and harvest fish in a manner more likely to be economically efficient and less wasteful.

Amendment 80 provides flexibility, encourages efficient harvesting, and discourages waste through the opportunity to trade harvest privileges within cooperatives. An Amendment 80 cooperative cannot transfer CQ to the Amendment 80 limited access fishery, or to the BSAI trawl limited access sector. Amendment 80 provides dedicated allocations for use by members of a cooperative. In addition to annual CQ of Amendment 80 species, each Amendment 80 cooperative receives an exclusive limit on the amount of crab and halibut PSC the cooperative can use while harvesting in the BSAI. This halibut and crab PSC CQ is assigned to a cooperative proportional to the amount of Amendment 80 QS held by its members, and is not based on the amount of crab or halibut PSC historically used by the cooperative members. Vessel operators can better manage PSC rates than do operators who must race to harvest fish as quickly as possible before a PSC allocation causes fishery closures. By reducing PSC use through more efficient cooperative operations (such as through gear modifications) Amendment 80 vessel operators may also increase the harvest of valuable targeted groundfish species and improve revenues that would otherwise be foregone. Amendment 80

cooperative participants may have access to additional ITAC. Amendment 80 cooperatives may receive a rollover of an additional amount of CQ, if a portion of the Amendment 80 species or crab or halibut PSC⁸ allocated to the BSAI trawl limited access sector is projected to go unharvested. This rollover to the Amendment 80 cooperatives is at the discretion of NMFS, based on projected harvest rates in the BSAI trawl limited access sector and other criteria. Each Amendment 80 cooperative would receive an additional amount of CQ based on the proportion of the Amendment 80 QS held by that Amendment 80 cooperative as compared with all other Amendment 80 cooperatives.

1.5.1.2 Number of Entities

Limited Access Fishery

Amendment 80 QS holders that choose not to join an Amendment 80 cooperative may participate in the Amendment 80 limited access fishery. The Amendment 80 limited access fishery is allocated the amount of Amendment 80 species ITAC and halibut and crab PSC that remains after allocation to all of the Amendment 80 cooperatives. Participants fishing in the Amendment 80 limited access fishery continue to compete with each other, do not realize the same potential benefits from consolidation and coordination, and do not receive an exclusive harvest privilege available only to members of an Amendment 80 cooperative.

No Amendment 80 QS holders elected to participate in the limited access fishery in 2012. Therefore, the entire Amendment 80 allowance was divided between the two cooperatives that applied to receive quota. Membership in the 2014 limited access fishery⁹ will not be known until November 1, 2013. If a vessel owner decides to move an Amendment 80 permitted vessel to the Limited Access fishery, the catch of Amendment 80 species would not be subject to the cost recovery fee. Vessels participating in the open access fishery would reduce the pounds of fish landed that would be subject to the cost recovery fee, but would have only modest impacts on the overall cost of the program. Cooperative members would then be required to pay a greater fee percentage to cover the agency costs subject to the fee.

NOAA Fisheries will monitor the harvest of vessels operating in the limited access fishery to ensure they do not exceed the limited access quota. Conservative management of those allocations may result in earlier closures of the directed fishery than would occur under the cooperative structure. In addition, Amendment 80 vessels operating in the open access would not be allowed to participate in programs like flatfish flexibility. Under that proposed amendment Amendment 80 cooperatives and CDQ groups could access yellowfin sole, rock sole, or flathead sole ABC that may be available in excess of the TAC. Any entity wanting to access the ABC surplus for a particular flatfish species (e.g., yellowfin sole) would need to exchange an equivalent amount of existing quota for another of the three flatfish species (e.g., rock sole or flathead sole). Because open access participants would not have quota to exchange, they would not be eligible to participate. As a result, the benefits of cooperative membership are expected to be greater than the costs of operating under the LAP program structure.

Cooperatives

Cooperatives will be subject to the proposed cost recovery fee liability. Cooperatives would be responsible for determining the amount owed by each member based on the standardized ex-vessel prices, determined by NMFS, and the individual member's harvest of Amendment 80 species. They would be responsible for collecting the required fee liability from their members. The cooperative representative would then submit the entire required payment by the defined deadline, using an approved payment submission method. If the

⁸ PSC allowances are not subject to cost recovery because PSC cannot be landed and sold in the market. PSC therefore, has no ex-vessel. This applies to halibut and Chinook salmon PSC that is designated for use by each LAP or CDQ program that is subject to cost recovery.

⁹ 2014 was selected because it is the first year the cost recovery fee could be implemented.

entire fee was not submitted to NMFS by the fee submission deadline, the cooperative could be subject to an enforcement action. Because NMFS issues the CQ permit to the cooperative, the cooperative would be responsible for establishing private contractual arrangements for collecting the required fee liability from their members. The mechanisms for establishing these arrangements are similar to those described in the Central GOA Rockfish Program (Table 144). Many of the participants in the Amendment 80 Program participate in the Central GOA Rockfish Program as well and should have familiarity with these methods.

Currently there are two Amendment 80 cooperatives. Because of the member’s participation in these cooperatives, none of the members are considered small entities under the Small Business Administration guidelines. The Alaska Seafood Cooperative is comprised of 17 Amendment 80 permits and permit holders in 2012 (Table 1-1). This cooperative was originally formed under the name “The Best Use Cooperative” to oversee its membership’s fishing activities starting in January 20, 2008. The 17 permit holders control 17 groundfish licenses issued under the Groundfish License Limitation program. Sixteen vessels are listed as being Amendment 80 cooperative vessels used to harvest the allocation. The 2011 cooperative report to the NPFMC/NMFS indicated that those sixteen vessels were operated by six companies that were members of the cooperative. Member companies are responsible for the activities and harvests of the vessels that utilize groundfish quota, PSC limit, and sideboard limits defined under the Amendment 80 program.

Table 1-1 Participants in the Alaska Seafood Cooperative (2012)

Amendment 80 Permit Number	Holder	A80 Vessel Names	Vessel Numbers				FFP Length	Owner			Member Company Listed in Cooperative's Report (2011)
			LLP	FFP	USCG	ADFG		City	State		
528	OCEAN ALASKA, LLC	OCEAN ALASKA*	4360**	528	623210	41219	107	SEATTLE	WA	United States Seafoods, LLC	
1610	REBECCA IRENE VESSEL LLC	REBECCA IRENE*	3956**	1610	697637	51873	140	SEATTLE	WA	Iquique U.S., LLC	
1802	ALASKA LEGACY, LLC	LEGACY*	1802**	3367	664882	48183	132.5	SEATTLE	WA	United States Seafoods, LLC	
1879	NORTH PACIFIC FISHING, INC.	AMERICAN NO 1*	2028**	1879	610654	36202	160	SEATTLE	WA	Fishermen's Finest, Inc.	
2110	CAPE HORN VESSEL, LLC	CAPE HORN*	2432**	2110	653806	55921	158	SEATTLE	WA	Iquique U.S., LLC	
2123	ALASKA VAERDAL, LLC	VAERDAL*	1402**	2123	611225	1119	124	SEATTLE	WA	United States Seafoods, LLC	
2134	OCEAN PEACE, INC.	OCEAN PEACE*	2138**	2134	677399	55767	219	SEATTLE	WA	Ocean Peace	
2733	SEAFREEZE ALASKA I LLC	SEAFREEZE ALASKA*	4692**	2733	517242	39798	295	SEATTLE	WA	United States Seafoods, LLC	
2800	U.S. FISHING, LLC	USINTREPID*	3662**	2800	604439	54382	185	SEATTLE	WA	Fishermen's Finest, Inc.	
2924	ALASKA ALLIANCE, LLC	ALLIANCE*	2905**	2924	622750	55045	107	SEATTLE	WA	United States Seafoods, LLC	
3367	ALASKA LEGACY, LLC	LEGACY*	1802**	3367	664882	48183	132.5	SEATTLE	WA	United States Seafoods, LLC	
3369	UNIMAK VESSEL, LLC	UNIMAK*	3957**	3369	637693	57211	185	SEATTLE	WA	Iquique U.S., LLC	
3694	ARICA VESSEL, LLC	ARICA*	2429**	3694	550139	57228	186	SEATTLE	WA	Iquique U.S., LLC	
3835	M/V SAVAGE, INC.	SEAFISHER*	2014**	3835	575587	56964	230	SEATTLE	WA	M/V SAVAGE, INC.	
4092	O'HARA CORPORATION	CONSTELLATION*	1147**	4092	640364	61081	165.58	ROCKLAND	ME	O'Hara Corporation	
4635	O'HARA CORPORATION	DEFENDER*	3217**	4635	665983	62545	123.3	ROCKLAND	ME	O'Hara Corporation	
5822	O'HARA CORPORATION	ENTERPRISE*	4831**	5822	657383	69038	120	ROCKLAND	ME	O'Hara Corporation	
			3744**								

* NOAA listed "Amendment 80 vessel"

** NOAA listed Amendment 80 LLP license

Sources: RAM cooperative data and AKSC 2011 annual report

The Alaska Seafood Cooperative (AKSC) outlines, in their required annual report, the structure and the objectives of their organization¹⁰. AKSC is governed by a Board of Directors that is appointed by the cooperative’s members. The Board of Directors receives input from other Amendment 80 owners, captains, crew, and personnel associated with the member companies. Together they developed the information needed to implement, manage, and enforce the cooperative agreement. If necessary, that agreement may be amended by the members to improve cooperative management.

AKSC also hired a manager to oversee the daily operation of the cooperative, other AKSC staff, allocations, and various other activities. A primary responsibility of the cooperative manager is to ensure that the proper forms are filed with NOAA Fisheries for the cooperative to receive its annual allocation. It would likely be the responsibility of the cooperative manager to ensure that the cooperative fulfills the cost recovery fee requirements in a timely manner. The AKSC employs a data manager and contracts with Sea State. Each has specific responsibilities to ensure that the cooperative and individual members stay within their allocation. They also provide information on catch, bycatch, and PSC trends in the fisheries to cooperative members.

¹⁰ The 2011 report can be found at: <http://www.fakr.noaa.gov/sustainablefisheries/amds/80/coopreports/asc11.pdf>

The second cooperative is the Alaska Groundfish Cooperative (AGC). AGC was formed and began overseeing the fishing practices of its members, starting with the 2011 fishing year. In 2012, the AGC is comprised of four companies that control nine vessels/Amendment 80 permits (Table 1-2). The four member companies may have separate corporations or companies listed as the permit holder, if they own multiple vessels. NOAA Fisheries reports that for 2011, AGC members listed eight Amendment 80 vessels as part of the cooperative.

Table 1-2 Participants in the Alaska Groundfish Cooperative (2012)

Number	Amendment 80 Permit		Vessel Numbers				FFP Length	Owner		Member Company Listed in Cooperative's Report (2011)
	Holder	A80 Vessel Names	LLP	FFP	USCG	ADFG		City	State	
1311	THE FISHING COMPANY OF ALASKA, INC.	ALASKA VOYAGER*	2084**	1311	536484	51926	203	FENTON	WA	The Fishing Company of Alaska, Inc.
2018	TREMONT VESSEL, LLC	TREMONT*	2785**	2018	529154	55466	124	SEATTLE	WA	Iquique U.S., LLC
2443	ALASKA JURIS, INC.	ALASKA JURIS*	2082**	2443	569276	54693	238	FENTON	WA	The Fishing Company of Alaska, Inc.
2732	O'HARA CORPORATION	HARVEST/ENTERPRISE*	3744	2732				ROCKLAND	ME	O'Hara Corporation
3423	THE FISHING COMPANY OF ALASKA, INC.	ALASKA WARRIOR*	2083**	3423	590350	56965	215	FENTON	WA	The Fishing Company of Alaska, Inc.
3744	O'HARA CORPORATION	HARVEST/ENTERPRISE*	3744	3744						O'Hara Corporation
3819	ALASKA SPIRIT, INC.	ALASKA SPIRIT*	3043**	3819	554913	59870	221	FENTON	WA	The Fishing Company of Alaska, Inc.
3895	ARCTIC SOLE SEAFOODS, INC.	OCEAN CAPE*	3895**	3895						Arctic Sole Seafoods, Inc.
3895	FSD (OC PERMIT), LLC	OCEAN CAPE*	3895**	3895						Arctic Sole Seafoods, Inc.
4093	ALASKA VICTORY, INC.	ALASKA VICTORY*	2080***	4093	569752	61083		FENTON	WA	The Fishing Company of Alaska, Inc.
		ALASKA RANGER	2118**					#N/A	WA	The Fishing Company of Alaska, Inc.
		ALASKA KNIGHT	3741**							

* NOAA listed "Amendment 80 vessel"
 ** NOAA listed Amendment 80 LLP license

Sources: RAM cooperative data and AGC 2011 annual report

The AGC hires a cooperative manager to oversee the cooperative including: communications, regulatory compliance, catch/bycatch/PSC tracking, and quota management. Again, it would likely be the responsibility of the cooperative manager to ensure its members meet the cost recovery fee requirements. Seastate, Inc. is also under contract with AGC to monitor catch and production of the cooperative vessels. They also help verify information obtained by the cooperative manager to ensure allocations are not exceeded.

Active Vessels

Vessels that are active in each cooperative must annually be reported to NOAA Fisheries. The current list of Amendment 80 vessels are listed in the tables above and designated with an asterisk in the Amendment 80 vessels column. Given the Council's recent action to allow vessel replacement in this sector, there will likely be two to three new vessels brought into the fishery to further improve the fleet's efficiency. New vessels will replace existing vessels and not add to the total number of eligible vessels.

Processors

All of the vessels in the Amendment 80 sector are catcher/processors. These vessels harvest and process their catch. Catch is typically processed as a headed and gutted product, but other product forms are also generated. Historically this fleet has not had the processing capability to produce fillets, surimi, or meal.

1.5.1.3 Ownership

Ownership of Amendment 80 permits and vessels are listed in the tables above. The list of cooperative members is assumed to represent the persons that own or control the Amendment 80 permits. That list differs from the NOAA Fisheries list of permit holders, because some of the cooperative members own or control one or more entities that hold the permits. Based on the 2011 cooperative reports, five of the six member companies in the AKSC were located in Seattle, Washington – the sixth was in Rockland, Maine. The four member companies of the AGC were located in the state of Washington (Seattle and Renton) or Rockland, Maine.

1.5.1.4 Species Allocated

Portions of BSAI groundfish TACs directly allocated to eligible entities in the Amendment 80 program include Atka mackerel, Aleutian Islands Pacific ocean perch (*Sebastes alutus*), Flathead sole, Pacific cod, Rock sole, and Yellowfin sole. Only these species allocated to the cooperatives are subject to the cost recovery fee. The 2012 allocations of those six species to the Amendment 80 sector, as reported in NMFS groundfish specifications tables, are listed in Table 1-3. These amounts will vary by year based on fluctuations in the overall BSAI TACs.

Table 1-3 Amendment 80 allocations for 2012 (mt)

Species	Metric Tons	Percent of TAC
Atka mackerel (541)	29,892	78%
Atka mackerel (542)	8,560	54%
Atka mackerel (543)	1,300	87%
Flathead sole	25,482	75%
Pacific cod	31,232	13%
POP (541)	4,427	79%
POP (542)	3,943	79%
POP (543)	7,324	87%
Rock sole	67,691	78%
Yellowfin sole	142,089	70%

1 Atka mackerel in the Eastern AI district (541) also includes the Bering Sea apportionment

2 This percentage is based on removing CDQ allocations from the total TAC prior to calculating the percentage.

Table 1-4 shows the 2011 cooperative allocation and reported catch of Amendment 80 species. Information in the table shows that less than one-fourth of the Atka mackerel (543) and flathead sole allocations were caught in 2011. Atka mackerel harvests in the Western Aleutians district are limited for a variety of reasons, primarily related to Steller sea lion regulations. Flathead sole harvests are limited by the halibut PSC and the relative profitability of the species relative to other flatfish species where halibut PSC is utilized. Less than three-quarters of the rock sole and yellowfin sole allocation was caught. These species are limited by halibut PSC. Over 85 percent of all other Amendment 80 species allocations were caught in 2011.

Table 1-4 Amendment 80 sector 2011 BSAI groundfish allocations and catch

Species	Alaska Groundfish Cooperative			Alaska Seafood Cooperative			Total		
	Allocation	Catch	% of Allocation Caught	Allocation	Catch	% of Allocation Caught	Allocation	Catch	% of Allocation Caught
Atka Mackerel (541)	19,181	19,142	100%	13,694	13,558	99%	32,875	32,700	99%
Atka Mackerel (542)	5,389	5,128	95%	3,809	3,765	99%	9,198	8,893	97%
Atka Mackerel (543)	755	183	24%	545	17	3%	1,300	200	15%
Flathead Sole	6,269	460	7%	29,773	6,965	23%	36,042	7,425	21%
Pacific Cod	5,079	3,600	71%	23,232	21,139	91%	28,311	24,739	87%
POP (541)	2,364	2,332	99%	2,095	2,045	98%	4,459	4,377	98%
POP (542)	2,078	2,054	99%	1,841	1,812	98%	3,919	3,866	99%
POP (543)	3,879	3,835	99%	3,436	3,406	99%	7,315	7,241	99%
Rock Sole	19,902	5,071	25%	55,576	42,388	76%	75,478	47,459	63%
Yellowfin Sole	59,798	21,487	36%	89,814	85,424	95%	149,612	106,911	71%

Source: AKSC and AGC 2011 cooperative reports.

1.5.1.5 Economic Data Report (EDR)

Amendment 80 implemented an economic data collection program to assess the impacts of Amendment 80 on various components of the fishery, including skippers and crew. Amendment 80 established a process for collecting and reviewing economic data from this fleet by requiring the annual submission of an EDR. Amendment 80 EDR regulations are published at 50 CFR 679.94.

An EDR is required from any person who held an Amendment 80 Quota Share (QS) permit during the previous calendar year. An EDR must be submitted for each Amendment 80 QS permit held by a person. The 2011 Annual EDR submission deadline was June 1, 2012.

Pacific States Marine Fisheries Commission (PSMFC) has been designated and compensated by NMFS to be the Data Collection Agent for the Amendment 80 EDR program. PSMFC mails EDR announcements and filing instructions out to Amendment 80 QS permit holders by April 1 of the year after landings were made. While the EDR requests that the Amendment 80 fleet provide quantity and royalty revenue data for the quota that is leased, the EDR forms do not require that the fleet provide data on ex-vessel or first wholesale value of individual species. It was assumed that adequate price data could be derived from data already being collected through eLandings or the Commercial Operator's Annual Reports (COAR) when the EDR program was implemented. As discussed in this document, none of the current fisheries value reports provide sufficient data in a timely fashion to estimate and implement the cost recovery fee percentage.

1.5.1.6 Monitoring and Enforcement (M&E)

Enforcement and monitoring costs associated with Amendment 80 are subject to cost recovery fees and are included in this analysis. M&E provisions are necessary for accurate catch accounting and compliance with Amendment 80 management measures. These requirements ensure that Amendment 80 Cooperative Quota (CQ) limits in the BSAI, ITAC allocations in the BSAI, and sideboard limits in the GOA are not exceeded. The M&E measures introduced for Amendment 80 are similar to those currently required for compliance with Amendment 79, which established a minimum groundfish retention standard (GRS) for specified vessels in the BSAI, and mirror those in place for catcher/processor vessels participating in the Central GOA Rockfish Program.

1.5.2 CDQ Groundfish and CDQ Halibut and Sablefish

MSA 304(d)(1) provides the authority for the Secretary to by regulation establish the level of any fees which are authorized to be charged pursuant to section 303(b)(1). MSA 304(d)(2)(A)(ii) states that a community development quota program that allocates a percentage of the total allowable catch of a fishery is subject to the cost recovery fee. The BSAI CDQ programs meet that criterion.

1.5.2.1 CDQ Program History and Structure

As stated on the NMFS AKR website, the purpose of the CDQ Program is to (i) to provide eligible western Alaska villages with the opportunity to participate and invest in fisheries in the Bering Sea and Aleutian Islands Management Area; (ii) to support economic development in western Alaska; (iii) to alleviate poverty and provide economic and social benefits for residents of western Alaska; and (iv) to achieve sustainable and diversified local economies in western Alaska.

Six CDQ groups have formed to represent the sixty-five eligible villages¹¹ in Western Alaska. Each CDQ group represents the villages in their geographic region. Aleutian Pribilof Island Community Development Association (APICDA) represents the villages of Akutan, Atka, False Pass, Nelson Lagoon, Nikolski and Saint George. Bristol Bay Economic Development Corporation (BBEDC) represents the villages of Aleknagik, Clark's Point, Dillingham, Egegik, Ekuik, Ekwook, King Salmon, Levelock, Manokotak, Naknek, Pilot Point, Port Heiden, South Naknek, Togiak, Twin Hills and Ugashik. Central Bering Sea Fishermen's Association (CBSFA) represents the village of Saint Paul on Saint Paul Island. Coastal Villages Region Fund (CVRF) represents the villages of Chefornek, Chevak, Eek, Goodnews Bay, Hooper Bay, Kipnuk,

¹¹ Additional information may be found at <http://www.wacda.org/pages/villages.php>

Kongiganak, Kwigillingok, Mekoryuk, Napakiak, Napaskiak, Newtok, Nightmute, Oscarville, Platinum, Quinhagak, Scammon Bay, Tooksook Bay, Tuntutuliak, Tununak. Norton Sound Economic Development Corporation (NSEDC) represents the villages of Brevig Mission, Diomedea, Elim, Golovin, Gambell, Koyuk, Nome, Saint Michael, Savoonga, Shaktoolik, Stebbins, Teller, Unalakleet, Wales, and White Mountain. Yukon Delta Fisheries Development Association (YDFDA) represents the villages of Alakanuk, Emmonak, Grayling, Kotlik, Mountain Village, and Nunam Iqua.

Villages must meet the following eligibility criteria to participate in the CDQ program:

- Be located within 50 nautical miles of the Bering Sea coast;
- Residents conduct at least half of their commercial or subsistence activities in the Bering Sea and Aleutian Island subregions;
- Be recognized by the U.S. Secretary of the Interior as a Native village under the Alaska Native Claims Settlement Act (ANCSA - Public Law 92-203); and
- Have no previously established harvesting or processing capacity sufficient to support substantial participation in the BSAI groundfish industry.

CDQ fisheries management regulations have been developed incrementally since the creation of the CDQ Program in 1992. In 1991, the North Pacific Council proposed the first CDQ allocation. As part of “Inshore/Offshore I”, 7.5 percent of the annual total allowable catch of BSAI pollock was allocated to the program. The first harvest of CDQ pollock began in the fall of 1992.

As part of the halibut/sablefish individual fishing quota (IFQ) program approved in 1992 by the North Pacific Council, the Council recommended allocating BSAI halibut and sablefish to the CDQ program. The CDQ halibut and sablefish allocations took effect in 1995. That addition to the program allocated:

- 20 percent of the BSAI sablefish TAC;
- 100 percent of the 4E halibut quota;
- 30 percent of the 4D halibut quota;
- 50 percent of the 4C quota; and
- 20 percent of the 4B quota to the CDQ program.

In 1998 the multi-species groundfish CDQ allocation and BSAI crab allocations were created as part of the License Limitation Program (LLP). That same year the pollock CDQ was increased as part of the 1998 American Fisheries Act (Section 206(a)), Congress mandated that the CDQ allocation of BSAI pollock be increased to 10 percent of the annual TAC and that this 10 percent be treated as a “directed” catch, with additional pollock to be provided to the CDQ program for pollock bycatch needs in other CDQ groundfish fisheries.

Beginning in 2008, the CDQ Program received 10.7 percent of certain Bering Sea and Aleutian Islands groundfish TACs as CDQ reserves. The primary portion of each reserve (10 percent of the TAC) will be allocated among the six CDQ groups based on the percentage allocations that were in effect on March 1, 2006. The balance of each reserve (0.7 percent of the TAC) will be allocated among CDQ groups based on WACDA's percentage allocations.

The fishery resources allocated under the CDQ Program are under Federal jurisdiction, but the program was historically managed by both NMFS and the State of Alaska (State). Changes made to the Magnuson-Stevens Act in 2006 have shifted administrative oversight responsibilities to the Western Alaska Community Development Association (WACDA), an administrative panel, comprised of the six CDQ groups. Prior to 2006, the State was primarily responsible for the day-to-day administration and oversight of the economic development aspects of the program, recommending quota allocations for each CDQ group, and the management of the CDQ crab fisheries. NMFS was, and remains, primarily responsible for groundfish and halibut CDQ fisheries management. The State of Alaska continues to manage the crab CDQ fisheries, in conjunction with the management of other non-CDQ crab fisheries in the BSAI.

Regulations were developed to ensure that catch of all species allocated to the CDQ Program should be limited to the amount of the allocations, with no catch from CDQ fisheries accruing against non-CDQ allocations. The original fishery management objectives for the CDQ fisheries include, in general, limiting the catch of all species to the amount allocated to the program and not allowing catch made under the program to accrue against non-CDQ portions of total allowable catch (TAC) limits or prohibited species catch (PSC) limits. These objectives also included managing target and non-target species allocations made to the CDQ groups with the same level of strict quota accountability. A complete description of the original basis for the multispecies CDQ catch accounting regime is in the final rule implementing the multispecies CDQ Program (63 FR 30381, June 4, 1998).

Catch monitoring and accounting requirements in the halibut and groundfish CDQ fisheries were developed to ensure that all groundfish CDQ catch information (of both target and non-target species) could be estimated on a timely basis. This is necessary to allow CDQ groups to have the information needed to manage the catch of all of their allocations, in order not to exceed any particular quota. Existing CDQ catch monitoring and reporting requirements are structured to ensure that CDQ groups actively monitor the harvest of their allocations, and that groups take action to constrain their fishing activities should they reach or approach a particular allocation.

NMFS manages the CDQ fisheries so that overall catch is limited to the amounts allocated to the CDQ Program, while individual CDQ groups are expected to manage their own allocations. Each CDQ group has numerous fishing partners and vessels fishing for different species. The CDQ fisheries are also diverse spatially and temporally in the BSAI. CDQ fisheries often occur in conjunction with non-CDQ fisheries (as in the pollock and flatfish fisheries). They may also occur when some non-CDQ fisheries are closed. CDQ groups are in the best position to monitor and manage the harvest of their quotas; the existing catch monitoring and management structure was intended to facilitate this process.

In summary, NMFS will continue to allocate a portion of the groundfish TACs as CDQ (Table 1-5)¹². The State of Alaska reviewed those percentages in 2012 and will do so every 10 years thereafter. The scope of this review is defined in Subsection H of The Coast Guard and Maritime Transportation Act of 2006 (Public Law 109–241). Section 416 of this legislation amended section 305(i)(1) of the MSFCA and established the review provisions. Western Alaska Community Development Association (WACDA) Agreement protocols will continue to direct the day-to-day operations of the CDQ entities. The WACDA will also divide 0.7 percent of the TACs among the CDQ groups. NMFS will continue to monitor and enforce the overall CDQ allocation.

Each entity eligible to participate in the program will be authorized to harvest the same percentage of each species allocated to the program that it was authorized by the Secretary to harvest of such species annually as of March 1, 2006. Harvesting allocations will also include all processing rights and any other rights and privileges associated with such allocations. Voluntary transfers by and among eligible entities will be allowed either before or after harvesting the quota.

Table 1-5 highlights that percentage allocations to CDQ groups vary by target species. When the State of Alaska conducts their 10-year review of the allocation percentages the percentages could change. Changes in relative ex-vessel prices in addition to changes in the allocations for these species will affect the each CDQ group's cost recovery fee. As a group's ex-vessel revenue increases relative to other groups, their percentage of the total CDQ cost recovery fee will also increase proportionally.

¹² Those allocation percentages are defined in Table 1 of August 31, 2006 FR Notice (<http://www.fakr.noaa.gov/notice/71fr51804.pdf>).

Table 1-5 CDQ allocation percentages by groundfish species for 2012

Groundfish species	2012 TAC	Program allocations	CDQ Reserve	CDQ effective percentage allocations by target fishery					
				APICDA	BBEDC	CBSFA	CVRF	NSEDC	YDFDA
BS Pollock	1,200,000	0.10	120,000	14%	21%	5%	24%	22%	14%
AI Pollock	19,000	0.10	1,900	14%	21%	5%	24%	22%	14%
BS FG Sablefish	1,115	0.20	223	15%	20%	16%	0%	18%	31%
AI FG Sablefish	1,537	0.20	307	14%	19%	3%	27%	23%	14%
BS Sablefish	1,115	0.075	84	21%	22%	9%	13%	13%	22%
AI Sablefish	513	0.075	38	26%	20%	8%	13%	12%	21%
Pacific cod	261,000	0.10	26,100	15%	21%	9%	18%	18%	19%
			1,827	21.850%	20.050%	6.870%	16.860%	15.950%	18.420%
			27,927	15.448%	20.938%	8.861%	17.925%	17.866%	18.962%
WAI Atka Mackerel	1,500	0.10	150	30%	15%	8%	15%	14%	18%
			11	29.930%	15.030%	8.020%	15.000%	14.030%	17.990%
			161	29.995%	15.002%	8.001%	15.000%	14.002%	17.999%
CAI Atka Mackerel	10,763	0.10	1,076	30%	15%	8%	15%	14%	18%
			75	29.930%	15.030%	8.020%	15.000%	14.030%	17.990%
			1,152	29.995%	15.002%	8.001%	15.000%	14.002%	17.999%
EAI/BS Atka Mackerel	38,500	0.10	3,850	30%	15%	8%	15%	14%	18%
			270	29.930%	15.030%	8.020%	15.000%	14.030%	17.990%
			4,120	29.995%	15.002%	8.001%	15.000%	14.002%	17.999%
Yellow fin Sole	202,000	0.10	20,200	28%	24%	8%	6%	7%	27%
			1,414	23.590%	22.850%	8.040%	11.410%	11.390%	22.720%
			21,614	27.711%	23.925%	8.003%	6.354%	7.287%	26.720%
Rock Sole	87,000	0.10	8,700	24%	23%	8%	11%	11%	23%
			609	25.040%	23.060%	7.460%	10.060%	10.390%	23.990%
			9,309	24.068%	23.004%	7.965%	10.939%	10.960%	23.065%
BS Greenland Turbot	6,230	0.10	623	16%	20%	8%	17%	19%	20%
			44	16%	20%	8%	17%	19%	20%
			667	16.000%	20.000%	8.000%	17.000%	19.000%	20.000%
Arrow tooth Flounder	25,000	0.10	2,500	22%	22%	9%	13%	12%	22%
			175	22.000%	22.000%	9.000%	13.000%	12.000%	22.000%
			2,675	22.000%	22.000%	9.000%	13.000%	12.000%	22.000%
Flathead Sole	34,134	0.10	3,413	20%	21%	9%	15%	15%	20%
			239	20.770%	22.370%	7.020%	14.660%	14.360%	20.820%
			3,652	20.050%	21.090%	8.870%	14.978%	14.958%	20.054%
WAI Pacific Ocean Perch	8,380	0.10	838	30%	15%	8%	15%	14%	18%
			59	30.000%	15.000%	8.000%	15.000%	14.000%	18.000%
			897	30.000%	15.000%	8.000%	15.000%	14.000%	18.000%
CAI Pacific Ocean Perch	4,990	0.10	499	30%	15%	8%	15%	14%	18%
			35	30.000%	15.000%	8.000%	15.000%	14.000%	18.000%
			534	30.000%	15.000%	8.000%	15.000%	14.000%	18.000%
EAI Pacific Ocean Perch	5,620	0.10	562	30%	15%	8%	15%	14%	18%
			39	30.000%	15.000%	8.000%	15.000%	14.000%	18.000%
			601	30.000%	15.000%	8.000%	15.000%	14.000%	18.000%

Source: NMFS AKR: excludes PSC allocations

Based on the TACs and allocation percentages presented in Table 15, the CDQ allocations can be calculated. Table 1-6 presents the allocations in metric tons for the 2012 fishing year. Groundfish allocations are

presented represents that allocations at the start of the 2012 fishing year. CDQ transfers among CDQ groups will impact the amount of each species that is harvested by a group over the year. A CDQ group's cost recovery fee liability is based on the fish they harvest and not their original allocation. Because not all of the fish transferred between groups is harvested during the year, and cost recovery fees are based on landings, not allocations, assigning cost recovery fee liability to the group harvesting the fish is more straight forward to determine. CDQ groups could privately decide to revise the price paid for the right to harvest another group's allocation in the future to account for the cost recovery fee.

Table 1-6 CDQ allocation amounts for 2012

Groundfish species	CDQ Group Amounts (rounded to nearest one-tenth of a metric ton)						TOTAL
	APICDA	BBEDC	CBSFA	CVRF	NSEDC	YDFDA	
BS Pollock	16,800.0	25,200.0	6,000.0	28,800.0	26,400.0	16,800.0	
AI Pollock	266.0	399.0	95.0	456.0	418.0	266.0	
BS FG Sablefish	33.5	44.6	35.7	0.0	40.1	69.1	
AI FG Sablefish	43.0	58.4	9.2	83.0	70.7	43.0	
BS Sablefish	17.6	18.4	7.5	10.9	10.9	18.4	
AI Sablefish	10.0	7.7	3.1	5.0	4.6	8.1	
Pacific cod	3,915.0	5,481.0	2,349.0	4,698.0	4,698.0	4,959.0	26,100.0
	399.2	366.3	125.5	308.0	291.4	336.5	1,827.0
	4,314.2	5,847.3	2,474.5	5,006.0	4,989.4	5,295.5	27,927.0
WAI Atka Mackerel	45.0	22.5	12.0	22.5	21.0	27.0	150.0
	3.1	1.6	0.8	1.6	1.5	1.9	10.5
	48.1	24.1	12.8	24.1	22.5	28.9	160.5
CAI Atka Mackerel	322.9	161.4	86.1	161.4	150.7	193.7	1,076.3
	22.5	11.3	6.0	11.3	10.6	13.6	75.3
	345.4	172.8	92.1	172.7	161.3	207.3	1,151.6
EAI/BS Atka Mackerel	1,155.0	577.5	308.0	577.5	539.0	693.0	3,850.0
	80.7	40.5	21.6	40.4	37.8	48.5	269.5
	1,235.7	618.0	329.6	617.9	576.8	741.5	4,119.5
Yellow fin Sole	5,656.0	4,848.0	1,616.0	1,212.0	1,414.0	5,454.0	20,200.0
	333.6	323.1	113.7	161.3	161.1	321.3	1,414.0
	5,989.6	5,171.1	1,729.7	1,373.3	1,575.1	5,775.3	21,614.0
Rock Sole	2,088.0	2,001.0	696.0	957.0	957.0	2,001.0	8,700.0
	152.5	140.4	45.4	61.3	63.3	146.1	609.0
	2,240.5	2,141.4	741.4	1,018.3	1,020.3	2,147.1	9,309.0
BS Greenland Turbot	99.7	124.6	49.8	105.9	118.4	124.6	623.0
	7.0	8.7	3.5	7.4	8.3	8.7	43.6
	106.7	133.3	53.3	113.3	126.7	133.3	666.6
Arrow tooth Flounder	550.0	550.0	225.0	325.0	300.0	550.0	2,500.0
	38.5	38.5	15.8	22.8	21.0	38.5	175.0
	588.5	588.5	240.8	347.8	321.0	588.5	2,675.0
Flathead Sole	682.7	716.8	307.2	512.0	512.0	682.7	3,413.4
	49.6	53.5	16.8	35.0	34.3	49.7	238.9
	732.3	770.3	324.0	547.0	546.3	732.4	3,652.3
WAI Pacific Ocean Perch	251.4	125.7	67.0	125.7	117.3	150.8	838.0
	17.6	8.8	4.7	8.8	8.2	10.6	58.7
	269.0	134.5	71.7	134.5	125.5	161.4	896.7
CAI Pacific Ocean Perch	149.7	74.9	39.9	74.9	69.9	89.8	499.0
	10.5	5.2	2.8	5.2	4.9	6.3	34.9
	160.2	80.1	42.7	80.1	74.8	96.1	533.9
EAI Pacific Ocean Perch	168.6	84.3	45.0	84.3	78.7	101.2	562.0
	11.8	5.9	3.1	5.9	5.5	7.1	39.3
	180.4	90.2	48.1	90.2	84.2	108.2	601.3

Source: NMFS AKR: excludes PSC allocations

CDQ allocations for the 2012 halibut fishery are presented in Table 1-7. The percentage of the total IPHC allocation, in each area that is apportioned to the CDQ program, is presented in the second column of the table. The top portion of the table, to the right of the program's allocation, is each CDQ group's percentage of the area allocation. The bottom portion of the table is each group's allocation, based on the 2012 commercial catch limit. Slightly more than 1.5 Milb of halibut was allocated to the CDQ program in 2012. CBSFA received the largest allocation (470,616 lbs) and YDFDA the smallest (66,441 lbs).

Table 1-7 CDQ halibut initial allocations 2012.

Halibut Area	CDQ % of Area	APICDA	BEEDC	CBSFA	CVRF	NSEDC	YDFDA	total
Percent of Area Allocation								
4B	20%	100%	0%	0%	0%	0%	0%	100%
4C	50%	15%	0%	85%	0%	0%	0%	100%
4D	30%	0%	26%	0%	24%	30%	20%	100%
4E	100%	0%	30%	0%	70%	0%	0%	100%
Area Allocation (lbs)								
4B	20%	373,800	0	0	0	0	0	373,800
4C	50%	83,052	0	470,626	0	0	0	553,678
4D	30%	0	86,374	0	79,730	99,662	66,441	332,207
4E	100%	0	75,087	0	175,203	0	0	250,290
Total		456,852	161,461	470,626	254,933	99,662	66,441	1,509,974

Source: NMFS AKR

Note: Halibut in net weight (head off, gutted) pounds which represent CDQ group amounts at the start of the year.

1.5.2.2 Number of Entities

As discussed earlier in the RIR, six CDQ groups are permitted to receive an allocation of groundfish and halibut apportioned to the CDQ program. Those groups represent 65 Western Alaska communities. NOAA Fisheries allocates CDQ groundfish and halibut to each of the six groups based on percentages defined in regulation. The executive and management teams of the CDQ groups then determine how their apportionment will be harvested. Those decisions affect the number of vessels and business that harvest the CDQ apportionments. Industrial fisheries tend to be harvested through business partnerships with owners of large fishing vessels (e.g., pollock and Amendment 80 species). The more artisanal fisheries (e.g. halibut) tend to be harvested by local residents from relatively small vessels.

Vessels

CDQ groundfish harvests are made by large pollock trawl catcher/processors, Amendment 80 CPs, longline CPs, and catcher vessels. Halibut and sablefish harvests are made by longline vessels that range in size from large CPs to small local skiffs. Vessels used in the CDQ fishery are not directly regulated by this action, except that catcher/processor would be required to submit an annual First Wholesale Volume and Value report.

CDQ groundfish harvests in 2012 by vessel, gear, and harvest mode is provided below. Vessels that fished with more than one gear type will be double counted in Table 1-8. The majority (30) of the catcher/processors used trawl gear, 12 used hook-and-line gear, and 2 fished with pots. Most active CVs used hook-and-line gear (13), seven vessels used pot gear, and seven vessels used trawl gear. The C/V would not be subject to filing a Volume and Value report.

Table 1-8 Vessels that harvested CDQ groundfish in 2012.

Gear	CP	CV	Total
Hook-and-line	12	13	25
Pot	2	7	9
Trawl	33	7	40
Total	47	27	74

Source: AKFIN summary of eLandings data.

A total of 1,561 CDQ halibut landings were made in 2012. Vessel Landings' include the number of landings by participating vessels reported by IFQ regulatory area. Each landing may include harvests from more than one CDQ Permit Holder. A vessel may make more than one landing during the year. These entities are not directly regulated by this action.

Processors

CDQ groups have their groundfish allocation processed by catcher/processors, shorebased processors, floating processors, and motherships. Processors of CDQ allocations are only regulated through the requirements to provide a Volume and Value report needed to determine the ex-vessel value of CDQ landings. The requirements to provide these data are discussed in Section 1.6.2.1. Processors of CDQ allocations are not required to submit the CDQ cost recovery fee. The entire cost recovery fee will be paid by the CDQ groups that receive an allocation of groundfish and halibut.

Because of the structure of the cost recovery program the processors described below are directly regulated by this action, because they are required to fill out Volume and Value reports. Information on the number of processors is provided to indicate the number of processors that would file a report for ex-vessel landings versus a report for first wholesale landings. Based on the information in the information in Table 1-9, a total of 27 vessels would file the first wholesale Volume and Value report. All these vessels are already subject to that report through their non-CDQ activity. An additional 11 processors would be required to submit the ex-vessel Volume and Value report. They would also be already completing that report for non-CDQ activity.

Table 1-9 Processors of CDQ groundfish in 2012

Plant	C/P	EEZ only	Floating	Shorebased	Total
		processor	Processor		
BSAI/GOA				7	6
C/P	9	17			26
Floating Processor		1	4		5
Total	9	18	4	7	38

Source: AKFIN summary of eLandings

Halibut CDQ was processed by 15 shorebased processors, two catcher/sellers, and one exporter/buyer in 2012. These processors would not be required to submit a Volume and Value report, assuming that the halibut standard price for the BSAI IFQ fishery is used for those landings. Given that assumption, none of the CDQ halibut processors would be directly regulated by this action.

1.5.3 American Fisheries Act and Aleutian Islands Pollock Fisheries

The American Fisheries Act¹³ was developed by Congress to implement additional U.S. ownership requirements for vessels harvesting fish from the EEZ. The AFA also divided the available BSAI pollock directed fishing allowance among three harvesting sectors, after CDQ allotments were deducted. While the

¹³ Enacted as Title II of Division C – Other Matters, of Public Law 105-277, approved October 21, 1998 (112 STAT. 2681, 2681-616), the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999.

program was developed by Congress, each eligible harvesting vessel and processor was required to apply to NMFS to obtain an AFA permit. With the exceptions of applications for inshore vessel cooperatives and for replacement vessels, the AFA permit program had a one-time application deadline of December 1, 2000. Any vessels or processors for which an application had not been received by this date are permanently ineligible to receive AFA permits and, therefore, harvest or process BS pollock from the directed fishery (unless it is harvested under the CDQ program). Inshore catcher vessel cooperatives must apply for an AFA permit annually, by December 1 for the following fishing year. A catcher vessel must be permitted under AFA before NMFS can approve any cooperative application which lists that vessel. The requirement for vessels and processors to obtain an AFA permit was necessary for NMFS to manage the program and to ensure adequate enforcement of the harvesting and processing regulations.

Amendment 82 established a framework for the management of the Aleutian Islands subarea (AI) directed pollock fishery. A final rule was issued in February 2005. The FMP Amendment was proposed by the North Pacific Fishery Management Council to implement a provision of the Consolidated Appropriations Act of 2004¹⁴, which requires that the AI directed pollock fishery be allocated to the Aleut Corporation for the purpose of economic development in Adak, Alaska.

Aleutian Islands pollock harvesting vessels and processing entities are nominated by the Aleut Corporation but must be approved by NMFS. Unless specifically exempted by this action, nominees must have all Federal permits required to participate in the AI Pollock fishery. AI Pollock fishery vessels must be either AFA qualified or less than 60' LOA. NMFS notifies both the Aleut Corporation and nominees of approval results.

