

price per mt, the harvest guideline for 2009 should provide similar revenue as seen from 2002 through 2007.

No significant alternatives to this proposed rule exist that would accomplish the stated objectives of the applicable statutes and which would minimize any significant economic impact of this proposed rule on the affected small entities. The CPS FMP and its implementing regulations require NMFS to set an annual HG for the Pacific sardine fishery based on the harvest formula in the FMP. The harvest formula is applied to the current stock biomass estimate to determine the ABC, from which the HG is then derived. Determining the annual HG merely implements the established procedures of the FMP with the goal of continuing to provide expected net benefits to the nation, regardless of what the specific annual allowable harvest of Pacific sardine is determined to be.

There are no reporting, record-keeping, or other compliance requirements required by this proposed rule. Additionally, no other Federal rules duplicate, overlap or conflict with this proposed rule.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: December 29, 2008.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

[FR Doc. E8-31344 Filed 1-2-09; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 0809031176-81596-01]

RIN 0648-AX25

Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands and Gulf of Alaska Groundfish; Limited Access Privilege Programs

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations implementing Amendment 90 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area and Amendment 78 to the Fishery

Management Plan for Groundfish of the Gulf of Alaska. This proposed regulation would amend the Bering Sea and Aleutian Islands Amendment 80 Program and the Central Gulf of Alaska Rockfish Program to allow post-delivery transfers of cooperative quota to cover overages. This action is necessary to mitigate potential overages, reduce enforcement costs, and provide for more precise total allowable catch management. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the Fishery Management Plans, and other applicable law.

DATES: Comments must be received no later than February 19, 2009.

ADDRESSES: Send comments to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. You may submit comments, identified by "RIN 0648-AX25," by any one of the following methods:

- **Electronic Submissions:** Submit all electronic public comments via the Federal eRulemaking Portal Web site at <http://www.regulations.gov>.
- **Mail:** P.O. Box 21668, Juneau, AK 99802.
- **Fax:** (907) 586-7557.
- **Hand delivery to the Federal Building:** 709 West 9th Street, Room 420A, Juneau, AK.

All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All personal identifying information (e.g., name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe portable document file (pdf) formats only.

Copies of Amendments 90 and 78, and the Regulatory Impact Reviews/Initial Regulatory Flexibility Analyses (RIR/IRFAs) prepared for this action may be obtained from the NMFS Alaska Region at the address above or from the Alaska Region Web site at <http://alaskafisheries.noaa.gov>. This proposed action was categorically excluded from the need to prepare an environmental assessment under the National Environmental Policy Act.

The Council has submitted Amendments 90 and 78 for review by

the Secretary of Commerce, and a Notice of Availability (NOA) of the FMP amendments was published in the **Federal Register** on December 17, 2008 with comments on the FMP amendments invited through February 17, 2009. All written comments received by February 17, 2009, whether specifically directed to the FMP amendments, this proposed rule, or both, will be considered in the approval or disapproval decision on the FMP amendments.

FOR FURTHER INFORMATION CONTACT: Glenn Merrill, (907) 586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fisheries in the exclusive economic zone off Alaska are managed under the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI FMP) and the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA FMP). The FMPs were prepared by the North Pacific Fishery Management Council (Council) under the Magnuson-Stevens Fishery Conservation and Management Act. Amendment 80 to the BSAI FMP implemented the Amendment 80 Program. Amendment 68 to the GOA FMP implemented the Central GOA Rockfish Program (Rockfish Program). Regulations implementing Amendment 80 were published on September 14, 2007 (72 FR 52668), and regulations implementing Amendment 68 were published on November 20, 2006 (71 FR 67210). These regulations are located at 50 CFR part 679.

