

## § 678.28

the species of sharks managed and the specification of the species groups to which they belong, and permitting and reporting requirements.

[58 FR 21944, Apr. 26, 1993. Redesignated at 59 FR 52457, Oct. 18, 1994]

### § 678.28 Specifically authorized activities.

The Assistant Administrator may authorize, for the acquisition of information and data, activities otherwise prohibited by these regulations.

[58 FR 21944, Apr. 26, 1993. Redesignated at 59 FR 52457, Oct. 18, 1994]

### § 678.29 Catch-and-release program.

(a) Notwithstanding other provisions of this part, a person may fish for, but not retain, white sharks with rod and reel only under a catch and release program, provided the person releases and returns such fish to the sea immediately with a minimum of injury.

(b) [Reserved]

[62 FR 16656, Apr. 7, 1997]

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## Fishery Conservation and Management

## § 679.1

AUTHORITY: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, and 3631 *et seq.*

SOURCE: 61 FR 31230, June 19, 1996, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 679 appear at 61 FR 56438, Nov. 1, 1996, and 62 FR 2047, Jan. 15, 1997.

### Subpart A—General

#### § 679.1 Purpose and scope.

Regulations in this part were developed by the Council under the Magnuson-Stevens Act. Along with part 600 of this chapter, these regulations implement the following:

(a) *Fishery Management Plan for Groundfish of the Gulf of Alaska*. (1) Regulations in this part govern commercial fishing for groundfish in the GOA by vessels of the United States (see subparts A, B, D, and E of this part).

(2) The following State of Alaska regulations are not preempted by this part for vessels regulated under this part fishing for demersal shelf rockfish in the Southeast Outside District, and which are registered under the laws of the State of Alaska: 5 AAC 28.110, fishing seasons; 5 AAC 28.130, gear; 5 AAC 28.160, harvest guidelines; 5 AAC 28.190, harvest of bait by commercial permit holders.

(b) *Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area*. Regulations in this part govern commercial fishing for groundfish in the BSAI by vessels of the United States (see subparts A, B, C, D, and E of this part).

(c) *Moratorium on entry (applicable through December 31, 1998)*. Regulations in this part govern a moratorium on the entry of new vessels in the commercial fisheries for groundfish in the GOA and BSAI and in the commercial fisheries for king and Tanner crabs in the Bering Sea and Aleutian Islands Area (see subparts A and D of this part).

(d) *IFQ Program for sablefish and halibut*. The IFQ management plan for the commercial fisheries that use fixed gear to harvest sablefish and halibut (see subparts A, B, D, and E of this part).

(1) *Sablefish*. (i) Regulations in this part govern commercial fishing for sablefish by vessels of the United States:

(A) Using fixed gear within that portion of the GOA and the BSAI over which the United States exercises exclusive fishery management authority; and

(B) Using fixed gear in waters of the State of Alaska adjacent to the BSAI and the GOA, provided that such fishing is conducted by persons who have been issued permits under § 679.4.

(ii) Regulations in this part do not govern commercial fishing for sablefish in Prince William Sound or under a State of Alaska limited entry program.

(2) *Halibut*. Regulations in this part govern commercial fishing for halibut by vessels of the United States using fixed gear, as that term is described in 16 U.S.C. 773(d), in and off of Alaska.

(e) *Western Alaska CDQ Program*. The goals and purpose of the CDQ program are to allocate CDQ to eligible Western Alaska communities to provide the means for starting or supporting commercial seafood activities that will result in ongoing, regionally based, commercial seafood or related businesses (see subparts A, B, C, and E of this part).

(f) *Groundfish Observer Program* (Applicable through December 31, 1997). Regulations in this part govern elements of the Groundfish Observer Program for the BSAI groundfish and GOA groundfish fisheries under the Council's authority (see subpart E of this part).

(g) *Fishery Management Plan for the Commercial King and Tanner Crab Fisheries in the Bering Sea and Aleutian Islands Area*. Regulations in this part govern commercial fishing for king and Tanner crab in the Bering Sea and Aleutian Islands Area by vessels of the United States, including regulations superseding State of Alaska regulations applicable to the commercial king and Tanner crab fisheries in the Bering Sea and Aleutian Islands Area EEZ that are determined to be inconsistent with the FMP (see subparts A, B, and E of this part).