1.5.3.1 AFA Program History and Structure

The AFA was passed in October 1998 and NMFS began to implement specific provisions of the AFA through a variety of mechanisms. For the 1999 fishing year, NMFS implemented the AFA pollock allocations and harvest restrictions on catcher/processors through the interim and final BSAI harvest specifications (64 FR 50, January 4, 1999; and 64 FR 12103, March 11, 1999). Required changes to the CDQ program were implemented through an emergency interim rule (64 FR 3877, January 26, 1999; extended at 64 FR 34743, June 29, 1999). In December 1998, NMFS administered the buyout of the nine catcher/processors declared ineligible under the AFA, and oversaw the scrapping of the eight vessels under the AFA.

Section 208 of the AFA defines the vessels and processors are eligible to participate in the directed BS pollock fishery. Part (i) of that section clearly states that the fishing privileges granted under the AFA are not a fishing right and that the Secretary retains the authority to revoke or limit a permit or license.

(i) Eligibility Not a Right. Eligibility under this subsection shall not be construed—

(1) to confer any right of compensation, monetary or otherwise, to the owner of any catcher vessel, catcher/processor, mothership, or shoreside processor, if such eligibility is revoked or limited in any way, including through the revocation or limitation of a fishery endorsement or any federal permit or license;

Section 206(a) of the AFA requires that 10 percent of the BSAI pollock TAC be allocated as a directed fishing allowance to the CDQ program. The remainder of the BSAI pollock TAC, after the subtraction of an allowance for the incidental catch of pollock by vessels, including CDQ vessels, harvesting other groundfish species, is allocated to AFA sectors.

¹⁴ Consolidated Appropriations Act P.L. 108-199, Division H, Section 168(b)

The American Fisheries Act allocations were first implemented for the 1999 fishing year. Beginning in 2005 AI pollock allocations were removed under Amendment 82. Currently the BS subarea pollock, after subtracting the CDQ directed fishing allowance (10 percent) and then the incidental catch allowance (currently 3 percent), is allocated as a directed fishing allowance as follows¹⁵:

50 percent to the inshore sector,
40 percent to the catcher/processor sector,
and 10 percent to the mothership sector.

In the BS subarea, 40 percent of the directed fishing allowance is allocated to the A season (January 20–June 10) and 60 percent of the directed fishing allowance is allocated to the B season (June 10–November 1).

Pursuant to § 679.20(a)(5)(iii)(B)(2)(i) and (ii), the annual AI pollock TAC, after subtracting the CDQ directed fishing allowance (10 percent) and then the ICA (1,600 mt in 2012), is allocated to the Aleut Corporation for a directed pollock fishery. In the AI subarea, the A season is allocated 40 percent of the ABC and the B season is allocated the remainder of the directed pollock fishery.

This amendment proposes the collection of Section 304(d) cost recovery fees from all AFA sectors and the AI pollock fishery. NMFS' authority to implement a cost recovery fee is based on their decision that all persons allowed to harvest BSAI pollock from the directed pollock fishery are participants in a LAP program.

A ruling in the Northeast Region determined that Amendment 16 sectors were neither IFQ nor LAP programs because individuals within the sector were not given allocations and membership within sectors could change. The FR Notice from April 9, 2010 states:

NMFS does not consider sectors to be LAP Programs, and they are not subject to the referendum or cost-recovery requirements of the Magnuson-Stevens Act. There is no permit issued to a sector, and no permanent or long-term allocation of fish is made to any sector. Unlike individual fishing quotas (IFQs), sectors are temporary, voluntary, fluid associations of vessels that can join together to take advantage of flexibilities and efficiencies that sectors are afforded. Vessel owners may choose to join a sector or not, and can change their decisions from one year to the next, based on what they believe are the best opportunities for them at that point in time.

The sector allocations made under the AFA differ from the Northeast Region's Amendment 16 sector allocations and definitions in several ways. This discussion will focus on the development and structure of the AFA catcher/processor sector compared to the structure of Amendment 16 sectors. The differences reflect why the AFA catcher/processor sector should be considered a candidate for cost recovery.

As discussed earlier, AFA Catcher/processor members were issued a one-time permit allowing only those vessels to harvest BS pollock under their sector's allocation. When the AFA was adopted it was well understood that the purpose of the three sector allocations was to provide sufficient division of the BS pollock allocation so that catcher/processors could form a cooperative to gain additional benefits. When the Council was considering the Inshore-Offshore 3 action, that in part led to Congress implementing the AFA, one of the points of contention was whether the Inshore-Offshore allocation should remain between the vessels that delivered to inshore processors (shorebased and inshore floating processors) and the offshore sectors (catcher/processors and catcher vessels delivering to motherships). Members of the fishing industry clearly pointed out during those debates that a combined offshore sector would make it virtually impossible for the catcher/processors to form a stable and effective cooperative. The philosophical and structural differences between the mothership and catcher/processor sector, and the number of entities that could participate in both sectors were the primary reasons a cooperative could not function in the offshore sector.

¹⁵ Pursuant to § 679.20(a)(5)(i)(A)

Therefore, it was known when the AFA was approved that the outcome of that action would enable the catcher/processor sector to form a cooperative that would be able to divide the catcher/processor allocation among the members that could participate, as defined in the AFA. Creating the catcher/processor allocation and strictly limiting the vessels that could harvest that allocation provided the opportunity for that sector to have individual allocations through their cooperative.

As noted in the annual cooperative report for this sector, the owners of the catcher-processors and catcher-vessels that deliver to catcher-processors in the BSAI pollock fishery jointly formed fishing cooperatives to coordinate pollock harvesting efforts. The cooperative for the catcher-processor owners is the Pollock Conservation Cooperative (PCC), and for catcher-vessels it is the High Seas Catchers' Cooperative (HSCC). An agreement called the "Cooperative Agreement Between Offshore Pollock Catchers' Cooperative and Pollock Conservation Cooperative" was developed to facilitate efficient harvest management and accurate harvest accounting between the PCC and the HSCC. These agreements include all vessels eligible to harvest pollock from the catcher/processor allocation, except the Ocean Peace (the CP that was not listed by name in the AFA). Members of the AFA CP sector are also affiliated through the Incentive Plan Agreement (IPA) to manage and reduce Chinook salmon PSC in the BSAI. All catcher-processors and catcher vessels in the catcher/processor sector are members of the IPA, including the Ocean Peace. As a result of these linkages and affiliation, the catcher vessels and catcher-processors that form this AFA catcher/processor sector could be considered a single entity or could be divided into catcher vessels, unrestricted catcher-processors, and restricted catcher-processors. Each of these persons are annually allocated a percentage of the BS pollock TAC.

Second, the sector is not temporary and cannot be modified without congressional authorization because the AFA catcher-processors are listed in the Act¹⁶. Only the vessels identified in Section 208(e) of the AFA (or their replacements) may harvest pollock allocated to the catcher-processors. Third, there is a long-term, allocation of 40 percent of the directed BS pollock fishery to these vessels in Section 206(b)(2) of the AFA. The Council was not given authority to modify that allocation percentage. It may only be modified by congress. Fourth, the vessels that may participate in the sector are listed by name in the AFA and only the fishing privileges associated with those vessels may be used to participate in the sector. Fifth, vessel owners were given a one-time choice to join the sector and be issued an AFA permit. They are not allowed to change their decision from one year to the next. They may only exit the sector by selling their AFA qualified catcher/processor and new owners can only enter by purchasing an AFA qualified catcher/processor.

Given the structure of the AFA, catcher-processors have been determined to meet the requirements of a LAP program. The sector is, therefore, subject to cost recovery requirements of the MSA.

1.5.3.2 Number of Entities

This section provides a description of the entities that are eligible to participate in the directed BS or AI pollock fisheries. These entities include the three AFA harvesting sectors and the processors to whom they deliver their BS pollock harvests, and the Aleut Corporation and its associated vessels/processor.

1.5.3.2.1 AFA Catcher/processor Sector

The 40 percent of the available BS pollock TAC that is allocated to the AFA catcher/processor sector

Catcher/processors

¹⁶ The only exception is one Amendment 80 catcher/processor, the Ocean Peace, met the 2,000 mt minimum participation criteria listed in the AFA. That vessel has limited harvest privileges (0.5 percent of the catcher/processor pollock allocation) in the BS directed pollock fishery and would also be subject to the AFA cost recovery fee.

The AFA lists 20 unrestricted catcher/processors in Section 208(e) as being eligible to harvest BS pollock from the catcher/processor allocation. Paragraph 208(e)(21) of the AFA specifies that catcher/processors not listed in the AFA but qualifying to fish for BSAI pollock under this paragraph are prohibited from harvesting in the aggregate a total of more than one-half (0.5) percent of the pollock allocated to vessels for processing by offshore catcher/processors. One catcher/processor, the Ocean Peace, met these criteria. Table 1-10 lists all catcher/processors that are eligible to harvest BS pollock under the AFA.

Table 1-10 AFA eligible catcher/processors

VESSEL NAME	ADFG	CGNUM	AFA PERMIT	BSAI POLLOCK RESTRICTED
ALASKA OCEAN	60407	637856	3794	N
AMERICAN DYNASTY	59378	951307	3681	N
AMERICAN ENTERPRISE	54836	594803	2760	N
AMERICAN TRIUMPH	60660	646737	4055	N
ARCTIC FJORD	57450	940866	3396	N
ARCTIC STORM	54886	903511	2943	N
ENDURANCE	57201	592206	3360	N
HIGHLAND LIGHT	56974	577044	3348	N
ISLAND ENTERPRISE	59503	610290	3870	N
KATIE ANN	55301	518441	1996	N
KODIAK ENTERPRISE	59170	579450	3671	N
NORTHERN EAGLE	56618	506694	3261	N
NORTHERN GLACIER	48075	663457	661	N
NORTHERN HAWK	60795	643771	4063	N
NORTHERN JAEGER	60202	521069	3896	N
OCEAN PEACE	55767	677399	2134	Y
OCEAN ROVER	56987	552100	3442	N
PACIFIC GLACIER	56991	933627	3357	N
SEATTLE ENTERPRISE	56789	904767	3245	N
STARBOUND	57621	944658	3414	N
U.S. ENTERPRISE	55125	921112	3004	N

Source: AFA Permit Files

The Pollock Conservation Cooperative (PCC) was formed in December 1998 to promote the rational and orderly harvest of pollock by the CP. Based on the 2011 PCC report, the PCC is made up of seven member companies that operate 19 CPs eligible under section 208(e)(1)-(20) of the AFA. According to the PCC harvest schedule, each company is allocated a percentage of the directed fishery specified under Section 206(b) of the AFA. The percentage of the catcher/processor directed pollock fishery allocated to each PCC member company by the amended membership agreement is shown in Table 1-11 below:

Table 1-11 PCC cooperative membership and sector allocations (2011)

<i>PCC Member Company</i>	<i>percent of CP allocation</i>
Coastal Villages Pollock, L.L.C.	2.73
Starbound, L.L.C.	4.33
Arctic Fjord, Inc.	4.90
Arctic Storm, Inc.	5.03
Glacier Fish Company, L.L.C.	17.00
Trident Seafoods Corporation	18.64
American Seafoods, L.L.C.	47.37

Source: <https://www.fakr.noaa.gov/sustainablefisheries/afa/coopreports/2011/pcchsc.pdf>

Implementing, managing, and overseeing these company level allocations is made possible by the structure of the sectors defined under the AFA and the cooperatives they have formed.

Catcher Vessels Delivering to Catcher/processors

The AFA lists seven catcher vessels that are eligible to harvest up to 8.5 percent of the directed fishing allowance (DFA) under section 206(b)(2) of the AFA, pursuant to a federal fisheries permit. Those vessels and their 2012 DFA as determined by the cooperative and reported in their annual cooperative report are shown in Table 1-12.

Table 1-12 AFA Catcher vessels that deliver to catcher/processors

Vessel	US Coast Guard #	AFA Permit #	2012 DFA (mt)	% of Total
Forum Star	925863	4245	2,583	7.2%
American Challenger	633219	4120	3,332	9.3%
Ocean Harvester	549892	5130	4,576	12.7%
Muir Milach	611524	480	4,802	13.3%
Tracy Anne	904859	2823	4,912	13.7%
Neahkanie	599534	424	7,067	19.6%
Sea Storm	628959	420	8,704	24.2%
Total			35,976	100.0%

Source:

http://alaskafisheries.noaa.gov/npfmcatcher/processorDFdocuments/catch_shares/CoopRpts2013/AFA-PollockHighSeas313.pdf and the RAM AFA permit file.

The AFA also provided the opportunity for any catcher vessel that was determined by the Secretary to have delivered at least 250 metric tons and at least 75 percent of the pollock it harvested in the directed pollock fishery in 1997 to catcher/processors for processing by the offshore component; and was eligible to harvest pollock in the directed pollock fishery under the license limitation program to qualify. No vessels additional vessels met those criteria.

1.5.3.2.2 AFA Inshore Sector

The AFA Inshore Sector is defined at Section 208 (a) of the American Fisheries Act. Fifty percent of the BS subarea pollock (after CDQ and ICAs are deducted) allowance is allocated to inshore cooperatives. In 2012, six inshore cooperatives applied for a pollock allocation (Table 1-13). The Arctic Enterprise Association is listed as the seventh inshore cooperative, but vessels that could be associated with this cooperative, fish for the Akutan Catcher Vessel Association. The two processing plants associated with those cooperatives list Trident Seafoods, Inc. as the primary owner in the Federal Processing Permit data.

According to regulations at § 679.62(e)(1), the individual catch history for each inshore catcher vessel is equal to the vessel's best 2 of 3 years inshore pollock landings from 1995 through 1997 and includes landings to catcher/processors for vessels that made 500 or more mt of landings to catcher/processors from 1995 through 1997. Each vessel's catch history is annually assigned to the cooperative they are a member. Cooperative membership is determined during the annual inshore cooperative application process. Based on the catcher vessels cooperative membership in 2012 the BS pollock allocations ranged from 170,686 mt for the Akutan Catcher Vessel Association to 12,418 mt for the Peter Pan Fleet Cooperative. Because NOAA Fisheries allocates pollock to the inshore cooperatives, the cooperative will be responsible for submitting the

cost recovery fee for their members. A description of the member vessels in each inshore cooperative, based on 2012 data, is provided in Appendix B.

Table 1-13 AFA Inshore cooperative BS subarea pollock allocations for 2012

Inshore Cooperatives	BSSubarea Allocation %	Allocation (MT)
AKUTAN CATCHER VESSEL ASSOCIATION	32.263	170,686
ARCTIC ENTERPRISE ASSOCIATION	0	0
NORTHERN VICTOR FLEET COOPERATIVE	9.684	51,231
PETER PAN FLEET COOPERATIVE	2.347	12,418
UNALASKA CO-OP (ALYESKA)	11.041	58,410
UNISEA FLEET COOPERATIVE	26.483	140,109
WESTWARD FLEET COOPERATIVE	18.183	96,196
TOTAL	100.000	529,050

Source: NMFS AKR

1.5.3.2.3 Mothership Sector

The mothership sector is defined in Section 208 (c) and (d) of the American Fisheries Act. The mothership sector is assigned 10 percent of the BS directed pollock quota by NMFS per Section 206 (b) of the AFA (after CDQ allocations and ICA are removed). Allocations within the sector are defined under the provisions of a cooperative agreement. The AFA requires a “cooperative of the whole” rather than separate and distinct cooperatives oriented to each processor within the sector, as is the case in the inshore sector. Because the AFA requires a cooperative of the whole, all participants in this sector may be considered a single entity as a result of their cooperative affiliation. All nineteen vessels qualified to participate in the mothership sector, catcher vessels issued an AFA permit by NMFS RAM division, are members of the “Mothership Fleet Cooperative” (MFC) and are bound by the terms of that cooperative’s membership agreement. Only fourteen of the nineteen vessels belonging to the MFC participated in Alaska groundfish fisheries in 2011. Any vessel that was not issued an AFA permit for the mothership sector is prohibited from harvesting BS subarea pollock from the mothership sector allocation.

Three motherships were issued AFA permits¹⁷ to process pollock from the mothership allocation. Those vessels are listed in Table 1-14. The amount of pollock they are allowed to process depends on agreements they reach with catcher vessels in the MFC, since catcher vessels are allowed to deliver their catch to any of the three qualified motherships.

Table 1-14 Motherships that hold an AFA Permit.

Vessel Name	ADFG	USCG	AFA Permit
EXCELLENCE	60958	967502	4111
GOLDEN ALASKA	52929	651041	1607
OCEAN PHOENIX	59463	296779	3703

Source: NMFS

Catcher vessels permitted by NMFS to harvest BS pollock from the mothership allocation are presented in Table 1-15. Vessels are listed by name. The name of the cooperative member associated with the vessels

¹⁷ These permits were issued with an application deadline of December 31, 2000.

and the vessel's share of the mothership allocation is also presented in the table. The cooperative share is determined by the cooperative membership and enforcement of those share limits are also through the cooperative agreements. The rightmost column in the table indicates whether the catcher vessel is qualified only in the mothership sector or also qualified for the inshore sector. Vessels that are qualified for both sectors would be required to pay the cost recovery fee on both inshore and mothership sector landings.

Table 1-15 Mothership Fleet Cooperative catcher vessels

Co-op Member(s)	Vessel(s)	Cooperative Share	Other AFA Cooperatives
Alakanuk Beauty LLC	American Beauty	6.000%	Inshore
Pacific Dawn	Pacific Challenger	9.671%	Inshore
Fury Group, Inc.	Nordic Fury	6.177%	Inshore
	Pacific Fury	5.889%	Inshore
Great West Seafoods, Ltd.	Margaret Lyn	5.643%	Inshore
Katahdin, Inc.	Misty Dawn	3.569%	MSOnly
King and Winge, Inc.	Vanguard	5.350%	Inshore
Futura Fisheries, Inc.			
Kydaka Corporation	California Horizon	3.786%	MSOnly
Langesater Fisheries, Inc.	Oceanic	7.038%	Inshore
Peiten Enterprises, Inc.			
Arruela Fisheries, Inc.			
MarGun Fisheries, Inc.	Mar-Gun	6.251%	Inshore
Mark 1, Inc.	Mark 1	6.251%	Inshore
Meddar Corporation	Aleutian Challenger	4.926%	MSOnly
Emmonak Leader LLP.	Ocean Leader	6.000%	Inshore
Ocean Thunder, Inc.	Papado II	2.953%	MSOnly
Phoenix Processor L.P.	Morning Star	3.601%	Inshore
Traveler Fisheries LLC	Traveler	4.272%	Inshore
Vesteraalen LLC	Vesteraalen	6.201%	MSOnly
Wa'atch, Inc.	Alyeska	2.272%	Inshore
Western Dawn LLC	Western Dawn	4.150%	Inshore

Source: <http://www.fakr.noaa.gov/sustainablefisheries/afa/coopreports/2011/mothership.pdf>

1.5.3.2.4 AI Pollock Fishery

Section 803 of the Consolidated Appropriations Act of 2004 (Public Law (Pub. L.) 108–199), as signed into law on January 23, 2004, allocates the AI directed pollock fishery to the Aleut Corporation for economic development in Adak, Alaska. Public Law 108–199 requires the Aleut Corporation's selection of participants in the AI directed pollock fishery and limits participation to American Fisheries Act (AFA) (Pub. L. 105–277, Title II of Division C) qualified entities and vessels 60 feet (18.3 m) or less in length overall (LOA). Section 803(b) of Pub. L. 108–199 restricts the annual harvest of pollock in the AI directed pollock fishery by vessels 60 feet (18.3 m) LOA or less to less than 50 percent of the annual allocation prior to 2013. These vessels must receive 50 percent of the annual directed pollock fishery allocation starting in 2013 and beyond.

Amendment 82 revised the FMP to establish the management framework for the AI directed pollock fishery. The final rule implemented the following management provisions:

Restrictions on the harvest specifications for the AI directed pollock fishery, including limits on the size of the annual AI pollock total allowable catch (TAC), limits on the A season harvest of TAC, allocation requirements for vessels 60 feet (18.3 m) LOA or less, and reallocation provisions for unharvested amounts of the AI pollock allocations; Provisions for fishery monitoring, including the Aleut Corporation's selection and NMFS's approval of vessels and processors participating in the AI directed pollock fishery, restrictions on possession of pollock from the AI and either the Bering Sea subarea (BS) or the Gulf of Alaska on a vessel at one time, scale requirements, catch monitoring control plans (CMCPs) for shoreside and stationary floating processors, and Aleut Corporation's and participants' responsibility for ensuring the harvest does not exceed the AI directed pollock fishery allocation; Reporting requirements; and A new AI Chinook salmon prohibited species catch limit that, when reached, closes the directed pollock fishery in the existing Chinook salmon savings areas in the AI.

Prior to Pub. L. 108–199, the AI directed pollock fishery was managed pursuant to the AFA. Public Law 108–199 supersedes portions of the AFA and allocates the AI directed pollock fishery to the Aleut Corporation. The allocation of pollock to the AFA directed pollock fisheries under section 206(b) of the AFA now only pertains to the BS pollock TAC.

Implementing the AI pollock fishery changes result in small increases to management and enforcement costs. However, because the AI pollock fishery is typically reallocated to the AFA fleet, the management and enforcement costs are intertwined. The proposed cost recovery program amendment will set a single cost recovery fee percentage that would be paid by both the participants in the directed BS pollock fishery and the directed AI pollock fishery.

1.5.4 Freezer Longline Coalition

This action applies to catcher/processors named on License Limitation Program (LLP) licenses with a Pacific cod catcher/processor hook-and-line endorsement for the Bering Sea, Aleutian Islands, or both Bering Sea and Aleutian Islands. Much of the language in this section is taken from the Federal Register notice for monitoring and enforcement actions relative to this fishery (77 FR 59053, September 26, 2012).

The vessels in this sector are commonly known as “freezer longliners” and the owners of those vessels have formed the Freezer Longline Coalition (FLC). As reported on the FLC website¹⁸ the FLC is a Section 501(c)(3) non-profit corporation that represents the owners and operators of the vessels that participate in the freezer longline, or catcher/processor hook-and-line sector of the Pacific cod fishery in the federal waters of the BSAI and the Gulf of Alaska (GOA). They are also defined as the “longline catcher/processor subsector” in the 2005 Consolidated Appropriations Act (Pub. L. 108–447). Table 1-16 provides a list of the groundfish licenses that were issued as of September 3, 2013 that meet the required criteria. A description of LLP license requirements, management of the longline catcher/processor subsector, and the development of monitoring and enforcement regulations applicable to the longline catcher/processor subsector is described in more detail in the preamble to the proposed rule (77 FR 35925, June 15, 2012).

¹⁸<http://www.freezerlonglinecoalition.com/about.html>

Table 1-16 List of BSAI Longline catcher/processor licenses and vessels

LICENSE	LINKED		CURRENT			AI CP	BS CP
	LICENSE	LICENSEE NAME	MLOA	ADFG	CURRENT VESSEL NAME	HAL	HAL
LLG1576	LLC1577	AKULURAK, LLC	180	35833	COURAGEOUS	Y	Y
LLG2238		ALASKAN LEADER VESSEL LLC	150	62437	ALASKAN LEADER	Y	Y
LLG1713		ALEUTIAN PROWLER, LLC	163	41224	CLIPPER EXPRESS	Y	Y
LLG3617	LLC3618	BEAUTY BAY OF WASHINGTON, LLC	127	60100	BEAUTY BAY	Y	Y
LLG3609		BERING LEADER FISHERIES, LLC	124	74669	BERING LEADER	Y	Y
LLG3681	LLC3682	BERING PROWLER FISHERIES, LLC	124	63333	BERING PROWLER	Y	Y
LLG4508		BLUE ACE, LLC	124	50226	BLUE ACE	Y	Y
LLG2421		BLUE ATTU, LLC	162	40837	BLUE ATTU	N	Y
LLG2783		BLUE BALLAD LLC	138	61605	BLUE BALLARD	Y	Y
LLG2081		BLUE GADUS LLC	196	62933	BLUE GADUS	Y	Y
LLG3973		BLUE GADUS LLC	157	62933	BLUE GADUS	Y	Y
LLG3602		BRISTOL LEADER FISHERIES LLC.	188	77393	NORTHERN LEADER	Y	Y
LLG1916		CLIPPER SEAFOODS, LTD.	128	56602	CLIPPER ENDEAVOR	Y	Y
LLG1917		CLIPPER SEAFOODS, LTD.	128	54743	CLIPPER SURPRISE	Y	Y
LLG1785		COASTAL VILLAGES LONGLINE, LLC	124	59376	NORTH CAPE	Y	Y
LLG1988		COASTAL VILLAGES LONGLINE, LLC	141	63484	LILLI ANN	Y	Y
LLG1989		COASTAL VILLAGES LONGLINE, LLC	130	56016	DEEP PACIFIC	Y	Y
LLG3616		EWING STREET FISHERIES	172	38549	CLIPPER EPIC	Y	Y
LLG1125		FRONTIER EXPLORER, LLC	135	62169	FRONTIER EXPLORER	Y	Y
LLG1127		FRONTIER MARINER LLC	135	59380	FRONTIER MARINER	Y	Y
LLG1128		FRONTIER SPIRIT, LLC	135	59381	FRONTIER SPIRIT	Y	Y
LLG2892		GULF MIST, INC.	174	54851	ALASKA MIST	Y	Y
LLG1401		KJEVOLJA ALASKA, LLC	124	39369	KJEVOLJA	Y	Y
LLG2112		KODIAK LEADER FISHERIES, LLC	177	70435	BRISTOL LEADER	Y	Y
LLG3637	LLC3638	LIBERATOR FISHERIES, LLC	162	8522	U S LIBERATOR	Y	Y
LLG2958		OCEAN PROWLER, LLC	155	43570	OCEAN PROWLER	N	Y
LLG3676		PROWLER, LLC	124	40920	PROWLER	Y	Y
LLG1578	LLC1579	ROMANZOF FISHING COMPANY LLC	180	34855	BARANOF	Y	Y
LLG3847		SELDOVIA FISHERIES, INC.	180	62905	BLUE PACIFIC	Y	Y
LLG3090	LLC3091	SHELFORD'S BOAT LTD.	165	56126	ALEUTIAN LADY	Y	Y
LLG2026		SHELFORD'S BOAT LTD.	180	61538	ALASKAN LADY	Y	Y
LLG4008		SIBERIAN SEA FISHERIES, LLC	198	62424	SIBERIAN SEA	Y	Y
LLG5222		SIU ALASKA CORPORATION	178	34905	GLACIER BAY	Y	Y
LLG4823		STARFISH REVERSE, LLC	136	62424	SIBERIAN SEA	Y	Y
LLG2959		YAKUTAT, INC.	174	41977	BLUE NORTH	Y	Y
LLG1400		ZENITH ALASKA, LLC	124	41010	ZENITH	Y	Y

Source: RAM public groundfish license database (September 3, 2013)

Changes in fisheries management regulations have resulted in new monitoring and enforcement provisions applicable to vessels participating in the BSAI longline catcher/processor fishery. These requirements are a result of legislation passed by Congress and recent changes to fishery management regulations, including:

Legislation that created a defined class of participants in the BSAI longline catcher/processor subsector—the 2005 Consolidated Appropriations Act (Pub. L. 108–447), regulatory amendments allocating a specific quantity of Pacific cod resources in the BSAI to the defined class of longline catcher/processor fishery participants—detailed in the final rule implementing Amendment 85 to the BSAI FMP (74 FR 56728, November 3, 2009), and legislation that allows BSAI longline

catcher/processor fishery participants to receive exclusive catch privileges—the Longline Catcher/processor Subsector Single Fishery Cooperative Act of 2010 (Pub. L. 111–335).

In combination, these changes created the opportunity for the participants in the longline catcher/processor BSAI Pacific cod fishery to form the FLC. Under the FLC, members in the longline catcher/processor BSAI Pacific cod fishery allocate a proportion of the available Pacific cod resources among their members based on private contractual arrangements. The FLC operates as a de facto catch share program because the coalition includes all LLP holders eligible to harvest the longline catcher/processor allocation of Pacific cod in the BSAI and together they control the harvest at a vessel/firm level through a voluntary cooperative.

The U.S. Senate stated their intent, in Section 6 of the Longline Catcher/Processor Subsector Single Fishery Cooperative Act (S. Rept. 111-250)¹⁹, that the Sector be required to pay the cost recovery fee if they formed a cooperative under that Act. Section 6 of the Senate Report is provided below:

Section 6. Relationship to the Magnuson-Stevens Act

Subsection (a) of this section makes clear that a single fishery cooperative created pursuant to this Act is intended to enhance conservation and sustainable fishery management, reduce and minimize bycatch, promote social and economic benefits, and promote safety of human life at sea consistent with the national standards for fishery conservation and management set forth in section 301(a) of the Magnuson-Stevens Act (16 U.S.C. 1851(a)).

Subsection (b) would deem the cooperative to meet the transition rule requirements of section 303A(i) of the Magnuson-Stevens Act (16 U.S.C. 1853a(i)) unless the Secretary determines otherwise within 30 days after the date of enactment of this Act.

Subsection (c) of this section would authorize the Secretary to recover reasonable costs related to the implementation and administration of a single fishery cooperative approved under this Act.

The FLC argues that they did not form a cooperative under that Act. However, because the Council has limited the fishery to only persons holding an LLP with specific endorsements, those LLP holders have formed a voluntary cooperative, those LLP holders have acted jointly to take a federal loan as part of a license buyback program, and the Council has set aside a percentage of the TAC for those vessels, freezer longline vessels that harvest BS or AI Pacific cod from the DFA are considered to be subject to cost recovery.

Vessels fishing under the FLC require a higher level of monitoring to ensure accurate reporting of the catch allocated to the subsector than longline catcher vessels fishing with BS or AI Pacific cod endorsement. Catch share programs create new demands for enhanced catch accounting, monitoring, and enforcement.

Members of the FLC who intend to fish for Pacific cod in the BSAI or to conduct groundfish CDQ fishing in the upcoming calendar year will be required to select one of two monitoring options: carry two observers so that all catch can be sampled, or carry one observer and use a motion-compensated scale to weigh Pacific cod before it is processed. NMFS has examined both options and determined that either option will improve catch accounting on the freezer longliners and provide the data needed to properly manage the Pacific cod and groundfish CDQ fisheries. Both of these methods to improve monitoring of harvest have associated costs that are subject to cost recovery.

The 2012 NPFMC Economic SAFE (Fissel et. al., 2012) provides counts of the number of longline catcher/processors that participated in the BSAI directed Pacific cod fishery from 2008 through 2011. Data in that document indicates that 39 vessels fished in 2008, 38 in 2009, 36 in 2010, and 33 in 2011.

¹⁹ <http://beta.congress.gov/congressional-report/111th-congress/senate-report/250/1>

The BSAI Pacific cod allocations for longline catcher/processors from 2008 through 2013 are provided in Table 1-17. Over that time period the initial allocation to the longline catcher/processors was set at 48.7 percent of the Pacific cod TAC for the BSAI. Because the initial longline catcher/processor allocation is a fixed percentage of the BSAI Pacific cod TAC over the reported time period, the overall BSAI Pacific cod TAC exhibited the same trend as the longline catcher/processor allocation. The final allocation is greater, because Pacific cod that is projected to be unused by other sectors is rolled over to the longline catcher/processors.

Table 1-17 Pacific cod allocation to longline catcher/processors 2008 through 2013.

Year	Initial Allocation (mt)	Rollover (mt)	Final Allocation (mt)
2008	73,844	2,230	76,074
2009	76,375	7,700	84,075
2010	73,000	190	73,190
2011	98,733	1,120	99,853
2012	113,106	5,000	118,106
2013	112,671	n/a	n/a

Source: Table 5 of NMFS BSAI annual harvest specifications²⁰

1.6 Persons and Permits

The section above provided background information on each of the fisheries considered to be subject to cost recovery under this action. This section is provided to explicitly discuss the person that represents groups of vessels and the permit that allocates fish for the exclusive use by that person. The individuals that are responsible for submitting the cost recovery fee on behalf of those granted exclusive harvesting privileges are also discussed.

1.6.1 Amendment 80

Each Amendment 80 cooperative is required to submit an application for Cooperative Quota (CQ) permits. This application must be submitted annually and received by NMFS (or postmarked) no later than 1700 hours A.L.t. on November 1 of the year prior to the year for which the applicant wishes to participate in an Amendment 80 fishery. The CQ permit application has several requirements including identifying the cooperative, members of the cooperative, vessels and LLPs in the cooperative, and the certification of the cooperative's authorized representative. The Cooperative Authorized Representative must sign and date the application certifying that all information is true, correct, and complete to the best of his/her knowledge and belief. The cooperative members must include explicit authorization for the Cooperative Authorized Representative to complete the application on behalf of the members of the cooperative.

In the Amendment 80 sector, the annual cooperative quota permit is the permit that NMFS issues. That CQ permit defines the amount of each Amendment 80 DFA that is allocated to each cooperative. The FR notice then notifies the public of the metric tons of AI Pacific ocean perch (541, 542, and 543), Atka mackerel (541, 542, and 543), BSAI Flathead sole, BSAI rock sole, BSAI yellowfin sole, and BSAI Pacific cod each cooperative may harvest. This allocation amount is specified in Table 4, Table 5, and Table 8 of the 2013 FR notice.

²⁰ http://alaskafisheries.noaa.gov/sustainablefisheries/specs13_14/bsaitable5.pdf

The person responsible for submitting the cost recovery fee is the Cooperative Authorized Representative on behalf of the members of the cooperative. Since all cooperative members must authorize this person as their official representative, this person would be defined as the official contact for the cooperative.

1.6.2 CDQ

Two options are considered for the defining the person required to submit the cost recovery fee required under the MSA. The CDQ nonprofit entities have commented that they prefer the second option described. The first option would define WACDA as the person responsible for the fee and the permit would be the annual Final Rule for the annual groundfish specifications. Under this option, NOAA Fisheries would submit a single cost recovery fee liability notice to WACDA, the entity defined in Section 305(i)(1)(G) of the MSA. WACDA is an administrative panel that represents the six CDQ nonprofit entities. WACDA is granted the authority under the MSA to administer those aspects of the program not otherwise addressed in Section 305(i)(1)(G) through private contractual arrangement. The executive director of WACDA, under the direction of WACDA's Board of Directors, could be responsible for submitting the cost recovery fee for all CDQ nonprofit entities. The Final Rule that sets the annual CDQ allocation would be the permit that notifies WACDA of the allocation to the CDQ program. WACDA would then be the person issued a cost recovery fee liability notice. The Executive Director and Board of Directors would be responsible for submitting the fee in a timely manner.

The second option, identified as the preferred alternative of the CDQ program members, would define each CDQ nonprofit entity as the person issued an annual allocation and subject to cost recovery fee billing. That allocation is defined in the allocation matrix²¹ and is based on the percentage of each CDQ species that is allocated to the six CDQ nonprofit entities. The information in that document represents the permit that allows each CDQ nonprofit entity to harvest their individual allocation. This option requires NMFS to issue six CDQ cost recovery fee liability notices, which could marginally increase the cost of the program. However, the modest increase associated with individual billing makes each group accountable to NMFS for submitting their own portion of the total CDQ cost recovery fee. If one group does not submit their fee, other groups would still be eligible to be issued their entire allocation for the following year. Based on historic behavior under the crab cost recovery program, all CDQ groups have submitted their fees on time. That trend is anticipated to continue for these fees, but making each group responsible for their own fees reduces the negative impacts a person would realize from the actions of another.

1.6.3 AFA and AI Pollock

Throughout this section the permit is referenced as Table 3 of the FR Notice Vol. 78 No 41 p. 13818 of the Final Rule for Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands; 2013 and 2014 Harvest Specifications for Groundfish. It is important to note that if NMFS reallocates the projected unused amounts of the Aleut Corporation's pollock directed fishing allowance from the Aleutian Islands subarea to the Bering Sea subarea directed fisheries, those fish are subject to the AFA cost recovery fee. Changes to Table 3 of the final 2013 and 2014 harvest specifications for groundfish in the Bering Sea and Aleutian Islands (78 FR 13813, March 1, 2013) and reallocation (78 FR 14932, March 8, 2013) can be found at: Table 3: http://alaskafisheries.noaa.gov/sustainablefisheries/specs13_14/BSAItable3.pdf

1.6.3.1 AFA Inshore

Each year, by December 1, members of the AFA inshore fleet must complete and submit to NMFS an application²² for an American Fisheries Act (AFA) Inshore Catcher Vessel Cooperative Permit. That permit

²¹ <http://alaskafisheries.noaa.gov/cdq/allocations/annualmatrix2013.pdf>

²² <http://alaskafisheries.noaa.gov/ram/afa/afacoop.pdf>

application notifies NMFS of the catcher vessels that applied for membership in the cooperative. NMFS then issues an inshore cooperative permit to that cooperative that defines the percentage of the BS subarea pollock allocation that members of the cooperative may harvest. Therefore, in the inshore sector, the person issued the permit is the inshore cooperative. The designated cooperative representative is the individual responsible for submitting the cost recovery fee to NMFS in a timely manner. Private notice of the permit to harvest a specific amount of the pollock fishery is NMFS' approval of the permit application. Public notice of the annual harvest privilege is provided in the annual harvest specifications FR Notice. That notice directs persons to tables posted on the NMFS website for the pollock allocations to the BS subarea inshore pollock cooperatives and open access sector (<http://alaskafisheries.noaa.gov>). An example of that reference is shown in Table 1-18.

Table 1-18 Persons that represent the inshore AFA entities

COOPERATIVE NAME	AFA COOP ID	REPRESENTATIVE	BS SUBAREA ALLOCATION %
AKUTAN CATCHER VESSEL ASSOCIATION	101	CHRISTIAN ASAY	32.263
ARCTIC ENTERPRISE ASSOCIATION	102	CHRISTIAN ASAY	0
NORTHERN VICTOR FLEET COOPERATIVE	103	PAT HARDINA	9.684
PETER PAN FLEET COOPERATIVE	104	MIKE MARTIN	2.347
UNALASKA FLEET COOPERATIVE (ALYESKA)	105	KLINE, CHRIS	11.041
UNISEA FLEET COOPERATIVE	106	JOSEPH SULLIVAN	26.483
WESTWARD FLEET COOPERATIVE	107	MARCUS ALDEN	18.183

Source: <http://alaskafisheries.noaa.gov/sustainablefisheries/afa/13bsaicoopallocations.pdf>

1.6.3.2 AFA Mothership

The mothership sector is annually assigned 10 percent of the BSAI directed pollock quota (Section 206(b) of the AFA). The AFA requires a “cooperative of the whole”, rather than separate and distinct cooperatives associated with each mothership, in the sector. Each catcher vessel has a cooperative share representing its percentage share of the mothership sector’s pollock allocation. The subdivision of that quota to each qualified vessel is defined under the provisions of the Mothership Fleet Cooperative Agreement.

All nineteen of the vessels that have been issued an AFA permit by NMFS to harvest pollock from the AFA mothership allocation are members of this cooperative and are bound by the terms of the cooperative’s membership agreement. All catcher vessels permitted to harvest pollock from the AFA mothership allocation have formed a cooperative which means they are considered a person under the MSA. Therefore, the person allocated a percentage of the BS pollock fishery is the Mothership Fleet Cooperative, which is the association (or MSA “person”) of all catcher vessels that have been issued an AFA permit with a mothership endorsement by NMFS. The permit that allows this person to fish the specified number of metric tons of BS pollock annually is Table 3²³ of the final rule for BSAI groundfish harvest specifications²⁴.

1.6.3.3 AFA Catcher/processor

²³ That is the table number in the 2013 final rule. The permit is issued each year, but the table number may change if the final rule is restructured.

²⁴ FR Notice Vol. 78 No 41 p. 13818 of the Final Rule for Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands; 2013 and 2014 Harvest Specifications for Groundfish.

Regulations at § 679.20(a)(5)(i)(A) allocate 40 percent BS subarea pollock to the AFA catcher/processor sector as a DFA, after subtracting the CDQ DFA (10 percent) and the ICA (3 percent). That allocation is then further divided by AFA catcher/processers and catcher vessels that deliver to catcher/processers. Pursuant to § 679.20(a)(5)(i)(A)(4), not less than 8.5 percent of the DFA allocated to listed catcher/processers shall be available for harvest only by eligible catcher vessels delivering to listed catcher/processers. Table 3 of the annual harvest specification's Final Rule is the permit that grants these vessels exclusive use of that portion of the BS pollock DFA.

The catcher/processers listed by name in Section 208(e) of the AFA formed the Pollock Conservation Cooperative. The catcher/vessels that may deliver to the catcher/processers formed the High Seas Catcher's Cooperative. These vessels are granted exclusive access to 99.5 percent of the BS pollock DFA granted AFA catcher/processers. The owners of these vessels then allocate shares of the catcher/processor allocation through cooperative agreements. The members of the two cooperatives that represented all these vessels reached an agreement in 1999 to facilitate management and accurate accounting between the two cooperatives. Under that cooperative agreement, the PCC and HSCC established a Joint Harvest Schedule and agreed to retain the same independent quota monitoring service. The Cooperative Agreement governs the harvest and processing of the HSCC members' share of the BS directed pollock fishery and the transfer of pollock allocations between members of the two cooperatives. The "Cooperative Agreement Between Offshore Pollock Catchers' Cooperative and Pollock Conservation Cooperative" creates an entity that is considered a person under the MSA.

To facilitate the collection of cost recovery fees, members of the PCC and HSCC must identify in their annual cooperative report to NPFMC/NMFS the individual that has been given the authority to represent the collective members of those entities. That individual will be the cooperative contact for NMFS regarding the cost recovery fee payments of the PCC and HSCC cooperative members.

Pursuant to § 679.20(a)(5)(i)(A)(4)(iii), the AFA unlisted catcher/processor is limited to harvesting not more than 0.5 percent of the catcher/processers sector's allocation of pollock. The Ocean Peace is qualified to harvest the defined amount of BS pollock from the catcher/processor DFA under that provision. That vessel is not part of the PCC or the combined cooperative and is not given exclusive use privilege under the AFA for any amount of pollock. If the vessel is used to harvest BS pollock from the DFA, the owner or a designated representative will not be required to submit a cost recovery fee for the those landings, because they are not issued exclusive use of those fish. That vessel is part of the Amendment 80 program, and the costs incurred by NMFS to accurately account for all of the harvest of that vessel will be included in the Amendment 80 costs. Also all enforcement costs associated with that vessel will be attributed to the Amendment 80 program, since the majority of enforcement costs would be incurred in that fishery.

1.6.3.4 AI Pollock

Pursuant to § 679.20(a)(5)(iii)(B)(2)(i) and (ii), the annual AI pollock TAC, after subtracting first for the CDQ directed fishing allowance (10 percent) and second the ICA (1,600 mt), is allocated to the Aleut Corporation for a directed pollock fishery. Their allocation is defined in Table 3 of the Final Rule for Harvest Specifications. If the Aleut Corporation, or their representatives, harvests from this allocation they are subject to the cost recovery fee for the pounds harvested. Harvesting vessels and processing entities are nominated by the Aleut Corporation but must be approved by NMFS. Unless specifically exempted, nominees must have all federal permits required to participate in the AI Pollock fishery. The person issued the permit is the Aleut Corporation. The authorized representative designated by the Aleut Corporation is responsible for submitting any cost recovery fee. The permit is the Final Rule for annual Harvest Specifications (Table 3). As discussed earlier, if the AI pollock allocation is rolled over into the BS, the AFA sectors that harvest those fish will be responsible for the cost recovery fee.