Background

NMFS issued quota share (QS) under the Amendment 80 Program and the Rockfish Program. Under the Amendment 80 Program, NMFS issued QS to persons based on their qualifying harvest histories using specific trawl catcher/processor vessels in six BSAI non-pollock groundfish fisheries during 1998 through 2004. Under the Rockfish Program, NMFS issued QS to persons based on their qualifying harvest histories using trawl catcher vessels and trawl catcher/processors in several Central GOA (CGOA) rockfish fisheries and associated species that were harvested during those rockfish fisheries during 1996 through 2002. These two programs are commonly known as limited access privilege programs (LAPPs) because the participants in these fisheries may receive exclusive access to fishery resources if specific conditions are met. Each year, the person issued QS may choose to participate in either a fishery cooperative with other QS holders, or to

fish in a limited access fishery with all other non-cooperative participants who hold QS. The total amount of QS assigned to all members of a cooperative yields an amount of cooperative quota (CQ), which is a permit that provides an exclusive harvesting privilege for a specific amount of groundfish, in specific fisheries, in a given year. In addition, a cooperative also receives a specific amount of CQ that may be used for the incidental catch of a specific amount crab or halibut. Incidentally caught crab or halibut cannot be retained, processed, or sold, and are commonly called prohibited species catch (PSC). QS holders who choose to participate in the limited access fishery are not assigned an exclusive harvest or PSC use privilege, but can compete for the allocation of groundfish and PSC remaining after CQ has been assigned to all cooperatives.

Once a person joins a cooperative or the limited access fishery, they are required to participate in only that cooperative or the limited access fishery for that calendar year. A person who wishes to join a cooperative must designate the IFQ derived from his QS to the cooperative, and the specific vessels that will be fishing for that cooperative prior to the start of the fishing season for that LAPP. For example, persons wishing to participate in an Amendment 80 cooperative must assign their QS and vessels to an Amendment 80 cooperative by November 1 of each year to be eligible to fish in a cooperative for the following calendar year. Once a person assigns his QS or a vessel to a cooperative, he cannot reassign his QS or his vessel to another cooperative or the limited access fishery during that calendar year.

The specific groundfish species for which NMFS issues QS, and the PSC species that may be issued CQ if a person joins a cooperative under the Amendment 80 Program and Rockfish Program are shown in Table 1.

TABLE 1—GROUND FISH AND PSC SPECIES THAT MAY YIELD CQ IN THE AMENDMENT 80 PROGRAM AND ROCKFISH PROGRAM

Groundfish species for which QS is issued and that can yield CQ	PSC species for which CQ can be issued
BSAI Amendment 80 Program	
Aleutian Islands Pacific ocean perch.	Pacific halibut.
Atka mackerel	Zone 1 Bristol Bay red king crab.

TABLE 1—GROUND FISH AND PSC SPECIES THAT MAY YIELD CQ IN THE AMENDMENT 80 PROGRAM AND ROCKFISH PROGRAM—Continued

Groundfish species for which QS is issued and that can yield CQ	PSC species for which CQ can be issued
Flathead sole	Zone 1 <i>Chionoecetes opilio</i> crab.
Pacific cod	Zone 2C. <i>opilio</i> crab.
Rock sole	Zone 1C. <i>bairdi</i> crab.
Yellowfin sole	Zone 2C. <i>bairdi</i> crab.
CGOA Rockfish Program	
Northern rockfish (catcher vessels & catcher/processors).	Pacific halibut.
Pacific ocean perch (catcher vessels & catcher/processors).	
Pelagic shelf rockfish (catcher vessels & catcher/processors).	
Thornyhead rockfish (catcher vessels & catcher/processors).	
Trawl sablefish (catcher vessels & catcher/processors).	
Rougheye rockfish (catcher/processors only).	
Shortraker rockfish (catcher/processors only).	
Pacific cod (catcher vessels only).	

The mechanisms for joining a cooperative, the process for issuing CQ for groundfish or PSC species, and the monitoring and enforcement provisions necessary to ensure proper accounting of catch under the Amendment 80 and Rockfish Programs are described in detail in the final rules implementing those LAPPs and are not repeated here (see 72 FR 52668, September 14, 2007, for the Amendment 80 Program; and 71 FR 67210, November 20, 2006, for the Rockfish Program).