1.6.4 Freezer Longliners

The person that represents all eligible freezer longline LLP holders could be defined two ways. The broad definition of a person under the MSA would allow either borrower of the \$35.7 million capacity reduction loan, authorized by the FY 2005 Appropriations Act, or the Freezer Longline Conservation Cooperative to be the person.

Regulations at § 600.1000 defines a borrower under a capacity reduction loan program to mean, individually and collectively, each post-reduction fishing permit holder and/or fishing vessel owner fishing in the reduction fishery. The post reduction fishery includes all permit holders that make landings of BS or AI Pacific cod from the freezer longline directed fishery allocations²⁵. The “borrower,” which is all permit holders bound to repay the loan because they make landings in a fishery benefited by a capacity reduction program, is an “other entity” under the definition of “person” under the MSA.

A second option is to define the members of the Freezer Longline Conservation Cooperative (FLCC) as the person subject to cost recovery. During the Council’s October 2012 meeting it took action to adjust the maximum length defined on freezer longline vessels LLPs. That analysis described the cooperative formed by these LLP holders.

“Since 2006, most of the holders of LLP licenses endorsed as Pacific cod hook-and-line catcher processors in the BSAI have been members of the voluntary Freezer Longliner Conservation Cooperative (FLCC). In June 2010, the remaining LLP holders joined the cooperative, so that with the start of the 2010 B season on August 15, all holders of LLP licenses authorizing the use of these vessels were members of the cooperative. Each year, an allocation is made to the BSAI freezer longline catcher processor sector through the annual harvest specifications process. FLCC members each receive a share of the quota for harvest; shares are issued in proportion to historical fishing activity associated with each LLP. FLCC members are free to exchange their quota shares among themselves, and to stack quota shares on individual vessels. Compliance with the agreement is monitored by SeaState, Inc., and the contract, signed by the members, imposes heavy financial penalties for non-compliance. Dissolution of the cooperative requires the agreement of an 85% supermajority of LLP license holders.” (NPFMC, 2012).

The purpose of the cooperative is defined as administering the fee adjustment for the vessel buy-back completed in 2007, per the terms of the vessel capacity reduction legislation and creating a structure for the intelligent and orderly harvest of Pacific cod. The orderly harvest of Pacific cod has resulted in each member of the FLC being allocated an amount of the fish available. The FLC has also hired a “Quota Manager” to help the members efficiently oversee the use of freezer longline BSAI Pacific cod allocation.

Because members of the cooperative represent all LLPs that are allow the license holder to fish BS or AI Pacific cod allocated to freezer longliners, the cooperative is considered the person with the exclusive privilege to harvest that allocation. That person is issued an annual permit, in the form of the Final Rule for BSAI harvest specifications that define the amount of Pacific cod that person may harvest from the BS and AI DFA. For 2013 the allocation is defined in Table 5 of the Final Rule for BSAI groundfish harvest specification.

As part of this action, a designated representative of all LLP holders, with the appropriate endorsements, must submit a letter to NMFS by November 1 of each year that notifies the Regional Administrator for the Alaska Region of the individual that is responsible for submitting the cost recovery fee payment. This letter

²⁵ All long-line catcher processors harvesting non-pollock groundfish are required to pay and forward a fee to NMFS to repay the loan. The original fee assessment was \$0.02 per pound caught with payment and collection beginning on October 24, 2007, which has since been reduced to \$0.015.

must be submitted on behalf of all the LLP holders that are authorized to harvest BS or AI Pacific cod with a freezer longline vessel.

1.6.5 Program's Impact on Cooperative Transparency

At its October 2013 meeting the Council reviewed a draft of the Cost Recovery Fee amendment. Members of the Council expressed their concern that implementing the cost recovery program using the person and permit definitions for some cooperatives could increase the incentives for these fishery participants to reduce the transparency of their cooperative to avoid paying the cost recovery fee. The Council then requested that NMFS explore options to define the person and permit so mitigate those actions.

In response to that request, the definitions of person and permits were reviewed. NMFS has determined that without modifying the program structures, or perhaps creating additional permits or persons, a superior option was not identified. NMFS staff had previously discussed the costs and benefits of issuing new permits to the listed AFA catcher/processors and members of the Freezer Longline Coalition. Annually issuing permits to cooperatives would create additional burden on the agency and permit holders that was felt to be unnecessary. The permit and person have already been identified and issuing an additional permit would not create new cooperative requirements for transparency, unless additional regulations were implemented. It is not NMFS's intent to modify the structure or requirements of the LAP programs and CDQ programs beyond those necessary to collect the cost recovery fee. However, NMFS understands that persons could choose to leave a cooperative and operate in open access to avoid paying the cost recovery fee. Movement from cooperatives to open access could alter the methods that NMFS uses to manage that portion of the annual allocations and, perhaps, the communication between members of the fleets.

If the Council is concerned that implementing a cost recovery fee will cause the transparency of the cooperatives to be reduced, it could consider implementing additional reporting requirements that listed AFA catcher/processors, catcher vessels with an AFA permit that deliver to motherships, owners of freezer longline vessels that hold an LLP for the BSAI Pacific cod fishery, and Amendment 80 permit holders are required to submit on an annual basis. This report could require that those permit holders submit information that identifies 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 that they have entered into with other permit holders that may harvest or process BSAI groundfish. The report could also require that any agreements (either verbal or written) between Federal permit holders (including LLP holders) that divide any portion of the BSAI TAC or BSAI PSC allotments among individuals be reported to the Council and NMFS on an annual basis. The portion of the TAC or PSC allocated to each entity could also be required in that report. Failure to report or misreport that information could be subject to penalties.

1.7 Estimates of Ex-vessel Prices and Revenue

NMFS proposes using standardized ex-vessel values instead of actual prices which could vary by entity. The use of actual ex-vessel prices would require that persons subject to cost recovery fees document and report all landings and prices. This detailed collection of data would increase the costs associated with the program and increase the burden on persons providing the data. Based on experience with the halibut and sablefish IFQ program, where IFQ holders may use either standard ex-vessel prices generated by NMFS or actual ex-vessel prices, very few IFQ holders subject to fee collection have used actual prices. The BSAI crab fee collection program does not provide for the use of actual ex-vessel price and NMFS applies a standard price to crab landings on a monthly basis.

Prices will be determined using different methods for CDQ halibut and sablefish and groundfish harvested under other programs. ADFG fish ticket (eLandings) price data will not be used to determine standard prices. The State of Alaska does not require the reporting of prices on fish tickets. Using only the prices

reported on fish tickets may lead to biased estimates of ex-vessel prices. In cases where price is reported on fish tickets, they do not necessarily reflect complete price information. Bonuses paid after the landing is made may not be reflected on fishticket. Because of these weaknesses in the fishticket price data that information is not intended to be used as an indication of the ex-vessel value of Alaska's fisheries.

The use of COAR (Commercial Operator Annual Report) is considered as an option to determine standard prices. COAR does report all landings and retro payments, but the timing of the COAR submission means that those data are not available when the standardized prices must be announced for the current year. In addition, COAR are aggregated for all vessels delivering to a processor and could not be used to separate landings made by vessels that are subject to cost recovery and those that are not. However, COAR data could be used as a proxy for the prices vessels receive for their harvest. A benefit of COAR data is that it would not require additional data collection. For the BSAI pollock and longline Pacific cod fisheries, where the quantity of harvest, using standard prices, determines an entities' fee liability, this option has been identified as the preferred alternative.

This action considers three different methods to determine standard prices for groundfish (except fixed gear CDQ sablefish harvests). Two options would collect additional and timely data, as necessary, to meet the MSA mandated cost recovery program structure. The third option would calculate the standard ex-vessel price using a methodology similar to that used by the State of Alaska for landing tax calculations.

Standard ex-vessel prices would need to be applied to the catcher/processors because these vessels process their catch at sea and the first market price is the first wholesale price. Because they process their own catch there is no market that establishes an ex-vessel price. Therefore, a proxy of the ex-vessel price must be estimated for some groundfish species. That methodology is described in Section 1.7.2.

1.7.1 CDQ Halibut and Sablefish

This amendment proposes that the CDQ cost recovery fees for halibut and sablefish be based on the standard ex-vessel prices calculated and reported by NMFS for the IFQ cost recovery fee. The cost recovery fee liability in the halibut and sablefish IFQ fishery is based on the sum of all payments made to fishermen for the sale of the fish during the year, by month and port. This includes any retro-payments (e.g., bonuses, delayed partial payments, post-season payments) made to the IFQ permit holder for previously landed IFQ halibut or sablefish. For purposes of calculating IFQ cost recovery fees, NMFS distinguishes between two types of ex-vessel value: actual and standard. Actual ex-vessel value is the amount of all compensation, monetary or non-monetary, that an IFQ permit holder received as payment for his or her IFQ fish sold. Over time most individuals have based their cost recovery fee payment on the standard ex-vessel price. Therefore, it is proposed that for the purpose of CDQ cost recovery all fees be based on the default standard ex-vessel value for the areas the landings were made.

Using actual value is provided for in the halibut and sablefish IFQ cost recovery program. The use of actual values requires additional administrative costs by NMFS to review and consider those actual costs. Regulations at § 679.45(c)(2)(i) require the Regional Administrator to publish IFQ standard prices during the last quarter of each calendar year. These standard prices are used, along with estimates of IFQ halibut and IFQ sablefish landings, to calculate standard values. The standard prices are described in U.S. dollars per IFQ equivalent pound for IFQ halibut and IFQ sablefish landings made during the year. IFQ equivalent pound(s) is the weight (in pounds) for an IFQ landing, calculated as the round weight for sablefish, and headed and gutted net weight for halibut. NMFS calculates the standard prices to closely reflect the variations in the actual ex-vessel values of IFQ halibut and IFQ sablefish landings by month and port or portgroup. Data from ports are combined as necessary to protect confidentiality. Because of the limited number of halibut and sablefish processors in the rural communities, prices must be aggregated into portgroups. It is proposed that standard Bering Sea price calculated for the IFQ cost recovery program be used for CDQ cost recovery fees. Using existing prices would reduce the costs associated with developing a new data collection system.

Table 1-19 reports the 2009 through 2011 Bering Sea halibut standard price²⁶ by month and the estimate of total ex-vessel value that would be subject to the cost recovery fee. The actual amount of cost recovery fee will depend on the fee percentage that is set annually by the Regional Administrator.

Table 1-19 CDQ halibut Bering Sea standardized ex-vessel prices, value, and participation (2009 through 2011)

Year	Month	Vessels	Processors	Net Weight Pounds	FR Notice Cost	Standardized	2011 Price	2011 Value
					Recovery BS Price	BS Ex-vessel Value		
2009	5	3	1	*	\$2.32	*	\$6.32	*
2009	6	146	16	197,667	\$2.53	\$500,098	\$6.40	\$1,265,069
2009	7	181	12	532,395	\$2.54	\$1,352,283	\$6.42	\$3,417,976
2009	8	86	11	396,499	\$2.63	\$1,042,792	\$6.59	\$2,612,928
2009	9	25	5	289,833	\$2.64	\$765,159	\$6.69	\$1,938,983
2009	10	17	6	165,213	\$2.64	\$436,162	\$6.69	\$1,105,275
2009	11	4	3	*	\$2.64	*	\$6.69	*
2009 Total				1,658,708		\$4,299,879		\$10,855,849
2010	5	7	4	*	\$4.09	*	\$6.32	*
2010	6	115	13	260,970	\$4.21	\$1,098,684	\$6.40	\$1,670,208
2010	7	174	11	786,385	\$4.50	\$3,538,733	\$6.42	\$5,048,592
2010	8	116	11	365,979	\$4.66	\$1,705,462	\$6.59	\$2,411,802
2010	9	29	7	250,444	\$4.60	\$1,152,042	\$6.69	\$1,675,470
2010	10	17	6	142,182	\$4.60	\$654,037	\$6.69	\$951,198
2010	11	2	2	*	\$4.60	*	\$6.69	*
2010 Total				1,876,951		\$8,449,279		\$12,213,164
2011	5	11	5	71,315	\$6.32	\$450,711	\$6.32	\$450,711
2011	6	174	12	399,160	\$6.40	\$2,554,624	\$6.40	\$2,554,624
2011	7	201	12	694,454	\$6.42	\$4,458,395	\$6.42	\$4,458,395
2011	8	69	12	262,301	\$6.59	\$1,728,564	\$6.59	\$1,728,564
2011	9	27	6	222,203	\$6.69	\$1,486,538	\$6.69	\$1,486,538
2011	10	30	12	368,932	\$6.69	\$2,468,155	\$6.69	\$2,468,155
2011	11	3	3	56,048	\$6.69	\$374,961	\$6.69	\$374,961
2011 Total				2,074,413		\$13,521,947		\$13,521,947

Source: AKFIN summary of vessels, processors, and weight. FR notice standardized prices.

1.7.2 Groundfish

1.7.2.1 Methods for Estimating Groundfish Ex-vessel Prices

Estimates of ex-vessel prices will be determined using information provided by the processors of groundfish harvested under the AFA, AI pollock, Amendment 80, CDQ allocations. Three general methods are considered for how those data are collected and aggregated. The first would implement data collection using new volume and value reports. The second method would use COAR data to estimate prices. The third method would use the price estimated by the State of Alaska for the collection of landings taxes. Input from the affected members of industry indicated that they support using annual COAR data to estimate prices for the AFA and Freezer Longline Pacific cod fisheries. Because they are single species fisheries the quantity of harvest determines the cost recovery fee, when standard prices are used. Since the estimates of the cost recovery fee are less than the 3 percent limit, the price does not affect the fee liability of each entity. The CDQ groundfish and Amendment 80 programs support the use of **annual** volume and value reports for all species except rock sole. Rock sole volume and value would be reported once each year but separate volume

²⁶ Landing locations within the 2011 Bering Sea portgroup: Adak, Akutan, Akutan Bay, Atka, Bristol Bay, Chefnak, Dillingham, Captains Bay, Dutch Harbor, Egegik, Ikatan Bay, Hooper Bay, King Cove, King Salmon, Kipnuk, Mekoryuk, Naknek, Nome, Quinhagak, Savoonga, St. George, St. Lawrence, St. Paul, Togiak, Toksook Bay, Tununak, Beaver Inlet, Ugadaga Bay, and Unalaska.

and value information for the first quarter and aggregated volume and value for the three subsequent quarters.

Volume and value reports

When an ex-vessel price is paid to the harvesting vessel for delivering unprocessed fish, data could be collected from the processor using an ex-vessel volume and value report for pollock and Pacific cod. The structure of these reports will be similar to that developed for the Central Gulf of Alaska Rockfish Program. Volume and ex-vessel value information could be collected from shoreside processors, motherships, or catcher/processors that take deliveries from a vessel harvesting the fish. The reports will collect the following information.

Shorebased or Mothership Processor Identification

1. Name of shoreside processor, mothership, or catcher/processor taking deliveries, as the first processor, from another vessel that harvested the fish.
2. Federal Processor Permit (FPP) number
3. Enter NMFS person ID
4. Business Mailing Address, including zip code.
5. Business telephone number (including area code)
6. Business fax number (including area code)
7. Business e-mail address.
8. Port location where landings occurred. At-sea landings would be a separate port.

Certification

1. Name of the shoreside processor, mothership, or catcher/processor or the Authorized Representative.
2. Signature of authorized shoreside processor, mothership, or catcher/processor representative.
3. Date the application was signed.

Program Pounds Purchased and Ex-Vessel Value Report

For each species subject to cost recovery the processor must submit the following information by gear used to harvest the fish (fixed or trawl).

- 1) Pounds (round weight) purchased and
- 2) Total gross ex-vessel value paid.

This information would be collected once each year. The information requested could be submitted either aggregated over the entire year, quarterly, or monthly.

Volume and value information will be summarized to estimate an average ex-vessel price for species harvested and delivered to processors. The standardized prices will be applied to all landings of a species that is subject to the cost recovery fee (except when the fish is processed into fish meal) by that sector or the most similar sector. The analysis assumes that pollock and Pacific cod prices would be based on inshore deliveries. Species that are harvested primarily by catcher/processors would collect through a first wholesale volume and value report. That data would be used for species when insufficient ex-vessel price data is available.

In the BSAI pollock fisheries, the weighted average ex-vessel price from all inshore pollock deliveries would be applied to all pollock catch. Because the same price is applied to everyone in the sector and each sector is responsible for their own costs, the standardized ex-vessel price only impacts the total fee a person pays when the cost recovery fee's 3 percent limit is a constraint. Otherwise, a lower standardized price means the fee percentage would be slightly higher. Alternatively a higher standardized price means the fee percentage is smaller. The 3 percent costs recovery fee constraint is not likely to be reached in the pollock fishery given the estimated recoverable costs and the value of the fishery.

Volume and Value reports would need to be submitted to NMFS by November 1st. Reports must include activity by month for January through October. Submission by this date is necessary to provide NMFS adequate time to compile the data and prepare and file an FR notice by December 1st. The fee would then be due by December 31st so that allocations for the next fishing year could be released prior to the start of fishing.

The remaining species included in the proposed cost recovery programs are exclusively (or almost exclusively) harvested in directed fisheries by catcher/processors that process their own catch. BSAI flatfish species and Atka mackerel allocated to the Amendment 80 and CDQ programs fall under this category. When the fishery is exclusively, or almost exclusively, harvested by catcher/processors, no reliable ex-vessel price can be estimated. The first arm's length transaction that occurs under these conditions is the first wholesale price. The MSA mandates that cost recovery fees be based on the ex-vessel value of fish. Given that there is no reliable ex-vessel price generated for some species, that price must be estimated.

The Alaska Fisheries Science Center has traditionally estimated a proxy for the ex-vessel value of catcher/processor harvests, when sufficient arm's length ex-vessel data are not available. Science Center staff considers groundfish that are not well-represented by deliveries to shoreside processors to be trawl-caught Atka mackerel, flatfish, rockfish (including Pacific Ocean perch), and sablefish in the BSAI. Historically, these species have been delivered to shoreside processors in such small amounts that processors have not set up production lines to process the fish into valuable products, so they pay the harvester about a penny per pound and send the fish directly to the meal line. Using such low prices as the basis to estimate ex-vessel prices and values underestimates the ex-vessel value to catcher/processors.

Since at least the late 1990s, Science Center staff has imputed an ex-vessel price for fish in this category based on a fraction of the processed-product price. This imputed price (sometimes referred to as a 'proxy price') is the value of processed products for the at-sea sector divided by the retained round-weight of catch and multiplied by a factor of 0.4 to correct for value added by processing. In this analysis the wholesale price of each species is calculated by dividing the sum of the product values by the round weight of the fish used to create those products.

The formula below represents the calculation. Where EP_i is the ex-vessel proxy price for each species (i). $ProdV_j$ is the product value for all the products (j) through (n) produced from that species (i). RW_i is the round weight of species (i) used to produce the products ($ProdV_j$).

$$EP_i = 0.4 * \frac{\sum_j^n ProdV_j}{RW_i}$$

Processed product values and round weights are derived from the First Wholesale Monthly Volume and Value reports. The 0.4 factor was chosen after examining the ratio of ex-vessel prices to head-and-gut (H&G) processed-product prices for species (primarily Pacific cod) for which we have abundant data on both prices. An analysis was performed early in 2011 that shows that, while the ratio of ex-vessel price to H&G product price for Pacific cod varies considerably from year to year, the long-term average of the ratio is very close to 0.4.

Basing the proxy ex-vessel price on a fraction of the first wholesale price means that the 3 percent limit applied to the ex-vessel value under Section 304(d) is essentially a 1.2 percent limit applied to the first wholesale value of these fish. Until sufficient market based transactions at the ex-vessel level occur, this methodology will serve as the best proxy for keeping the fee within the 3 percent limit specified under Section 304(d).

The remaining problem with this approach is the timing of price data collection and correlating landings data with sales data. COAR reports are not required to be submitted until April 1 of the calendar year after the fish

were harvested and collects only annual value data. The proposed cost recovery program requires fees for the previous year to be paid before the Cooperative Quota or CDQ are issued. This means that price data would need to be submitted several months prior to release of COAR data. Amendment 80 Economic Data Reports are not required to be submitted until June of the year after fishing occurred (Section 1.8). So, the data collection instruments for catcher/processor revenue are neither timely nor concise enough for the proposed cost recovery program. Therefore, the Amendment 80 catcher/processors and the at-sea processors for the CDQ groups will be required to submit monthly production and value data for Amendment 80 and CDQ harvests (excluding Pacific cod). The reports will collect the following information.

Catcher/processor Identification

1. Name of catcher/processor harvesting and processing the fish.
2. Federal Processor Permit (FPP) number
3. Enter NMFS person ID
4. Business Mailing Address, including zip code.
5. Business telephone number (including area code)
6. Business fax number (including area code)
7. Business e-mail address.

Certification

1. Name of the catcher/processor or the Authorized Representative.
2. Signature of authorized catcher/processor representative.
3. Date the application was signed.

Program Pounds Processed, Products Produced, Pounds Sold, and First Wholesale value of Pounds Sold

For each species subject to cost recovery the catcher/processor must submit, by gear type used to harvest the fish (fixed or trawl), the information below. The information must be submitted for each species that is subject to cost recovery, and the report would be submitted once per year. NMFS preferred alternative is to collect data that is aggregated over the entire year. However, options are included for the annual submission to break down harvest and revenue my month or quarter. These options are included to provide stakeholders the opportunity to comment on the benefits or detriments of various options.

- 1) Pounds (round weight) harvested
 - a. Option 1: Annual (preferred alternative for all species except rock sole)
 - b. Option 2: Quarterly (preferred alternative for rock sole)²⁷
 - c. Option 3: Monthly
- 2) Total first wholesale gross revenue species (including an estimated first wholesale value for species harvested during that time period but not sold). The time period for reporting revenue must match the time period reported for pounds, by species.
 - a. Option 1: Annual (preferred alternative for all species except rock sole)
 - b. Option 2: Quarterly (preferred alternative for rock sole: see footnote for pounds)
 - c. Option 3: Monthly

This information will be aggregated by species to generate a standardized gross ex-vessel, round weight, price using the method described earlier. Those prices will be provided to the fishing industry through a Federal Register notice. The notice will provide sufficient time for the entities liable for the fee, to submit the fee by the deadline.

²⁷ Quarterly means the first quarter and the three subsequent quarters combined. The first quarter is separated from the three subsequent quarters to account for the price difference in the roe fishery.

COAR Data (estimate shoreside prices by gear type)

COAR data collects information on the groundfish fishery based on fish purchased by the processor (Form I) and production information (Form J). If a vessel operates as a catcher processor they are directed not to complete the buying information section of the report. The buying section of the COAR report collects data on the species, area, gear, delivery code, pounds purchased, and total amount paid. This information could be used to estimate the ex-vessel value of a species if processors purchased a sufficient amount of that species such that the price calculated represents the market value of the species. Catcher/processors file the production report. Information collected on that report includes the species processed, area, product produced, quantity of product produced, and the value of the finished product. Production information does not include information on the gear used to harvest the species.

The preferred alternative for AFA pollock and Freezer Longline Pacific cod would be to use the COAR reports for shorebased deliveries for BSAI pollock harvested with trawl gear and BSAI Pacific cod harvested with hook and line gear. This information would be used to estimate the standard price and would not require the collection of volume and value reports for those two fisheries. Industry members are aware that using COAR data apply prices from the previous year to current year's harvests, and support this approach to reduce their reporting burden.

COAR data (use State of Alaska Landings Tax Standard Prices)

Using a system developed by the State of Alaska to estimate prices would also mean that prices are not generated based on the gear type used to harvest a species. The 2012 standard ex-vessel prices estimated by the State of Alaska for species included under this amendment are reported in Table 1-20.

Table 1-20 2011 and 2012 Statewide average prices for Alaska landing tax.

Groundfish species	2011	2012
Pollock	\$0.17	\$0.18
Sablefish	\$7.67	\$6.19
Pacific cod	\$0.32	\$0.34
Atka Mackerel	\$0.05	\$0.10
Yellowfin Sole	\$0.02	\$0.02
Rock Sole	\$0.22	\$0.21
BS Greenland Turbot	\$0.21	\$0.04
Arrowtooth Flounder	\$0.05	\$0.06
Flathead Sole	\$0.11	\$0.11
Pacific Ocean Perch	\$0.17	\$0.26

Source: Alaska Department of Revenue, Tax Division 2012 and 2013.

The prices reported above are relatively close to the 2011 prices estimated in this paper for pollock and Pacific cod (on average), since the method to estimate the prices uses a similar approach. However, the Pacific cod price averages the fixed gear and trawl gear prices. The result is that the standard Pacific cod value in this table is slightly less than the price estimated for fixed gear landings in this document. Conversely, trawl values are slightly overestimated in Table 1-20 when compared to the estimates later this paper. The flatfish (except rock sole), Pacific ocean perch, and Atka mackerel prices tend to be substantially lower in Table 1-20 than estimated later in this paper.

The above information could be interpreted to mean that the method to determine standard prices will have the greatest impact on fee payments in the Amendment 80 and CDQ sectors. For single species programs (AFA and FLC) the standard price determines the fee percentage. The price has a real distributional effect only when the fee percentage reaches the 3 percent limit. Because the fee percentage limit is not projected to

be a constraint in either program, the using the COAR data or the Volume and Value reports has little overall impact. Because of the difference in the price estimated using the COAR data approach and the Volume and Value report approach, the selection of the standard price mechanism is more likely to have a distributional impact on the amount of cost recovery liability each entity has in multispecies fisheries like the Amendment 80 and CDQ programs.

Fish Meal

When 2013 standard prices were estimated for the Observer Program, the issue was raised whether fish sent to the fish meal plant should be included in the price calculation. Including fish whose end product is reported as fish meal lowers the average price. Excluding these fish increases the overall price, but decreases the pounds of fish included in the calculation. This issue is most important for species that have a relatively high value. For example, sablefish and some other species still have a relatively high average price when pounds associated with fish meal are included. The price of sablefish (in this example) sent to the fish meal plant is valued by the harvesters at zero or just pennies per pound. Applying the standard price would value those fish at a much greater value. To avoid over charging for some high valued species it is proposed that all fish processed into meal have a single standard price. All fish associated with the production of fish meal in the delivery code (32) or the disposition code (41) would be considered a “species” when determining ex-vessel prices. That “meal” species would have a single price and that price would be applied to any fish in this class, regardless of biological classification of the species.

1.7.2.2 Groundfish Ex-vessel Price and Gross Revenue Estimates by Species

Each of the groundfish species that is allocated to a LAP program or CDQ program is discussed below in terms of how the ex-vessel price will be generated. Price and value estimates are then provided. Pollock and Pacific cod data provided in this analysis are not generated using the proposed methodology, because monthly volume and value reports are not currently required. Pollock and Pacific cod account for the majority of groundfish fishery revenues. Implementing that data collection program is expected to result in small changes to the ex-vessel revenue estimates for those two important species. The minor change in overall revenue may have distributional impacts on some entities, by the overall estimate of total revenue generated should be relatively minor.

1.7.2.2.1 Pollock (AFA/AI and CDQ)

BSAI ex-vessel pollock prices will be derived from the monthly ex-vessel Volume and Value Reports. Monthly data are important in the pollock fishery because of the additional value derived per pound during the late winter and early spring roe fishery. Monthly data are not available from COAR, because that data collection tool is an annual report. Fish tickets do not require the reporting of price data and data that is reported may not reflect price adjustments made after the fish was delivered. Because of these limitations in the fishticket and COAR data, additional data collection is necessary to meet the timing requirements of the cost recovery program defined by the MSA.

To apply a fee that better reflects actual ex-vessel value, monthly data are needed. Because those data are currently unavailable, the analysis of impacts will focus on annual fishery values that are currently available. However, a proxy of ex-vessel prices is presented using a fraction of the monthly first wholesale data to emphasize the importance of monthly data for some species. The annual data is used to provide an estimate of the cost recovery fee percentage that would have been required to generate the cost recovery fee in past years. Due to change in both price, quantity available, and agency costs, the fee percentage will vary annually. It is not known whether the fee percentage will be larger or smaller than the estimates provided.

Because monthly ex-vessel prices are currently unavailable, Table 1-21 shows the monthly first wholesale pollock revenue divided by the round weight and multiplied by 0.4. As discussed earlier, this methodology will not be used to estimate standardized cost recovery ex-vessel prices for pollock and Pacific cod²⁸, but it does provide an example of the importance of collecting monthly ex-vessel pollock prices. From February through April the estimated ex-vessel pollock price is from 11 percent to 24 percent greater than the annual weighted average. After April, the ex-vessel price in most months is at least seven percent less than the monthly price.

Table 1-21 Weighted average monthly (2008 through 2011) ex-vessel pollock prices (\$/round lb.)

Month	Estimated ex-vessel price (\$/lb.)			Percent of annual weighted average		
	At-sea	Shorebased	Weighted Average	At-sea	Shorebased	Weighted Average
1	0.190	0.163	0.173	15%	-9%	1%
2	0.197	0.185	0.191	19%	3%	11%
3	0.203	0.185	0.194	23%	3%	12%
4	0.170	0.247	0.213	3%	38%	24%
5	0.147	0.177	0.153	-11%	-1%	-11%
6	0.138	0.172	0.160	-17%	-4%	-7%
7	0.142	0.174	0.158	-14%	-3%	-8%
8	0.149	0.165	0.157	-10%	-8%	-9%
9	0.147	0.177	0.159	-11%	-1%	-8%
10	0.146	0.200	0.173	-11%	12%	0%
11	0.147	0.156	0.150	-11%	-13%	-13%
12	0.142	0.171	0.148	-14%	-5%	-14%
Wt. Average	0.165	0.179	0.172	n/a	n/a	n/a

Source: AKFIN summary of COAR prices appended to ELLR_SLOG and WPRs by product and processor

Table 1-22 provides estimates of average pollock ex-vessel gross revenue for the four most recent years where data are available. Shorebased deliveries accounted for an average of \$320 million and deliveries to motherships accounted for \$55 million. Combined the two sectors harvested by catcher vessels accounted for about \$375 million annually (63 percent of total). Catcher/processors were estimated to have generated \$222 million. These value estimates will be used to calculate the cost recovery fee percentage for the AFA and AI pollock fisheries.

Table 1-22 Average BSAI pollock ex-vessel gross revenues by sector, 2008 through 2011

Sector	\$ Million	%
Catcher Processors	222	37%
Motherships	55	9%
Shorebased	320	54%
Total	597	100%

1.7.2.2.2 Pacific Cod (Amendment 80, CDQ, and FLC)

Section 679.20(a)(7)(i) and (ii) allocates the Pacific cod TAC in the BSAI, after subtraction of 10.7 percent for the CDQ reserve, as follows: 1.4 percent to vessels using jig gear; 2.0 percent to hook-and-line and pot CVs less than 60 ft (18.3 m) length overall (LOA); 0.2 percent to hook-and-line CVs greater than or equal to 60 ft (18.3 m) LOA; 48.7 percent to hook-and-line catcher/processor; 8.4 percent to pot CVs greater than or equal to 60 ft (18.3 m) LOA; 1.5 percent to pot catcher/processors; 2.3 percent to AFA trawl

²⁸ This method is proposed for flatfish and Atka mackerel

catcher/processors; 13.4 percent to non-AFA trawl catcher/processors; and 22.1 percent to trawl CVs. The ICA for the hook-and-line and pot sectors will be deducted from the aggregate portion of Pacific cod TAC allocated to the hook-and-line and pot sectors. For 2011 and 2012, the Regional Administrator establishes an ICA of 500 mt based on anticipated incidental catch by these sectors in other fisheries. The Pacific cod ITAC is apportioned into seasonal allowances to disperse the Pacific cod fisheries over the fishing year (see §§ 679.20(a)(7) and 679.23(e)(5)). In accordance with § 679.20(a)(7)(iv)(B) and (C), any unused portion of a seasonal Pacific cod allowance will become available at the beginning of the next seasonal allowance.

As discussed above, the Pacific cod fishery in the BSAI is harvested by both catcher vessels and catcher/processors using fixed and trawl gear. Because catcher vessels using both gear types deliver to shorebased processors, there will be sufficient ex-vessel price data available to estimate a trawl and fixed gear prices. The standardized monthly price will be collected from shorebased processors and vessels acting as motherships (if they take deliveries) using the Pacific cod Volume and Value report. Monthly ex-vessel Pacific cod shorebased and mothership deliveries of fixed gear and trawl gear ex-vessel prices will be used as a proxy for the fixed gear and trawl gear catcher/processors, respectively.

Gear type and monthly price data are assumed to be important in the Pacific cod fishery. Pacific cod delivered by fixed gear vessels have traditionally commanded a greater price than trawl caught. Table 1-23 shows the AKFSC estimates of Pacific cod prices harvested with hook-and-line, pot, and trawl gear from 1992 through 2010.

Table 1-23 BSAI Pacific cod ex-vessel prices 1992-2011

Year	\$/lb.			\$/mt		
	Hook & Line	Pot	Trawl	Hook & Line	Pot	Trawl
1992	0.186	0.186	0.187	409	409	411
1993	0.138	0.138	0.138	304	304	304
1994	0.134	0.134	0.134	295	295	295
1995	0.168	0.168	0.167	370	370	369
1996	0.252	0.176	0.133	556	388	293
1997	0.195	0.105	0.145	430	232	320
1998	0.152	0.187	0.151	334	413	332
1999	0.281	0.269	0.236	619	593	519
2000	0.306	0.301	0.290	675	664	640
2001	0.271	0.243	0.232	598	536	511
2002	0.206	0.218	0.190	454	481	418
2003	0.287	0.291	0.268	633	641	590
2004	0.253	0.253	0.216	557	557	477
2005	0.296	0.291	0.228	653	642	502
2006	0.448	0.445	0.342	988	980	754
2007	0.498	0.492	0.425	1,097	1,085	938
2008	0.590	0.603	0.542	1,300	1,328	1196
2009	0.253	0.278	0.231	557	612	510
2010	0.262	0.299	0.223	577	659	492
2011*	0.330	0.330	0.270	728	728	595

* 2011 data includes all fixed gear for pot and H&L

Source: NPFMC Economic Safe data (from Table 18)

Cost recovery entities that participate in the spring fishery may receive higher prices than fisheries later in the year, because processors have more lines dedicated to Pacific cod processing in the spring when the Pacific cod are more aggregated and the CPUE is higher (Table 1-24). Variance in the first wholesale price for Pacific cod is by sector, in part, a result of the Amendment 80 fleet producing a lower value (but higher recovery rate) H&G product. Shorebased plant production is more diversified producing various types of fillets and minced products. So while shorebased plants have a lower product recovery rate, it is more than offset by the higher price paid for the fillets.

Table 1-24 Trawl gear monthly average Pacific cod first wholesale price (2008-2011)

Month	Weighted		
	At-sea	Shorebased	Average
1	0.410	0.988	0.821
2	0.559	0.816	0.751
3	0.767	0.862	0.830
4	0.602	0.649	0.628
5	0.610	0.530	0.588
6	0.582	0.503	0.552
7	0.508	0.486	0.500
8	0.531	0.450	0.502
9	0.545	0.462	0.515
10	0.547	0.480	0.524
11	0.562	0.471	0.539
12	0.585	0.511	0.568
Wt. Average	0.602	0.758	0.691

Table 1-25 provides estimates of BSAI Pacific cod average gross ex-vessel value based on the years 2008 through 2011. CDQ values were estimated to be about \$13 million per year. Amendment 80 values were slightly lower at \$11.4 million. The FLC vessels received the greatest average nominal ex-vessel value over the period \$65.5 million. These value estimates will be used to project the gross ex-vessel revenue for the Pacific cod fishery.

Table 1-25 Estimated Pacific cod landings, ex-vessel price, and gross ex-vessel value, 2008 through 2011 average.

Entities	Landings		Value
	(mt)	\$/lb.	(\$million)
Am80	21,546	\$0.241	\$11.4
CDQ	19,402	\$0.303	\$13.0
FLC	82,906	\$0.359	\$65.5

Source: AKFIN estimates using COAR, WPR, and AKR catch accounting harvest for CDQ and Am80.

1.7.2.2.3 Atka Mackerel (Amendment 80 and CDQ)

Section 679.20(a)(8)(ii) allocates the Atka mackerel TACs, after subtracting the CDQ reserves, jig gear allocation, and ICAs to the Amendment 80 and BSAI trawl limited access sectors. The allocation of the ITAC for Atka mackerel to the Amendment 80 and BSAI trawl limited access sectors is established in Table 33 to part 679 and § 679.91. The CDQ reserve is 10.7 percent of the TAC for use by CDQ participants (see §§ 679.20(b)(1)(ii)(C) and 679.31).

Because almost all of the Atka mackerel TAC is allocated to the Amendment 80 sector and CDQ program, which is in all or part leased to the Amendment 80 sector, the fishery is harvested by catcher/processors. The lack of sufficient market based transactions to calculate an ex-vessel price means that the alternative

approach, using 40 percent of the first wholesale price as a proxy for the ex-vessel price is implemented for Atka mackerel. Table 1-26 shows the estimated Atka mackerel ex-vessel price (nominal dollars) from 2003 through 2011. Those data indicate that prices and value showed an increasing trend over the period. In both 2010 and 2011 the estimated ex vessel value of the combined Amendment 80 and CDQ fishery was over \$29 million. CDQ data are not reported separately from the Amendment 80 sector because for most month/year combinations fewer than three vessels participated in the fishery and the data could not be reported because of confidentiality restrictions on use of the data. Also, the same vessels harvested the CDQ and Amendment 80 Atka mackerel allocations, so the first wholesale price should not differ substantially between Amendment 80 and CDQ Atka mackerel, since both are harvested about the same time and are sold into the same market.

Table 1-26 AI Atka mackerel Am80 and CDQ vessels, value, and estimated ex-vessel prices (2003 through 2012)

Month	Year									
	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Vessels										
01	7	6	6	6	4	5	5	3	1	0
02	8	6	6	7	4	6	7	6	3	1
03	4	4	5	2	4	7	5	7	3	6
04	3	3	0	0	2	4	2	4	7	3
05	1	0	0	3	1	0	2	2	11	5
06	0	0	2	0	3	1	1	2	1	3
07	7	6	5	4	6	4	4	5	4	4
08	0	2	2	2	0	2	2	1	5	5
09	10	10	10	11	11	7	7	7	6	1
10	8	10	10	8	7	7	7	7	6	0
11	2	1	1	2	1	3	1	1	0	0
12	0	0	0	0	0	0	0	0	1	0
Total	11	11	10	12	12	8	10	8	11	7
Ex vessel value (\$ million)										
01	\$0.761	\$1.542	\$1.385	\$1.093	\$1.169	\$1.265	\$2.458	\$1.760	--	n/a
02	\$1.988	\$1.404	\$2.436	\$2.777	\$2.779	\$2.640	\$4.017	\$5.800	\$1.752	n/a
03	\$0.171	\$0.750	\$0.066	--	\$0.754	\$0.842	\$1.721	\$3.435	\$2.485	n/a
04	\$0.286	\$0.097	--	--	--	\$0.700	--	\$1.918	\$7.512	n/a
05	--	--	--	\$0.066	--	--	--	--	\$1.032	n/a
06	--	--	--	--	\$0.240	--	--	--	--	n/a
07	\$0.103	\$0.073	\$0.053	\$0.039	\$0.061	\$0.042	\$0.503	\$0.616	\$1.116	n/a
08	--	--	--	--	--	--	--	--	\$2.231	n/a
09	\$3.727	\$4.512	\$6.189	\$6.469	\$6.663	\$5.107	\$6.422	\$7.539	\$5.291	n/a
10	\$1.158	\$2.000	\$3.716	\$1.827	\$2.349	\$3.449	\$8.147	\$7.122	\$6.579	n/a
11	--	--	--	--	--	\$0.458	--	--	--	n/a
12	--	--	--	--	--	--	--	--	--	n/a
Total	\$8.614	\$10.935	\$14.181	\$13.020	\$15.197	\$14.774	\$26.366	\$29.175	\$29.090	n/a
Estimated ex vessel price (\$/lb.)										
01	\$0.093	\$0.110	\$0.108	\$0.096	\$0.135	\$0.157	\$0.184	\$0.204	--	n/a
02	\$0.097	\$0.108	\$0.107	\$0.097	\$0.129	\$0.113	\$0.191	\$0.210	\$0.287	n/a
03	\$0.098	\$0.114	\$0.142	--	\$0.267	\$0.128	\$0.187	\$0.196	\$0.296	n/a
04	\$0.106	\$0.116	--	--	--	\$0.150	--	\$0.224	\$0.264	n/a
05	--	--	--	\$0.184	--	--	--	--	\$0.234	n/a
06	--	--	--	--	\$0.123	--	--	--	--	n/a
07	\$0.119	\$0.118	\$0.151	\$0.135	\$0.125	\$0.027	\$0.177	\$0.218	\$0.259	n/a
08	--	--	--	--	--	--	--	--	\$0.242	n/a
09	\$0.096	\$0.113	\$0.125	\$0.115	\$0.126	\$0.138	\$0.189	\$0.212	\$0.263	n/a
10	\$0.102	\$0.112	\$0.127	\$0.112	\$0.133	\$0.133	\$0.185	\$0.209	\$0.283	n/a
11	--	--	--	--	--	\$0.181	--	--	--	n/a
12	--	--	--	--	--	--	--	--	--	n/a
Total	\$0.097	\$0.112	\$0.121	\$0.109	\$0.135	\$0.131	\$0.187	\$0.209	\$0.269	n/a

Source: AKFIN summary of COAR and NMFS Catch Accounting data

As shown in the table above, the Atka mackerel prices do not exhibit trends in monthly price variation. The Volume and Value report for Atka mackerel will collect monthly data, but it is expected to have minimal impacts on fishermen that only fish this species during specific months.

1.7.2.2.4 Pacific Ocean Perch (Amendment 80 and CDQ)

Sections 679.20(a)(10)(i) and (ii) require the allocation between the Amendment 80 sector and BSAI trawl limited access sector for AI Pacific ocean perch after subtraction of 10.7 percent for the CDQ reserve and an ICA for the BSAI trawl limited access sector and vessels using non-trawl gear. The allocation of the ITAC for AI Pacific ocean perch to the Amendment 80 sector is established in accordance with Tables 33 and 34 to part 679 and § 679.91. For the 2012 fishing year over 93 percent of the entire AI Pacific ocean perch TAC was allocated to the Amendment 80 sector and the CDQ program. The remaining TAC was set aside as an ICA and for the BSAI trawl limited access fishery.

Table 1-27 for Pacific Ocean Perch indicates that prices tend to fluctuate by year, but exhibit no monthly price trends. Information in the table also indicates that July is the most important month in terms of value. Since 2008, between 37 percent and 48 percent of the annual fishery value was earned in July. The relative importance of other months varies by year.