The size of each annual CQ allocation to a cooperative is based on the amount of QS held by the members of the cooperative relative to the total QS pool for a given groundfish fishery. For example, if a cooperative in the Amendment 80 Program was comprised of members holding QS equaling 40 percent of the QS pool in the yellowfin sole fishery, that cooperative would receive CQ to harvest 40 percent of the annual total allowable catch (TAC) of yellowfin sole that is assigned to the Amendment 80 Program. Any catch of groundfish or PSC species that is assigned CQ under the specific LAPP

(i.e., either the Amendment 80 or Rockfish Program) is debited from a cooperative's CQ account.

The Amendment 80 Program and the Rockfish Program allow cooperatives to transfer their unused CQ between cooperatives. Transfers allow cooperatives to tailor their operations to specific harvesting conditions. All transfers must be approved by NMFS before they become effective. Once a CQ transfer has been approved by NMFS, the CQ account of the transferring cooperative is debited and the CQ account of the receiving cooperative is credited.

CQ Overages Under Current System

Under existing regulations, a cooperative in either the Amendment 80 Program or the Rockfish Program is prohibited from catching groundfish or PSC on an annual basis that exceeds the amount of CQ that is issued to that cooperative (see § 680.7(n)(7)(i) for the Rockfish Program, and § 680.7(o)(4)(v) for the Amendment 80 Program). This prohibits a cooperative and its members from having a negative CQ balance for a given species, and subsequently receiving transferred CQ after the landing to rectify the negative CQ balance. A transfer of CQ after fish have been landed to rectify a negative CQ balance is commonly known as a post-delivery transfer.

If a harvester fishing for a cooperative delivers more groundfish, or catches more PSC, than the amount of CQ that the cooperative has been issued, that harvester and cooperative have violated existing regulations. This is commonly known as an overage. Overages can occur either through deliberate actions, or more commonly through unintentional errors such as miscalculating the weight of catch to be delivered relative to the amount of CQ available. As an example, harvesters operating a catcher vessel in the Rockfish Program may not know the precise weight of a delivery of groundfish, and estimates made onboard the vessel using a sample of average weight may be higher or lower than the actual delivery weight. Similarly, a harvester operating a trawl catcher/processor under either the Amendment 80 Program or Rockfish Program may not realize that he has harvested more than the amount of CQ assigned to his cooperative for a given groundfish or PSC species until after the catch from a haul has been weighed and the catch composition sampled by an onboard observer. If a harvester is making his or her last fishing trip for a cooperative for the year for a given groundfish or PSC species and no additional CQ is

available in his or her account, then an overage may occur. However, in most cases harvesters attempt to protect against potential overages by maintaining catch below their CQ holdings, and harvesting and using slightly less than the maximum amount of groundfish or PSC available on their CQ account, resulting in less value for the catch than possible.

Overages by cooperatives in the Rockfish Program and Amendment 80 Program are likely to be uncommon. In 2007, the first year under the Rockfish Program, no overages of CQ occurred. Results from 2008, the second year of the Rockfish Program, and the first year of the Amendment 80 Program are pending.

Currently, catcher vessel landings of groundfish are offloaded and processed by the facility receiving the delivery. PSC that is caught at sea is sampled, weighed, and returned to the sea by an onboard observer according to specific sampling protocols. The amount of groundfish and PSC CQ used by the vessel is reported once the vessel offloads its catch of groundfish. Catcher/processor landings are weighed, sampled, and recorded by onboard observers. The results from landings on a catcher/processor are reported to NMFS daily. Once a final weight has been determined, the applicable groundfish or PSC species is debited from the CQ account for the cooperative. Any CQ overage is noted and referred to NOAA Office for Law Enforcement (OLE).

Enforcement actions that may occur for a CQ overage would most likely rely on catch accounting records that show the violation. Violations from exceeding an exclusive annual harvest privilege in other LAPPs, such as the BSAI Crab Rationalization Program, and the Halibut and Sablefish IFQ Program are often apparent and not disputed because reliable records of observer sampling and offloads are generated at the time of landings. NMFS expects that similar violations that may occur in the Amendment 80 Program or Rockfish Program also would be apparent because reliable records of catch are kept under these two LAPPs. The amount and type of penalties that may be assessed are within the discretion of NOAA General Counsel.

Need for Proposed Action

Allowing post-delivery transfers in the Amendment 80 Program and Rockfish Program could mitigate potential overages, reduce enforcement costs, and provide for more precise TAC management and more value from the harvests for participants. Post-delivery

transfers also would increase flexibility to the fleet and allow more efficient use of resources. As an example, this provision could allow harvesters to make landings for their cooperative and settle up CQ accounts after delivery. The flexibility to complete transfers after delivery reduces the potential that some CQ will remain unharvested if a cooperative is not able to harvest its CQ allocation without the risk of an overage, and minimizes the potential for CQ overages because a CQ account can be balanced after delivery through a transfer from another cooperative with the appropriate amount of CQ.

The Proposed Action

This action proposes to allow post-delivery transfers to cover overages of CQ. There would be no limit on the size of a post-delivery transfer or on the number of post-delivery transfers a cooperative could undertake, but a vessel that is assigned to that cooperative could not begin a new fishing trip for that cooperative if the CQ account balance was zero or negative for any of the groundfish or PSC species CQ assigned to a cooperative. No cooperative could have a negative balance in an annual CQ account for any groundfish or PSC species after the end of a calendar year.

No member of a cooperative would be permitted to use any vessel assigned to that cooperative to begin a new fishing trip for any groundfish CQ species until the overage was accounted for and the CQ balance of the cooperative for all groundfish or PSC species for which CQ is assigned was positive. NMFS proposes to define the term "fishing trip" for purposes of this requirement to provide a clear standard for fishery participants. A fishing trip would be defined as the period beginning when a vessel operator commences harvesting any groundfish species that is assigned CQ under the relevant LAPP and ending when the vessel operator removes any groundfish CQ species whether processed or unprocessed from that vessel. The specific groundfish and PSC species for both LAPPs are listed above in Table 1. The proposed definition of a fishing trip would effectively extend from the first harvest of a groundfish species that is issued CQ in the applicable LAPP until the beginning of a delivery of groundfish from a catcher vessel, or the beginning of offloading of processed groundfish from a catcher/processor. This definition would ensure that no member of a cooperative could commence fishing for any groundfish species on the cooperative's CQ permit on any vessel until the CQ accounts of all groundfish and PSC species assigned

to that cooperative are positive. This provision is intended to discourage harvesters from continuing to debit groundfish or PSC against their cooperative's CQ account for numerous fishing trips and run a negative balance without ensuring that adequate unused CQ exists that can be transferred from another cooperative to cover that negative balance. This proposed rule would not modify existing regulations that require that CQ issued to a cooperative can be transferred only among other cooperatives, and that participants in a limited access fishery in either of these two LAPPs may not transfer any unused TAC to cooperatives as CQ.

The proposed action would prohibit a cooperative from maintaining a negative balance in its CQ accounts after the end of the calendar year for which that CQ was issued. This prohibition would effectively require that all post-delivery transfers of CQ must be completed by December 31 of each year. Overages that are not covered by December 31 of each year would be subject to a penalty or other enforcement action. This action would be expected to reduce the risk of potential overages because cooperatives would have time to settle up their CQ accounts by the end of the calendar year, rather than potentially exceed a CQ account at the time of landing.

Expected Effects of the Proposed Action

The RIRs describe in detail the predicted effects of the proposed action on harvesters, processors, communities, management and enforcement, consumers, and the nation (see **ADDRESSES**). Only the effects of the proposed action on harvesters are described here. Overall, the number of overages at the time of landing may increase slightly under the proposed action, but the risk that an overage would be subject to penalty would decrease.