Table 1-27 AI POP Am80 and CDQ vessels, value, and estimated ex-vessel prices (2003 through 2012)

Month	Year									
	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Vessels										
01	2	4	2	4	3	5	4	3	1	0
02	5	3	2	5	4	6	7	6	4	2
03	4	4	5	5	5	6	6	9	3	8
04	3	4	3	4	5	4	4	5	7	5
05	1	0	4	11	6	1	7	5	13	11
06	1	3	12	2	8	4	5	5	8	12
07	12	9	12	9	9	12	9	13	11	12
08	2	4	4	8	4	9	6	3	10	11
09	6	10	11	11	11	10	8	7	13	2
10	6	8	10	8	7	8	8	7	5	0
11	2	1	1	3	2	3	1	6	12	0
12	0	0	0	0	0	0	0	0	1	0
Total	14	16	21	21	17	15	17	18	19	16
Ex vessel value (\$ million)										
01	--	\$0.024	--	\$0.030	\$0.019	\$0.007	\$0.022	\$0.088	--	n/a
02	\$0.038	\$0.004	--	\$0.103	\$0.051	\$0.045	\$0.866	\$0.522	\$0.228	n/a
03	\$0.019	\$0.031	\$0.027	\$0.042	\$0.020	\$0.405	\$0.252	\$0.673	\$0.227	n/a
04	\$0.007	\$0.035	\$0.011	\$0.015	\$0.052	\$0.346	\$0.105	\$0.902	\$0.868	n/a
05	--	--	\$0.002	\$0.027	\$0.198	--	\$0.009	\$0.060	\$1.202	n/a
06	--	\$0.000	\$0.015	--	\$0.078	\$0.002	\$0.253	\$0.194	\$0.220	n/a
07	\$2.695	\$2.470	\$3.532	\$5.159	\$5.838	\$2.250	\$2.272	\$3.411	\$8.566	n/a
08	--	\$0.093	\$0.060	\$0.140	\$0.005	\$0.609	\$0.238	\$0.297	\$1.029	n/a
09	\$0.060	\$0.033	\$0.165	\$0.272	\$0.092	\$0.716	\$0.458	\$0.637	\$0.810	n/a
10	\$0.059	\$0.092	\$0.577	\$0.123	\$0.101	\$0.460	\$0.536	\$0.991	\$0.873	n/a
11	--	--	--	\$0.083	--	\$0.311	--	\$1.465	\$3.689	n/a
12	--	--	--	--	--	--	--	--	--	n/a
Total	\$2.983	\$2.808	\$4.447	\$6.008	\$6.672	\$5.153	\$5.409	\$9.241	\$18.036	n/a
Estimated ex vessel price (\$/lb.)										
01	--	\$0.150	--	\$0.258	\$0.274	\$0.165	\$0.179	\$0.233	--	n/a
02	\$0.121	\$0.143	--	\$0.256	\$0.222	\$0.103	\$0.174	\$0.223	\$0.353	n/a
03	\$0.117	\$0.136	\$0.229	\$0.268	\$0.247	\$0.185	\$0.169	\$0.225	\$0.363	n/a
04	\$0.119	\$0.148	\$0.236	\$0.255	\$0.297	\$0.164	\$0.171	\$0.241	\$0.352	n/a
05	--	--	\$0.241	\$0.212	\$0.314	--	\$0.172	\$0.248	\$0.343	n/a
06	--	\$0.148	\$0.226	--	\$0.170	\$0.001	\$0.173	\$0.252	\$0.343	n/a
07	\$0.120	\$0.144	\$0.248	\$0.266	\$0.210	\$0.132	\$0.176	\$0.234	\$0.347	n/a
08	--	\$0.148	\$0.258	\$0.260	\$0.137	\$0.152	\$0.184	\$0.256	\$0.348	n/a
09	\$0.123	\$0.148	\$0.247	\$0.263	\$0.174	\$0.167	\$0.171	\$0.239	\$0.352	n/a
10	\$0.115	\$0.142	\$0.249	\$0.267	\$0.212	\$0.163	\$0.183	\$0.235	\$0.343	n/a
11	--	--	--	\$0.273	--	\$0.170	--	\$0.228	\$0.353	n/a
12	--	--	--	--	--	--	--	--	--	n/a
Total	\$0.119	\$0.144	\$0.248	\$0.265	\$0.210	\$0.139	\$0.175	\$0.234	\$0.349	n/a

Source: AKFIN summary of COAR and NMFS Catch Accounting data

1.7.2.2.5 Rock Sole (Amendment 80 and CDQ)

Sections 679.20(a)(10)(i) and (ii) require the allocation between the Amendment 80 sector and BSAI trawl limited access sector for BSAI rock sole TAC, after subtraction of 10.7 percent for the CDQ reserve and an ICA for the BSAI trawl limited access sector and vessels using non-trawl gear. The allocation of the ITAC for BSAI rock sole to the Amendment 80 sector is established in accordance with Tables 33 and 34 to part 679 and § 679.91. For 2012, about 92 percent of the BSAI TAC was allocated to the Amendment 80 sector and the CDQ program. The remaining 8 percent was set aside for an ICA and the BSAI trawl limited access fishery.

Rock sole is typically fished in February and March, when roe is at its peak value. Table 1-28 shows that 50 percent or more of the species annual value is derived during those two months. The price received by

fishermen and processors is also higher during the roe season. Because roe plays an important role in determining the price of rock sole, monthly prices are important for this fishery when determining value generated from landings. The Volume and Value reports for rock sole will collect monthly data, so the rock sole harvested during the roe season will be valued higher than rock sole harvested when roe is not at its peak.

Table 1-28 BSAI Rock Sole Am80 and CDQ vessels, value, and estimated ex-vessel prices (2003 through 2012)

Month	Year									
	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Vessels										
01	15	18	17	17	19	14	16	12	12	13
02	20	22	22	21	22	21	20	17	18	16
03	21	22	21	20	21	21	20	18	18	18
04	17	20	20	21	22	19	17	17	16	18
05	16	23	22	20	20	20	13	18	19	19
06	15	21	15	16	22	14	8	9	19	17
07	18	22	21	20	20	18	16	16	17	12
08	22	16	20	20	20	18	19	17	13	14
09	16	0	5	16	10	20	17	17	18	17
10	4	3	6	7	3	21	17	18	18	
11	3	3	3	3	4	17	7	10	14	
12	1	0	0	1	1	3	0	1	4	
Total	22	23	22	22	22	22	20	19	20	19
Ex vessel value (\$ million)										
01	\$0.559	\$2.336	\$1.312	\$1.013	\$1.783	\$1.169	\$2.106	\$1.758	\$2.215	n/a
02	\$4.209	\$6.738	\$5.295	\$5.521	\$3.398	\$6.220	\$4.715	\$4.303	\$8.930	n/a
03	\$0.459	\$0.430	\$0.900	\$0.879	\$0.824	\$3.881	\$1.314	\$3.112	\$2.848	n/a
04	\$0.159	\$0.480	\$0.670	\$0.957	\$0.480	\$1.013	\$0.727	\$0.864	\$1.654	n/a
05	\$0.187	\$0.971	\$1.228	\$0.434	\$0.269	\$0.849	\$0.203	\$0.393	\$0.872	n/a
06	\$0.266	\$0.321	\$0.572	\$0.353	\$0.595	\$0.285	\$0.265	\$0.310	\$0.967	n/a
07	\$0.322	\$0.222	\$0.297	\$1.005	\$0.857	\$0.159	\$0.126	\$0.739	\$0.459	n/a
08	\$0.598	\$0.066	\$0.490	\$1.739	\$1.812	\$0.837	\$0.598	\$1.445	\$0.682	n/a
09	\$0.080	--	\$0.016	\$0.052	\$0.167	\$0.260	\$0.235	\$0.838	\$0.423	n/a
10	\$0.002	\$0.008	\$0.014	\$0.041	\$0.002	\$0.379	\$0.393	\$0.695	\$0.338	n/a
11	--	\$0.019	\$0.004	--	--	\$0.069	\$0.007	--	\$0.103	n/a
12	--	--	--	--	--	\$0.000	--	--	\$0.006	n/a
Total	\$6.846	\$11.590	\$10.799	\$12.002	\$10.205	\$15.121	\$10.691	\$14.623	\$19.497	n/a
Estimated ex vessel price (\$/lb.)										
01	\$0.333	\$0.312	\$0.350	\$0.356	\$0.277	\$0.234	\$0.187	\$0.198	\$0.235	n/a
02	\$0.312	\$0.313	\$0.332	\$0.406	\$0.283	\$0.272	\$0.197	\$0.199	\$0.234	n/a
03	\$0.251	\$0.211	\$0.233	\$0.302	\$0.241	\$0.214	\$0.182	\$0.173	\$0.212	n/a
04	\$0.117	\$0.138	\$0.197	\$0.188	\$0.184	\$0.145	\$0.134	\$0.145	\$0.182	n/a
05	\$0.114	\$0.135	\$0.193	\$0.193	\$0.190	\$0.148	\$0.133	\$0.142	\$0.182	n/a
06	\$0.110	\$0.135	\$0.218	\$0.195	\$0.187	\$0.174	\$0.123	\$0.144	\$0.177	n/a
07	\$0.115	\$0.129	\$0.203	\$0.182	\$0.194	\$0.165	\$0.131	\$0.148	\$0.181	n/a
08	\$0.116	\$0.131	\$0.191	\$0.182	\$0.210	\$0.163	\$0.133	\$0.147	\$0.183	n/a
09	\$0.104	--	\$0.205	\$0.185	\$0.185	\$0.157	\$0.131	\$0.146	\$0.182	n/a
10	\$0.112	\$0.138	\$0.202	\$0.178	\$0.196	\$0.157	\$0.132	\$0.145	\$0.180	n/a
11	--	\$0.159	\$0.191	--	--	\$0.141	\$0.129	--	\$0.181	n/a
12	--	--	--	--	--	\$0.008	--	--	\$0.174	n/a
Total	\$0.219	\$0.249	\$0.269	\$0.272	\$0.237	\$0.213	\$0.173	\$0.170	\$0.213	n/a

Source: AKFIN summary of COAR and NMFS Catch Accounting data

1.7.2.2.6 Yellowfin Sole (Amendment 80 and CDQ)

Sections 679.20(a)(10)(i) and (ii) require the allocation between the Amendment 80 sector and BSAI trawl limited access sector for BSAI yellowfin sole TAC, after subtraction of 10.7 percent for the CDQ reserve and an ICA for the BSAI trawl limited access sector and vessels using non-trawl gear. The allocation of the ITAC

for BSAI yellowfin sole to the Amendment 80 sector is established in accordance with Tables 33 and 34 to part 679 and § 679.91. For 2012, about 82 percent of the BSAI TAC was allocated to the Amendment 80 sector and the CDQ program. The remaining 18 percent was set aside for an ICA and the BSAI trawl limited access fishery. Table 1-29 provides a summary of the yellowfin sole fishery.

Table 1-29 BSAI yellowfin sole Am80 and CDQ vessels, value, and estimated ex-vessel prices (2003 through 2012)

Month	Year									
	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Vessels										
01	2	1	2	13	9	12	11	11	12	12
02	13	8	15	19	19	19	17	12	17	15
03	14	17	18	20	21	19	18	16	16	15
04	15	18	20	21	21	19	16	16	12	17
05	14	22	21	19	21	20	13	16	19	19
06	12	19	14	19	22	13	5	8	19	16
07	8	15	20	19	18	11	6	11	13	6
08	20	14	19	19	19	16	17	17	11	13
09	11	9	0	8	5	14	11	11	14	17
10	1	4	3	1	3	17	10	15	17	0
11	2	3	2	3	3	17	6	10	14	0
12	1	0	0	1	1	3	0	1	5	0
Total	21	23	22	22	22	22	20	19	20	19
Ex vessel value (\$ million)										
01	--	--	--	\$0.238	\$0.033	\$0.265	\$0.094	\$0.202	\$0.176	n/a
02	\$0.310	\$0.384	\$0.298	\$1.052	\$3.590	\$1.600	\$0.170	\$1.286	\$0.997	n/a
03	\$3.522	\$3.630	\$5.580	\$7.968	\$8.074	\$4.715	\$4.453	\$1.118	\$5.282	n/a
04	\$2.104	\$3.099	\$11.463	\$7.351	\$5.379	\$3.703	\$2.948	\$4.862	\$4.352	n/a
05	\$2.146	\$5.648	\$4.454	\$2.354	\$3.001	\$7.746	\$3.323	\$5.922	\$5.154	n/a
06	\$1.113	\$1.239	\$1.097	\$4.888	\$5.450	\$1.972	\$1.088	\$2.106	\$6.991	n/a
07	\$0.173	\$0.066	\$0.781	\$1.705	\$1.462	\$0.265	\$0.051	\$0.196	\$1.063	n/a
08	\$3.869	\$0.296	\$2.528	\$1.934	\$1.563	\$2.603	\$4.302	\$2.536	\$1.191	n/a
09	\$1.821	\$0.016	--	\$0.116	\$0.298	\$3.517	\$2.723	\$2.668	\$4.711	n/a
10	--	\$0.395	\$0.394	--	\$0.317	\$4.032	\$2.340	\$2.952	\$6.140	n/a
11	--	\$0.541	--	\$0.578	\$0.377	\$3.324	\$1.081	\$1.844	\$3.306	n/a
12	--	--	--	--	--	\$0.124	--	--	\$0.964	n/a
Total	\$15.501	\$15.315	\$27.383	\$28.243	\$29.730	\$33.866	\$22.572	\$25.878	\$40.327	n/a
Estimated ex vessel price (\$/lb.)										
01	--	--	--	\$0.181	\$0.169	\$0.155	\$0.134	\$0.144	\$0.173	n/a
02	\$0.132	\$0.121	\$0.170	\$0.177	\$0.169	\$0.157	\$0.128	\$0.142	\$0.162	n/a
03	\$0.109	\$0.123	\$0.168	\$0.174	\$0.176	\$0.145	\$0.129	\$0.141	\$0.169	n/a
04	\$0.120	\$0.123	\$0.168	\$0.175	\$0.185	\$0.139	\$0.130	\$0.137	\$0.172	n/a
05	\$0.104	\$0.124	\$0.170	\$0.177	\$0.168	\$0.145	\$0.128	\$0.139	\$0.170	n/a
06	\$0.106	\$0.123	\$0.192	\$0.176	\$0.164	\$0.141	\$0.127	\$0.142	\$0.176	n/a
07	\$0.110	\$0.115	\$0.167	\$0.172	\$0.187	\$0.157	\$0.125	\$0.141	\$0.178	n/a
08	\$0.125	\$0.122	\$0.166	\$0.174	\$0.189	\$0.157	\$0.134	\$0.142	\$0.172	n/a
09	\$0.154	\$0.118	--	\$0.183	\$0.170	\$0.156	\$0.129	\$0.144	\$0.173	n/a
10	--	\$0.125	\$0.159	--	\$0.161	\$0.156	\$0.132	\$0.142	\$0.170	n/a
11	--	\$0.123	--	\$0.179	\$0.151	\$0.133	\$0.122	\$0.137	\$0.175	n/a
12	--	--	--	--	--	\$0.057	--	--	\$0.164	n/a
Total	\$0.118	\$0.124	\$0.168	\$0.175	\$0.174	\$0.146	\$0.130	\$0.140	\$0.172	n/a

Source: AKFIN summary of COAR and NMFS Catch Accounting data

1.7.2.2.7 Flathead Sole (Amendment 80 and CDQ)

Sections 679.20(a)(10)(i) and (ii) require the allocation between the Amendment 80 sector and BSAI trawl limited access sector for BSAI flathead sole TAC, after subtraction of 10.7 percent for the CDQ reserve and an ICA for the BSAI trawl limited access sector and vessels using non-trawl gear. The allocation of the ITAC for BSAI flathead sole to the Amendment 80 sector is established in accordance with Tables 33 and 34 to

part 679 and § 679.91. For 2012, about 88 percent of the BSAI TAC was allocated to the Amendment 80 sector and the CDQ program. The remaining 12 percent was set aside for an ICA and the BSAI trawl limited access fishery.

Flathead sole prices do not show monthly trends (Table 1-30). Historically, July tends to be the most important month for flathead sole revenue. However, the revenue generated from flathead sole is modest compared to Rock sole and yellowfin sole.

Table 1-30 BSAI flathead sole landings and value in the 2008 through 2011 CDQ fishery

Month	Year									
	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Vessels										
01	12	14	14	16	16	13	13	11	12	13
02	19	22	21	22	22	19	18	12	17	16
03	19	20	19	20	21	21	19	16	17	15
04	15	21	19	21	22	19	16	16	13	17
05	13	18	17	14	17	20	13	15	16	19
06	9	17	15	3	16	14	6	8	11	15
07	17	21	21	20	20	16	14	15	13	12
08	22	15	21	19	20	17	19	17	13	13
09	14	10	4	10	5	14	11	13	14	17
10	2	3	6	1	3	17	10	17	17	0
11	2	3	3	3	3	17	6	11	14	0
12	1	0	0	1	1	3	0	2	6	0
Total	22	23	22	22	22	22	20	19	20	19
Ex vessel value (\$ million)										
01	\$0.038	\$0.032	\$0.040	\$0.479	\$0.052	\$0.032	\$0.042	\$0.065	\$0.029	n/a
02	\$0.177	\$0.155	\$0.173	\$0.428	\$0.444	\$0.386	\$0.194	\$0.230	\$0.235	n/a
03	\$0.428	\$0.525	\$0.465	\$0.289	\$0.369	\$0.520	\$0.275	\$0.148	\$0.179	n/a
04	\$0.204	\$1.465	\$0.757	\$2.169	\$1.078	\$1.045	\$0.605	\$0.154	\$0.160	n/a
05	\$0.067	\$0.170	\$0.054	\$0.295	\$0.244	\$0.348	\$0.217	\$0.092	\$0.170	n/a
06	\$0.025	\$0.082	\$0.165	\$0.013	\$0.196	\$0.977	\$0.276	\$0.442	\$0.265	n/a
07	\$1.425	\$2.075	\$1.700	\$1.753	\$2.065	\$1.502	\$1.358	\$2.214	\$0.851	n/a
08	\$0.648	\$0.224	\$1.899	\$0.660	\$0.761	\$1.158	\$0.470	\$0.831	\$0.507	n/a
09	\$0.338	\$0.015	\$0.005	\$0.070	\$0.118	\$0.785	\$0.121	\$0.496	\$0.528	n/a
10	--	\$0.018	\$0.033	--	\$0.083	\$0.391	\$0.416	\$0.292	\$0.346	n/a
11	--	\$0.014	\$0.153	\$0.035	--	\$0.271	\$0.036	--	\$0.143	n/a
12	--	--	--	--	--	\$0.006	--	--	\$0.067	n/a
Total	\$3.373	\$4.776	\$5.444	\$6.194	\$5.481	\$7.420	\$4.010	\$5.123	\$3.479	n/a
Estimated ex vessel price (\$/lb.)										
01	\$0.261	\$0.246	\$0.300	\$0.380	\$0.262	\$0.232	\$0.172	\$0.182	\$0.242	n/a
02	\$0.233	\$0.250	\$0.292	\$0.353	\$0.260	\$0.236	\$0.171	\$0.176	\$0.232	n/a
03	\$0.262	\$0.245	\$0.299	\$0.322	\$0.263	\$0.220	\$0.172	\$0.184	\$0.238	n/a
04	\$0.233	\$0.222	\$0.252	\$0.336	\$0.242	\$0.225	\$0.171	\$0.185	\$0.235	n/a
05	\$0.198	\$0.174	\$0.224	\$0.277	\$0.236	\$0.205	\$0.157	\$0.175	\$0.232	n/a
06	\$0.147	\$0.180	\$0.224	\$0.198	\$0.236	\$0.199	\$0.155	\$0.181	\$0.231	n/a
07	\$0.150	\$0.177	\$0.227	\$0.228	\$0.234	\$0.207	\$0.155	\$0.179	\$0.237	n/a
08	\$0.144	\$0.176	\$0.223	\$0.225	\$0.232	\$0.206	\$0.154	\$0.181	\$0.234	n/a
09	\$0.149	\$0.174	\$0.224	\$0.234	\$0.233	\$0.206	\$0.158	\$0.173	\$0.236	n/a
10	--	\$0.172	\$0.220	--	\$0.225	\$0.204	\$0.158	\$0.173	\$0.233	n/a
11	--	\$0.158	\$0.211	\$0.200	--	\$0.191	\$0.154	--	\$0.232	n/a
12	--	--	--	--	--	\$0.119	--	--	\$0.227	n/a
Total	\$0.166	\$0.197	\$0.235	\$0.280	\$0.239	\$0.209	\$0.160	\$0.179	\$0.234	n/a

Source: AKFIN summary of COAR and NMFS Catch Accounting data

1.7.2.2.8 Greenland Turbot (CDQ)

Section 679.20(b)(1)(ii)(D) requires allocation of 10.7 percent of the Bering Sea Greenland turbot TAC to the CDQ reserve. Greenland turbot is not allocated to the Amendment 80 sector. Therefore, only the CDQ program is subject to cost recovery fees for the harvest of Greenland turbot under this action.

Table 1-31 shows Greenland turbot landings and value in the CDQ fishery. The wholesale value averaged about \$60,000 per year from 2008 through 2011. Using 40 percent of the wholesale price as a proxy for the ex-vessel price, results in an estimate of about \$0.13 per pound on average.

Table 1-31 Bering Sea Greenland Turbot landings and value in the 2008 through 2011 CDQ fishery

Month	Year									
	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Vessels										
01	1	1	1	0	0	1	0	0	0	0
02	5	2	0	0	1	0	1	4	1	0
03	5	3	4	0	2	2	2	5	0	6
04	5	7	3	1	3	1	2	2	5	1
05	3	3	4	4	9	5	9	7	17	14
06	6	6	9	0	7	6	7	7	7	13
07	15	16	9	9	11	15	10	10	12	13
08	7	9	8	7	2	11	11	6	10	14
09	11	11	9	12	8	7	8	5	13	3
10	5	3	6	3	7	7	10	8	5	0
11	1	1	2	3	2	3	2	6	3	0
12	0	0	0	0	1	0	0	0	1	0
Total	19	20	20	17	20	19	19	15	20	19
Ex vessel value (\$ million)										
01	--	--	--	--	--	--	--	--	--	n/a
02	\$0.001	--	--	--	--	--	--	\$0.001	--	n/a
03	\$0.001	\$0.000	\$0.001	--	--	--	--	\$0.003	--	n/a
04	\$0.001	\$0.021	\$0.005	--	\$0.002	--	--	--	\$0.003	n/a
05	\$0.000	\$0.001	\$0.001	\$0.001	\$0.005	\$0.009	\$1.921	\$1.306	\$0.290	n/a
06	\$0.001	\$0.002	\$0.003	--	\$0.016	\$0.018	\$0.213	\$0.400	\$0.052	n/a
07	\$0.231	\$0.226	\$0.259	\$0.107	\$0.042	\$0.541	\$0.234	\$0.082	\$0.448	n/a
08	\$0.024	\$0.019	\$0.114	\$0.005	--	\$0.565	\$0.135	\$0.052	\$1.170	n/a
09	\$0.024	\$0.026	\$0.023	\$0.032	\$0.012	\$0.024	\$0.065	\$0.012	\$0.384	n/a
10	\$0.012	\$0.001	\$0.017	\$0.004	\$0.014	\$0.010	\$0.070	\$0.080	\$0.011	n/a
11	--	--	--	\$0.004	--	\$0.027	--	--	\$0.002	n/a
12	--	--	--	--	--	--	--	--	--	n/a
Total	\$0.299	\$0.298	\$0.434	\$0.154	\$0.096	\$1.198	\$2.704	\$2.042	\$2.371	n/a
Estimated ex vessel price (\$/lb.)										
01	--	--	--	--	--	--	--	--	--	n/a
02	\$0.206	--	--	--	--	--	--	\$0.330	--	n/a
03	\$0.179	\$0.296	\$0.264	--	--	--	--	\$0.239	--	n/a
04	\$0.138	\$0.198	\$0.272	--	\$0.227	--	--	--	\$0.565	n/a
05	\$0.106	\$0.126	\$0.253	\$0.223	\$0.239	\$0.285	\$0.474	\$0.536	\$0.488	n/a
06	\$0.100	\$0.143	\$0.220	--	\$0.246	\$0.342	\$0.469	\$0.544	\$0.560	n/a
07	\$0.265	\$0.301	\$0.432	\$0.448	\$0.273	\$0.463	\$0.451	\$0.493	\$0.745	n/a
08	\$0.241	\$0.330	\$0.406	\$0.262	--	\$0.477	\$0.378	\$0.554	\$0.800	n/a
09	\$0.220	\$0.256	\$0.240	\$0.220	\$0.268	\$0.296	\$0.537	\$0.511	\$0.776	n/a
10	\$0.259	\$0.254	\$0.359	\$0.389	\$0.301	\$0.308	\$0.376	\$0.479	\$0.559	n/a
11	--	--	--	\$0.339	--	\$0.269	--	--	\$0.515	n/a
12	--	--	--	--	--	--	--	--	--	n/a
Total	\$0.256	\$0.284	\$0.397	\$0.354	\$0.264	\$0.450	\$0.464	\$0.534	\$0.719	n/a

Source: AKFIN summary

Greenland turbot revenue has always been \$2.7 million per year or less. During the years from 2003 through 2007, the value of Greenland turbot was less than \$1.0 million each year. Monthly data from the table above indicates that there is no clear trend in monthly price data over the years considered. So, while monthly data

will be collected and cost recovery fees will be based on standard monthly prices, the attributes of the fishery do not indicate that specific months will always generate a higher price.

1.7.2.2.9 Arrowtooth Flounder (CDQ only)

Section 679.20(b)(1)(ii)(D) requires allocation of 10.7 percent of the Bering Sea arrowtooth flounder TAC to the CDQ reserve. Arrowtooth flounder is not allocated to the Amendment 80 sector, so they are not subject to cost recovery fees for arrowtooth flounder harvests.

Table 1-32 shows arrowtooth flounder landings and value in the CDQ fishery. The reported wholesale value for all products produced from arrowtooth flounder by the CPs harvesting the fish was summed by month and multiplied by 0.4 to obtain the estimated ex-vessel value. That value was divided by the round weight of the arrowtooth flounder landed to estimate an ex-vessel price per pound. Since 2008, the estimated price has varied between about \$0.18/lb. to \$0.27/lb with the greatest prices being in 2008 and 2011. The overall ex-vessel value, over those years, ranged from about \$93,000 to \$267,000.

The arrowtooth flounder fishery in the BSAI has generated about \$5.0 million or more in estimated gross ex-vessel revenue since 2009. The value derived from the fishery was substantially lower in earlier years. The increased value is primarily due to the development of arrowtooth flounder markets associated with production methods that improved the quality of the flesh. There is no trend in monthly price variation exhibited in the years considered.

Table 1-32 Bering Sea arrowtooth flounder monthly landings and estimated ex-vessel value in the 2003 through Sept 2012 CDQ fishery

Month	Year									
	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Vessels										
01	8	6	4	11	7	7	5	6	2	7
02	13	11	10	14	10	10	8	14	6	5
03	12	12	16	10	6	10	5	15	5	10
04	13	14	13	13	17	14	12	13	10	5
05	9	8	13	15	15	13	12	13	17	16
06	7	16	14	3	15	14	9	10	11	14
07	18	17	22	14	17	17	15	15	16	13
08	21	3	21	16	13	19	16	13	15	15
09	15	0	11	15	9	19	16	14	16	14
10	7	2	10	4	6	19	19	13	16	0
11	3	3	3	3	4	9	7	10	11	0
12	1	0	0	1	1	3	0	1	5	0
Total	21	23	22	22	21	22	20	19	20	19
Ex vessel value (\$ million)										
01	\$0.005	\$0.001	\$0.004	\$0.019	\$0.017	\$0.003	--	--	--	n/a
02	\$0.030	\$0.021	\$0.085	\$0.034	\$0.019	\$0.001	\$0.007	\$0.012	\$0.009	n/a
03	\$0.091	\$0.055	\$0.095	\$0.044	\$0.028	\$0.010	\$0.004	\$0.026	\$0.003	n/a
04	\$0.071	\$0.143	\$0.159	\$0.166	\$0.039	\$0.014	\$0.012	\$0.014	\$0.005	n/a
05	\$0.045	\$0.072	\$0.130	\$0.183	\$0.045	\$0.112	\$0.860	\$2.390	\$1.215	n/a
06	\$0.033	\$0.190	\$0.338	\$0.018	\$0.095	\$0.165	\$1.775	\$2.116	\$0.370	n/a
07	\$0.237	\$0.317	\$0.427	\$0.196	\$0.110	\$1.140	\$0.734	\$0.752	\$1.108	n/a
08	\$0.134	\$0.006	\$0.281	\$0.220	\$0.073	\$1.134	\$0.961	\$1.217	\$2.490	n/a
09	\$0.052	--	\$0.026	\$0.067	\$0.045	\$0.251	\$0.123	\$0.162	\$1.019	n/a
10	\$0.004	--	\$0.068	\$0.008	\$0.007	\$0.088	\$0.206	\$0.348	\$0.175	n/a
11	--	\$0.008	--	--	--	\$0.120	\$0.273	\$0.345	\$0.084	n/a
12	--	--	--	--	--	\$0.001	--	--	--	n/a
Total	\$0.708	\$0.815	\$1.655	\$0.972	\$0.493	\$3.040	\$4.956	\$7.385	\$6.546	n/a
Estimated ex vessel price (\$/lb.)										
01	\$0.099	\$0.147	\$0.169	\$0.128	\$0.121	\$0.158	--	--	--	n/a
02	\$0.106	\$0.121	\$0.173	\$0.137	\$0.121	\$0.103	\$0.102	\$0.099	\$0.145	n/a
03	\$0.103	\$0.120	\$0.173	\$0.146	\$0.116	\$0.165	\$0.106	\$0.102	\$0.170	n/a
04	\$0.104	\$0.124	\$0.177	\$0.147	\$0.123	\$0.147	\$0.097	\$0.113	\$0.163	n/a
05	\$0.102	\$0.137	\$0.181	\$0.141	\$0.130	\$0.151	\$0.118	\$0.122	\$0.160	n/a
06	\$0.099	\$0.141	\$0.178	\$0.165	\$0.131	\$0.141	\$0.119	\$0.122	\$0.167	n/a
07	\$0.102	\$0.125	\$0.176	\$0.150	\$0.133	\$0.160	\$0.119	\$0.116	\$0.179	n/a
08	\$0.102	\$0.119	\$0.171	\$0.147	\$0.133	\$0.091	\$0.119	\$0.117	\$0.193	n/a
09	\$0.098	--	\$0.168	\$0.141	\$0.132	\$0.142	\$0.114	\$0.108	\$0.184	n/a
10	\$0.098	--	\$0.171	\$0.124	\$0.161	\$0.147	\$0.110	\$0.113	\$0.173	n/a
11	--	\$0.111	--	--	--	\$0.118	\$0.116	--	\$0.172	n/a
12	--	--	--	--	--	\$0.047	--	--	--	n/a
Total	\$0.102	\$0.129	\$0.175	\$0.145	\$0.130	\$0.121	\$0.118	\$0.120	\$0.180	n/a

Source: AKFIN summaries of WPR and COAR data

1.7.2.2.10 CDQ Ex-vessel Revenue Summary

A summary of the estimated gross ex-vessel revenue in the CDQ fishery is provided in Table 1-33. These summaries were generated using the data presented in the previous sections. The estimates indicate that over the most recent four complete years that data are available, the CDQ groups, in aggregate, have annually been allocated fish that had an estimated gross ex-vessel value between \$47.4 million and \$85.8 million, for the fish actually landed. Pollock and Pacific cod generate the most revenue (revenue from those species will be determined using an Ex-vessel Volume and Value report in the future). Halibut generate the next most revenue in three of the four years. Halibut value in the future will be determined using the reported catch multiplied by the BS cost recovery fee established in the annual IFQ cost recovery fee report. Fixed gear sablefish value will also be established using the same methodology. Value for all other species will be established using the First Wholesale Volume and Value Report, with the estimated first wholesale price multiplied by 0.4 to derive the ex-vessel price estimate.

Table 1-33 Estimates of CDQ gross ex-vessel revenue (\$million), 2008 through 2011

Species	2008	2009	2010	2011
Arrowtooth flounder	\$0.18	\$0.27	\$0.09	\$0.09
Atka mackerel	\$1.63	\$3.10	\$3.81	\$3.22
Halibut	\$8.90	\$4.30	\$8.45	\$13.52
Pacific cod	\$27.30	\$9.18	\$9.12	\$12.27
Pacific Ocean perch	\$0.46	\$0.52	\$0.89	\$1.42
Pollock (Bering Sea)	\$46.28	\$34.03	\$24.02	\$39.20
Sablefish (black cod)	\$0.05	\$0.02	\$0.02	\$0.01
Flathead sole	\$0.05	\$0.06	\$0.18	\$0.08
Rock sole	\$0.03	\$0.02	\$0.04	\$0.08
Yellowfin sole	\$0.81	\$0.35	\$0.76	\$3.63
Greenland turbot	\$0.12	\$0.14	\$0.02	\$0.02
Total	\$85.81	\$52.00	\$47.41	\$73.53

1.7.2.2.11 Amendment 80 Ex-vessel Revenue Summary

Table 1-34 shows estimates of the gross ex-vessel revenue generated by Amendment 80 vessels, based on species allocated to that sector. Recall that all vessels are currently members of an Amendment 80 cooperative, so all the landings from that sector's allocation are included in the projection. If vessels leave the cooperatives and are not subject to the fee their revenue would need to be deducted from the totals.

The Amendment 80 sector is estimated to have averaged between \$77.1 million and \$112.0 million in gross ex-vessel revenue between 2008 and 2011. Estimated gross ex-vessel revenue was greatest in 2011. That year the Atka mackerel, Pacific Ocean perch, Rock sole, and yellowfin sole fisheries generated more revenue than any of the other years considered. Pacific cod revenues were greatest in 2008, because the estimated ex-vessel price was greatest that year, as was the amount of Pacific landed by the sector. In 2009 and 2010 the price decreased to about half the 2008 level and landings also declined. In 2011 the price increased, but landings were only about 73 percent of 2010 levels.

Table 1-34 Estimates of Amendment 80 gross ex-vessel revenue, 2008 through 2011

Species	2008	2009	2010	2011
Atka mackerel	\$ 13.3	\$ 23.4	\$ 25.4	\$ 25.9
Pacific cod	\$ 29.6	\$ 12.2	\$ 10.6	\$ 10.6
Pacific Ocean perch	\$ 4.7	\$ 4.9	\$ 8.3	\$ 16.6
Flathead sole	\$ 7.4	\$ 3.9	\$ 4.9	\$ 3.4
Rock sole	\$ 14.9	\$ 10.5	\$ 14.2	\$ 18.7
Yellowfin sole	\$ 33.1	\$ 22.2	\$ 25.1	\$ 36.7
Total	\$ 102.9	\$ 77.1	\$ 88.7	\$ 112.0

Source: AKFIN summary of COAR and WPR data – and Catch accounting landings report and COAR data.

1.7.2.2.12 AFA and AI Pollock Ex-vessel Revenue Summary

Table 1-35 provides the estimated ex-vessel gross revenue for the AFA Bering Sea pollock fishery sectors and the Aleutian Islands pollock fishery. Those estimates indicate that the BSAI pollock fishery allocated to those sectors generated about \$200 million to \$400 million depending on the year. Both fluctuations in the estimated ex-vessel price and the sector allocations accounted for the change in gross ex-vessel revenue. Information is presented by sector, so that sufficient information is provided in the event that the catcher/processor sector is determined to not meet the criteria of a fishery subject to cost recovery.

Table 1-35 Estimated gross ex-vessel BSAI pollock value (\$million), 2008 through 2011

Pollock Sector	2008	2009	2010	2011
AFA Inshore	\$198.0	\$146.1	\$103.9	\$173.9
AFA Catcher Processor	\$160.6	\$117.6	\$83.5	\$142.0
AFA Mothership	\$39.5	\$29.4	\$20.9	\$36.8
AI Pollock	\$0.2	\$0.2	\$0.0	\$0.0
Total	\$398.4	\$293.2	\$208.4	\$352.7

Source: AKFIN Summary of COAR and AKR Catch Accounting data.

1.7.2.2.13 Freezer Longline Coalition

Annual gross ex-vessel values for the BSAI Pacific cod catch of hook-and-line catcher/processors is reported in Table 1-36. Those vessels are estimated to have generated about \$99.2 million in 2008 and \$42.2 million in 2010. The other years considered fell within that range.

Table 1-36 Estimated gross ex-vessel value of BSAI Pacific cod for the FLC

	Year				
	2008	2009	2010	2011	2012
Catch (mt)	76,327	84,290	73,129	97,878	114,525
Ex-vessel price (\$/mt)	1,300	557	577	728	n/a
Estimated ex-vessel value (\$mil)	99.2	46.9	42.2	71.3	n/a

Source: eLandings and COAR data

1.8 Estimates of Reimbursable Costs

NMFS intends to publish an annual report on the cost recovery program. The report would include information such as the fee percentage calculation, detailed program costs, and ex-vessel value by sector. The report would likely be similar to those implemented for the IFQ and crab fishery cost recovery programs. Examples of those reports may be found at <http://www.fakr.noaa.gov/ram/ifqfees.htm> and <http://www.fakr.noaa.gov/sustainablefisheries/crab/crfaq.htm>.

1.8.1 Introduction

Government agencies that may be reimbursed for direct costs associated with management, data collection (and analysis of the data collected), and enforcement of the LAP and CDQ programs are discussed in this section. Each agency's estimate of annual recoverable costs is provided. It is important to note that costs presented in this analysis are estimates of incremental costs incurred by each agency that would not have been incurred without the LAP or CDQ program. Information is provided at the greatest level of detail that is currently available, given each agencies current methodology for tracking costs.

Based on past experience in estimating cost recovery fee percentages, the costs in this analysis may reflect the greater than average annual costs. If the costs presented in this analysis are representative of the higher than average annual costs, the actual fee percentage may be lower than projected. However, the actual fee percentage is dependent on both agency costs and fishery values that fluctuate from year-to-year. Because the LAP and CDQ programs have been in place for several years, many of the improvements in fish quality and markets, that often accompany quota programs, may have already been realized. Therefore, changes in ex-vessel prices are more likely being driven by annual market fluctuations and quantity available for harvest than changes is associated with the implementation of quota program. Market and stock uncertainties, as well as variation in management costs, mean that the fees may not precisely cover management costs. TAC announcements for the groundfish fisheries are not made until December of the year prior to the start of the

fishing year and projecting future TAC requires assumptions that increase the uncertainty of the resulting estimate. In addition, ex-vessel prices will fluctuate with market conditions, so the basis that the fee percentage is applied to may change throughout the year.

Estimates of agency costs and fee percentages were greater than currently being realized in the Crab Rationalization program. In this program the fee percentage has declined over time because of a variety of factors, including the increasing value of the fishery due to increased total allowable catch limits for various crab species such as Bristol Bay red king crab (*Paralithodes camtschaticus*) and Bering Sea snow crab (*Chionoecetes opilio*), increased ex-vessel price per pound of crab relative to previous years, and decreased management costs relative to previous years primarily due to decreased staff and contract costs. The estimated fee percentage for the 2010/2011 and 2011/2012 crab fishing years was 2.67 percent and 1.23 percent, respectively. Those fee levels resulted in a fee collection greater than the actual management, data collection, and enforcement costs for the 2010/2011 and 2011/2012 crab fishing years. Fee revenues collected those years are sufficient to cover projected costs for 2012/2013. As a result, NMFS determined that the fee percentage was zero (0) percent that year. A summary of all agency costs included in the current cost recovery programs are provided in Appendix A.

This is the first year of collecting cost recovery fees from participants in the Central Gulf Rockfish Program. Cost recovery fees are set at 1.4 percent of the ex-vessel value of the fish harvested under the Rockfish Program. NMFS assessed the fee on the ex-vessel value of rockfish primary species and rockfish secondary species CQ harvested by rockfish cooperatives in the Central GOA and waters adjacent to the Central GOA when rockfish primary species caught by that vessel are deducted from the Federal TAC. NMFS uses a portion of the cost recovery fees collected under the Rockfish Program to hire personnel to monitor rockfish landings. The rockfish Catch Monitoring and Control Plan (CMCP) specialist monitors program deliveries to ensure compliance with the CMCP by any processor receiving program landings, assists processors with rockfish species identification to ensure accurate catch sorting and quota accounting, and reports the findings to NMFS. It is not known whether the Rockfish Program fee percent will increase or decrease in the future as management evolves.

On March 20, 2000, NMFS published regulations implementing the IFQ Cost Recovery Program (65 FR 14919), which are set forth at 50 CFR 679.45. Under the regulations, an IFQ permit holder incurs a cost recovery fee liability for every pound of IFQ halibut and IFQ sablefish that is landed on his or her IFQ permit(s). The IFQ permit holder is responsible for self-collecting the fee liability for all IFQ halibut and IFQ sablefish landings on his or her permit(s). In 2006 the fee percentage applied to halibut and sablefish landings was 1.0 percent. The fee percentage increased to 1.2 percent in 2007. For 2008, 2009, and 2011 the fee percentage was 1.6 percent and in 2010 it was 1.4 percent. The 2012 fee payment was 2.1 percent, the largest fee percentage to date. Increases in the fee percentage have been primarily due to reductions in the halibut harvests that have not completely offset increases in ex-vessel prices.

1.8.2 Consistency with Other Cost Recovery Programs

NOAAs November 2011 Guidance on Catch Share Policy states that *“it is NOAA policy to compute and recover from participants only the incremental operating costs associated with LAP programs. Cost recovery aims to recover a variety of government costs attributable to the private sector use of a public resource. Section 303A(e) of the MSA requires cost recovery of the management, data collection and analysis and enforcement programs that are directly related to and in support of LAP programs. The relevant costs to recover are the incremental costs, i.e., those costs that would not have been incurred but for the LAP program, since cost recovery is not authorized for non-LAP 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-LAP regime, relative to the cost of running the management program under the LAP program. The difference is the incremental costs attributable to implementing the LAP program. It is possible that the incremental costs could be negative (i.e., that costs for management, etc., go down under a catch share program) and therefore no cost recovery fee needs to be levied. NOAA Catch Share Policy.”*

The same methodology used to develop the Central Gulf of Alaska rockfish program, BSAI crab rationalization, and halibut and sablefish IFQ program cost recovery fees were used in this amendment. A summary of the cost recovery fee categories for those programs are provided in Appendix C. Only incremental costs associated with the LAP programs and CDQ programs are included in the recoverable costs calculation. Additional information on incremental costs is provided in Section 1.8.3.

Brinson (2013) provides a summary of the LAP programs and associated cost recovery programs that are currently in place. The Mid-Atlantic Council has two LAP programs. The Surf Clam and Ocean Quahog ITQ program anticipates that the cost recovery program is scheduled to be implemented as part of Amendment 15. A cost recovery fee of 3 percent was set for the Golden Tile fish ITQ program, which is estimated to be less than total recoverable costs. The South Atlantic Wreckfish ITQ program currently does not have a cost recovery fee and pre-ITQ cost estimates (2009) for the fishery were \$27,000. The Gulf Council has developed two ITQ programs. One is for red snapper and the other is for grouper and tilefish. Both programs have a cost recovery fee of 3 percent of the ex-vessel value, which is estimated to be less than total recoverable costs. Fees collected for cost recovery in the Gulf of Mexico Grouper-Tilefish IFQ Program were \$430,294 (3% of revenue) in 2010. The cost recovery fees in the Gulf of Mexico Red Snapper IFQ Program have ranged from \$250,000 – \$315,000 (3% of the corresponding year's revenue) over the duration of the IFQ Program. The New England Fishery Management Council has implemented a scallop ITQ program and collected fees starting in 2011. Actual cost recovery fees during the first year of implementation amounted to \$82,556, which represents 0.29 % of the value of the scallop IFQ fishery during the fee period.

The Gulf Council, as part of their 5-year review of the red snapper ITQ program provided a summary of that cost recovery program. Fees collected for cost recovery in the Gulf of Mexico Red Snapper IFQ Program have exceeded 3% of the value of the fishery during 2007-2011. Approximately \$2.3 million dollars (4.8% of the program value) was spent on administering, enforcing, and monitoring the program. Only about \$1.45 million have been collected through the cost recovery fee.

Task codes are used to track salaries and benefits, contracts, equipment and software purchases for the cost recovery expenses, as well as research activities and law enforcement activities directly related to the Red Snapper IFQ program. Additional funding for law enforcement and program administration is provided through the general NOAA catch shares annual funding. Additionally, due to implementation of the Grouper and Tile fish IFQ in 2010, some expenses (i.e., observers/research, law enforcement) are now jointly associated with one another and cannot be distinguished for tracking. Agencies that manage Alaskan fisheries have also stated their intent to track costs associated with cost recovery in a similar manner. However, because costs have not been tracked with that level of detail in the past, those estimates are unavailable to project future cost estimates.

In the Gulf of Mexico red snapper ITQ program, monitoring costs are the costs associated with determining how many fish are harvested, when harvest occurs, where harvest occurs, issuing quota, transferring quota, etc. The administrative costs are the costs associated with IFQ personnel, customer service, travel, call service contracts, and mail outs. The enforcement costs are the costs associated with ensuring the harvesting vessels and fish buyers are in compliance with the existing regulations governing the harvest. Monies collected are used for administration of the program, maintenance and upkeep of the online system and software, enforcement of the Red Snapper IFQ program, and scientific research.

A cost recovery fee program is still being developed for the Pacific Trawl Groundfish LAP program. However, discussions with persons familiar with that program indicate that the approach taken in the North Pacific is comparable to the approach being contemplated for that region. An exact comparison cannot be made until that program is implemented.

1.8.3 Reimbursable Cost Categories

Stakeholders requested, after the initial review of this document, that analysts provide greater detail on the costs that are included in the estimates of reimbursable costs. Table 1-37 and Table 1-38 provide information on costs that are considered to be recoverable under the proposed cost recovery programs. These are tasks and activities currently undertaken by staff at the Alaska Region or Alaska Fishery Science Center for management, data collection, and enforcement of the limited access programs included in this analysis. For any of these tasks or activities, NMFS is allowed to recover only those costs for activities or aspects of activities that NMFS did not have to undertake prior to implementation or establishment of the limited access program (“incremental costs”).

While the agencies are unable to provide cost estimates for each subcategory, due to the bookkeeping structure used by the agency to track time spent on specific projects, the time categories are provided in this section. It is anticipated that staff will be required to provide greater detail on their future time records to address stakeholder concerns over the annual cost recovery fee. It is anticipated that time by LAP program and CDQ program will be tracked, by at least 0.5 hour increments, to ensure accurate fees are being billed for cost recovery. This information is expected to be available when the agency begins collecting cost recovery fees, but is not available for this analysis.

The costs of employees' time spent working on the LAP programs and CDQ programs are the incremental costs of those employees' time. In other words, it is the cost of employees' time that would not have been incurred but for the implementation of that program. The lack of available data makes it impractical to use the NOAA Catch Share Policy guidance of a "with and without" implementation approach to determine those incremental costs. Before these programs were implemented (for most programs several years have passed), employees' time was not tracked and coded in their time card for work by LAP/CDQ program (or in the case of AFA within the catcher/processor, mothership, or inshore component). Therefore, it is not feasible to get an estimate of the cost of employees' time "without" implementation of the programs. The use of “with and without” data also requires understanding additional factors that are difficult to track. Costs associated with various management measures often change because of the priority placed on that issue at that time, which may be extraneous to management actions. For example, enforcement may need to alter coverage in a LAP program fishery because of actions of other vessels in other fisheries. The need for resources in the LAP program did not change, but other fisheries received a higher priority. Staff time in all the agencies is allocated to meet the most pressing needs, which may have nothing to do with LAP program structures. Therefore, the incremental costs spent on the LAP programs or CDQ programs are proposed to be collected under this action.

NMFS has determined the incremental cost of employees' time by using those costs directly attributable to management, data collection, and enforcement of the LAP programs and CDQ programs is the appropriate measure for determining cost recovery fees. That method is presented in this section and has been used in all other cost recovery programs in the North Pacific.

Industry stakeholders have also requested that NMFS consider giving credit for expenses they incur that reduce recoverable costs. As part of that exercise they have indicated that they may provide estimates of their costs by category. If provided, those costs could be included in the analysis, but unless NMFS can determine those expenses directly relate to reductions in agency costs that would have been incurred if industry did not have those expenses, they would not result in a credit against the cost recovery fee.

NMFS acknowledges that industry has taken an active role in the co-management of the LAP programs and CDQ fisheries. The agency also recognizes that stakeholders have realized greater expenses in forming, monitoring, and meeting the management requirements of their cooperatives. These expenses are needed to ensure, from an industry perspective, that the programs function as industry and the agency (Council) intended. NMFS has not identified quantifiable cost reductions that directly result from industry expenses. Expenses that industry incurs that reduce the total agency costs for the program will directly reduce the cost

recovery fee, because those costs are not realized by the agency. However, estimating marginal changes in time spent in data collection, management, and enforcement of the programs “with and without” industry expenses cannot be estimated. Therefore, they cannot be deducted, if they do exist.

Table 1-37 provides information about tasks or activities that apply to all programs and identifies the task and which office is likely to incur costs for this task/activity. Table 1-38 provides information about tasks or activities associated with one or more program, but not all of programs.

Additional descriptions of each office, their function associated with managing various programs, and their estimated “incremental costs” are presented in the later parts of Section 1.8. A summary of the office abbreviations are presented in the table below:

<i>Abbreviation</i>	<i>Office</i>
RAM	Restricted Access Management Division
SF	Sustainable Fisheries Division
ISD	Information Services Division (applications development and infrastructure support)
OMD	Operations and Management Division (administration of fee collection programs)
OLE	Office of Law Enforcement
FMA	Fisheries Monitoring and Analysis Division (Observer Program)
REFM	Alaska Fishery Science Center, Resource Ecology and Fisheries Management Division, Economic and Social Sciences Research Program

Source: Sally Bibb, NMFS

Table 1-37 Tasks or activities by program. An “X” indicates that a division or section could have a recoverable cost associated with this task or activity.

Tasks/Activities Required for all Programs	RAM	SF	ISD	OMD	OLE	FMA
At-sea scale inspections		X				
Video equipment inspections		X				X
Observer sampling station inspections						X
Observer training, debriefing, data management, and observer gear						X
Data requests specific to program (including assisting cooperatives to prepare applications, excluding FOIA requests)	X	X				X
Electronic reporting (landings, elog, etc) support of servers, application development, training, user support, etc.		X	X			
Catch Accounting System (maintenance of system that support catch share program tracking, updates to system for program changes).		X	X			
Analysis and rulemaking to modify FMP or program regulations	X	X	X	X	X	X
Annual cost recovery fee notice, calculation of standard prices		X	X			
Renewal of approval for information collections (every 3 years), review of forms and instructions	X	X		X		
Attend workshops hosted by NMFS on program issues or attend meetings at request of industry	X	X		X	X	X
Attend Council meetings to participate in regulatory and policy discussions, provide reports, track issues specific to the program.	X	X			X	X
Conduct outreach, inspections, boardings, investigations, and enforcement actions related to a specific program					X	
Fee billing and support				X		

Table 1-38 Tasks or activities specific to one or more programs (but not all). An “X” or abbreviation indicates that a division or section could have a recoverable cost associated with this task or activity

Tasks/Activities Required for all Programs	AFA	AI Pollock	Am 80	CDQ	FLL
Restricted Access Management (RAM) Division					
Process cooperative applications	X		X		
Data entry for cooperative applications			X		
Issue permits for specific programs	X		X	X (hal)	
Process replacement vessel applications	X		X		
Sustainable Fisheries (SF) Division					
Weekly review of AFA inshore cooperative catch reports	X				
Reallocation of AI pollock to BS	X	X		X	
Reallocation of ICA to directed fisheries	X		X		
Inseason management of sideboard limits	X		X		
Inseason management of non-sideboard fisheries (BSAI Kamchatka, arrowtooth, greenland turbot).	X		X		X
Monitoring Chinook salmon bycatch (reporting, inseason management, review IPA and entity applications)	X				
Catch Monitoring Control Plan for SSP and SFP	X	X			
Other Divisions or Multiple Divisions					
Calculate cooperative/program allocations	SF	SF	RAM	SF	
Computer applications development and web access for permits, transfers, etc.	ISD		ISD	ISD	
Economic Data Reports	REFM		REFM		

1.8.4 Amendment 80

This section provides estimates of recoverable costs associated with the Amendment 80 sector. The Alaska Region, Alaska Fisheries Science Center, NOAA Office of Law Enforcement, and the Observer program all submitted estimates of costs that could be recovered under this amendment. Amendment 80 cooperatives that are established and receive an annual allocation will be responsible for submitting the fees to cover their cost recovery fee liability.

1.8.4.1 National Marine Fisheries Service AKR

Four divisions/programs within the National Marine Fisheries Service Alaska Region (NMFS AKR) incur direct management and enforcement costs, on annual basis, overseeing the Amendment 80 program. Management and enforcement responsibilities assigned to each department are described below:

1. The Sustainable Fisheries Division (SF) implements the policy objectives of the North Pacific Fishery Management Council and NOAA Fisheries-approved management programs. SF coordinates with the State of Alaska on development of fishery management and data collection programs, and the International Pacific Halibut Commission on development of regulations governing the Pacific halibut fishery off Alaska. SF collects and manages catch data from North Pacific groundfish fisheries, develops and maintains information systems for integrating catch and observer data for estimating species-specific total catch, and uses that data to manage fisheries within the specified total-allowable catch and prohibited-species catch limits. SF staff develops, maintains, and installs electronic shore-side logbooks and software supporting the new interagency electronic reporting program, approves catch monitoring plans, certifies at-sea processor scales, and provides current and historic fishery statistics to other government agencies and the public.
2. The Restricted Access Management Program (RAM) is responsible for managing Alaska Region permit programs, including those that limit access to the Federally-managed fisheries of the North Pacific. RAM responsibilities include: providing program information to the public, determining eligibility and issuing permits, processing transfers and related activities.
3. The Operations, Management and Information (OMD) Division is responsible for all “business related” activities within the Alaska Region, in support of the Alaska Region’s employees and their respective divisions and programs. Areas of OMD responsibility include: Budget Formulation and Execution, Grant Administration, Contracting and Procurement, Human Resource Management, Real and Personal Property Management, Automated Administrative Recordkeeping, Facility Management, Telecommunications and Mail Management.
4. Information Services Division (ISD) provides programing support for eLandings and online services.

AKR staff annual responsibilities specific to the Amendment 80 program include scale inspections, which may require staff to travel to Seattle or Dutch Harbor, CMCP inspections, processing cooperative applications, calculating cooperative allocations, monitoring fisheries/reconciliation of accounting differences, assisting cooperatives with annual review/report preparation by fulfilling data requests, and answering regulatory questions. AKR realize costs for revising program regulations, programming changes to the catch accounting system, and programming and web design for online applications.

It is estimated that SF requires 2.25 FTE (full time equivalent) employees to oversee the Amendment 80 program. The annual cost of those employees, at the highest GS12 pay grade, including salary, benefits, travel expenses, equipment/supplies, and office space is \$377,351 (Table 1-39). RAM is estimated to utilize 0.25 FTEs at an annual cost of \$41,928. ISD and OMD are each estimated to utilize 0.20 FTEs at an annual cost of \$33,542. The estimated Amendment 80 program total annual cost for the 2013 fiscal year to NMFS AKR is \$486,364.

Table 1-39 NMFS AKR estimates of Amendment 80 recoverable costs for 2013

Am 80	SF	RAM	ISD	OMD	Total
<i>FTEs (Years)</i>	2.25	0.25	0.2	0.2	2.9
Staff costs	\$306,790	\$34,088	\$27,270	\$27,270	\$395,418
Travel	\$30,679	\$3,409	\$2,727	\$2,727	\$39,542
Contracts					
Supplies/Equipment	\$3,068	\$341	\$273	\$273	\$3,954
Rent/Utilities	\$36,815	\$4,091	\$3,272	\$3,272	\$47,450
Other					
Total Costs	\$377,351	\$41,928	\$33,542	\$33,542	\$486,364

Source: NMFS Alaska Region

1.8.4.2 NOAA Enforcement

NOAA's Office of Law Enforcement (OLE) enforces laws that conserve and protect our nation's living marine resources and their natural habitat. OLE has responsibility for enforcing more than 35 federal statutes that primarily fall under five key legislative acts:

1. The Magnuson-Stevens Fishery Conservation and Management Act, which establishes domestic commercial and recreational fishing regulations. About 50 percent of the agency's enforcement actions are conducted to ensure compliance with this Act.
2. The Marine Mammal Protection Act of 1972, which protects all marine mammals.
3. The Endangered Species Act of 1973, which protects all endangered species, including salmon, sea turtles and whales.
4. The Lacey Act Amendments of 1981, which focus on the harvest, processing and trafficking of marine resources both domestically and internationally. This statute prohibits U.S. citizens and foreign nationals from violating the laws of other countries and introducing the products of such actions into the U.S.
5. The National Marine Sanctuaries Act, which provides authority for the conservation and management of National Marine Sanctuaries.

OLE accomplishes their mandate through traditional enforcement approaches, including investigations and patrols. They also form partnerships with state and federal agencies to more efficiently utilize their combined resources and expertise. OLE utilizes technological tools, such as Vessel Monitoring Systems to ensure laws under their jurisdiction are being adhered to while minimizing costs to the agency and public, to the extent practicable. OLE also develops and designs outreach and education strategies to enhance voluntary compliance with regulations.

It is important that OLE has sufficient resources to fulfill their mandate (Appendix D). Implementation of the cost recovery fee will help to ensure that adequate funding is available for the fisheries subject to the fee, but these and other fisheries will continue to be dependent on government funding in the future. If the 3 percent limit on 304(d) funding becomes a constraint, due to lower TACs and revenues, the need for enforcement will not decline, and may increase if profit margins decline and pressure to meet cash flow obligations of industry participants increase.

Table 1-40 shows the estimated costs incurred by the OLE in the Amendment 80, AFA, and CDQ groundfish fisheries in 2012. It also provides an estimate of the total cost that is attributed to the Amendment 80 program. NOAA Enforcement staff provided these estimates based on location of expenditure, but not by fishery, as that information was unavailable. Therefore, the estimates may change in the future when the OLE begins to track actual costs by fishery.

To estimate the cost by fishery, OLE staff estimated that the costs are distributed with 40 percent of the total cost being spent on activities associated with the Amendment 80 program. Based on this estimate, the OLE is assumed to have \$492,920 per year in costs associated with the Amendment 80 program.

Table 1-40 NOAA Enforcement Costs for FY 2012

Category	AM80, CDQ & AFA	40% of Total
Salaries	\$675,422	\$270,169
Benefits	\$250,222	\$100,089
Travel	\$49,710	\$19,884
Transportation	\$4,729	\$1,892
Rent, Comm, Util	\$225,011	\$90,004
Printing	\$5,120	\$2,048
Contracts/Training	\$16,476	\$6,590
Supplies	\$5,612	\$2,245
Equipment	\$0	\$0
Total	\$1,232,301	\$492,920

Source: NOAA Enforcement 2012 (November)

1.8.4.3 NOAA Fisheries Alaska Fisheries Science Center

The Alaska Fisheries Science Center (AKFSC) is tasked with development of EDR surveys, overseeing the collection of those data, and the development of models to explain the impacts of the Amendment 80 program. AKFSC provided 2011/2012 and 2012/2013 budgets for their role in the Amendment 80 EDR program. Table 1-41 shows that in 2011/2012 their total reimbursable costs would have been \$71,904.47. Those costs declined in 2012/2013 to \$49,626.70. Most of the decline was due to a reduction in contractual services to audit data elements. The two years of costs provide a range of historical expenditures. In the future costs may vary with modifications to the program. Whether future expenditures increase or decrease will depend on modifications made to Amendment 80. The 2012/2013 estimates are used in this analysis, but it is noted that they may underestimate future costs if unanticipated contractual services are required.

Table 1-41 Alaska Fisheries Science Center Amendment 80 management costs

	10/1/2011 - 9/30/2012	10/1/2012 - 9/30/2013
Am 80 EDR collection		
Salary and Wages	\$ 11,639.00	\$ 12,762.90
Personnel Benefits	\$ 5,073.00	\$ 5,312.00
Contractual Services	\$ 44,100.00	\$ 23,207.80
Goods, Supplies and Services	\$ 1,947.47	\$ 1,653.00
Travel Expenses	\$ 1,224.00	\$ 1,224.00
Overhead	\$ 7,921.00	\$ 5,467.00
Equipment	\$ -	\$ -
Total Budget	\$ 71,904.47	\$ 49,626.70

Source: Ron Felthoven AKFSC

1.8.4.4 AKFSC Observer Program

Persons participating in LAP programs that are required to have 100 percent or more observer coverage, under the restructured observer program, are required to pay for their observer coverage under Section 313. They may also be subject to fees under 304(d) to cover costs incurred by NMFS that are not covered under Section 313, if those costs are incremental costs directly related to the LAP program. Fleets that are subject

to a LAP program fee under Section 304(d) of the MSA and also pay fees collected under Section 313 would have their Section 313 fees credited against any 304(d) fees, if those fees are specific to stationing observers or electronic monitoring systems and/or the cost of inputting collected data.

When the observer program was restructured, beginning in 2013, catcher/processors and vessels operating in LAP programs were required to have 100 percent or more observer coverage. That level of observer coverage is greater than is applied to similar vessels that operate in fisheries that are not LAP programs, because of the data intensive requirements in LAP program fisheries. If those vessels were not participating in LAP programs, the higher levels of observer coverage would not be necessary to monitor harvests on a fleet-wide basis. Therefore, the higher levels of observer coverage in the restructured observer program were determined to be necessary because of the LAP program.

The Alaska Fisheries Science Center staff conduct an activity based budgeting exercise each year in addition to the normal federal budget process. That activity based budget exercise breaks down overall costs into specific programs and activities. Based on that process observer program staff summed the costs of the activities which directly support the direct costs of training, gear, data management, and quality control (field operations and debriefing). They then calculated a cost per day based on actual deployments in 2012, as well as an average of 2011 and 2012. Costs for Observer Division oversight (including supervisor salaries), fisheries analysis, application development, the management of the restructured component of the program, and electronic monitoring development were excluded from the calculation. It could argue that some of these costs could be included, but they have been excluded so that only direct cost linkages to the LAP or CDQ program are reported.

Based on this methodology, the observer program’s 2013 overall programmatic budget (\$6.2 million) was considered. The approximately \$3.0 million in the budget that is not included under LAP or CDQ program costs are:

- Division oversight and program management (\$954,000)
- Fishery dependent data analysis and interpretation (\$548,000)
- Restructured coverage (\$335,000)
- Application development and data presentation (\$756,000)
- Electronic monitoring (\$450,000)

Costs estimates for activities which directly support the deployment of observers are presented in Table 1-42. These are the Observer Program’s costs that are subject to cost recovery.

Table 1-42 Estimates of 2013 Observer Program costs directly related to LAP and CDQ programs

Cost Category	Expenditure (\$)
In-season Operations	260,000
Debriefing and Quality Control	1,095,000
Gear Inventory and Deployment	480,000
Training and Curriculum Development	458,000
Dutch Harbor Office	322,000
Kodiak Office	175,000
Anchorage Office	406,000
Total Cost	3,196,000

Source: Observer Program Staff (AKFSC)

Summed, these activities total \$3.196 million and supported a total of 44,710 sea and plant deployment days in 2012 (down slightly from 2011)²⁹. The direct per day operational cost of these observer support activities equals \$71.48 per day. Averaging 2011 (45,188 days) and 2012 (44,710 days) data, we would get an average deployment of 44,949 days and a per day cost of \$71.10. The cost recovery logic allows NMFS to recoup the marginal cost of each additional observer day in support of LAP programs over and above those that would be incurred without the LAP program. Therefore, it is assumed that each extra observer day that results from the LAP programs being in place costs NMFS \$71.50. These costs are not covered under Section 313 fees.

The number of annual observer days over and above open access requirements in support of the Amendment 80 LAP program, using 2011 data, was 4,665 days. Based on \$71.50 per day, the cost to NMFS is \$333,548 for the Amendment 80 fleet. This cost estimate will be used as part of the Amendment 80 total cost that is subject to the fee.

1.8.4.5 Alaska Department of Fish and Game

ADFG does not currently incur recoverable costs on annual basis for management of the Amendment 80 program, and it is not anticipated that ADFG will experience additional Amendment 80 costs in the future. Unless modifications to the program require more ADFG involvement, they are assumed to have no recoverable costs under this amendment.

1.8.4.6 Total Amendment 80 Recoverable Costs and Estimate of Fee Percentage

Table 1-43 provides a summary of the management costs subject to the cost recovery program, gross ex-vessel revenue from species allocated to the Amendment 80 sector, and estimates of the cost recovery fee percentages. Fees were estimated to be about \$1.36 million per year, at current levels. Recoverable fees were incurred by several divisions within the Alaska Region of NMFS, NOAA Enforcement, Alaska Fisheries Science Center, and the NMFS Observer Program. Neither the Alaska Department of Fish and Game nor the North Pacific Fisheries Management Council provided any costs that may be recovered under Section 304(d).

Table 1-43 Summary of Amendment 80 Costs, gross ex-vessel revenue, and fee percentage.

Am 80 Agency	Costs	Ex-vessel Revenue (\$Million)			
		2008	2009	2010	2011
AKR	\$486,364	Revenue from all Amendment 80 Cooperatives			
NOAA Fisheries Enforcement	\$492,920				
AK Science Center	\$49,627				
ADFG	\$0				
NPFMC	\$0				
Observer Program	\$333,548				
Total (\$Million)	\$1.36	\$102.9	\$77.1	\$88.6	\$112.0
Fee %		1.32%	1.77%	1.54%	1.22%

Source: Agency cost estimates and AKFIN value estimates (based on eLandings and COA)

Based on the estimated gross ex-vessel revenue from the species directly allocated to the Amendment 80 sector, the sector generated between \$77 million and \$112 million, annually. Relative to the estimated recoverable costs, these values result in a cost recovery fee of about 1.2 percent to 1.8 percent, depending on the year to generate \$1.36 million to cover reimbursable costs.

²⁹ The estimates observer program cost recovery fees for all programs in this document total \$859,860, or 13.9 percent of that offices budget are “incremental costs” that support the LAP and CDQ programs.

In each year considered above, the fee percentage was 1.77 percent or less. Given that fee percentage, the cost of managing the program would need to increase by about 1.7 times the current level, or an equivalent reduction in revenue would need to occur for the 3 percent fee maximum to be reached. It is not expected that the cost of management would increase or the revenue from the fishery would decline by amounts large enough to reach a 3 percent fee level in the near future, especially given recent trends of increasing revenue.

1.8.5 CDQ

1.8.5.1 National Marine Fisheries Service AKR

The SF administers and manages the CDQ Program, so that allocations of groundfish, crab, and halibut quotas to the CDQ groups, are accomplished in conformance with applicable law, and harvested within parameters established in administrative and fishery management regulations, to provide the maximum economic benefits to western Alaska communities. RAM prepares and distributes reports on halibut landings in the CDQ program. ISD and OMD provide support for information systems and employees of other divisions charged with management responsibilities for the CDQ program.

CDQ program costs for NMFS AKR are provided in Table 1-44. Total costs for the 2013 fiscal year were estimated at about \$235,000 and require about 1.4 years of staff time (based on a full-time equivalent estimate of time). About 54 percent of totals costs are incurred by SF, 18 percent by RAM, and about 14 percent by ISD and OMD. Relative costs may vary annually, depending on the tasking that year. However, it is assumed that these costs will be realized in the future.

Table 1-44 NMFS AKR fiscal year 2013 costs associated with the CDQ program

CDQ	SF	RAM	ISD	OMD	Total
<i>FTEs (Years)</i>	<i>0.75</i>	<i>0.25</i>	<i>0.2</i>	<i>0.2</i>	<i>1.4</i>
Staff costs	\$102,263	\$34,088	\$27,270	\$27,270	\$190,891
Travel	\$10,226	\$3,409	\$2,727	\$2,727	\$19,089
Contracts					
Supplies/Equipment	\$1,023	\$341	\$273	\$273	\$1,909
Rent/Utilities	\$12,272	\$4,091	\$3,272	\$3,272	\$22,907
Other					
Total Costs	\$125,784	\$41,928	\$33,542	\$33,542	\$234,796

Source: NMFS Alaska Region

1.8.5.2 NOAA Enforcement

NOAA Enforcement costs are assumed to be 20 percent of their costs for the combined cost estimates for the Amendment 80, AFA and CDQ fisheries. That equates to \$246,460 per year, as shown in Table 1-45.

Table 1-45 OLE estimated recoverable costs for the CDQ fishery

Category	AM80, CDQ & AFA	20% of Total
Salaries	\$675,422	\$135,084
Benefits	\$250,222	\$50,044
Travel	\$49,710	\$9,942
Transportation	\$4,729	\$946
Rent, Comm, Util	\$225,011	\$45,002
Printing	\$5,120	\$1,024
Contracts/Training	\$16,476	\$3,295
Supplies	\$5,612	\$1,122
Equipment	\$0	\$0
Total	\$1,232,301	\$246,460

Source: OLE staff based on expenditures by region.

1.8.5.3 Alaska Department of Fish and Game

ADFG staff provided estimates of CDQ management costs (Table 1-46). Under the MSA the State of Alaska is allowed to request a maximum of 33 percent of the cost recovery fees collected for a LAP or CDQ program. The costs provided represent the annual costs associated with eLandings. The State may incur more costs during years when they are required to conduct the required 10-year review of the CDQ program. However, no additional costs were included for 2012, the first time a 10-year review was conducted. Cost estimates provided in this analysis represent additional costs incurred by ADFG for personnel and infrastructure. Personnel costs, for one-fourth of a year of a full time employee's time, accounts for about 85 percent of their recoverable costs.

The following methodology was utilized to determine ADFG's costs directly related to the CDQ program. CDQ fisheries (halibut/groundfish) represent 12 percent of all landing reports processed and stored within the eLandings/fish ticket systems. The CDQ tickets are exclusively processed by the Kodiak groundfish staff. Staff costs presented in this analysis are estimated using 12 percent of one eLandings programmer's annual salary and 12 percent the eLandings Project Manager's salary. The eLandings programmer's salary is related to the processing of CDQ landings reports. The eLandings Project Manager's time is utilized in the development and maintenance of CDQ specific training materials, CDQ training events, eLandings program management, and CDQ user support. Combined time spent by these two employees amounts to about one-fourth of a year for a full-time employee. The estimated costs provided by the State of Alaska account for less than 33 percent of the total estimated CDQ cost recovery amount.

Table 1-46 ADFG costs estimates for 2013

CDQ Program Costs	ADFG
<i>FTEs</i>	<i>0.25</i>
Staff Costs	\$ 55,601
Contracts	\$ 2,672
Supplies/Equipment	\$ 667
Training events (processors)	\$ 6,672
Total:	\$ 65,612

Source: ADFG

1.8.5.4 AKFSC Observer Program Costs

The CDQ vessels had 1,186 second observer days³⁰. At the estimated cost of \$71.50 per day, the cost recovery fee is equal to \$84,799. A discussion of how the \$71.50 per day was derived is presented in the Amendment 80 cost section. Section 304(d) fees defined here are explicitly for stationing observers and the actual cost of inputting collected data into the observer program database.

1.8.5.5 Total CDQ Recoverable Costs and Estimate of Fee Percentage

Table 1-47 provides a summary of the management costs subject to the cost recovery program, gross ex-vessel revenue from species allocated to the CDQ program, and estimates of the cost recovery fee percentages. Fees were estimated to be about \$0.63 million per year, at current levels. Recoverable fees were incurred by several divisions within the Alaska Region of NMFS, NOAA Enforcement, Alaska Department of Fish and Game, and the NMFS Observer Program. Neither the Alaska Fisheries Science Center, other than the observer program, nor the North Pacific Fisheries Management Council provided any costs that may be recovered under Section 304(d).

Table 1-47 Summary of CDQ groundfish and halibut costs, gross ex-vessel revenue, and fee percentage.

CDQ Agency	Costs	Ex-vessel Revenue (\$Million)			
		2008	2009	2010	2011
AKR	\$234,796	Groundfish and halibut revenue from all CDQ groups			
NOAA Fisheries Enforcement	\$246,460				
AK Science Center	\$0				
ADFG	\$65,612				
NPFMC	\$0				
Observer Program	\$84,799				
Total (\$Million)	\$0.63	\$85.8	\$52.0	\$47.4	\$73.5
Fee %		0.74%	1.21%	1.33%	0.86%

Source: Agency cost estimates and AKFIN value estimates (based on eLandings and COA)

The CDQ program fee percentage was estimated to range from 0.8 percent to about 1.5 percent depending on the year considered. The fee percentage for 2011, the most recent year data are available, was about 1.0 percent of the gross ex-vessel value of species directly allocated to the CDQ program.

In each year considered above, the fee percentage was 1.33 percent or less. Based on that fee percentage, the cost of managing the program would need to increase by over 2.25 times the current level, or an equivalent reduction in revenue would need to occur for the 3 percent fee maximum to be reached. It is unlikely that the cost of management would increase or the revenue from the fishery would decline by amounts large enough to reach a 3 percent fee level in the near future.

1.8.6 AFA and AI Pollock Recoverable Costs

1.8.6.1 National Marine Fisheries Service AKR

AKR staff annual responsibilities specific to the AFA and AI pollock programs include scale inspections, which may require staff to travel to Seattle or Dutch Harbor, CMCP inspections, and answering regulatory questions. AKR incurs costs for revising program regulations, programming changes to the catch accounting system, and programming and web design for online applications.

³⁰ The second observer day refers to the requirement that this class of vessel is required to carry a second observer. The cost of those second observers is the additional cost that results from the LAP program or CDQ program.

Table 1-48 shows the estimated recoverable costs for the four departments within the Alaska Regional office of NMFS. The total recoverable costs were \$324,802. Details of the cost categories by department are provided. That detail indicates Sustainable Fisheries accounted for over 77 percent of the total costs. Sustainable Fisheries required 1.5 additional full time employees to oversee the AFA and AI pollock fisheries. Staff costs were their largest expenditure. RAM’s recoverable costs are estimated to have increased by \$6,150 per year. Almost all of those costs are attributed to the annual assignment of permits for catcher vessels operating in the inshore sector. ISD and OMD both had recoverable costs of about \$33,500 per year. Their costs are assumed to be the same based on the number of FTEs. However, in the future, as will all agency costs, they may differ when actual costs are tracked.

Table 1-48 NMFS Alaska Region estimates of 2013 costs associated with AFA and AI Pollock fisheries

AFA/AI Pollock	SF				RAM	ISD				OMD				Total
	Inshore	CP	MS	Total	Inshore	Inshore	CP	MS	Total	Inshore	CP	MS	Total	
FTEs (Years)	0.9	0.5	0.2	1.5	N/A	0.1	0.1	0.1	0.2	0.1	0.1	0.1	0.2	2.0
Staff costs	\$122,716	\$61,358	\$20,453	\$204,527	\$5,000	\$9,090	\$9,090	\$9,090	\$27,270	\$9,090	\$9,090	\$9,090	\$27,270	\$273,157
Travel	\$12,272	\$6,136	\$2,045	\$20,453	\$500	\$909	\$909	\$909	\$2,727	\$909	\$909	\$909	\$2,727	\$27,316
Contracts	\$0	\$0	\$0	\$0										
Supplies/Equipment	\$1,227	\$614	\$205	\$2,045	\$50	\$91	\$91	\$91	\$273	\$91	\$91	\$91	\$273	\$2,732
Rent/Utilities	\$14,726	\$7,363	\$2,454	\$24,543	\$600	\$1,091	\$1,091	\$1,091	\$3,272	\$1,091	\$1,091	\$1,091	\$3,272	\$32,779
Other	\$0	\$0	\$0	\$0										
Total Costs	\$150,941	\$75,470	\$25,157	\$251,568	\$6,150	\$11,181	\$11,181	\$11,181	\$33,542	\$11,181	\$11,181	\$11,181	\$33,542	\$324,802

Source: NMFS Alaska Region

1.8.6.2 NOAA Enforcement (OLE)

NOAA Enforcement costs for the AFA and AI pollock fisheries are assumed to be the same (\$492,920) as the Amendment 80 fisheries. When they begin tracking costs for each fishery, these costs may be less or more than those reported. That information is not currently available, so estimates were generated based on expenditures by enforcement offices in the management area.

OLE was requested to further breakdown costs associated with management of the pollock fishery by AFA industry sector. OLE staff reviewed their enforcement efforts over the last year and estimated that their costs were as follows:

- 50 percent (\$246,460) AFA CP sector,
- 40 percent (\$197,168) AFA Inshore sector, and
- 10 percent (\$49,292) AFA mothership sector.

These costs are similar to the percentage of BS pollock allocated to each sector. However, the CP sector was allocated 40 percent of the available BS quota and was estimated to be responsible for 50 percent of the costs. The Inshore sector was allocated 50 percent of the available BS pollock quota and was responsible for 40 percent of the OLE costs. The AFA Mothership sector accounted for 10 percent of AFA costs and 10 percent of the AFA allocation.

1.8.6.3 Alaska Department of Fish and Game

ADFG does not have recoverable costs associated with the AFA program or the AI pollock allocation to the Aleut Corporation.

1.8.6.4 AKFSC Observer Program

The AFA sector had 5,447 second observer days in 2011 that may be subject to the 304(d) cost recovery fees considered in this analysis. Those days are attributed to the AFA catcher/processor sector (3,344 days), AFA shorebased plants (1,349 days), and AFA motherships (754 days). Using a daily cost of \$71.50, the AFA CPs would be subject to \$239,096, inshore entities would be subject to \$96,454, and motherships would be subject to \$53,911 in 304(d) fees. Those fees are not redundant with observer costs paid by fishery participants under Section 313.

1.8.6.5 Total AFA and AI Pollock Recoverable Costs and Estimate of Fee Percentage

Table 1-49 provides a summary of AFA and AI pollock gross ex-vessel revenue, recoverable agency costs, and the resulting cost recovery fee percentage for 2008 through 2011. If the same fee percentage was applied to the entire AFA sector, the fee would have ranged from a high of 0.58 percent in 2010 to a low of 0.30 percent in 2008. Because the management costs are assumed to be the same each year, the change is attributed to the fluctuations in ex-vessel gross revenue. The bottom portion of the table provides estimates of the cost recovery fee percentage when it is broken out by CP, MS, and inshore. Those data indicate that the CP vessels would pay a greater cost recovery fee than the MS or inshore vessels. CPs would pay a greater cost recovery fee percentage because OLE and observer program costs are greater for those vessels, relative to the others.

Table 1-49 Summary of AFA/AI Pollock gross ex-vessel revenue, agency costs, and estimated fee percentages.

AFA/AI Pollock	Costs				Ex-vessel Revenue (\$ Million)			
	C/P	MS	Inshore	Total	2008	2009	2010	2011
Agency								
AKR	\$97,832	\$47,518	\$179,452	\$324,802				
OLE	\$246,460	\$49,292	\$197,168	\$492,920				
AK Science Center					Revenue from all AFA fisheries and the AI pollock fishery			
ADFG								
NPFMC								
Observer Program	\$239,096	\$53,911	\$96,454	\$389,461				
Total (\$ million)	\$0.58	\$0.15	\$0.47	\$1.21	\$398.4	\$293.2	\$208.4	\$352.7
AFA Fee Percent					0.30%	0.41%	0.58%	0.34%
		Sector Revenue		C/P	\$159.4	\$117.3	\$83.3	\$141.1
				MS	\$39.8	\$29.3	\$20.8	\$35.3
				Inshore	\$199.2	\$146.6	\$104.2	\$176.4
		Sector Fee Percent		C/P	0.36%	0.49%	0.70%	0.41%
				MS	0.38%	0.51%	0.72%	0.43%
				Inshore	0.24%	0.32%	0.45%	0.27%

Source: Agency cost estimates and AKFIN value estimates (based on eLandings and COAR)

In each year considered above, the fee percentage was 0.58 percent or less. Given that highest fee percentage, the cost of managing the program would need to increase by over 5 times the current level, or an equivalent reduction in revenue would need to occur for the 3 percent fee maximum to be reached. It is unlikely that the cost of management would increase or the revenue from the fishery would decline by amounts large enough to reach a 3 percent fee level in the near future.

1.8.7 Freezer Longline Coalition

Costs associated with management and enforcement of the FLC allocation are incurred by the AKR, OLE, and Observer Program. A summary of those costs are presented in this section. Recall a tabular list of the cost categories are presented at the beginning of this section.

1.8.7.1 National Marine Fisheries Service AKR

AKR staff annual responsibilities specific to the Freezer Longline Coalition allocation include scale inspections, which may require staff to travel to Seattle or Dutch Harbor, CMCP inspections, and answering regulatory questions. AKR staff costs also result from revising program regulations, programming changes to the catch accounting system, and programming and web design for online applications.

Cost estimates within the Alaska Region of NMFS were estimated using 0.2 FTE's for catch accounting, 0.2 FTEs for monitoring, and 0.2 FTEs for the remaining Sustainable Fisheries staff. It is believed that NMFS will contract a significant part of the inspection work associated with the FLC (Table 1-50). Therefore, those costs and its associated travel are included under the "contracts" heading. Based on current budgeting, staff assigned slightly more than one-third of the anticipated contract costs to the FLC vessels. Travel was estimated based on NMFS staff taking a one week trip to Dutch Harbor and a one week trip to Seattle. One-third of equipment and storage costs were also assigned to monitoring the FLC allocation.

Table 1-50 Estimates of annual NMFS AKR costs associated with the FLC.

FLL Cod	AKR: Sustainable Fisheries
FTEs (Years)	0.6
Staff costs	\$81,600
Travel	\$5,360
Contracts	\$39,600
Supplies/Equipment	\$800
Rent/Utilities	\$250
Other	
Total Costs	\$127,610

Source: Sustainable Fisheries staff

1.1.1.1 NOAA Enforcement (OLE)

OLE was asked to provide an estimate of their enforcement costs for the FLC vessels. They are only able to provide a rough estimate, given the newness of the program and how costs are tracked within the agency. The estimate OLE staff provided was for 0.75 FTEs (Table 1-51). The average agent was assumed to be a GS 12-1. Therefore, an annual salary of about \$75,000 plus benefits and other costs was used as the estimate. Other costs were estimated using the same percentages relative to wages that were included for OLE costs in the other fisheries. The total of all costs was estimated to be \$137,121 per year.

Table 1-51 Estimates of OLE costs for the FLC vessels in the BSAI Pacific cod fishery

<u>Cost Category</u>	<u>FLC</u>
FTE	0.75
11xx – Salaries	\$75,156
12xx – Benefits	\$27,843
21xx - Travel	\$5,531
22xx - Transportation	\$526
23xx – Rent, Comm, Util	\$25,038
24xx - Printing	\$570
25xx - Contracts/Training	\$1,833
26xx -- Supplies	\$624
31xx -- Equipment	\$0
TOTAL	\$137,121

Source: OLE staff estimates of FTEs

OLE staff also noted that additional resources may be warranted for the FLC vessels. If resources were available they projected that 1.25 FTEs could be utilized in that fishery. Increasing the number of FTEs to that level would result in the costs being about \$230,000 per year.

1.1.1.2 Observer Program

Vessels in the FLC that opted to take two observers in 2013 instead of using the flow scale were estimated to account for 1,482 observer days in 2012. To provide these estimates, the Observer Program staff summed the total days these same vessels fished in 2012 in the Bering Sea cod fishery, since this is the last full year of fishing available and the BSAI Pacific cod TAC in 2012 is similar to the 2013 TAC. Vessels that took two observers had 2,964 observer days. Half of those observer days would have been taken in support of the LAP program. Therefore, 1,482 observer days would be taken by FLC vessels specifically to support the LAP program. Based on a daily cost of \$71.50 per observer day, as described for other fisheries, the total cost recovery liability (304(d) fees) for observer coverage is estimated at \$105,963. Those fees are not redundant with observer costs paid by fishery participants under Section 313.

1.1.1.3 Total FLC Recoverable Costs and Estimate of Fee Percentage

Table 1-52 provides a summary FLC gross ex-vessel revenue, recoverable agency costs, and the resulting cost recovery fee percentage for 2008 through 2011. If the same fee percentage was applied to the entire AFA sector, the fee would have ranged from a high of 0.88 percent in 2010 to a low of 0.37 percent in 2008. In 2012 the estimated fee was 0.52 percent. Because the management costs are assumed to be the same each year, the change is attributed to the fluctuations in ex-vessel gross revenue.

Table 1-52 FLC estimates of recoverable costs and fee percentages

FLC Agency	Costs	Ex-vessel Revenue (\$Million)			
		2008	2009	2010	2011
AKR	\$127,610	BSAI Pacific cod revenue from FLC			
OLE	\$137,121				
AK Science Center	\$0				
ADFG	\$0				
NPFMC	\$0				
Observer Program	\$105,963				
Total (\$Million)	\$0.37	\$99.2	\$46.9	\$42.2	\$71.3
Fee %		0.37%	0.79%	0.88%	0.52%

Source: Agency cost estimates and AKFIN value estimates (based on eLandings and COA)

In each year considered above, the fee percentage was 0.88 percent or less. Cost of managing the program would need to increase by about 3.4 times the current level, or an equivalent reduction in revenue would need to occur for the 3 percent fee maximum to be reached. That magnitude of change in management costs or revenue from the fishery are not expected in the near future.

1.9 Structure of Current Cost Recovery Fee Programs for Alaska Fisheries

There are currently three cost recovery programs in place for LAP program fisheries off Alaska’s coast. Those are the Halibut and Sablefish IFQ program, Rockfish program, and the Crab Rationalization program. Each program has elements that are similar, but the individual cost recovery program components within those elements vary by fishery. Table 1-53 provides a summary and comparison of the three programs.