Harvesters are likely to improve efficiency under this alternative through greater flexibility in harvesting. Overages could be covered with post-delivery transfers. Under the status quo, harvesters may be required to wait in port or remain idle on the fishing grounds until a transfer can be processed and a positive CQ balance is available. Under the proposed action, harvesters could finish their fishing trip and settle the balance when back in port. Some production efficiency gains should be realized by allowing harvesters to more precisely harvest the total CQ allocation with fewer uncovered overages. Harvesters also are likely to minimize the number of overage violations, which should be

reduced through post-delivery transfers. Based on public testimony received during Council deliberations and NMFS' review of overage rates in the Rockfish Program and Amendment 80 Program described in the RIR/IRFAs prepared for this proposed action (see **ADDRESSES**), it is unlikely that harvesters will have excessive overages by unreasonable reliance on the provision for post-delivery transfers. The available data indicate that overages are rare currently, and would likely continue to be in the future. This proposed action would benefit cooperatives and the members of cooperatives fishing under a cooperative's CQ permit.

Recordkeeping and Reporting Requirements

The NMFS Restricted Access Management Program (RAM) would continue to oversee share accounts and share usage. At the time of landing, RAM would maintain a record of any overage, but instead of reporting overages to NOAA OLE immediately, RAM would defer reporting until December 31 of the calendar year for which the CQ permit was issued. RAM would use the same process for processing post-delivery inter-cooperative transfer requests as is currently used to process inter-cooperative transfers under regulations at § 679.81 for the Rockfish Program, and at § 679.91 for the Amendment 80 Program.

Summary of Regulatory Changes

This action proposes the following changes to the existing regulatory text at 50 CFR part 679:

- Add two new paragraphs to define the term "fishing trip" at § 679.2;
- Modify the existing prohibitions at § 679.7(n)(7)(i) for the Rockfish Program and § 679.7(o)(4)(v) for the Amendment 80 Program to clarify that a person cannot begin a fishing trip with a vessel assigned to a Rockfish Program cooperative or Amendment 80 Program cooperative, if that Amendment 80 or Rockfish cooperative does not hold unused CQ for all species for which CQ is assigned; and
- Add prohibitions at § 679.7(n)(7)(vi) for the Rockfish Program and § 679.7(o)(4)(vi) for the Amendment 80 Program to prohibit a person from having a negative balance in a CQ account for any species after the end of the calendar year for which that CQ permit was issued.

Classification

The Assistant Administrator for Fisheries, NOAA, has determined that

this proposed rule is consistent with Amendments 90 and 78, the Magnuson-Stevens Fishery Conservation and Management Act, and other applicable laws, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

IRFAs were prepared for Amendment 90 and Amendment 78 that describe the impact this proposed rule would have on small entities. Copies of the RIR/IRFAs prepared for this proposed rule are available from NMFS (see **ADDRESSES**). The RIR/IRFAs prepared for this proposed rule incorporate by reference extensive RIR/IRFAs prepared for Amendment 68 to the GOA FMP that implemented the Rockfish Program, and Amendment 80 to the BSAI FMP that implemented the Amendment 80 Program. The RIR/IRFAs prepared for Amendment 68 and Amendment 80 detailed the impacts of those LAPPs on small entities. These analyses are available from the NMFS Alaska Region, Records Office, P.O. Box 21668, Juneau, AK 99802, e-mail

Records.fakr@noaa.gov, and on the Alaska Region Web site at <http://alaskafisheries.noaa.gov>.