Table 1-53 Cost recovery fee structure in IFQ, CG Rockfish, and Crab Rationalization programs

Program Element	Halibut/Sablefish IFQ	Rockfish Program	Crab Rationalization
Who must comply with fee payment requirements?	The person documented on the IFQ permit as the permit holder at the time of an IFQ landing.	The person documented on the rockfish Cooperative Quota (CQ) permit as the permit holder at the time of a rockfish CQ landing.	The person documented on the IFQ, IPQ, CDQ, RCR, Commercial Fisheries Entry Commission (CFEC), or State of Alaska Commissioner’s permit as the permit holder at the time of a CR crab landing.
When is the fee liability determined?	Each year the Regional Administrator will publish IFQ standard prices in the Federal Register during the last quarter of each calendar year. The standard prices will be described in U.S. dollars per IFQ equivalent pound, for IFQ halibut and sablefish landings made during the current calendar year.	NMFS will calculate and announce the fee percentage during the first quarter of the year following the calendar year in which the rockfish CQ landings were made.	During the first quarter of each crab fishing year, NMFS will calculate and announce the crab fee percentage.
How is the fee liability determined?	An IFQ permit holder must use either the (1) IFQ standard ex-vessel value or the (2) IFQ actual ex-vessel	NMFS calculates the rockfish standard ex-vessel value to reflect, as closely as possible by	An RCR permit holder must use either the ex-vessel value determined for shoreside processors or the ex-vessel

Program Element	Halibut/Sablefish IFQ	Rockfish Program	Crab Rationalization
	<p>value when determining the IFQ fee liability based on ex-vessel value. An IFQ permit holder must base all fee liability calculations on the ex-vessel value that correlates to landed IFQ fish that is recorded in IFQ equivalent pounds. <i>IFQ actual ex-vessel value.</i> An IFQ permit holder that uses actual ex-vessel value, as defined in § 679.2, to determine IFQ fee liability must document actual ex-vessel value for each IFQ permit.</p> <p>The Regional Administrator will base IFQ standard prices on the following types of information: (A) Landed pounds by IFQ species, port-group, and month; (B) Total ex-vessel value by IFQ species, port-group, and month; and (C) Price adjustments, including IFQ retro-payments.</p>	<p>month, the variations in the actual ex-vessel values of landings based on information provided in the Rockfish Ex-vessel Volume and Value Report as described in § 679.5(r)(10). The Regional Administrator will base rockfish standard ex-vessel values on the following types of information: (A) Landed pounds by rockfish primary species and rockfish secondary species landings and month; (B) Total ex-vessel value by rockfish primary species and rockfish secondary species landings and month; and (C) Price adjustments, including retroactive payments.</p>	<p>value determined for at-sea Catcher/ Processors (CP), depending on their activity. Ex-vessel value includes all cash, services, or other goods-in-kind exchanged for CR crab. <i>Shoreside Ex-vessel value.</i> Shoreside processing facilities must use the price paid at the time of purchase as ex-vessel value for the purposes of calculating fee liability. Shoreside processing facilities must include any subsequent retroactive payments as adjustments to the initial calculation of fee liability. <i>Catcher/processor Ex-vessel value</i> Catcher/processors must use the corresponding CP standard price(s) for the purposes of calculating fee liability.</p>
What is the fee percentage?	The 2012 fee was set at 2.1 percent.	The 2012 fee was set at 1.4 percent.	The fee was set at 2.67 percent for the 2010/2011 crab fishing year; 1.23 percent for 2011/2012; and 0 percent for 2012/2013.
When is fee due?	On or before January 31 in the year following when IFQ landings were made.	No later than February 15 of the year following the calendar year in which the rockfish CQ landings were made.	On or before the due date of July 31, in the year following the crab fishing year in which landings of crab were made
Payment method	Mail payment and related documents to RAM or submit electronically to NMFS. Payment must be made in U.S. dollars by personal check drawn on a U.S. bank account, money order, bank certified check, or credit card.	Payment must be made to NMFS electronically in U.S. dollars by automated clearing house, credit card, or electronic check drawn on a U.S. bank account.	Payment must be made to NMFS in U.S. dollars by personal check drawn on a U.S. bank account, money order, bank certified check, or credit card.
What species	Halibut and sablefish	Central GOA species	Bristol Bay red king crab,

Program Element	Halibut/Sablefish IFQ	Rockfish Program	Crab Rationalization
are subject to the fee?	harvested from the GOA or BSAI that are sold under the IFQ program	harvested by a cooperative: Primary rockfish species are northern rockfish, Pacific ocean perch, and pelagic shelf rockfish. Secondary rockfish species are Pacific cod, rougheye rockfish, shortraker rockfish, sablefish, and thornyhead rockfish.	Bering Sea snow crab, Eastern Aleutian Islands golden king crab, St. Matthew blue king crab, Western Aleutian Islands golden king crab <i>Closed Fisheries in the 2010/11 Fishing Year</i> Pribilof Islands red and blue king crab, Western Aleutian Islands red king crab, Eastern Bering Sea Tanner crab, Western Bering Sea Tanner crab
Are additional data collected to determine fees	Yes	Yes	Yes
Direct program costs of management and enforcement.	\$5,224,857 in 2011	Not available because it is the first year of the program	\$3,210,189 in 2010/2011
Under payment of fees	1) When an IFQ permit holder has incurred a fee liability and made a timely payment to NMFS of an amount less than the NMFS estimated IFQ fee liability, the Regional Administrator will review the Fee Submission Form and related documentation submitted by the IFQ permit holder. If the Regional Administrator determines that the IFQ permit holder has not paid a sufficient amount, the Regional Administrator may disapprove any transfer of IFQ or QS to or from the IFQ permit holder in accordance with § 679.41(c)(4). The Regional Administrator will notify the IFQ permit holder by letter that an insufficient amount has been paid and that the IFQ permit holder has 30 days from the date of	Pursuant to § 679.81(f), no rockfish CQ holder will receive any rockfish CQ until the rockfish CQ holder submits a complete application. A complete application shall include full payment of an applicant's complete rockfish cost recovery fee liability. (2) If a rockfish CQ holder fails to submit full payment for rockfish cost recovery 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 CQ permit holder stating that the CQ permit holder's estimated fee liability, as indicated by his or her own submitted information, is the rockfish cost recovery fee	(1) Under § 680.4, an applicant will not receive new IFQ, IPQ, or RCR permits until he or she submits a complete application. A complete application shall include full payment of an applicant's complete crab cost recovery fee liability as reported by the RCR. (2) If an RCR fails to submit full payment for crab cost recovery fee liability by the date described in paragraph (a)(4) of this section, the Regional Administrator may: (i) At any time thereafter send an IAD to the RCR permit holder stating that the RCR permit holder's estimated fee liability, as indicated by his or her own submitted information, is the crab cost recovery fee liability due from the RCR permit holder. (ii) Disapprove any transfer of IFQ, IPQ, QS, or PQS to or from the RCR permit holder in accordance with § 680.41.

Program Element	Halibut/Sablefish IFQ	Rockfish Program	Crab Rationalization
	<p>the letter to either pay the amount determined to be due or provide additional documentation to prove that the amount paid was the correct amount. The Regional Administrator will evaluate any additional documentation submitted by an IFQ permit holder in support of his or her payment. If the Regional Administrator determines that the additional documentation does not meet the IFQ permit holder's burden of proving his or her payment is correct, the Regional Administrator will send the permit holder an IAD indicating that the permit holder did not meet the burden of proof to change the IFQ fee liability as calculated by the Regional Administrator based upon the IFQ standard ex-vessel value.</p> <p>(2) After expiration of the 30-day period, the Regional Administrator will issue an IAD and notify the IFQ permit holder. The IAD will set out the facts and indicate the deficiencies in the documentation submitted by the permit holder. An IFQ permit holder who receives an IAD may appeal pursuant to § 679.43. In an appeal of an IAD made under this section, the IAD permit holder has the burden of proving his or her claim.</p> <p>(3) If the permit holder fails to file an appeal of the IAD pursuant to § 679.43, the IAD will become the final agency action. If the IAD is</p>	<p>liability due from the CQ permit holder.</p> <p>(ii) Disapprove any application to transfer rockfish CQ to or from the CQ permit holder in accordance with § 679.81(g).</p> <p>(3) If a rockfish CQ holder fails to submit full payment by the rockfish cost recovery fee liability payment deadline described at paragraph (a)(3) of this section:</p> <p>(i) No CQ permit will be issued to that rockfish CQ holder for that calendar year; and</p> <p>(ii) No rockfish CQ will be issued based on the rockfish QS held by the members of that rockfish cooperative to any other CQ permit for that calendar year.</p> <p>§679.85 Cost Recovery 679b85.doc § 679.85 Cost recovery Created December 27, 2011</p> <p>(4) Upon final agency action determining that a CQ permit holder has not paid his or her rockfish cost recovery fee liability, the Regional Administrator may continue to prohibit issuance of a 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.</p>	<p>(3) If an RCR fails to submit full payment by the application deadline described at § 680.4, no IFQ or IPQ permit will be issued to that RCR for that crab fishing year.</p> <p>(4) Upon final agency action determining that an RCR permit holder has not paid his or her crab cost recovery fee liability, the Regional Administrator may continue to withhold issuance of any new IFQ, IPQ, or RCR permit for any subsequent crab fishing years. If payment is not received by the 30th day after the final agency action, the matter will be referred to the appropriate authorities for purposes of collection.</p>

Program Element	Halibut/Sablefish IFQ	Rockfish Program	Crab Rationalization
	<p>appealed and the final agency action is a determination that additional sums are due from the IFQ permit holder, the IFQ permit holder must pay any IFQ fee amount determined to be due not later than 30 days from the issuance of the final agency action. Once a fee liability determination becomes final, any IFQ fishing permit held by the IFQ permit holder will be deemed not valid until all IFQ fee liabilities have been paid. If payment is not received by the 30th day after the final agency action, the matter will be referred to the appropriate authorities for purposes of collection.</p>		
Overpayment of fees	<p>Upon issuance of final agency action, any amount submitted to NMFS in excess of the IFQ fee liability determined to be due by the final agency action will be returned to the IFQ permit holder unless the permit holder requests the agency to credit the excess amount against the IFQ permit holder's future IFQ fee liability.</p>	<p>Upon issuance of final agency action, payment submitted to NMFS in excess of the rockfish cost recovery fee liability determined to be due by the final agency action will be returned to the CQ permit holder unless the permit holder requests the agency to credit the excess amount against the permit holder's future rockfish cost recovery fee liability. Payment processing fees may be deducted from any fees returned to the CQ permit holder.</p>	<p>Upon issuance of final agency action, any amount submitted to NMFS in excess of the crab cost recovery fee liability determined to be due by the final agency action will be returned to the RCR permit holder unless the permit holder requests the agency to credit the excess amount against the permit holder's future crab cost recovery fee liability.</p>
Appeals	<p>Anytime a permit holder disagrees with the amount due as displayed on the Fee Summary, and wishes to pay the set percent fee premised on actual receipts from the sale of IFQ halibut or sablefish, the Fee</p>	<p>A CQ permit holder who receives an IAD for incomplete payment of a rockfish fee liability may appeal the IAD pursuant to 50 CFR 679.43 which defines determinations and appeals.</p>	<p>An RCR permit holder who receives an IAD may either appeal the IAD pursuant to 50 CFR 679.43 or request reconsideration. Within 60 days from the date of issuance of the IAD, the Regional Administrator may undertake</p>

Program Element	Halibut/Sablefish IFQ	Rockfish Program	Crab Rationalization
	Submission Form must be completed and returned to RAM. A permit holder who challenges RAM's calculation of the amount due must provide actual receipts from the sale of fish.		reconsideration of the IAD on his or her own initiative. If a request for reconsideration is submitted or the Regional Administrator initiates reconsideration, the 60-day period for appeal under 50 CFR 679.43 will begin anew upon issuance of the Regional Administrator's reconsidered IAD. The Regional Administrator may undertake only one reconsideration of the IAD, if any. If an RCR permit holder fails to file an appeal of the IAD pursuant to 50 CFR 679.43 or request reconsideration within the time period provided, the IAD will become the final agency action. In any appeal or reconsideration of an IAD made under this section, an RCR permit holder has the burden of proving his or her claim.
Insufficient Funds	A one-time \$25.00 fee may be assessed if the account drawn on to pay cost recovery fee has insufficient funds.	A one-time \$25.00 fee may be assessed if the account drawn on to pay cost recovery fee has insufficient funds.	A one-time \$25.00 fee may be assessed if the account drawn on to pay cost recovery fee has insufficient funds.
NMFS reporting on fee usage	NMFS publishes an annual report describing the IFQ Cost Recovery Program.	N/A	NMFS publishes an annual report describing the program.

After reviewing the current cost recovery programs in the North Pacific, it was determined that the proposed programs should as closely as possible be based on the Rockfish Program model. However it is important to note that the timing of the rockfish fishery is different from those fisheries in the proposed programs. Therefore, some components will need to be modified to account for the timing of the fishing seasons and when fishing privileges are allocated to entities. In general, the timing for determining and reporting the standardized prices and collection of the associated fee liabilities will need to occur sooner than the timing laid out in the Rockfish Program.

1.10 Implementation and Proposed Structure of Cost Recovery Programs

As shown in Table 1-53 there are several components of cost recovery program that must be defined before the program can be implemented. The requirements of those components may change based on the structure of the fishery to which the cost recovery fee is applied. This section defines the components of the proposed cost recovery regulations for the LAP programs and CDQ programs covered under this amendment.

1.10.1 Amendment 80

1.10.1.1 Permit Issued and Person Responsible

A CQ permit is issued annually to an Amendment 80 cooperative that submits a complete and timely application for CQ and each member of the Amendment 80 cooperative holding Amendment 80 Quota Share. This application requires that the cooperative identify the Cooperative's Designated Representative. A copy of the cooperative membership agreement or contract must be provided with the application. The application must be submitted annually and received by NMFS no later than 1700 hours A.l.t. on November 1 of the year prior to the year for which the applicant wishes to participate in an Amendment 80 fishery, or if sent by U.S. mail, the application must be postmarked by that time.

As described in Section 1.5.1 Amendment 80 allocations are currently divided between two cooperatives. All Amendment 80 vessel owners are currently opting to have all their eligible vessels participate in a cooperative. This amendment would require the person documented as a Cooperative's Designated Representative, at the time groundfish CQ are landed, to be responsible for submitting the cost recovery fee for their cooperative. Based on the current cooperative structures, two entities would be required to submit cost recovery fees to NMFS. The number of entities that must submit the fee could change in the future, depending on the number of cooperatives that are issued CQ.

Vessels participating in the open access fishery are not members of a cooperative and are not subject to the cost recovery fee. Vessel owners that participate in the open access sector must compete against other Amendment 80 qualified vessels that do not join a cooperative. If they must compete against vessels owned by other entities, the benefits they derive from Amendment 80 are limited. It is possible that these vessels could form a voluntary cooperative to harvest the fish assigned to the sector, allowing them to benefit from the cooperative and not pay the cost recovery fee. However, the cooperative would not be effective if just one vessel entered the open access and did not abide by the terms and conditions of the cooperative agreement.

If some members of the Amendment 80 sector did not join a cooperative, the aggregate ex-vessel gross revenue generated by cooperative members, all else being equal, would decline. The remaining cooperative members would, potentially, need to pay a larger cost recovery fee percentage to cover the management, enforcement, and data collection incurred by the various agencies. If all of the vessels in the sector participated in the Amendment 80 open access fishery, no cost recovery fees would be collected and the fishery would be managed as an open access fishery. NMFS would manage the fishery more conservatively, because it would assume there are no cooperatives responsible for the actions of their members. This means that NMFS would be more likely to close fisheries earlier, or not open fisheries to directed fishing when PSC limits or TACs could not be effectively managed.

1.10.1.2 Cost Recovery Fee Liability

The timing of determining an estimate of the ex-vessel value of species that are predominately landed by catcher/processors is complicated by the requirements of Section 304(d) and the current reporting of value information. The cost recovery fee language indicates that the fee shall not exceed 3 percent of the ex-vessel value of fish harvested under any such program, and 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. Because there is not a robust ex-vessel value established in the market place for Amendment 80 sector species, except Pacific cod, the analysis has provided a methodology of estimating the ex-vessel value. That value will be determined using 0.4 times the reported first wholesale value as discussed in Section 1.7.2. However, a problem still exists in that the first wholesale value is not reported in the COAR data until April 1 of the year following when fish were landed. The other data collection tool

currently in place to collect prices, the Amendment 80 Economic Data Report (EDR), is not submitted until June of the year after the landings occur. As stated in this analysis it is proposed that the Amendment 80 cost recovery fee must be submitted by December 31st of the calendar year the landings were made³¹. This would enable NMFS to verify the cost recovery fee has been paid before issuing final CQ to the cooperatives. Therefore, all of the current data collection methods for those species would not provide first wholesale price data until several months after the cost recovery fee is due. To generate timely standard ex-vessel prices NMFS will need to collect first wholesale data on round pounds and value. Reports will need to be filed by November 1st. The average standard prices through October will be used as a proxy price for November and December. Annual Standard prices will be estimated for all Amendment 80 species except rock sole. Two standard prices will be estimated for rock sole, one for the first quarter and one for the remainder of the year. Standard prices and the cost recovery fee percent will be reported in an FR Notice by December 1 and the fee liability payment will be due on December 31st. The This billing cycle will as closely as possible base the cost recovery fee liability on that year's ex-vessel revenue while allowing the fees to be collected prior to issuing the CQ and CDQ allocations for the upcoming fishing year.

Payment must be made to NMFS electronically in U.S. dollars by automated clearing house, credit card, or electronic check drawn on a U.S. bank account. The Federal Management Service (FMS) of the Department of Treasury, in announcement number A-2012-02, reduced the limits on credit card collection transactions for agencies using the Card Acquiring Service³². The revised policy went into effect June 30, 2012, and lowers the maximum dollar amount allowed for a credit card transaction from \$99,999 to \$49,999. This action also removes the limit on debit card transactions. A summary of that announcement is summarized below:

The reason for this action was that large-dollar card transactions are costlier for the Federal Government than small-dollar transactions. FMS incurs a variety of fees for each transaction, the largest of which is an interchange fee based on a percentage of the dollar value of the transaction. For example, a 1.5-percent fee for a \$200,000 transaction would cost the Federal Government \$3,000, while a 1.5-percent fee for a \$200 transaction would cost the Federal Government \$3. Paying high fees for accepting credit card transactions is not in the Federal Government's best interest.

Recent legislation enacted by Congress reduces the interchange costs associated with accepting debit card transactions. The legislation also allows Federal agencies to set a maximum credit card transaction amount, as well as a minimum credit card transaction amount not greater than \$10. To reduce the fees that the Federal Government incurs for credit card processing, FMS is further limiting the dollar value allowed for credit card transactions. When collecting large-dollar transactions, agencies should use other less expensive electronic alternatives. FMS does not allow agencies to set a minimum credit or debit card transaction amount.

If the agency collects individual credit card transactions greater than \$49,999.99, then the agency should use other electronic collection alternatives for those transactions. Available electronic alternatives include Automated Clearing House debits or credits and Fedwire transactions. Agencies may not split individual transactions greater than \$49,999.99 into two or more transactions over one or multiple days. Splitting a transaction violates the credit card network and FMS rules. For a customer that attempts multiple transactions on the same day with the same credit card, those transactions that cause the total charge to exceed the limit of \$49,999.99 will be rejected.

³¹ The accounting period to estimate prices is December 1st through October 31st.

³² The authority for this announcement is based upon 31 U.S.C. § 3301-3303 and 15 U.S.C. § 16930-2.

Agencies must change any regulations, policies, or other procedural documents to reflect this policy. Additionally, this policy should be reinforced in agency communications with customers.

FMS will revisit this policy periodically to review the maximum transaction dollar-value limit as well as its application on a cashflow, program, agency, or other basis. FMS will be evaluating various applications of this policy with selected agencies in order to guide any future changes to this policy.

In summary, NMFS is expected to calculate the Amendment 80 species standard ex-vessel value to reflect, as closely as possible, the variations in actual ex-vessel values of Pacific cod landings based on information provided in the Ex-vessel Volume and Value reports. All other Amendment 80 species ex-vessel prices will be estimated using First Wholesale Volume and Value Reports. The estimated ex-vessel price will be calculated using 40 percent of the first wholesale price by species and gear. First wholesale prices will be calculated by dividing the total first wholesale revenue (by month and species) by the round weight of that species.

Estimates of the ex-vessel prices will be reported in an FR notice by December 1. Each Amendment 80 cooperative will be required to electronically submit the required payment by December 31st of the calendar year when the harvest occurred. The fee is based on the year after the majority of the harvest occurred; assuming harvest from December of the year prior is included in the fee calculation.

1.10.2 CDQ

1.10.2.1 Person and Permit

Groundfish and halibut allocations are made annually to the six CDQ groups. Additional discussion of the allocations is presented in Section 1.5.2.1. Only halibut permits are issued by NMFS to the CDQ groups as required under § 679.4. CDQ halibut permits are required to harvest CDQ halibut and are issued annually, without charge, to CDQ groups with approved CDQ plans and directed fishing allocations of halibut. Each CDQ group may then distribute those permits to individuals to harvest the group's CDQ halibut allocation. Permits are not required for CDQ vessels or CDQ groups to participate in the groundfish fisheries.

It is assumed that the six CDQ groups would be responsible for submitting the cost recovery fee associated with landings made from their direct allocations. The groups can monitor the usage of their allocations through the NMFS eLandings system. Standardized ex-vessel prices do not require the groups to know exactly how much ex-vessel revenue was derived from each landing. Each group only needs to know the total amount of landings reported and the standard price as calculated by NOAA Fisheries to determine their liability.

1.10.2.2 Cost Recovery Fee Liability

The standardized ex-vessel prices will be calculated using three different methodologies depending on the species. Standardized prices for fixed gear halibut and sablefish will be determined using the Bering Sea port data from the IFQ cost recovery program. In 2012 these prices were reported in a December 4th Federal Register Notice, because the fisheries are typically closed by regulation by mid-November. BSAI Pollock and Pacific cod standardized prices will be calculated on an annual basis using prices set for the AFA, Amendment 80, or Freezer Longline programs. These standard prices will be published in an FR Notice by December 1st. All other standardized prices will be based on the proposed First Wholesale Volume and Value Report using the same structure as used for the Amendment 80 program.

CDQ cost recovery fee liability payments must be submitted electronically to NMFS by December 31st. The December 31st date was selected to allow NMFS time to ensure the full cost recovery fee is submitted prior to issuing CDQ allocations for the next fishing year. Payments that are not received by December 31st must be submitted to NMFS before the CDQ annual allocations for any species are released for harvest. If fees are not paid within 30 days of the due date, NMFS may pursue an enforcement action to collect any outstanding fee liabilities.

Any cost recovery fee payment submitted to NMFS in excess of the CDQ cost recovery fee liability will be returned to the CDQ permit holder unless the permit holder requests the agency to credit the excess amount against the permit holder's future CDQ cost recovery fee liability. The amount of funds returned to the CDQ group may be reduced by any payment processing fees.

1.10.2.3 Other Issues

Contracts between CDQ groups and their harvesting partners are not public information. The specific contents of those contracts are not available or included in this analysis. However, imposing a cost recovery fee may require the two sides to review their agreements and address how the cost of the fee will be borne by the parties. Distribution of those costs explicitly through clauses in the contracts between the CDQ groups and their harvesting partners or indirectly through the royalty fee adjustments, will determine how the burden of the fee is distributed. In cases where the CDQ group owns the harvesting and perhaps processing facility, the cost will be borne by the CDQ group. That is because world-wide demand for their products determines the market clearing price they can charge and the quantity of product they produce is unlikely to have substantial impact on world market prices (price flexibility is elastic) for products. When the harvest privileges are leased to harvesters or delivered to processors that are not owned by the CDQ group. The cost of the fee could be borne by the harvester, processor, the CDQ group, or some combination of the three entities.

Market power will determine how the fee liability is divided among the industry sectors. Sectors with relatively more market power will be able to affect prices and the distribution of how much of the fee is paid by sectors. In the CDQ fishery, the CDQ groups have market power by virtue of controlling the CDQ allocation. Therefore, in fisheries where the harvesting privilege is leased to another entity, it is likely that the CDQ groups can pass some, or all, of the fee on to harvesting entity when a contract is negotiated. Depending on when or if the fish are delivered to a process, that is distinct from the harvester, some of the fee may be passed on to the processor. However, it is expected that the harvester of the fish will ultimately realize most of the fiscal burden associated with the fee.

1.10.3 AFA and Aleutian Islands Pollock

1.10.3.1 Person and Permit

NMFS will require both the catcher/processor and mothership cooperative to submit information on the person responsible for complying with the cost recovery fee each year before the allocations are made. Persons identified as the cooperative representative will be responsible for submitting the entire cost recovery fee for their cooperative. The required annual cooperative reports should identify any members of the sector that did not comply with the requirement to fund their share of the cost recovery fee in the most recent fee cycle available. The three mothership cooperatives and catcher/processor cooperative will each submit one payment for the entire cost recovery fee. Those fee liabilities must be paid prior to the sector receiving their pollock allocation for the next fishing year. The Aleut Corporation will be responsible for submitting any cost recovery fee liability resulting from the harvest of AI pollock they are allocated.

Payment must be made using an approved electronic format by the deadline defined in this amendment for the AFA sector.

NMFS will calculate and determine the AFA and AI pollock fee percentages and announce the percentage in an FR Notice on or before December 1st. The fee percentage will be determined by dividing all recoverable costs by the estimated ex-vessel value of the directed BS and AI pollock fisheries subject to the fee. Each entity's fee liability is determined by multiplying the landings of BS or AI pollock in their sector by the standard ex-vessel price derived from the COAR data. The fee must be submitted electronically to NMFS no later than December 31st of the calendar year the fee is announced in the FR notice. Fee under and over payment regulations are structured the same as they were for the Amendment 80 and CDQ sectors.

1.10.4 FLC

NMFS will require FLC to submit information on the person responsible for complying with the cost recovery fee each year before the allocations are made. The person identified as the coalition representative will be responsible for submitting the entire cost recovery fee for the FLC. That fee will be due on December 31st of the year the Pacific cod were harvested. Fee liabilities must be paid prior to the release of the BSAI Pacific cod allocation for use by freezer longline vessels the next fishing year.

NMFS will calculate and determine the FLC fee percentages and announce the percentage in an FR Notice on or before December 1st. The fee percentage will be determined by dividing all recoverable costs by the estimated ex-vessel value of the directed BS and AI pollock fisheries subject to the fee. The FLC's fee liability is equal to the total recoverable fees. The fee must be submitted electronically to NMFS no later than December 31st of the calendar year the fee is announced in the FR notice. Fee under and over payment regulations are structured the same as they were for the Amendment 80 and CDQ sectors. A summary of the regulations that would apply to the FLC are provided in Table 1-54.

Table 1-54 Summary of proposed cost recovery components

Program Element	AFA and AI Pollock	Amendment 80	Halibut/Groundfish CDQ	BSAI Pacific Cod FLC
Who must comply with fee payment requirements?	The person documented on the AFA Inshore cooperative permit as the permit holder at the time of a BS pollock landing. The person documented as the representative of the listed AFA catcher/processors and high seas catcher vessels that deliver to them at the time of a BS pollock landing. The person documented as the representative of the mothership cooperative at the time of a BS pollock landing. The documented representative of the Aleut Corporation at the time of an AI pollock landing.	The person documented on the Amendment 80 Cooperative Quota permit as the permit holder at the time of an Amendment 80 species landing.	The person documented with NMFS as the CDQ group representative at the time of a CDQ halibut or CDQ groundfish landings.	The person documented with NMFS as the FLC representative at the time of a BSAI Pacific cod landing.
When is the fee liability determined?	NMFS will calculate and announce the fee percentage in an FR Notice by December 1 st of the year in which the BS/AI pollock landings were made.	NMFS will calculate and announce the fee percentage in an FR Notice by December 1 st of the year in which the Amendment 80 species landings were made.	NMFS will calculate and announce the fee percentage in an FR Notice by December 1 st of the year in which the CDQ landings were made.	NMFS will calculate and announce the fee percentage in an FR Notice by December 1 st of the year in which the BSAI Pacific cod landings were made.
How is the fee liability determined?	NMFS calculates the pollock standard ex-vessel value to reflect the ex-vessel values of landings based on information provided in the COAR data for the previous year. The	NMFS calculates the Amendment 80 species standard ex-vessel value to reflect, as closely as possible by year (or quarter for rock sole), the variations in	A CDQ group's designated representative must use the CDQ standard ex-vessel value when determining the CDQ fee liability based on ex-vessel value. A CDQ group's designated	NMFS calculates the Pacific FLC standard ex-vessel value to reflect, as closely as possible the actual ex-vessel values of longline Pacific cod. Prices will be estimated using the COAR data from the

Program Element	AFA and AI Pollock	Amendment 80	Halibut/Groundfish CDQ	BSAI Pacific Cod FLC
	<p>Regional Administrator will base pollock standard ex-vessel values on the following types of information:</p> <p>(A) Landed pounds of pollock;</p> <p>(B) Total ex-vessel value of pollock; and</p> <p>(C) Price adjustments, including retroactive payments and roe bonuses.</p>	<p>actual ex-vessel values of Pacific cod landings based on information provided in the Amendment 80 Ex-vessel Volume and Value report. The Regional Administrator will base Amendment 80 BSAI standard ex-vessel values on the following types of information:</p> <p>(A) Landed pounds by Amendment 80 species by month;</p> <p>(B) Total ex-vessel value of Amendment 80 species by month; and</p> <p>(C) Price adjustments, including retroactive payments.</p> <p>For all other Amendment 80 species the annual (first quarter and all other quarters for rock sole) standard ex-vessel price will be estimated using the First Wholesale Volume and Value reports and multiplied by average first</p>	<p>representative must base all fee liability calculations on the ex-vessel value that correlates to landed CDQ fish by gear type that is recorded in CDQ equivalent pounds.</p> <p><i>Halibut and Fixed Gear Sablefish:</i> The Regional Administrator will base CDQ standard prices on the following types of information:</p> <p>(A) Landed pounds by CDQ species, port-group, and month;</p> <p>(B) Total ex-vessel value by CDQ species in the Bering Sea port-group, and month; and</p> <p>(C) Price adjustments, including CDQ retro-payments.</p> <p><i>Groundfish including Trawl Caught Sablefish:</i> NMFS will use the standard prices calculated for pollock and Pacific cod based on the AFA pollock prices and the Amendment 80 Volume and Value Report. The Regional Administrator will base all other CDQ standard ex-vessel groundfish values on the annual standard ex-vessel price (except rock sole which will be estimated for the first quarter and all other quarters combined) will be estimated using the First Wholesale</p>	<p>previous year. Reported hook and line gear ex-vessel prices will be calculated by dividing shorebased Pacific cod hook and line value by round pounds landings of those fish.</p> <p>If NMFS determines that the sufficient data are not available from the CV sector to determine a reliable standard longline BSAI Pacific cod price during a year, they may use the method defined for other catcher/processors: 0.4 multiplied by the first wholesale value. That value would then be divided by the round pounds landed to determine the standard price.</p>

Program Element	AFA and AI Pollock	Amendment 80	Halibut/Groundfish CDQ	BSAI Pacific Cod FLC
		wholesale product prices reported in those reports by 0.4. This estimate is a proxy for the ex-vessel prices of those Amendment 80 species.	Volume and Value reports and multiplied by average first wholesale product prices reported in those reports by 0.4. This estimate is a proxy for the ex-vessel prices of those CDQ species.	
When is fee due?	No later than December 31 st of the calendar year in which the BSAI pollock landings were made.	No later than December 31 st of the calendar year in which the BSAI Am 80 landings were made.	No later than December 31 st of the calendar year in which the BSAI CDQ landings were made.	No later than December 31 st of the calendar year in which the BSAI Pacific cod landings were made.
Payment method	Payment must be made to NMFS electronically in U.S. dollars by automated clearing house, credit card, or electronic check drawn on a U.S. bank account.	Same	Same	Same
What species are subject to the fee?	BS and AI pollock harvested from the directed AFA and AI pollock fishery allocation	Atka mackerel (541, 542, and 543), Pacific ocean perch (541, 542 and 543), flathead sole, Pacific cod, rock sole, and yellowfin sole.	BSAI halibut and the following BSAI groundfish species: BS pollock, AI pollock, BS fixed gear sablefish, AI fixed gear sablefish, BS sablefish, AI sablefish, Pacific cod, WAI Atka mackerel, CAI Atka mackerel, EAI/BS Atka mackerel, yellowfin sole, rock sole, BS Greenland turbot, arrowtooth flounder, flathead sole, WAI Pacific ocean perch, CAI Pacific ocean perch, EAI Pacific ocean perch.	BSAI Pacific cod harvested from the BSAI longline gear catcher/processor Pacific cod allocation.
Are additional data collected	No	First wholesale volume and value	Ex-vessel halibut and sablefish report (like	No

Program Element	AFA and AI Pollock	Amendment 80	Halibut/Groundfish CDQ	BSAI Pacific Cod FLC
to determine fees		report by all Amendment cooperative members that is due November 1 st for all allocated species except Pacific cod.	IFQ). First wholesale volume and value report for all groundfish species allocated to the CDQ program except pollock and Pacific cod. Due November 1 st . All reports to be completed by the first processor of the round fish delivered.	
Under payment of fees	(1) No AFA Inshore CQ holder will receive their entire BS pollock CQ until the cooperative permit holder submits a complete application. A complete application shall include full payment of an applicant's complete AFA cost recovery fee liability. NMFS may issue CQ in the same percentage as the cost recovery fee received from the CQ holder. No AFA CP or mothership permit holder will be allowed to participate in an AFA cooperative that receive any BS pollock allocation until the cooperative permit holder submits a complete application required under this amendment. A complete application shall include payment of an applicant's complete AFA cost recovery fee liability. If a percentage of the fee	(1) No Amendment 80 CQ holder will receive its entire Amendment 80 CQ until the Amendment 80 CQ holder submits a complete application. A complete application shall include full payment of an applicant's complete Amendment 80 cost recovery fee liability. If a percentage of the fee is paid, the RA may release a percentage of CQ to the cooperative equal to the fee percentage paid. (2) If an Amendment 80 CQ holder fails to submit full payment for Amendment 80 cost recovery fee liability by December 31 st of the year	(1) No CDQ holder will receive any CDQ until the CDQ holder submits a complete application. A complete application shall include full payment of an applicant's complete CDQ groundfish and fixed gear halibut and sablefish cost recovery fee liability. (2) If a CDQ holder fails to submit full payment for CDQ the cost recovery fee liability by December 31 st of the year the CDQ groundfish and halibut species were harvested, the Regional Administrator may: (i) At any time thereafter send an IAD to the CDQ permit holder stating that the CDQ permit holder's estimated fee liability, as indicated by his or her own submitted information, is the CDQ cost recovery fee liability due from the CDQ permit holder. (ii) Disapprove any application to transfer CDQ to or from the CDQ permit holder. (3) If a CDQ holder	(1) Member of the FLC or any person that replaces the current entity will not be issued its entire CQ until the designated representative submits a complete application. A complete application shall include full payment of an applicant's complete FLC cost recovery fee liability. If a percentage of the fee is paid, the RA may release a percentage of CQ to the cooperative equal to the fee percentage paid. A complete application shall include full payment of an applicant's complete cost recovery fee liability. (2) If the designated representative of all freezer longline LLP holders with an endorsement to harvest BSAI Pacific cod fails to submit full payment for the cost recovery fee liability by December

Program Element	AFA and AI Pollock	Amendment 80	Halibut/Groundfish CDQ	BSAI Pacific Cod FLC
	<p>is paid, the RA may release a percentage of CQ to the cooperative equal to the fee percentage paid.</p> <p>(2) If an AFA CQ holder fails to submit full payment for AFA cost recovery fee liability by December 31st of the year AFA pollock are harvested, the Regional Administrator may:</p> <p>(i) At any time thereafter send an IAD to the CQ permit holder stating that the CQ permit holder's estimated fee liability, as indicated by his or her own submitted information, is the AFA cost recovery fee liability due from the CQ permit holder.</p> <p>(ii) Disapprove any application to transfer AFA CQ to or from the CQ permit holder.</p> <p>(3) If an AFA CQ holder fails to submit full payment by December 31st. No CQ permit will be issued to that AFA CQ holder for that calendar year; and</p> <p>(ii) No AFA CQ will be issued based on the AFA QS held by the members of that AFA cooperative to any other CQ permit</p>	<p>Amendment 80 species were harvested, the Regional Administrator may:</p> <p>(i) At any time thereafter send an IAD to the CQ permit holder stating that the CQ permit holder's estimated fee liability, as indicated by his or her own submitted information, is the Amendment 80 cost recovery fee liability due from the CQ permit holder.</p> <p>(ii) Disapprove any application to transfer Amendment 80 CQ to or from the CQ permit holder.</p> <p>(3) If an Amendment 80 CQ holder fails to submit full payment by December 31st, No CQ permit will be issued to that Amendment 80 CQ holder for that calendar year; and</p> <p>(ii) No Amendment 80 CQ will be issued based on the Amendment 80 QS held by the members of that Amendment</p>	<p>fails to submit full payment by December 31st. No CDQ will be issued to that CDQ permit holder for the next calendar year</p> <p>(4) Upon final agency action determining that a CDQ permit holder has not paid his or her CDQ groundfish and halibut cost recovery fee liability, the Regional Administrator may continue to prohibit issuance of a CDQ 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.</p>	<p>31st of the year BSAI Pacific cod were harvested, the Regional Administrator may:</p> <p>(i) At any time thereafter send an IAD to the designated representative stating that the fee liability, as indicated by ex-vessel wholesale volume and value reports, is the cost recovery fee liability due from the freezer longline vessel owners.</p> <p>(ii) Disapprove any Pacific cod allocation that may be utilized by members of the BSAI freezer longline fleet.</p> <p>(3) If the freezer longline permit holders fail to submit full payment by December 31st. No permit will be issued to that entity for that calendar year; and</p> <p>(4) Upon final agency action determining that the freezer longline permit holders have not paid the cost recovery fee liability, the Regional Administrator may continue to prohibit issuance of a 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</p>

Program Element	AFA and AI Pollock	Amendment 80	Halibut/Groundfish CDQ	BSAI Pacific Cod FLC
	<p>for that calendar year. (4) Upon final agency action determining that a CQ permit holder has not paid his or her AFA cost recovery fee liability, the Regional Administrator may continue to prohibit issuance of a 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.</p>	<p>80 cooperative to any other CQ permit for that calendar year. (4) Upon final agency action determining that a CQ permit holder has not paid his or her Amendment 80 cost recovery fee liability, the Regional Administrator may continue to prohibit issuance of a 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.</p>		<p>collection of the unpaid fees.</p>
Overpayment of fees	<p>Upon issuance of final agency action, payment submitted to NMFS in excess of the AFA or AI pollock cost recovery fee liability determined to be due by the final agency action will be returned to the Cooperative permit holder unless the permit holder requests the agency to credit the excess amount against the permit holder's</p>	<p>Upon issuance of final agency action, payment submitted to NMFS in excess of the Amendment 80 cost recovery fee liability determined to be due by the final agency action will be returned to the CQ permit holder unless the permit holder requests the agency to credit</p>	<p>Upon issuance of final agency action, payment submitted to NMFS in excess of the CDQ cost recovery fee liability determined to be due by the final agency action will be returned to the CDQ permit holder unless the permit holder requests the agency to credit the excess amount against the permit holder's future CDQ cost recovery fee liability. Payment processing fees may be deducted</p>	<p>Upon issuance of final agency action, payment submitted to NMFS in excess of the cost recovery fee liability determined to be due by the final agency action will be returned to the designated representative of the freezer longline permit holders unless the designated representative requests the agency to credit the excess amount against the</p>

Program Element	AFA and AI Pollock	Amendment 80	Halibut/Groundfish CDQ	BSAI Pacific Cod FLC
	future AFA or AI pollock cost recovery fee liability. Payment processing fees may be deducted from any fees returned to the permit holder.	the excess amount against the permit holder's future Amendment 80 cost recovery fee liability. Payment processing fees may be deducted from any fees returned to the CQ permit holder.	from any fees returned to the CDQ permit holder.	future cost recovery fee liability. Payment processing fees may be deducted from any returned fees.
Appeals	An AFA cooperative permit holder or AI pollock permit holder who receives an IAD for incomplete payment of a pollock fee liability may appeal the IAD pursuant to 50 CFR 679.43 which defines determinations and appeals for the IFQ program. That same structure will be used for this cost recovery program.	An Amendment 80 CQ permit holder who receives an IAD for incomplete payment of an Amendment 80 species fee liability may appeal the IAD pursuant to 50 CFR 679.43 which defines determinations and appeals for the IFQ program. That same structure will be used for this cost recovery program.	A CDQ permit holder who receives an IAD for incomplete payment of a CDQ species fee liability may appeal the IAD pursuant to 50 CFR 679.43 which defines determinations and appeals for the IFQ program. That same structure will be used for this cost recovery program.	A designated representative who receives an IAD for incomplete payment of a BSAI Pacific cod fee liability may appeal the IAD pursuant to 50 CFR 679.43 which defines determinations and appeals for the IFQ program. That same structure will be used for this cost recovery program.
Insufficient Funds	A one-time \$25.00 fee may be assessed if the account drawn on to pay cost recovery fee has insufficient funds.	Same	Same	Same

1.11 Economic Impacts

Research shows that fisheries managed with catch shares have demonstrated improved biological and economic performance relative to prior management using traditional tools (Arnason, R. 2005, Branch, T., 2008, Essington, T. 2010, and Newell, R.G., J.N. Sanchirico and S. Kerr. 2005). This includes greater cooperative and stewardship behavior by fishing participants, and a slower pace of fishing. In evaluating ecological indicators after implementation of catch shares, discard rate (which declined significantly in some catch share fisheries) showed a significant response whereas other indicators (exploitation rate, landings, and the ratio of catch to catch quotas) were distinguished by markedly reduced inter-annual variability.

In 2009, the Joint Ocean Commission Initiative (i.e., the members of the former U.S. Commission on Ocean Policy and the Pew Oceans Commission) issued a statement endorsing the use of innovative, science-based management approaches, including carefully considering, and where appropriate, employing innovative management techniques such as LAP programs, catch share programs and Community and Regional Fishery Associations. Catch share programs can help transform fisheries and ensure they are a prosperous and sustainable element of a national strategy for healthy and resilient ecosystems for present and future generations.

As stated above, one of the benefits of IFQ and Crab Rationalization programs is to increase economic performance. The structure of the programs that allows participants to increase their economic performance results in additional costs to Federal and State agencies tasked with management and enforcement of those programs. This action will transfer some or all of the agency cost increases to the participants that are provided special access or harvest privileges to a public resource. The increased costs associated with management and enforcement is not expected to outweigh the benefits participants derive from the programs. Therefore, the implementation of a cost recovery program is expected to slightly increase industry costs, but benefits derived from the fisheries are still expected to be greater than before the LAP program or CDQ program was implemented.

1.11.1 Program Participants

Several different groups of individuals are affected by the implementation of CDQ/LAP programs and the benefits and costs that are generated from their use. This section of the RIR will provide a discussion of each group and describe the impacts they may realize from the CDQ/LAP programs and the cost recovery fee imposed.

1.11.2 Harvesters

Owners of vessels utilized to harvest fish that are allocated under a LAP program may benefit from reduced harvesting costs, higher ex-vessel prices, greater asset value, and increased safety, relative to management prior to the LAP program being implemented. Monitoring and enforcement of the LAP programs often increase costs to agencies tasked with overseeing the harvest. Under the cost recovery program, some of the benefits generated under the CDQ/LAP programs that result in increased revenue will be transferred to management agencies to offset some or all of their increased costs associated with the overseeing the programs. It is assumed that the overall benefits of the CDQ/LAP programs outweigh the additional costs incurred, including the cost recovery fee.

Fishing revenue generated by a harvesting vessel is typically divided between a boat share and a crew share. The percentages allocated to each category vary by operation, but a standard division of revenue is about 45 percent for the boat and 55 percent for the crew and other expenses. The 55 percent of revenue in this case would pay crew shares (including labor hired at a fixed rate to perform crew functions), groceries, fuel or the crew percentage of fuel (includes filters and other fuel-associated items), bait (on hook-and-line and pot

vessels), and other miscellaneous fees. It is not known if these fees could include cost recovery, and it may vary by business based on the agreement owners have with crew. The boat share normally covers items like the purchase of the vessel; hull insurance, P&I (protection and indemnity) insurance, injuries to crew members (under the deductible of P&I insurance), vessel repairs, vessel maintenance, fishing gear (including labor costs to prepare initial gear), moorage, and vessel licenses.

Harvesting costs can be reduced by modifying fleet capacity and reducing waste associated with the “race for fish”. In the AFA and Amendment 80 fisheries harvesting capacity has been reduced by removing vessels from actively harvesting fish allocated to the programs. Reducing the fleet size eliminates inefficiencies associated with maintaining and utilizing vessels in excess of those needed to harvest the allocation. The holders of the quota in each sector will determine the capacity that is needed on an annual basis. The harvesting capacity will depend on the TAC available and harvesting power of the vessels in the fleet.

In a rationalized system, the individual allocation of quota allows vessel owners and operators to consider the additional profit that may be gained by making trade-offs between fishing in areas based on catch rates and value. Additionally, in a rationalized fishery, changes in TACs or alternative fishing opportunities may affect the harvester’s decisions about location choice or the timing of fishing. Timing harvest to catch fish when they are more aggregated can reduce fishing time and the associated costs. When fish are more aggregated there may also be less associated bycatch (and PSC).

LAP programs also foster an environment that encourages vessel operators to share information on bycatch hot spots. Increased real time sharing of information reduces catch of unwanted species that could lead to premature attainment of sideboard or PSC limits. Reaching those limits may require a vessel, cooperative, or community group to stop fishing prior to harvesting all of their species allocations, which reduces revenue.

Better access to capital at reasonable interest rates may be achieved. Access to capital is achieved two ways:

- The value of the quota controlled by entities provides additional collateral to obtain loans.
- Increased profitability and financial and management stability will also increase long-term access to capital through banking facilities.

The increase in capital allows vessel owners to obtain equipment that allows harvesting and processing to be done more efficiently and provides funds to help ensure the fleet is properly maintained which reduces down time and improves safety.

The CDQ fishery provides increased economic stability communities in the program and creates incentives for local fishermen to become vested in the small boat fisheries. This access provides community members the opportunity to fish and generate income where they had fewer opportunities before the CDQ program was implemented. Vessel owners in the AFA and Amendment 80 fisheries are already vested in large scale fishing operations. The annual allocation that is divided among cooperative members allows individuals to determine the optimal fishing pattern to maximize value they derive from the fishery. Leasing within a cooperative also provides greater opportunity for the vessel owners to scale their harvest to the fishing power of their vessel(s). This increases efficiency within the fleet.

Benefits described above will be marginally reduced by the implementation of the cost recovery fee. It is expected that the cost of fee will primarily be borne by the harvesting vessel (or shared by the owner and the harvesting crew as a cost of business). The amount of the fee will determine the annual impact, but it is expected to be less than the benefits vessel owners derive from the various LAP programs. The portion of the cost that is taken from the crew share will result in a reduction in crew revenue. The overall impact to the crew that results from the LAP programs will depend on how crew shares were modified under the program in general. Crew shares are likely to be reduced, relative to the status quo, as a result of implementing the cost recovery program, regardless of whether their shares and crew payments increased or decreased after the LAP program was implemented.

1.11.3 Processors

Processors of fish harvested under the LAP or CDQ programs included under the proposed cost recovery amendments include shorebased processors, catcher/processors, and motherships. All processor categories may benefit from these programs because they can increase the amount, quality, and value of the fish that are available for processing. Depending on the structure of the program, processors may, however, realize increased costs of purchasing fish, have less control of deliveries, or have increased costs associated with data collection and submission.

The amount of fish available is increased when harvesters are able to reduce bycatch and PSC that closes fisheries prior to the TAC being taken. It also can slow the pace of the fisheries to allow deliveries to match a more efficient level of processing capacity. Quality may also be improved as fish are processed sooner and delivered in better condition. Waste can be reduced by taking more time to process the fish that are delivered into more or different products. For example, more of the fish with minimal value is processed into meal.

The impact on processors of imposing a cost recovery fee will depend on the type of processor and market power relative to the harvesting vessels. Catcher/processors will pay the cost recovery fee or pass the fee on to crew members, as an increase in their share of overall costs. Motherships and shorebased processors likely have sufficient market power to ensure the fee is paid by the harvest vessel in the CDQ and pollock fisheries. It is unlikely that the ex-vessel price would be increased to offset the increase in costs that result from the cost recovery fee. In summary, it is expected that the harvesting vessel will either pay the majority of the cost recovery fee or pass some of the expense on to crew by deducting the fee from the crew's portion of the vessel's gross revenue.

All processors that participate in the three fisheries subject to the proposed cost recovery fees will realize increased costs associated with the proposed reporting requirements. Shorebased processors that take deliveries of BSAI pollock and BSAI Pacific cod will be required to file an Ex-vessel Volume and Value report for purchases of AFA pollock, AI pollock, and CDQ Pacific cod landings. Catcher/processors that catch and process fish in the Amendment 80 and CDQ fisheries (excluding pollock and Pacific cod) are expected to realize increased costs as a result of the reporting burden associated with the proposed Volume and Value Reports. These reports on monthly activity are anticipated to require an additional 2 hours of time from each processor for each annual submission of monthly data.

Overall, implementing the cost recovery fee is anticipated to have a relatively small, but negative impact on processors in those fisheries. Quantitative estimates of the profitability of each processing sector before and after the cost recovery fee is implemented are not provided because of insufficient data to make those estimates. The qualitative estimates provided above indicate that the greatest costs are expected to be associated with the additional reporting requirements imposed by this action.

1.11.4 Crew

As discussed under the harvest sector, the increased costs associated with the proposed action may be shared by crew members and vessel owners. If a portion of the cost recovery fee is passed on to crew, it will reduce their overall compensation relative to current levels, all else being equal. However, the increased revenue that was likely generated as a result of the LAP programs may offset the cost recovery fee. Assuming the division of revenue between crew and vessels did not change under the LAP programs, and the vessels were able to generate at least three percent more revenue under the LAP program, crew members would be better off than under the race for fish. Three percent is used in this case based on direction from Congress that cost recovery fees may not exceed three percent of ex-vessel revenue.

Current projections, included in this analysis, indicate that the fee is expected to be less than three percent of the ex-vessel value of fisheries regulated under this action. If a portion of the fee were transferred to the crew, their compensation could be reduced relative to current levels (which have likely increased due to

benefits of the LAP programs), all else being equal. However, crew compensation is likely to fluctuate more as a result of TAC increases/decreases, ex-vessel (when compensated by shares) and wholesale prices (when compensated by production), and changes in the other costs of doing business under a LAP program.

1.11.5 Communities

Imposing the cost recovery fee will shift the burden of paying the management, enforcement, and data collection costs from the U.S. tax payer to the entities that benefit from the LAP and CDQ programs. Overall tax liabilities assessed to the U.S. tax payer not involved in these programs will not change. The taxes that were utilized to pay for management, enforcement, and data collection for these programs will be utilized for other uses by the agencies that oversee the fisheries³³. As a result the communities that are affected are the CDQ communities and the communities where the Amendment 80 and AFA sectors live and purchase goods and services.

The CDQ communities were listed in Section 1.5.2.1. Those communities have benefited from the groundfish and halibut CDQ programs. Imposing a cost recovery fee on those programs will slightly reduce the benefits of the CDQ program. However, benefits from the CDQ program to those communities will continue after the cost recovery fee is imposed. As discussed in Section 1.8.5.5 the total cost recovery fees are modest compared to the revenues derived from the program (about 0.8 percent to 1.5 percent, depending on the year) of ex-vessel revenue.

The AFA and Amendment 80 communities that are impacted by this action are primarily residents of the vessel owners and crew that work on these vessels. This action is not expected to alter the amount of fish delivered to ports, the timing of those deliveries, or the value of fish delivered. Imposing a cost recovery fee is also not expected to change other expenditures including maintenance, fuel, insurance, gear, equipment, and supplies.

Because profits and crew income may decline it is the only the communities of residence of those individuals that will be impacted. The impacts to those communities are expected to be small given the overall amount of the cost recovery fee and the distribution of those costs over all the communities the crew and owners reside. Quantitative impacts on a community level are not provided because of uncertainty regarding how much of the fee liability will be paid by specific individuals and the lack of data on where each individual impacted by this action spends their income.

Data are not available on all the harvesting and processing crew members on these vessels. The majority of these vessel owners live in the Pacific Northwest³⁴, primarily the greater Seattle, WA area. Because the change in expenditures is expected to be small and the overall economies in these communities are large and diversified, the cost recovery fee is not expected to have a perceptible impact on these communities.

Imposing a requirement that cost recovery fees be paid electronically in the IFQ and Crab Rationalization programs is not expected to impact communities. A slightly smaller fee is expected to be recovered as a result of reduced agency costs. The amount the fees are reduced will stay in the communities where the individuals that actually pay the fee reside.

1.11.6 Consumers

Consumers of fish harvested under the LAP and CDQ programs subject to the cost recovery fee are not expected to be positively or negatively impacted. The world markets for these products determine price

³³ Assuming the overall State and Federal funding for the management and enforcement agencies does not change as a result of implementing the cost recovery amendment.

³⁴ See Appendix A.

consumers are willing to pay. Modest changes in the costs of supplying these fish, as a result of the cost recovery fee, will not impact the amount of the species subject to the fee that are sold in the market or their quality. The ex-vessel and wholesale prices are not expected to change because that is determined by the demand by consumers and the supply of these species (and substitute species) on the world market. As a result, there are no projected impacts on the consumers of these species.

1.11.7 Net National Benefits

The proposed cost recovery fees will have minimal impacts on net benefits to the Nation. Cost recovery fees are essentially a tax levied against fish harvested under LAP programs and the CDQ program with oversight from the Federal government and State of Alaska, to redistribute wealth to cover the cost of overseeing those programs. Taxes are considered transfers or exchanges of money. These transfer payments redistribute income but not the total value of production. Hence, net national benefits are not affected by transfer payments. Therefore, cost recovery fees are considered to be transfer payments, and should be excluded from net benefit calculations.

2 INITIAL REGULATORY FLEXIBILITY ANALYSIS

2.1 Introduction

The action under consideration requires entities that benefit from LAP programs to submit fees to offset costs directly related to data collection, management, and enforcement and enforcement of those programs, as required under the MSA. An additional action would require participants in the IFQ and Crab Rationalization programs that are currently required to submit cost recovery fees to transmit those fees to NMFS using an approved electronic method

This Initial Regulatory Flexibility Analysis (IRFA) meets the statutory requirements of the Regulatory Flexibility Act (RFA) of 1980, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 (5 U.S.C. 601-612).

2.2 The purpose of an IRFA

The RFA, first enacted in 1980, was designed to place the burden on the government to review all regulations to ensure that, while accomplishing their intended purposes, they do not unduly inhibit the ability of small entities to compete. The RFA recognizes that the size of a business, unit of government, or nonprofit organization frequently has a bearing on its ability to comply with a Federal regulation. Major goals of the RFA are (1) to increase agency awareness and understanding of the impact of their regulations on small business, (2) to require that agencies communicate and explain their findings to the public, and (3) to encourage agencies to use flexibility and to provide regulatory relief to small entities. The RFA emphasizes predicting impacts on small entities as a group distinct from other entities and on the consideration of alternatives that may minimize the impacts while still achieving the stated objective of the action.

On March 29, 1996, President Clinton signed the Small Business Regulatory Enforcement Fairness Act. Among other things, the new law amended the RFA to allow judicial review of an agency's compliance with the RFA. The 1996 amendments also updated the requirements for a final regulatory flexibility analysis, including a description of the steps an agency must take to minimize the significant (adverse) economic impacts on small entities. Finally, the 1996 amendments expanded the authority of the Chief Counsel for Advocacy of the SBA to file *amicus* briefs in court proceedings involving an agency's alleged violation of the RFA.

In determining the scope or "universe" of the entities to be considered in an IRFA, NMFS generally includes only those entities that can reasonably be expected to be directly regulated by the proposed action. If the effects of the rule fall primarily on a distinct segment, or portion thereof, of the industry (*e.g.*, user group, gear type, geographic area), that segment would be considered the universe for the purpose of this analysis. NMFS interprets the intent of the RFA to address negative economic impacts, not beneficial impacts, and thus such a focus exists in analyses that are designed to address RFA compliance.

Data on cost structure, affiliation, and operational procedures and strategies in the fishing sectors subject to the proposed regulatory action are insufficient, at present, to permit preparation of a "factual basis" upon which to certify that the preferred alternative does not have the potential to result in "significant economic impacts on a substantial number of small entities" (as those terms are defined under RFA).

Because, based on all available information, it is not possible to "certify" this outcome, should the proposed action be adopted, a formal IRFA has been prepared and is included in this package for Secretarial review.

2.3 What is required in an IRFA?

Under 5 U.S.C., Section 603(b) of the RFA, each IRFA is required to contain:

- A description of the reasons why action by the agency is being considered;
- A succinct statement of the objectives of, and the legal basis for, the proposed rule;
- A description of and, where feasible, an estimate of the number of small entities to which the proposed rule will apply (including a profile of the industry divided into industry segments, if appropriate);
- A description of the projected reporting, recordkeeping and other compliance requirements of the proposed rule, including an estimate of the classes of small entities that will be subject to the requirement and the type of professional skills necessary for preparation of the report or record;
- An identification, to the extent practicable, of all relevant Federal rules that may duplicate, overlap or conflict with the proposed rule;
- A description of any significant alternatives to the proposed rule that accomplish the stated objectives of the proposed action, consistent with applicable statutes, and that would minimize any significant adverse economic impact of the proposed rule on small entities. Consistent with the stated objectives of applicable statutes, the analysis shall discuss significant alternatives, such as:
 1. The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities;
 2. The clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities;
 3. The use of performance rather than design standards;
 4. An exemption from coverage of the rule, or any part thereof, for such small entities.

2.4 What is a small entity?

The RFA recognizes and defines three kinds of small entities: (1) small businesses, (2) small non-profit organizations, and (3) and small government jurisdictions.

Small businesses. Section 601(3) of the RFA defines a “small business” as having the same meaning as “small business concern” which is defined under Section 3 of the Small Business Act. “Small business” or “small business concern” includes any firm that is independently owned and operated and not dominant in its field of operation. The SBA has further defined a “small business concern” as one “organized for profit, with a place of business located in the United States, and which operates primarily within the United States or which makes a significant contribution to the U.S. economy through payment of taxes or use of American products, materials or labor. A small business concern may be in the legal form of an individual proprietorship, partnership, limited liability company, corporation, joint venture, association, trust or cooperative, except that where the firm is a joint venture there can be no more than 49% participation by foreign business entities in the joint venture.”

The SBA has established size criteria for all major industry sectors in the United States, including fish harvesting and fish processing businesses. New small entity thresholds for finfish fishing entities were published by the Small Business Administration and became effective on July 22, 2013 (78 FR 37898). Whereas the small entity threshold applicable to finfish fishing operations, prior to July 22, was \$4 million in annual gross receipts from all economic activity and all sources, including taking account of revenues from affiliated entities worldwide, the threshold on and after July 22 was \$19 million. Small entity counts in this IRFA have been prepared using both of these thresholds, in order to provide estimates consistent with current regulations, but also to provide context for persons who have been accustomed to thinking in terms of the previous criteria. However, at the time this count of small entities was prepared (September 2013), the \$19 million threshold constituted the current SBA regulatory requirement for finfish fishing entities. Finally

a wholesale business servicing the fishing industry is a small business if it employs 100 or fewer persons on a full-time, part-time, temporary, or other basis, at all its affiliated operations worldwide.

The SBA has established “principles of affiliation” to determine whether a business concern is “independently owned and operated.” In general, business concerns are affiliates of each other when one concern controls or has the power to control the other or a third party controls or has the power to control both. The SBA considers factors such as ownership, management, previous relationships with or ties to another concern, and contractual relationships, in determining whether affiliation exists. Individuals or firms that have identical or substantially identical business or economic interests, such as family members, persons with common investments, or firms that are economically dependent through contractual or other relationships, are treated as one party with such interests aggregated when measuring the size of the concern in question. The SBA counts the receipts or employees of the concern whose size is at issue and those of all its domestic and foreign affiliates, regardless of whether the affiliates are organized for profit, in determining the concern’s size. However, business concerns owned and controlled by Indian Tribes, Alaska Regional or Village Corporations organized pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601), Native Hawaiian Organizations, or Community Development Corporations authorized by 42 U.S.C. 9805 are not considered affiliates of such entities, or with other concerns owned by these entities solely because of their common ownership.

Affiliation may be based on stock ownership when (1) A person is an affiliate of a concern if the person owns or controls, or has the power to control 50% or more of its voting stock, or a block of stock which affords control because it is large compared to other outstanding blocks of stock, or (2) If two or more persons each owns, controls or has the power to control less than 50% of the voting stock of a concern, with minority holdings that are equal or approximately equal in size, but the aggregate of these minority holdings is large as compared with any other stock holding, each such person is presumed to be an affiliate of the concern.

Affiliation may be based on common management or joint venture arrangements. Affiliation arises where one or more officers, directors or general partners control the board of directors and/or the management of another concern. Parties to a joint venture also may be affiliates. A contractor or subcontractor is treated as a participant in a joint venture if the ostensible subcontractor will perform primary and vital requirements of a contract or if the prime contractor is unusually reliant upon the ostensible subcontractor. All requirements of the contract are considered in reviewing such relationship, including contract management, technical responsibilities, and the percentage of subcontracted work.

Small non-profit organizations The RFA defines “small organizations” as any not-for-profit enterprise that is independently owned and operated and is not dominant in its field.

Small governmental jurisdictions The RFA defines small governmental jurisdictions as governments of cities, counties, towns, townships, villages, school districts, or special districts with populations of fewer than 50,000.

2.5 Why the action is being considered

Objectives

The objective of the proposed action is to meet the mandates of the MSA that require NMFS to implement a cost recovery fee on all LAP programs and CDQ programs. Section 1.2 provides a discussion of the purpose and need for this action.

Legal basis

The legal basis of this action is provided in the MSA and is presented in Section 1.1.

2.6 Number and description of small entities directly regulated by the proposed action

One action is considered under this amendment. That action would implement a cost recovery program for entities directly regulated by the Amendment 80 program, the CDQ Groundfish or Halibut/Sablefish programs, the American Fisheries Act and the Aleutian Islands Pollock programs, and the Freezer Longline Coalition for BSAI Pacific cod. The entities that receive an allocation under those programs are directly regulated by that proposed action.

Business firms, non-profit entities, and governments are the appropriate entities for consideration in a regulatory flexibility analysis. Following the practice in other analyses in the Alaska Region, fishing vessels have been used as a proxy for business firms when considering catcher vessels. This is a practical response to the relative lack of information currently available on the ownership of multiple vessels by individual firms. This approach leads to overestimates of the numbers of firms, since several vessels may be owned by a single firm, and to an overestimate of the relative proportion of small firms, since more of the smaller vessels might have been treated as large if multiple ownership was addressed, while no large entities would be moved to the small category. The estimates of the number and gross revenues of, small and large vessels are based on this approach. It is possible, however, to take account of AFA inshore cooperative and GOA rockfish cooperative affiliations among catcher vessels, and this is done below.

Information about firm-level affiliations is more readily available for the smaller number of catcher/processors. For these vessels, information on firm ownership, and cooperative affiliations, has been used when this information is readily available in the public domain, for example, on corporate and cooperative web sites, or on RAM licensing reports posted to the web. However, NMFS has not conducted an audit of the information. Therefore, these are estimates of the numbers of small entities, not the results of a detailed evaluation of all possible records, or a survey of firms. The current approach was chosen as a cost effective; one that would be minimally intrusive to regulated entities. Aside from firm affiliations, generally obtained from firm or association web sites listing vessel ownership, the key affiliations considered are among vessels in a fishery cooperative. Cooperatives formed pursuant to Secretarial regulation, such as the AFA and Amendment 80 trawl cooperatives are considered.

The entities directly regulated by this action are those entities that participate in harvesting groundfish from the AFA/AI pollock, Amendment 80, CDQ allocations from the BSAI, and BSAI Pacific cod from the BSAI catcher/processor longline allocation. Fishing vessels are considered small entities if their total annual gross receipts, from all activities, are less than \$4.0 million (\$19.0 million given recent changes) or are affiliated with through a fishing cooperative. The tables in this section provide estimates of the number of harvesting vessels that are considered small entities. These estimates may overstate the number of small entities (and conversely, understate the number of large entities) for two reasons.

First, these estimates include only groundfish revenues earned from activity in the EEZ off Alaska and the Pacific Coast. Some of these vessels may also be active as tenders for salmon or other areas of the U.S. Ideally, all such activity would be accounted for within this RFA evaluation. However, data and access limitations preclude this at present.

Second, the RFA requires a consideration of affiliations between entities for the purpose of assessing if an entity is small. The estimates in Section 1.5 do not take into account all affiliations between entities. There is not a strict one-to-one correlation between vessels and entities; many persons and firms are known to have ownership interests in more than one vessel, and many of these vessels with different ownership, are otherwise affiliated with each other. For example, vessels in the AFA and Amendment 80 sectors are categorized as “large entities” for the purpose of the RFA under the principles of affiliation, resulting from being part of cooperatives. However, vessels harvesting CDQ allocations or in the Crab Rationalization/IFQ

programs that have other types of affiliation, (i.e., ownership of multiple vessel or affiliation with processors), are not tracked in available data, may be misclassified as a small entity.

Through the Community Development Quota (CDQ) program, the Council and NMFS allocate a portion of the BSAI groundfish TACs, and prohibited species halibut and crab PSC limits, to 65 eligible Western Alaska communities. These communities work through six non-profit CDQ Groups, and are required to use the proceeds from the CDQ allocations to start or support activities that will result in ongoing, regionally based, commercial fishery or related businesses. The CDQ group's ownership of harvesting vessels that operate in the GOA means that some of the group's activities could be directly regulated in the same manner other small entities that own vessels harvesting groundfish in the GOA are regulated. The 65 communities are not directly regulated. Because they are nonprofit entities, the CDQ groups are considered small entities for RFA purposes.

The AFA and Amendment 80 fisheries cooperatives are directly regulated, since they are required to pay the cost recovery fee. The entities affiliated through the cooperative programs are large entities. In 2012, there were seven inshore AFA cooperatives, one AFA CP cooperative, and one AFA mothership cooperative. There were also two Amendment 80 cooperatives, the Alaska Seafood Cooperative (formerly the Best Use Cooperative) and the Alaska Groundfish Cooperative.³⁵

Based on the FLC website there are currently 12 members of the FLC and they represent approximately 33 longline catcher/processors. Because of their affiliation through the FLC and the federal loan program, none of those entities are defined as small entities under the SBA definitions.

In addition to the persons listed above, the processors that purchase landings of BSAI pollock or Pacific cod from catcher vessels subject to the proposed cost recovery fees would be required to submit an Ex-vessel Volume and Value Report. For pollock this includes the eight AFA inshore processors, three AFA motherships, and the Adak processing plant (given the current closure, this may be removed). For Pacific cod it would include many of the pollock processors in addition to the processors taking delivery of CDQ Pacific cod and other groundfish (seven processors). Finally, all catcher/processor harvesting species (other than pollock and Pacific cod) allocated to the programs subject to the proposed cost recovery fee, would be required to submit a First Wholesale Volume and Value Report for those species. A description of these reports is provided in Section 1.6. These catcher/processors are already included in the description of the Amendment 80 fleet.

2.7 Recordkeeping and reporting requirements

The IRFA should include “a description of the projected reporting, recordkeeping, and other compliance requirements of the proposed rule, including an estimate of the classes of small entities that will be subject to the requirement and the type of professional skills necessary for preparation of the report or record...”

This action modifies recordkeeping or reporting requirements so that sufficient data are available to determine the cost recovery fee and standardized prices in a timely manner. Processors would be required to submit Ex-vessel Volume and Value Reports for all pollock and Pacific cod landings. Each catcher/processor would be required to submit a First Wholesale Volume and Value Report for all other groundfish species allocated under the Amendment 80 and CDQ programs.

³⁵ The count of 2011 AFA cooperatives was obtained from the NMFS Alaska Region Restricted Access Management (RAM) web site: http://alaskafisheries.noaa.gov/ram/daily/afa_ic.htm. (accessed July 27, 2011). The Amendment 80 cooperatives were obtained from the RAM web site http://alaskafisheries.noaa.gov/ram/daily/A80_coop_list-en-us.pdf (accessed July 27, 2011).

2.8 Federal rules that may duplicate, overlap, or conflict with proposed action

An IRFA should include “An identification, to the extent practicable, of all relevant Federal rules that may duplicate, overlap or conflict with the proposed rule...” This analysis did not reveal any Federal rules that duplicate, overlap, or conflict with the proposed action.

2.9 Significant alternatives

An IRFA should include “A description of any significant alternatives to the proposed rule that accomplish the stated objectives of the Magnuson-Stevens Act and any other applicable statutes and that would minimize any significant (implicitly adverse) economic impact of the proposed rule on small entities.”

The MSA requires that LAP programs and the CDQ program pay up to 3 percent of the ex-vessel value of the fish they are allocated to cover specific costs that are incurred by management agencies as a direct result of the programs. Given the specific requirements of the MSA, no other significant alternatives would accomplish the stated objective.

3 OTHER APPLICABLE LAWS

3.1 Marine Mammal Protection Act (MMPA)

The MMPA of 1992 (16 U.S.C. 1361 et seq.) as amended through 1996, establishes a Federal responsibility to conserve marine mammals with management responsibility for cetaceans (whales) and pinnipeds (seals) vested in NMFS. The U.S. Fish and Wildlife Service is responsible for all other marine mammals in Alaska, including walrus, sea otters, and polar bears.

Species listed under the ESA that are present in the BSAI are listed in the groundfish PSEIS described in Section 3. Marine mammals not listed under the ESA that may be present in the BSAI include cetaceans, [minke whale (*Balaenoptera acutorostrata*), killer whale (*Orcinus orca*), Dall's porpoise (*Phocoenoides dalli*), harbor porpoise (*Phocoena phocoena*), Pacific white-sided dolphin (*Lagenorhynchus obliquidens*), and the beaked whales (e.g., *Berardius bairdii* and *Mesoplodon* spp.)] as well as pinnipeds [Pacific harbor seal (*Phoca vitulina*), northern fur seal (*Callorhinus ursinus*), spotted seal (*Phoca largha*), and ribbon seal (*Phoca fasciata*)], and the sea otter (*Enhydra lutris*).

The primary management objective of the MMPA is to maintain the health and stability of the marine ecosystem, with a goal of obtaining an optimum sustainable population of marine mammals within the carrying capacity of the habitat. The Secretary is required to give full consideration to all factors regarding regulations applicable to the "take" of marine mammals, including the conservation, development, and utilization of fishery resources, and the economic and technological feasibility of implementing the regulations. If a fishery affects a marine mammal population, then the potential impacts of the fishery must be analyzed in the appropriate EA or EIS, and the Council or NMFS may be requested to consider regulations to mitigate adverse impacts.

Take of marine mammals has been and continues to be monitored through fishery observer programs. Because of the low incidence of problems with marine mammal interactions and the likelihood that the considered alternatives would not appreciably affect the size of the groundfish fishery or alter the gear types used in it, no additional effects on marine mammals are anticipated should any of the alternatives considered for this action be recommended and implemented.

3.2 Coastal Zone Management Act (CZMA)

On July 1, 2011, the federally approved Alaska Coastal Management Program expired, resulting in a withdrawal from participation in the CZMA's National Coastal Management Program. The CZMA Federal consistency provision in section 307 no longer applies in Alaska.

3.3 Magnuson-Stevens Act National Standards

Below are the 10 National Standards as contained in the Magnuson-Stevens Act, and a brief discussion of the consistency of the proposed alternatives with those National Standards, where applicable.

National Standard 1 — Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery

Based on 2012 BSAI Plan Team reports to the NPFMC, none of the BSAI groundfish species allocated under the Amendment 80, AFA/AI pollock, FLC BSAI Pacific cod, or CDQ fisheries is currently overfished and overfishing is not occurring.

In terms of achieving "optimum yield" from a fishery, the Act defines "optimum", with respect to yield from the fishery, as the amount of fish which—

- (A) will provide the greatest overall benefit to the Nation, particularly with respect to food production and recreational opportunities, and taking into account the protection of marine ecosystems;

(B) is prescribed as such on the basis of the maximum sustainable yield from the fishery, as reduced by any relevant economic, social, or ecological factor; and

(C) in the case of an overfished fishery, provides for rebuilding to a level consistent with producing the maximum sustainable yield in such fishery.

The overall amount of BSAI groundfish caught and the timing of the fisheries under each LAP and CDQ program is not expected to change as a result of this action. Persons allocated the fishing privilege will be required to submit cost recovery fees based on their BSAI groundfish landings of those species. The total value of the fisheries will not change as a result, but the costs incurred by participants may increase by up to 3 percent of the gross ex-vessel value.

National Standard 2 — Conservation and management measures shall be based upon the best scientific information available.

The proposed action imposes a cost recovery fee or modifies the requirements of submitting the fee. No additional conservation and management measures are imposed under this action. Information previously developed on BSAI groundfish stocks and fisheries, as well as the most recent information available, is available in the BSAI SAFE document. It represents the best scientific information available.

National Standard 3 — To the extent practicable, an individual stock of fish shall be managed as a unit throughout its range, and interrelated stocks of fish shall be managed as a unit or in close coordination.

The annual TACs are set for BSAI groundfish stocks according to the annual harvest specification process that is outlined in the BSAI Groundfish FMP. NMFS conducts the stock assessments for these species based on the most recent catch and survey information. The assessment author(s), along with the BSAI Groundfish Plan Team and Science and Statistical Committee makes recommendations for overfishing levels and allowable biological catches to the Council. The Council sets annual harvest specifications for these stocks based on those scientific recommendations (<http://www.afsc.noaa.gov/refm/stocks/assessments.htm>).

National Standard 4 — Conservation and management measures shall not discriminate between residents of different states. If it becomes necessary to allocate or assign fishing privileges among various U.S. fishermen, such allocation shall be (A) fair and equitable to all such fishermen, (B) reasonably calculated to promote conservation, and (C) carried out in such a manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.

This cost recovery program collects fees from persons that have previously been allocated fishing privileges. Nothing in the alternatives alters the residency criterion that was initially used to establish the LAP programs and CDQ programs. Therefore, no discriminations are made among fishermen based on residency or any other criteria.

National Standard 5 — Conservation and management measures shall, where practicable, consider efficiency in the utilization of fishery resources, except that no such measure shall have economic allocation as its sole purpose.

Efficiency in the context of this amendment refers to economic efficiency. When the LAP programs subject to the cost recovery fee were developed efficiency was considered. Implementing a cost recovery fee will not impact utilization of the resource.

National Standard 6 — Conservation and management measures shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches.

The cost recovery fee takes into account the differences in the fisheries. These differences include the ex-vessel value of individual fisheries when determining the fee and the timing of when fisheries allocations must be made to each program. All of the proposed alternatives appear to be consistent with this standard.

National Standard 7 — Conservation and management measures shall, where practicable, minimize costs and avoid unnecessary duplication.

Current economic conditions and shrinking government budgets creates pressures for all management agencies to attempt the minimize costs. The MSA also requires that LAP programs and CDQ allocations be subject to cost recovery. This action attempts to avoid unnecessary duplication in the collection of data, by requiring Volume and Value reports that collect the minimum amount of data necessary, in a timely fashion, to comply with the MSA requirements. All of the proposed alternatives appear to be consistent with this standard.

National Standard 8 — Conservation and management measures shall, consistent with the conservation requirements of this Act (including the prevention of overfishing and rebuilding of overfished stocks), take into account the importance of fishery resources to fishing communities in order to (A) provide for the sustained participation of such communities, and (B) to the extent practicable, minimize adverse economic impacts on such communities.

Many of the coastal communities in the BSAI, as well as coastal communities elsewhere in Alaska and the Pacific Northwest, participate in the BSAI groundfish fisheries in the cost recovery program in one way or another, such as homeport to participating vessels, the location of processing activities, the location of support businesses, the home of employees in the various sectors, or as the base of ownership or operations of various participating entities. Adverse economic impacts are minimized by agencies efficiently utilizing the funding available while meeting the mandates of the MSA.

A summary of the level of fishery engagement and dependence in the communities of vessels affected by the proposed action is provided in the RIR and IRFA.

National Standard 9 — Conservation and management measures shall, to the extent practicable, (A) minimize bycatch, and (B) to the extent bycatch cannot be avoided, minimize the mortality of such bycatch.

The proposed action is not expected to impact bycatch or bycatch avoidance.

National Standard 10 — Conservation and management measures shall, to the extent practicable, promote the safety of human life at sea.

The proposed alternatives are consistent with this standard. None of the proposed alternatives or options would change safety requirements for fishing vessels or timing of fisheries. No safety issues have been identified that would result from the proposed action.

3.4 Section 303(a)(9) Fisheries Impact Statement

Section 303(a)(9) of the Magnuson-Stevens Act requires that any plan or amendment include a fishery impact statement which shall assess and describe the likely effects, if any, of the conservation and management measures on (a) participants in the fisheries and fishing communities affected by the plan or amendment; and (b) participants in the fisheries conducted in adjacent areas under the authority of another Council, after consultation with such Council and representatives of those participants taking into account potential impacts on the participants in the fisheries, as well as participants in adjacent fisheries.

The proposed alternatives are described in the RIR. The impacts of these actions on participants in the fisheries and fishing communities are addressed in Section 1.11.

3.4.1 Fishery Participants

The proposed actions directly impact participants in the BSAI groundfish fisheries. A discussion of each group of participants is provided in Section 1.5.

3.4.2 Fishing Communities

The fishing communities that are expected to be potentially directly impacted by the proposed action are those communities included under the CDQ program, the communities that are home to vessel owners that participate in the LAP programs subject to cost recovery.

Detailed information on the range of fishing communities relevant to the proposed action may be found in a number of other documents, including the *Alaska Groundfish Fisheries Final Programmatic Supplemental EIS* (NMFS 2004), *Sector and Regional Profiles of the North Pacific Groundfish Fishery* (Northern Economics and EDAW 2001), and in a technical paper (Downs 2003) supporting the *Final EIS for Essential Fish Habitat Identification and Conservation in Alaska* (NMFS 2005) as well as that EIS itself. These sources also include specific characterizations of the degree of individual community and regional engagement in, and dependency upon, the North Pacific groundfish fishery.

3.4.3 Participants in Fisheries in Adjacent Areas

The proposed alternatives would not significantly affect participants in the fisheries conducted in adjacent areas under the authority of another Council. Fishing patterns and removals are not expected to be altered by imposing a cost recovery fee mandated under the MSA. Some members of these fleets already participate in other West Coast groundfish fisheries. The nature of this action, the management structure imposed under the AFA, and the fishing regulations for the West Coast provide sufficient protection for other participants in those fisheries.

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Appendix A

Letters Between NOAA Fisheries and NOAA GC



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
P.O. Box 21668
Juneau, Alaska 99802-1668

May 3, 2013

MEMORANDUM FOR: Lisa L. Lindeman
Chief, Alaska Section
NOAA General Counsel

FROM: James W. Balsiger, Ph.D.
Administrator, Alaska Region



for JLB

SUBJECT: Cost Recovery Fees

NOAA Fisheries is considering whether to develop a fee collection program for fisheries under the authority of the Alaska Region that were implemented prior to the establishment of Section 303A(e) of the amended Magnuson-Stevens Fishery Conservation and Management Act (MSA)¹ and other programs that allow industry to form a cooperative based on Congressional action². The proposed fees would be collected to recover the actual costs of management, data collection and analysis, and enforcement activities that are directly related to and in support of the specific management program. Section 303A(e) of the MSA provides guidance for the collection of cost recovery fees when limited access privilege programs (LAPPs) are being developed by a Council. However, the requirements are less clear for management programs that were developed prior to this section being included in the MSA and for voluntary cooperative programs developed through Congressional authority.

Our understanding is that the MSA provides direction on the establishment of cost recovery fees. The authority to establish fees, in general, is described in Section 304(d) and Section 303(b) of the MSA. Section 304(d) is particularly relevant here and is provided below.

¹ Amendment 80, AFA /AI pollock, and CDQ groundfish and halibut fisheries.

² e.g., The Consolidated Appropriations Act of 2005 (Pub. L. 108-447, 118 Stat. 2809), see section 219(a)(1); Longline Catcher Processor Subsector Single Fishery Cooperative Act (Pub. L. 111-335).



Sec. 304. ACTION BY THE SECRETARY

(d) ESTABLISHMENT OF FEES.—

(1) The Secretary shall by regulation establish the level of any fees which are authorized to be charged pursuant to section 303(b)(1)³. The Secretary may enter into a cooperative agreement with the States concerned under which the States administer the permit system and the agreement may provide that all or part of the fees collected under the system shall accrue to the States. The level of fees charged under this subsection shall not exceed the administrative costs incurred in issuing the permits.

(2)(A) Notwithstanding paragraph (1), 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—

- (i) limited access privilege program; and*
- (ii) community development quota program that allocates a percentage of the total allowable catch of a fishery to such program.*

(B) Such fee shall not exceed 3 percent of the ex-vessel value of fish harvested under any such program, and 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.

(C)(i) Fees collected under this paragraph shall be in addition to any other fees charged under this Act and shall be deposited in the Limited Access System Administration Fund established under section 305(h)(5)(B).

(ii) Upon application by a State, the Secretary shall transfer to such State up to 33 percent of any fee collected pursuant to subparagraph (A) under a community development quota program and deposited in the Limited Access System Administration Fund in order to reimburse such State for actual costs directly incurred in the management and enforcement of such program.

Based on the direction provided through MSA language and the definition of a limited access privilege program, NOAA General Counsel is requested to determine if the following questions regarding cost recovery are appropriately addressed:

1. Are the following fisheries/components subject to a fee under 304(d)(2) of the MSA?
 - a. Western Alaska Community Development Quota (CDQ) groups issued CDQ groundfish allocations are subject to cost recovery.

³ MSA Section 303 (b) DISCRETIONARY PROVISIONS.—Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, may—

(1) require a permit to be obtained from, and fees to be paid to, the Secretary, with respect to—

(A) any fishing vessel of the United States fishing, or wishing to fish, in the exclusive economic zone [or special areas,]* or for anadromous species or Continental Shelf fishery resources beyond such zone [or areas]*;

(B) the operator of any such vessel; or

(C) any United States fish processor who first receives fish that are subject to the plan;

The CDQ Program is allocated a percentage of the Bering Sea (BS)/Aleutian Islands (AI) total allowable catch for AI fixed gear sablefish, BS fixed gear sablefish, AI sablefish, BS sablefish, AI pollock, BS pollock, arrowtooth flounder, BS Greenland turbot, Central AI Atka mackerel, Eastern AI/BS Atka mackerel, Western AI Atka mackerel, Western AI Pacific ocean perch, Central AI Pacific ocean perch, Eastern AI Pacific ocean perch, BSAI flathead sole, BSAI Pacific cod, BSAI rock sole, and BSAI yellowfin sole. Each year NMFS issues the CDQ groups a permit, in the form of a *Federal Register* Notice setting each group's harvest limits. Groundfish harvest limits are set in metric tons. Only landings of the species allocated to the CDQ program are proposed to be included under the cost recovery fee as authorized under 304(d)(2)(A)(ii).

The overall CDQ allocation is then distributed among six CDQ groups using percentages for each species that are set by the State of Alaska for 10 years. A review of the percentages of each species allocated to each CDQ group was completed in 2012.

Because a percentage of the total allowable catch of the fisheries described above are allocated to the CDQ program, and the communities and CDQ groups are limited by specific qualification criteria, CDQ groups are subject to cost recovery fees under 304(d)(2).

b. CDQ groups issued CDQ halibut allocations are subject to cost recovery.

The CDQ program is currently allocated a percentage of the halibut fishery Constant Exploitation Yield (fCEY) that is available to the commercial halibut fishery in IFQ Regulatory Areas 4E (100 percent), 4D (30 percent), 4C (50 percent), and 4B (20 percent). The CDQ allocation is then divided among the CDQ groups based on percentages that are set for 10 year periods. The most recent review of those allocation percentages occurred in 2012. Halibut directly allocated to the CDQ program that are landed are proposed to be subject to the cost recovery fee.

The CDQ program is allocated a percentage of the halibut fCEY for the areas listed above. The allocation is made in metric tons and a permit in the form of a *Federal Register* Notice is published notifying each CDQ group of the amount of halibut they may harvest. Because CDQ groups are issued an annual allocation they are subject to cost recovery fees under 304(d)(2).

c. Amendment 80 cooperatives issued groundfish allocations are subject to cost recovery.

The North Pacific Fishery Management Council (Council) took final action to adopt Amendment 80 in June 2006, and the Amendment 80 Program was implemented by NMFS effective for the 2008 fishing year (72 FR 52668, September 14, 2007). Because the Council took final action prior to the inclusion of Section 303A in the MSA in 2007, the Council was not required to include a cost recovery fee in their action. However, Section 304(d)(2) of the 2007 MSA states 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.” Because each Amendment 80 cooperative is issued a permit (expressed in units of metric tons) which is a percentage of the total allowable catch for exclusive use by its members for Bering Sea and /or Aleutian Islands Atka mackerel, Pacific ocean perch, flathead sole, Pacific cod, rock sole, and yellowfin sole, Amendment 80 cooperatives are considered to be the beneficiaries of a limited access privilege program for landings of those species.