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

This action directly regulates holders of CQ who might use post-delivery transfers to cover overages. Estimates of the number of small entities holding CQ are based on estimates of gross revenues. Landings data from the most recent season for which data are available are used to make these estimates. In the Rockfish Program, seven cooperatives formed in the first year (2007). Estimates of the number of these cooperatives that are small entities are based on estimates of gross revenues from the most recent year for which complete data are available (2005). Since rockfish prices vary from year to

year, the gross revenues of participants are difficult to predict. Of the seven cooperatives that received CQ in the first year of the Rockfish Program, five are estimated to be large entities and two are estimated to be small entities. In the Amendment 80 Program, estimates of the number of these cooperatives that are small entities are based on estimates of gross revenues from the most recent year for which complete data are available (2007). In the first year of the Amendment 80 Program (2007), one cooperative formed. This cooperative is estimated to be a large entity.

Any cooperative wishing to cover an overage will be required to engage in a transfer of CQ. The required reporting and recordkeeping for a post-delivery transfer would be the same as for any other transfer of CQ.

All of the directly regulated individuals would be expected to benefit from this action relative to the status quo alternative because the proposed action would allow greater flexibility and a longer time period over which to account for overages. Holders of CQ would be expected to benefit the most because the proposed action would provide CQ holders greater flexibility to maximize the harvest of their allocation without risking overages. Non-cooperative members would not be expected to benefit from this action because those persons do not receive an exclusive annual harvest privilege. This action would not be expected to have any effect on non-cooperative members. Among the three alternatives considered, the proposed action would best minimize potential adverse economic impacts on the directly regulated entities. Under the status quo, no post-delivery transfers would be allowed and small entities would continue to be penalized for overages. A third alternative for both Amendment 78 and Amendment 90 would have allowed post-delivery transfers, but with more limitations and restrictions than the preferred alternative. The preferred alternative gives small entities the most flexibility to account for overages.

Allowing post-delivery transfers should reduce the number of overages that result in forfeiture of catch and other penalties.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Recordkeeping and Reporting Requirements.

Dated: December 30, 2008.

John Oliver,

*Deputy Assistant Administrator for
Operations, National Marine Fisheries
Service.*

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 679 as follows:

**PART 679—FISHERIES OF THE
EXCLUSIVE ECONOMIC ZONE OFF
ALASKA**

1. The authority citation for 50 CFR part 679 is amended to read as follows:

Authority: 16 U.S.C. 773 *et seq.*; 1801 *et seq.*; 3631 *et seq.*; Pub. L. 108–199; Pub. L. 108–447; and Pub. L. 109–479.

2. In § 679.2, paragraphs (4) and (5) are added to the term “Fishing trip” to read as follows:

§ 679.2 Definitions.

* * * * *

Fishing trip means:

* * * * *

(4) *For purposes of 679.7(n)(7), the period beginning when a vessel operator*

commences harvesting any Rockfish Program species and ending when the vessel operator offloads or transfers any Rockfish Program species whether processed or unprocessed from that vessel.

(5) *For purposes of 679.7(o)(4), the period beginning when a vessel operator commences harvesting any Amendment 80 species and ending when the vessel operator offloads or transfers any Amendment 80 species whether processed or unprocessed from that vessel.*

* * * * *

3. In § 679.7, paragraphs (n)(7)(i) and (o)(4)(v) are revised, and paragraphs (n)(7)(vi) and (o)(4)(vi) are added to read as follows:

§ 679.7 Prohibitions.

* * * * *

(n) * * *

(7) * * *

(i) Begin a fishing trip for any Rockfish Program species with any vessel assigned to a Rockfish cooperative if the total amount of

unharvested CQ that is currently held by that Rockfish cooperative is zero or less for any species for which CQ is assigned.

* * * * *

(vi) Have a negative balance in a CQ account for any species for which CQ is assigned after the end of the calendar year for which a CQ permit was issued.

* * * * *

(o) * * *

(4) * * *

(v) Begin a fishing trip for any Amendment 80 species with any vessel assigned to an Amendment 80 cooperative if the total amount of unharvested CQ that is currently held by that Amendment 80 cooperative is zero or less for any species for which CQ is assigned.

(vi) Have a negative balance in a CQ account for any species for which CQ is assigned after the end of the calendar year for which a CQ permit was issued.

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