Amendment 80 cooperatives are given an exclusive harvest privilege for the BSAI species they are allocated at the beginning of the fishing year. Amendment 80 cooperative participants may have access to additional amounts of the total allowable catch (TAC) allocated to the BSAI trawl limited access sector if those fish are projected to go unharvested. This rollover to the Amendment 80 cooperatives is at the discretion of NMFS, based on projected harvest rates in the BSAI trawl limited access sector and other criteria. Each Amendment 80 cooperative would receive an additional amount of cooperative quota (CQ) for its exclusive use based on the proportion of the Amendment 80 quota share (QS) held by that Amendment 80 cooperative as compared with all other Amendment 80 cooperatives. Once these fish are rolled over to an Amendment 80 cooperative, the cooperative has an exclusive harvest privilege for those fish. Amendment 80 provisions do not provide for unused CQ to be rolled over to another sector.

Amendment 80 cooperatives’ participation in a limited access privilege program that meets the requirements of 304(d) means the Amendment 80 sector can be subject to fees under that section of the MSA.

- d. AFA catcher processors as a cooperative entity that receives an annual allocation (including the catcher vessels that deliver to catcher processors) are subject to cost recovery.

Section 679.20(a)(5)(i)(A) requires that 40 percent of the BS subarea pollock TAC be apportioned, after subtracting 10 percent for the CDQ program and 3 percent for the incidental catch amount (ICA), as a directed fishing allowance to the catcher/processor component. Section 679.20(a)(5)(i)(A)(4) requires that 8.5 percent (3.4 percent of the BS pollock directed fishing allowance) of the pollock allocated to the catcher/processor (C/P) component be available for harvest by AFA catcher vessels (CVs) with C/P component endorsements, unless the Regional Administrator receives a cooperative contract that allows the distribution of harvest among AFA C/Ps and AFA CVs in a manner agreed to by all members. Pursuant to § 679.20(a)(5)(i)(A)(4)(iii), the AFA unlisted C/Ps are limited to harvesting not more than 0.5 percent of the catcher/processors component’s allocation of pollock. The 0.5 percent catcher/processor allocation defined under § 679.20(a)(5)(i)(A)(4)(iii) is issued by NMFS separately from the § 679.20(a)(5)(i)(A) catcher/processor’s component allocation.

The AFA permit program had a one-time application deadline of December 1, 2000, for any catcher/processors that wished to participate in the program. Vessels or processors

for which an application had not been received by this date are permanently ineligible to receive AFA permits and, therefore, cannot harvest or process BS pollock from the directed fishery. The AFA permit process created a defined set of entities that are eligible to harvest BS pollock from the directed fishery allocation.

In 1998, the owners of the catcher-processors and CVs that deliver to C/Ps in the BSAI pollock fishery jointly formed fishing cooperatives to coordinate pollock harvesting efforts. The cooperative for the catcher-processor owners is the Pollock Conservation Cooperative (PCC), and for catcher-vessels it is the High Seas Catchers' Cooperative (HSCC). An agreement called the "Cooperative Agreement Between Offshore Pollock Catchers' Cooperative and Pollock Conservation Cooperative" was developed to facilitate efficient harvest management and accurate harvest accounting between the PCC and the HSCC.

The Pollock Conservation Cooperative and HSCC are a "person" under NMFS' definition because of their association through their cooperative agreement. Consistent with the MSA and NMFS' definition⁴, a person means any individual (whether or not a citizen or national of the United States), any corporation, partnership, association, or other non-individual 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 aforementioned governments. If that cooperative agreement had not been developed, the membership of the PCC and HSCC would each be considered a person based on their affiliation.

As stated above, 36.6 percent of the available directed BS pollock fishery allocation is made available for named AFA catcher/processers and 3.4 percent of the available directed BS pollock fishery allocation the catcher vessels that deliver to catcher-processors. Annually, NMFS issues the AFA offshore cooperative entity documentation that grants permission for the exclusive privilege to fish for their pollock allocation through an annual *Federal Register* Notice⁵. Table 3 of the 2013 *Federal Register* Notice allows the named AFA catcher/processers (and their associated catcher vessels to harvest 435,452 mt of the available BS pollock TAC This documentation granting the permission to fish is a permit – not a "type" of permit. Therefore, the AFA catcher processor cooperative entity receives a permit from NMFS granting permission to fish for a percentage of the total allowable catch expressed in units.

Because a percentage of the total allowable catch of the BS pollock fishery is allocated to the AFA catcher/processor vessels, those vessels are issued a permit to harvest a percent of the TAC (in units), and the association of the PCC and HSCC through their cooperative agreement, the PCC and HSCC association is subject to cost recovery fees under 304(d)(2).

⁴ See definition of "person" at § 679.2.

⁵ <http://alaskafisheries.noaa.gov/frules/78fr13813.pdf> (78 FR 13818, March 1, 2013)

- e. AFA mothership component cooperative is subject to cost recovery.

Section 679.20(a)(5)(i)(A) requires that 10 percent of the BS subarea pollock TAC be apportioned, after subtracting 10 percent for the CDQ program and 3 percent for the ICA, as a directed fishing allowance to the AFA mothership component. Annual allocations to the mothership component are expressed in both percentage terms (10 percent) and in units (108, 863 mt for the 2013 fishing year). The annual *Federal Register* Notice (78 FR 13818, March 1, 2013) is documentation granting the permission to the mothership component to fish a specific allocation and is a permit.

The AFA permit program had a one-time application deadline of December 1, 2000 for any catcher vessels or motherships that met the AFA eligibility requirements to participate in the program. Catcher vessels or motherships for which an application had not been received by this date are permanently ineligible to receive AFA permits and, therefore, those CVs cannot harvest and those motherships cannot process BS pollock from the directed mothership allocation. The AFA permit process created a defined set of entities that are eligible to harvest BS pollock from the directed fishery allocation.

Effective January 1, 2000, the AFA extended authority in section 1 of the Act of June 25, 1934 (46 STAT. 1213 and 1214; 15 U.S.C. 521 et seq.) to processing by motherships eligible under section 208(d) of the AFA solely for the purposes of forming or participating in a fishery cooperative in the directed pollock BS pollock fishery. The AFA requires a “cooperative of the whole” rather than separate and distinct cooperatives oriented to each processor, as is the case in the inshore component. Because the AFA requires a cooperative of the whole, all catcher vessels permitted to harvest a portion of the allocation are considered an entity as a result of their cooperative affiliation. All nineteen catcher vessels qualified to participate and the three eligible motherships were issued an AFA permit by NMFS RAM division. All of the representatives of the catcher vessel entities are members of the “Mothership Fleet Cooperative” (MFC) and are bound by the terms of that cooperative’s membership agreement. As a result of the affiliation through the MFC, all of the harvesting entities in this component are a “person”.

Because a percentage of the total allowable catch of the BS pollock fishery is allocated to the AFA mothership component, the vessels in that component are issued a permit to harvest a percent of the TAC (in units), and the catcher vessels through their cooperative agreement are a person, the mothership cooperative is subject to cost recovery fees under 304(d)(2).

- f. AFA inshore component cooperatives (AFA catcher vessel cooperatives that deliver BS pollock to shorebased or floating processor associated with the catcher vessel cooperative) are subject to cost recovery.

Regulations at § 679.20(a)(5)(i)(A) requires that 50 percent of the BS subarea pollock TAC be apportioned to the inshore component as a directed fishery, after subtracting 10 percent for the CDQ program and 3 percent for the ICA. The 2013 BS pollock

apportionment to the inshore component is 435,452 mt. (78 FR 13818, March 1, 2013). This apportionment of the BS pollock TAC is available for harvest by catcher vessels that join a cooperative that is formed jointly with an eligible inshore processor. Tables for the pollock allocations to the BS subarea inshore pollock cooperatives and open access component are posted each year on the Alaska Region Web site.

According to regulations at § 679.62(e)(1), the individual catch history for each inshore catcher vessel is equal to the vessel's best 2 of 3 years inshore pollock landings from 1995 through 1997 and includes landings to catcher/processors for vessels that made 500 or more mt of landings to catcher/processors from 1995 through 1997. Each vessel's catch history is annually assigned to the cooperative of which they are a member. Cooperative membership is determined during the annual inshore cooperative application process. An authorized representative of each eligible catcher vessel must submit an annual application for an AFA Inshore Catcher Vessel Cooperative Permit. Permit applications are due by December 1 of the year prior to the year for which the cooperative permit will be in effect. When the annual permitting process is complete, NMFS allocates a percentage of the inshore BS pollock directed fishing allocation, converted to metric tons, to each eligible inshore cooperative.

Because inshore allocations are made to cooperatives and only members of the cooperative are eligible to harvest or process the allocation, each cooperative has an exclusive allocation of a percentage of the TAC expressed in units. Also, the cooperative that is issued the exclusive allocation is considered a person under the MSA.

Because a percentage of the total allowable catch of the BS pollock fishery is allocated, the cooperatives in that component are issued a permit to harvest a percent of the TAC (in units), and the catcher vessels and their associated processor are a person through their cooperative agreement, each inshore cooperative is subject to cost recovery fees under 304(d)(2).

2. The freezer longline voluntary cooperative currently operating in the BSAI could be subject to a fee that would cover actual costs incurred for management, data collection and analysis, and enforcement programs that are directly related to and in support of the program.

Regulations at sections 679.20(a)(7)(i) and (ii) allocate 48.7 percent of the Pacific cod TAC in the BSAI, after subtracting 10.7 percent for the CDQ reserve, to hook-and-line catcher/processors. In 2013, that allocation equates to 112,671 mt of Pacific cod (FR Vol. 78 No. 41, Friday, March 9, 2013, Table 5, p.13820). The annual *Federal Register* Notice documentation grants permission to fish the specified amount (in units) of the BSAI Pacific cod TAC, and is therefore a permit.

The Consolidated Appropriations Act of 2005 (Section 219(a)(1)) defined eligibility in the longline catcher processor sector as the holder of an LLP license that is transferable, or becomes transferable, and that is endorsed for BS or AI catcher processor fishing

activity, Pacific cod, and longline gear. Persons holding these licenses are eligible to harvest the allocation of BSAI Pacific cod each year. A specific allocation, in combination with a closed-class of license holders, created an opportunity for these license holders to form a voluntary fishing cooperative to divide the hook-and-line catcher/processor (also called freezer longline or FFL vessels) allocation of Pacific cod among members of the cooperative through private contractual agreements. Based on information presented in the FLL Vessel Replacement analysis⁶, most of the holders of LLP licenses endorsed for BSAI freezer longline catcher processors have been members of the FLCC since 2006. Information submitted to NMFS indicates that the remaining LLP holders with the necessary endorsements joined the cooperative not later than March 2012⁷. Within the cooperative, LLP holders are allocated an amount of the quota in proportion to historical fishing activity with the LLP. Cooperative members may transfer their allocation among themselves and may use any LLP qualified vessel (with the appropriate LLP endorsements) to harvest the allocation. Compliance with the agreement is monitored by SeaState, Inc., and the contract imposes financial penalties for non-compliance.

Because the FLCC is a person and the Pacific cod allocation is available for exclusive use to that person (when that person is comprised of all eligible participants), the FLCC can be subject to cost recovery under 304(d)(2).

3. The Council is not required to act or otherwise amend its FMP to implement cost recovery for the CDQ, Amendment 80, or AFA programs, and the Secretary of Commerce can implement a cost recovery program under its existing authority without additional Council action.

Because the Council took final action on the Amendment 80 and the AFA programs before the 2007 MSA was enacted, Section 303A(e), which requires the Council to include cost recovery fees when developing a limited access privilege program, does not apply to these programs. Section 303(A)(e) does not apply to the CDQ Program because the CDQ Program is not considered a limited access privilege program, but is still subject to cost recovery fees under section 304(d)(2) of the MSA. However, the Council maintains the authority to implement cost recovery fees on limited access privilege programs where the Council took final action before the 2007 MSA was enacted. Further, the Council may take action and use 303A(e) provisions to implement cost recovery for CDQ programs, even though it is not mandated to do so. Additional questions regarding the application of section 303A(e) of the MSA to the freezer longline voluntary cooperative operating in the BSAI may be submitted at a later date.

Also, transition rules in section 303A(i) of the MSA state that the requirements of that section (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

⁶ http://alaskafisheries.noaa.gov/npfmc/PDFdocuments/catch_shares/AM80/FLLVesselReplacement11111.pdf

⁷ March 12, 2012 Affidavit of Voluntary Cooperative from Kenny Down received in March 14, 2012 Letter from Aggie Blandford to James Balsiger

the Secretary, within 6 months after the date of enactment of the 2007 MSA. The AFA and CDQ programs were implemented before the revised MSA was enacted, and the Council took final action on Amendment 80 prior to the enactment of the 2007 MSA.

Section 304(d)(2)(A) provides that “the Secretary is authorized and shall collect a fee to recover the actual costs . . .” This section of the 2007 MSA grants the Secretary independent authority to collect cost recovery fees. The Secretary, therefore, may act with or without Council direction to develop regulations to collect cost recovery fees from the limited access privilege programs that were approved before the 2007 MSA was enacted.


Thank you for assistance in ensuring that these questions have been answered correctly. Your direction will help shape the analysis of proposed fee collection programs.




UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
Office of General Counsel
P.O. Box 21109
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May 3, 2013

MEMORANDUM FOR: James W. Balsiger, Ph.D.
Administrator, Alaska Region
NMFS

THROUGH: Lisa L. Lindeman
Chief, Alaska Section 

FROM: John Lepore
Attorney-Advisor, Alaska Section 

SUBJECT: Responses to NMFS' Determinations on the
Applicability of Cost Recovery Authorities Under
the Magnuson-Stevens Fishery Conservation and
Management Act

This responds to your memorandum requesting review of NMFS' determinations regarding the applicability of cost recovery authorities in the Magnuson-Stevens Fishery Conservation and Management Act (MSA) to fishery management programs that were developed prior to the enactment of section 303A(e) of the MSA. Section 304(d)(2) authorizes and requires the Secretary of Commerce (Secretary) to collect fees to cover the costs of management, data collection and analysis, and enforcement activities of limited access privilege programs and community development programs. The following guidance is based on the description of the fisheries and other information included in the memorandum, and the statutes and regulations applicable to NMFS, Alaska Region. This guidance is specific to the fisheries mentioned in your memorandum.

Determination 1.a. NMFS can collect fees from Community Development Quota (CDQ) groups issued CDQ groundfish allocations.

Section 304(d)(2)(A)(ii) of the MSA authorizes and requires the Secretary and, through legally-authorized delegation, NMFS, to collect fees from a CDQ program that allocates a percentage of the total allowable catch (TAC) of the fishery to the program. The explanation in your memorandum regarding CDQ program allocations of TAC supports NMFS' determination to collect fees from CDQ groups for fish harvested under the groundfish allocations issued to CDQ groups.



Determination 1.b. NMFS can collect fees from CDQ groups issued CDQ halibut allocations.

Section 304(d)(2)(A)(ii) of the MSA authorizes and requires NMFS to collect fees from a CDQ program that allocates a percentage of the TAC of the fishery to the program. In the case of halibut, the total allowable catch is known as the fishery Constant Exploitation Yield (CEY). This terminology difference does not affect NMFS' authority to collect fees (e.g., fee collection under the Individual Fishery Quota (IFQ) Halibut and Sablefish Program treats TAC and CEY the same). The explanation in your memorandum regarding CDQ program allocations of CEY supports NMFS' determination to collect fees from CDQ groups for fish harvested under halibut allocations issued to CDQ groups.

Determination 1.c. NMFS can collect fees from Amendment 80 cooperatives that are issued groundfish allocations.

Section 304(d)(2)(A)(i) of the MSA authorizes and requires NMFS to collect fees to recover the actual costs directly related to the management, data collection, and enforcement of any limited access privilege program. Section 304(d)(2)(B) of the MSA provides that the fee collected “. . . shall not exceed 3 percent of the ex-vessel value of the fish harvested under any such program.” (emphasis added). Your memorandum states “Amendment 80 cooperatives are given an exclusive harvest privilege for BSAI [Bering Sea and Aleutian Islands] species they are allocated at the beginning of the fishing year.” Your memorandum further explains that Amendment 80 cooperatives may gain access to fish beyond that initial exclusive harvest privilege through roll-overs at the discretion of NMFS.

Under the MSA, a person is subject to fees for fish harvested under a program that provides documentation granting the permission to fish for an exclusive harvest privilege. This requirement is derived from section 304(d)(2) and the definitions of “limited access privilege,” “individual fishing quota,” and “limited access system” in the MSA¹ and the definition of “permit” in 50 CFR section 679.2. If NMFS can ensure that a person (in this case a cooperative) is charged fees only for fish harvested under an exclusive harvest privilege, the explanation in your memorandum supports NMFS' determination to collect fees from Amendment 80 cooperatives for fish harvested based on groundfish allocations to Amendment 80 cooperatives for exclusive use.

Determination 1.d. NMFS can collect fees from American Fisheries Act (AFA) catcher processors as a cooperative entity that receives an annual allocation (including the catcher vessels that deliver to catcher processors).

The MSA defines a “person” as “any individual (whether or not a citizen or national of the United States), any corporation, partnership, association, or other entity (whether or

¹ MSA section 3, paragraphs (23) Individual Fishing Quota, (26) Limited Access Privilege, and (27) Limited Access System.

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.” The MSA does not define the other terms used in this definition, such as “association” or “entity.” The common definition of “association” is “the act or action of associating.”² The common definition of “entity” has an even broader definition, meaning, “being, existence . . . [or] something that objective or physical reality and distinctiveness of being and character.”³ These definitions and the cooperative agreement between the High Seas Catchers’ Cooperative (HSCC) and the Pollock Conservation Cooperative (PCC) (entitled, the “Cooperative Agreement Between Offshore Pollock Catchers’ Cooperative and the Pollock Conservation Cooperative”) (OPCC-PCC cooperative), as described in your memorandum, support a determination that the OPCC-PCC cooperative *could* be a “person” subject to fees under the MSA.

Whether the OPCC-PCC cooperative would be a “person” subject to fees under the MSA depends upon whether the membership of the Offshore Pollock Catchers’ Cooperative is the same as the membership of the HSCC. If the membership of the two cooperatives is the same, then the OPCC-PCC Cooperative would be the “person” that holds the exclusive harvest privilege to a percentage of the TAC. The annual Federal Register notice that provides documentation granting the permission to fish would be the permit to that person.⁴

In your memorandum, you do not indicate that the PCC, the HSCC, and the OPCC-PCC Cooperative are required by law. As a consequence, if any of these “persons” should change or maintain a membership of less than all that are eligible, then fee collection may be impeded or impossible.

To address this potential problem, NMFS could require eligible applicants to declare membership in a cooperative before a certain date (e.g., November 1), which is similar to the process established under other limited access programs. This process could determine the appropriate person subject to the fee collection.

Determination 1.e. NMFS can collect fees from the AFA mothership component cooperative.

The guidance provided above and the information in your memorandum support NMFS’ determination that fees could be collected from the AFA mothership component cooperative (aka Mothership Fleet Cooperative) pursuant to section 304(d)(2)(A)(ii) of the MSA for fish harvested under an exclusive allocation to the Mothership Fleet Cooperative.

Determination 1.f. NMFS can collect fees from AFA inshore component cooperatives (AFA catcher vessel cooperatives that deliver Bering Sea pollock to a shorebased or floating processor associated with the catcher vessel cooperative).

² Webster’s Third New International Dictionary (Unabridged), 1963.

³ Ibid.

⁴ See definition of “permit” at 50 CFR sec. 679.2

The guidance provided above and the information in your memorandum support NMFS' determination that fees could be collected from AFA inshore component cooperatives pursuant to section 304(d)(2)(A)(ii) of the MSA for fish harvested under an exclusive allocation to AFA inshore component cooperatives.

Determination 2. NMFS can collect fees from the freezer longline voluntary cooperative operating in the BSAI that would cover the actual costs incurred for management, data collection and analysis, and enforcement programs that are directly related to and in support of the program.

The information in your memorandum supports NMFS' determination that fees can be collected from a voluntary cooperative that harvests fish based on an exclusive use privilege issued to the cooperative. The MSA does not condition the fee liability of a person on whether or not a cooperative is voluntarily formed. MSA section 304(d)(2) requires NMFS to recover fees from a person who has a federal permit that grants exclusive harvest privileges for a percentage of the TAC expressed in units. If a person meets those requirements, voluntarily or not, that person is subject to the fee liability.

However, in order to collect a fee from a person, NMFS must be able to identify the person. As discussed in the response to Determination 1.d., a NMFS process to specifically identify the person subject to the fee would facilitate fee collection. For example, NMFS could provide that all eligible applicants for a cooperative that would be allocated a proportion of the TAC for exclusive use must apply by a specific date (e.g., November 1).

Determination 3. NMFS can implement fee collection programs for CDQ, AFA, and Amendment 80 Programs without Council action.

The information in your memorandum and the relevant provisions of the MSA support NMFS' determination that no further action by the Council is necessary for NMFS to collect fees from the CDQ, AFA, and Amendment 80 Programs. NMFS' authority to collect fees also applies to persons that have documentation granting the permission to exclusively harvest a percentage of the TAC expressed in units in the Pacific cod fishery in the BSAI.

Appendix B

AFA inshore cooperative membership for 2012.

AKUTAN CATCHER VESSEL ASSOCIATION					
VESSEL NAME	AFA PERMIT:		OWNER'S		
	VESSEL	OWNER'S CITY	STATE	LOA	OWNER
ALDEBARAN	901	SEATTLE	WA	132	ROYAL VIKING, INC.☐
ARCTIC EXPLORER	3388	SEATTLE	WA	155	B & N FISHERIES COMPANY☐
ARCTURUS	533	SEATTLE	WA	132	TRIDENT SEAFOODS CORPORATION☐
BLUE FOX	4611	NEWPORT	OR	85	PACIFIC DRAGGERS, INC.☐
BRISTOL EXPLORER	3007	SEATTLE	WA	180	B & N FISHERIES COMPANY ☐
CAPE KIWANDA	1235	SEATTLE	WA	85.08	B & N FISHERIES COMPANY☐
COLUMBIA	1228	SEATTLE	WA	123	ROYAL VIKING, INC.☐
DOMINATOR	411	SEATTLE	WA	124	TRIDENT SEAFOODS CORPORATION☐
EXCALIBUR II	410	KODIAK	AK	77	NORTHERN SEINERS, INC. ☐
EXODUS EXPLORER	1249	n/a	n/a	n/a	n/a
GLADIATOR	1318	SEATTLE	WA	124	TRIDENT SEAFOODS CORPORATION☐
GOLDEN DAWN	1292	SEATTLE	WA	149	GOLDEN DAWN, LLC☐
GOLDEN PISCES	586	NEWPORT	OR	98	GOLDEN PISCES, INC.☐
HAZEL LORRAINE	523	PORT ORFORD	OR	89.5	HAZEL LORRAINE JOINT VENTURE☐
INTREPID EXPLORER	4993	n/a	n/a	n/a	n/a
LISA MELINDA	4506	NEWPORT	OR	81	LISA MELINDA FISHERIES, INC. ☐
MAJESTY	3996	SEATTLE	WA	99	TRIDENT SEAFOODS CORPORATION☐
MARCY J	2142	KODIAK	AK	97	MARCY J., INC.☐
MARGARET LYN	723	SEATTLE	WA	123	GREAT WEST SEAFOODS, L.P.☐
MARK I	1242	SEATTLE	WA	99	MARK I, INC.☐
NORDIC EXPLORER	3009	SEATTLE	WA	115	B & N FISHERIES COMPANY☐
NORTHERN PATRIOT	2769	SEATTLE	WA	165	TRIDENT SEAFOODS CORPORATION☐
NORTHWEST EXPLORER	3002	SEATTLE	WA	162	B & N FISHERIES COMPANY☐
OCEAN EXPLORER	3011	SEATTLE	WA	155	B & N FISHERIES COMPANY☐
PACIFIC EXPLORER	3010	SEATTLE	WA	155	B & N FISHERIES COMPANY ☐
PACIFIC RAM	4305	SEATTLE	WA	82	TRIDENT SEAFOODS CORPORATION☐
PACIFIC VIKING	422	SEATTLE	WA	127	ROYAL VIKING, INC. ☐
PEGASUS	1265	PORTLAND	OR	96	NORTH SEA, INC.☐
PEGGY JO	979	SEATTLE	WA	99	B & N FISHERIES COMPANY☐
PERSEVERANCE	2837	NEWPORT	OR	87	COOPER, MARK E☐
PREDATOR	1275	NEWPORT	OR	90	PATIENCE FISHERIES, INC. ☐
RAVEN	1236	NEWPORT	OR	92	YAQUINA TRAWLERS, INC.☐
ROYAL AMERICAN	543	SEATTLE	WA	105	ROYAL AMERICAN FISHERIES, LLC☐
SEEKER	2849	NEWPORT	OR	98	F/V SEEKER, INC.☐
SOVEREIGNTY	2770	SEATTLE	WA	165	TRIDENT SEAFOODS CORPORATION ☐
TRAVELER	3404	SEATTLE	WA	109	TRAVELER FISHERIES LLC☐
VIKING EXPLORER	1116	SEATTLE	WA	123.5	ROYAL VIKING, INC.☐

NORTHERN VICTOR FLEET COOPERATIVE					
VESSEL NAME	AFA PERMIT:		OWNER'S		
	VESSEL	OWNER'S CITY	STATE	LOA	OWNER
AMERICAN EAGLE	434	SEATTLE	WA	120	EVENING STAR, INC. ☒
ANITA J	1913	SEATTLE	WA	130	EVENING STAR, INC.☒
COLLIER BROTHERS	2791	SOUTH BEACH	OR	95	SCHONES, JAMES A☒
COMMODORE	2657	SEATTLE	WA	133	EVENING STAR, INC.☒
GOLD RUSH	1868	CLACKAMAS	OR	99	GOLDEN TIDE, INC.☒
HALF MOON BAY	249	SEATTLE	WA	122	EVENING STAR, INC.☒
HICKORY WIND	993	SEATTLE	WA	107	EVENING STAR, INC.☒
MISS BERDIE	3679	SILETZ	OR	87.42	MISS BERDIE, INC.☒
NORDIC FURY	1094	SEATTLE	WA	110	FURY GROUP, INC.☒
OCEAN HOPE 3	1623	SEATTLE	WA	103	EVENING STAR, INC.☒
PACIFIC FURY	421	SEATTLE	WA	110	FURY GROUP, INC.☒
POSEIDON	1164	EDMONDS	WA	117	POSEIDON FISHERIES, LLC☒
ROYAL ATLANTIC	236	SEATTLE	WA	124	ROYAL ATLANTIC, LLC☒
STORM PETREL	1641	SEATTLE	WA	123	EVENING STAR, INC.☒
SUNSET BAY	251	SEATTLE	WA	122	EVENING STAR, INC.☒

PETER PAN FLEET COOPERATIVE					
VESSEL NAME	AFA PERMIT:		OWNER'S		
	VESSEL	OWNER'S CITY	STATE	LOA	OWNER
AJ	3405	MERCER ISLAND	WA	150	F/V AJ, LLC☒
AMERICAN BEAUTY	1688	SEATTLE	WA	123	ALAKANUK BEAUTY LLC☒
ELIZABETH F	823	KODIAK	AK	90	ELIZABETH F, INC.☒
OCEAN LEADER	1229	SEATTLE	WA	120	EMMONAK LEADER, LLC☒
OCEANIC	1667	SHORELINE	WA	122	OCEANIC FISHERIES, LLC☒
PACIFIC CHALLENGER	657	SEATTLE	WA	116	PACIFIC DAWN LLC☒
PROVIDIAN	6308	SOUTH PORTLAND	ME	113	F/V OCEAN SPRAY PARTNERSHIP☒
TOPAZ	405	FLORENCE	OR	85.5	CHANDLER FISHERIES, INC.☒
WALTER N	825	KODIAK	AK	99	ELIZABETH F, INC. ☒

UNALASKA CO-OP (ALYESKA)					
VESSEL NAME	AFA PERMIT:		OWNER'S		
	VESSEL	OWNER'S CITY	STATE	LOA	OWNER
ALASKA ROSE	515	SEATTLE	WA	124.42	ALASKA ROSE, ALASKA LLC☒
BERING ROSE	516	SEATTLE	WA	124.08	BERING ROSE, ALASKA LLC☒
DESTINATION	3988	SEATTLE	WA	180	DESTINATION, ALASKA LLC☒
GREAT PACIFIC	511	SEATTLE	WA	124	GREAT PACIFIC ALASKA LLC☒
LESLIE LEE	1234	NEWPORT	OR	97	LESLIE LEE, INC.☒
MESSIAH	6081	SEATTLE	WA	83	MS AMY AND MESSIAH, ALASKA LLC☒
MS AMY	2904	SEATTLE	WA	90.42	MS AMY AND MESSIAH, ALASKA LLC ☒
PROGRESS	512	KODIAK	AK	114	RONDYS, INC.☒
SEA WOLF	1652	SEATTLE	WA	124.75	SEA WOLF, ALASKA LLC ☒
VANGUARD	519	KODIAK	AK	94	FUTURA FISHERIES, INC.☒
WESTERN DAWN	134	SEATTLE	WA	113	F/V WESTERN DAWN, LLC☒

UNISEA FLEET COOPERATIVE					
VESSEL NAME	AFA PERMIT:		OWNER'S		
	VESSEL	OWNER'S CITY	STATE	LOA	OWNER
ALSEA	2811	KODIAK	AK	124	RONDYS, INC.☒
ARGOSY	2810	KODIAK	AK	124	RONDYS, INC.☒
AURIGA	2889	ANACORTES	WA	193	AURIGA/AURORA GENERAL PARTNERS
AURORA	2888	ANACORTES	WA	193	AURIGA/AURORA GENERAL PARTNERS
DEFENDER	3257	SHORELINE	WA	200	DONA MARTITA LLC☒
FIERCE ALLEGIANCE	4133	EDMONDS	WA	166	FIERCE ALLEGIANCE, LLC ☒
GUN-MAR	425	SEATTLE	WA	172	ILDHUSO FISHERIES, INC.☒
MAR-GUN	524	SEATTLE	WA	113	MARGUN ENTERPRISES, LLC☒
MORNING STAR	6204	EDMONDS	WA	57	FISHING VESSEL MORNING STAR, LLC☒
MORNING STAR	208	SHORELINE	WA	148	DONA MARTITA LLC☒
NORDIC STAR	428	SEATTLE	WA	123	F/V NORDIC STAR LLC☒
PACIFIC MONARCH	2785	SEATTLE	WA	166	PACMON, LLC☒
SEADAWN	2059	NEWPORT	OR	124	FY FISHERIES, INC.☒
STAR FISH	1167	EDMONDS	WA	124	F/V STARFISH, LLC☒
STARLITE	1998	EDMONDS	WA	123	STARLITE FISHERIES, LLC ☒
STARWARD	417	EDMONDS	WA	123	STARWARD FISHERIES, LLC☒

WESTWARD FLEET COOPERATIVE					
VESSEL NAME	AFA PERMIT:		OWNER'S		
	VESSEL	OWNER'S CITY	STATE	LOA	OWNER
ALASKAN COMMAND	3391	SEATTLE	WA	184	ALASKAN COMMAND, LLC☒
ALYESKA	395	NEAH BAY	WA	122	WA'ATCH, INC.☒
ARCTIC WIND	5137	SHORELINE	WA	123	DONA MARTITA LLC☒
BERING DEFENDER	2047	SHORELINE	WA	174	DONA MARTITA LLC ☒
CAITLIN ANN	3800	HALF MOON BAY	CA	103	CAITLIN ANN, LLC☒
CHELSEA K	4620	SEATTLE	WA	150	OCEAN DYNASTY LIMITED PARTNERSHI
PACIFIC KNIGHT	2783	SEATTLE	WA	185	PACIFIC KNIGHT, L.L.C.☒
PACIFIC PRINCE	4194	HALF MOON BAY	CA	149	PACIFIC PRINCE, LLC☒
VIKING	1222	SEATTLE	WA	144	VIKING LIMITED PARTNERSHIP☒
WESTWARD I	1650	SEATTLE	WA	135	WESTWARD L. P.☒

Appendix C

Agency costs for other cost recovery programs.

Agency Cost Recovery Expenses for GOA Rockfish Program in 2012 (1.4% cost recovery fee)

	OMD	RAM	SF	ISD	Total	% of Total
Personnel/Overhead	\$2,619	\$14,973	\$68,257	\$45,219	\$131,068	67.4%
Travel			\$13,798	\$3,760	\$17,558	9.0%
Transportation			\$2,730		\$2,730	1.4%
Printing			\$162	\$7,267	\$7,429	3.8%
Contracts/Training				\$21,166	\$21,166	10.9%
Supplies	\$207		\$875		\$1,082	0.6%
Equipment					\$0	0.0%
Rent/Utilities	\$251	\$1,735	\$7,303	\$4,239	\$13,528	7.0%
Other						0.0%
Total	\$3,077	\$16,708	\$93,125	\$81,651	\$194,561	100.0%
% of Total	1.6%	8.6%	47.9%	42.0%	100.0%	

Agency Cost Recovery Expenses for Halibut/Sablefish IFQ Program in 2012 (2.1% cost recovery fee)

	OMD	RAM	RA	SF	ISD	FSD	OLE	IPHC	ADFG	Total	% of Total
Personnel/Overhead	\$97,068	\$414,847	\$16,870	\$259,341	\$154,676	\$174,544	\$1,977,287	\$304,037	\$173,575	\$3,572,245	73.0%
Travel	\$475	\$877	\$2,656	\$15,512	\$3,839		\$165,400	\$20,362	\$3,455	\$212,576	4.3%
Transportation							\$2,100			\$2,100	0.0%
Printing	\$1,774	\$782								\$2,556	0.1%
Contracts/Training	\$255	\$1,509		\$299,000	\$22,238		\$274,700		\$1,354	\$599,056	12.2%
Supplies	\$259	\$6,216					\$17,500	\$3,013	\$1,094	\$28,082	0.6%
Equipment							\$600	\$64,250		\$64,850	1.3%
Rent/Utilities	\$9,749	\$64,723	\$1,426	\$24,650	\$13,962		\$235,800			\$350,310	7.2%
Other				\$8,970	\$30,000			\$361	\$25,127	\$64,458	1.3%
Total	\$109,580	\$488,954	\$20,952	\$607,473	\$224,715	\$174,544	\$2,673,387	\$392,023	\$204,605	\$4,896,233	100.0%
% of Total	2.2%	10.0%	0.4%	12.4%	4.6%	3.6%	54.6%	8.0%	4.2%	100.0%	

Agency Cost Recovery Expenses for Halibut/Sablefish IFQ Program in 2011 (1.6% cost recovery fee)

	OMD	RAM	RA	SF	ISD	FSD	OLE	GCAK	IPHC	ADFG	Total	% of Total
Personnel/Overhead	\$78,846	\$327,807	\$14,795	\$152,683	\$121,182	\$178,139	\$2,259,087	\$17,539	\$313,776	\$124,032	\$3,587,886	70.8%
Travel	\$3,574	\$1,425		\$13,066	\$6,280		\$123,300	\$672	\$23,314	\$7,353	\$178,984	3.5%
Transportation							\$13,400				\$13,400	0.3%
Printing		\$438					\$300				\$738	0.0%
Contracts/Training		\$177		\$159,090	\$341,877		\$264,200		\$69,191	\$60	\$834,595	16.5%
Supplies	\$350	\$4,638		\$164	\$30,074		\$49,100		\$2,210	\$129	\$86,665	1.7%
Equipment		\$10,958					\$1,400				\$12,358	0.2%
Rent/Utilities	\$8,650	\$42,000	\$1,706	\$17,290	\$12,041		\$208,400	\$1,193			\$291,280	5.7%
Other					\$39,100				\$2,323	\$18,420	\$59,843	1.2%
Total	\$91,420	\$387,443	\$16,501	\$342,293	\$550,554	\$178,139	\$2,919,187	\$19,404	\$410,814	\$149,994	\$5,065,749	100.0%
% of Total	1.8%	7.6%	0.3%	6.8%	10.9%	3.5%	57.6%	0.4%	8.1%	3.0%	100.0%	

Agency Cost Recovery Expenses for Crab Rationalization Program in 2011/2012 (0% cost recovery fee, sufficient funds collected previous years to cover costs)

	OMD	RAM	RA/Appeals	SF	ISD	FSD	OLE	AFSC	PSMFC	ADFG	Total	% of Total
Personnel/Overhead	\$42,700	\$206,834	\$48,373	\$131,682	\$76,853	\$14,248	\$812,530	\$108,024	\$57,384	\$341,375	\$1,840,003	54.7%
Travel	\$1,684	\$1,220	\$312	\$10,159	\$2,256		\$29,016	\$6,525	\$6,064	\$61,734	\$118,970	3.5%
Transportation							\$266				\$266	0.0%
Printing	-\$1,162	\$563					\$434				-\$165	0.0%
Contracts/Training		\$279		\$16,500	\$301,422		\$206,458	\$59,039	\$98,460	\$378,820	\$1,060,978	31.5%
Supplies	\$671	\$5,864		\$73	\$17,776		\$8,317		\$6,391	\$21,077	\$60,169	1.8%
Equipment		\$10,958			\$12,271		\$94				\$23,323	0.7%
Rent/Utilities	\$4,338	\$30,019	\$3,743	\$13,443	\$7,138		\$68,995				\$127,676	3.8%
Other									\$20,801	\$112,421	\$133,222	4.0%
Total	\$48,231	\$255,737	\$52,428	\$171,857	\$417,716	\$14,248	\$1,126,110	\$173,588	\$189,100	\$915,427	\$3,364,442	100.0%
% of Total	1.4%	7.6%	1.6%	5.1%	12.4%	0.4%	33.5%	5.2%	5.6%	27.2%	100.0%	

Agency Cost Recovery Expenses for Crab Rationalization Program in 2010/2011 (1.23% cost recovery fee)

	OMD	RAM	RA/Appeals	SF	ISD	FSD	OLE	AFSC	GC	PSMFC	ADFG	Total	% of Total
Personnel/Overhead	\$45,506	\$178,196	\$38,430	\$127,744	\$52,364	\$10,625	\$907,167	\$98,000	\$8,296	\$73,223	\$300,968	\$1,840,519	57.5%
Travel	\$5,042	\$2,395	\$6,352	\$10,276	\$6,638		\$54,174	\$9,507	\$880	\$5,937	\$30,380	\$131,581	4.1%
Transportation							\$241					\$241	0.0%
Printing	\$1,255										\$166	\$1,421	0.0%
Contracts/Training	\$763	\$825		\$22,750	\$83,849		\$206,550	\$95,000		\$87,076	\$443,858	\$940,671	29.4%
Supplies	\$1,539	\$3,570			\$5,752		\$23,688			\$9,895	\$16,619	\$61,063	1.9%
Equipment		\$12,683					\$1,368					\$14,051	0.4%
Rent/Utilities	\$3,668	\$16,709	\$2,528	\$9,583	\$4,017		\$66,073					\$102,578	3.2%
Other										\$21,769	\$95,676	\$117,445	3.7%
Total	\$57,773	\$214,378	\$47,310	\$170,353	\$152,620	\$10,625	\$1,259,261	\$202,507	\$618	\$197,900	\$887,667	\$3,201,012	100.0%
% of Total	1.8%	6.7%	1.5%	5.3%	4.8%	0.3%	39.3%	6.3%	0.0%	6.2%	27.7%	100.0%	

Appendix D



UNITED STATES DEPARTMENT OF COMMERCE
NOAA / National Marine Fisheries Service
Alaska Enforcement Division
1211 Gibson Cove Road
Kodiak, Alaska 99615

Date: August 15, 2013
To: Darrell Brannan
From: Michael Killary, acting ASAC
Subject: Cost Recovery Study

Currently NOAA Fisheries Office of Law Enforcement (OLE), Alaska Enforcement Division (AED) has nine offices with a total of nine Special Agents (SA) and eleven Enforcement Officers (EO) not including supervisory and administrative staff. Three of the nine SA are currently assigned to positions which prevent them from conducting investigations. Dutch Harbor, which is one of the nine offices, has no permanently assigned enforcement staff. It is currently staffed through temporary assignments of SA or EO from the other offices within AED. The Kodiak office, which also oversees the Dutch Harbor office, is the primary office to oversee enforcement of the Amendment 80, American Fisheries Act (AFA), Community Development Quota (CDQ) and the Factory Longline Cooperative (FLLC) has three SA and two EO.

The Amendment 80 fleet is comprised of approximately 25 catcher processors (CP), the AFA fleet is comprised of approximately 20 CP and 105 catcher vessels (CV), and the FLLC fleet is comprised of approximately 20 CP. Each of these fleets utilizes ports in Dutch Harbor, Akutan, King Cove, Sand Point, Kodiak, and on rare occasions Seattle. These vessels also utilize trampers located in various locations along the Aleutian chain as well as western Alaska. Since OLE does not have at-sea capability without assistance from USCG or state of Alaska vessels the majority of its enforcement effort is done shoreside.

It is worth noting OLE has enforcement personnel located in only one of the ports listed. As a result there are tremendous costs related to travel, lodging and per diem associated with any enforcement effort targeting these fleets. These associated costs hold true for all of the programs so we attempt to conduct port visits when activity is highest in all of the programs at the same time to maximize our effectiveness.

This method of enforcement only works as long as the fleets participating in the programs visit the ports when OLE has a presence. There is anecdotal evidence that upon learning of OLE's presence in particular port vessel operators will delay or avoid port visits or utilize trampers to avoid scrutiny.

OLE is usually limited to sending one enforcement person to one of these remote ports at a time and rarely is OLE able to send enforcement personnel to multiple ports at the same time. This is due to budget restrictions as well as man power restrictions.

During 2013 (January thru August) OLE visited the following ports in support of the above programs; Adak (one visit w/ one SA, four days), Dutch Harbor (five visits w/ one EO for 12 days each, one visit w/ one SA and one EO for 12 days, and on supervisory visit for four days), Akutan (two visits w/ one SA for 1 day each), King Cove and Sand Point (one visit w/ one SA for 1 day each). While conducting these port visits the SA or EO were also responsible to for enforcement oversight of numerous other fishery management programs (for example; IFQ, Crab Rationalization, Observer Program, Amendment 91, etc) so their time was limited.

The costs associated with one of these temporary assignments can be shown by using Dutch Harbor as an example. A typical assignment to Dutch Harbor is for 12 days including travel to and from the port. The approximate costs associated with this temporary assignment are \$5,000 for travel, lodging, and per diem. The costs increase when adding labor including overtime (\$3,500 to \$5,000 depending on the enforcement personnel's pay grade). Realistically OLE is looking at \$10,000 for one temporary assignment to Dutch Harbor which will cover 12 days.

The costs associated with enforcement of these programs effectively stop providing the enforcement person does not uncover violations requiring additional investigative effort. However should an investigation be required the costs increase dramatically due to the need for follow up investigative travel, potential criminal or civil hearing and associated labor costs. Once a long term investigation begins the investigating SA or EO may be effectively removed from performing additional compliance oversight.

The CDQ program is a completely different issue but involves many of the same CPs that participates in the other programs. However CDQ also includes six Alaska Native Corporations that represent numerous villages from the Alaska Native communities. Each of these villages may have as many as 25 individuals participating in the CDQ program. At this point in time we have one EO that has been assigned to oversee this program in addition to his other duties. OLE currently does not have the ability to effectively monitor and enforce this program due to the lack of man power and budget.