(h) *Fishery Management Plan for the Scallop Fishery off Alaska*. (1) Regulations in this part govern commercial fishing for scallops in the Federal waters off Alaska by vessels of the United States (see subparts A and F of this part).

(2) State of Alaska laws that are in addition to, and not in conflict with, the regulations in this part are not preempted for vessels registered under the laws of the State fishing for scallops in the Federal waters off Alaska.

(i) *Fishery Management Plan for the High Seas Salmon Fishery off the Coast of Alaska East of 175 Degrees East Longitude (Salmon FMP)*. Regulations in this part govern fishing for salmon by fishing vessels of the United States in the EEZ seaward of Alaska east of 175° E. long., referred to as the High Seas Salmon Management Area.

[61 FR 31230, June 19, 1996, as amended at 61 FR 38103, July 23, 1996; 61 FR 56429, Nov. 1, 1996; 62 FR 2045, Jan. 15, 1997; 62 FR 19687, Apr. 23, 1997]

#### § 679.2 Definitions.

In addition to the definitions in the Magnuson-Stevens Act and in part 600 of this chapter, the terms used in this part have the following meanings:

*Active/inactive periods*—(1) *Active periods*—(i) *Catcher vessel*. An active period for a catcher vessel means a period of time when the catcher vessel is in a reporting area (except 300, 400, 550, or 690) or gear remains on the grounds in a reporting area (except 300, 400, 550, or 690), regardless of the vessel location.

(ii) *Shoreside processor, mothership, catcher/processor, and buying station*. An active period for a shoreside processor, mothership, catcher/processor, and buying station means a period of time when checked in.

(2) *Inactive periods*—(i) *Catcher vessel*. An inactive period for a catcher vessel means any period that does not qualify as an active period.

(ii) *Shoreside processor, mothership, catcher/processor, or buying station*. An inactive period for a shoreside processor, mothership, catcher/processor, or buying station means a period of time when not checked in.

*Adequate evidence*, for purposes of subpart E of this part, means information sufficient to support the reasonable belief that a particular act or omission has occurred.

*ADF&G* means the State of Alaska Department of Fish and Game.

*Affiliates*, for purposes of subpart E of this part, means business concerns, organizations, or individuals are affili-

ates of each other if, directly or indirectly, either one controls or has the power to control the other, or a third party controls or has the power to control both. Indicators of control include, but are not limited to, interlocking management or ownership, identity of interests among family members, shared facilities and equipment, common use of employees, or a business entity organized following the decertification, suspension, or proposed decertification of an observer contractor that has the same or similar management, ownership, or principal employees as the observer contractor that was decertified, suspended, or proposed for decertification.

*Alaska local time (A.l.t.)* means the current Alaska time, either daylight savings time or standard time.

*Alaska State waters* means waters adjacent to the State of Alaska and shoreward of the EEZ off Alaska.

*Aleutian Islands Subarea (AI)* of the BSAI means that portion of the EEZ contained in Statistical Areas 541, 542, and 543 (see Figure 1 of this part).

*Authorized distributor* means a tax-exempt organization authorized by NMFS to coordinate the processing, storage, transportation, and distribution of salmon taken as bycatch in the groundfish trawl fisheries to tax-exempt hunger relief agencies, food bank networks, and food bank distributors.

*Authorized fishing gear* means dive fixed gear, hook-and-line, jig, longline, longline pot, nonpelagic trawl, nontrawl, pelagic trawl, pot-and-line, scallop dredge, trawl, hand troll gear, and power troll gear:

(1) *Dive* means any scuba or surface supported diving equipment that allows for the underwater harvest of scallops by divers, or the taking of scallops by means of such gear.

(2) *Fixed gear* means:

(i) For sablefish harvested from any GOA reporting area, all hook-and-line gear and, for purposes of determining initial IFQ allocation, all pot gear used to make a legal landing.

(ii) For sablefish harvested from any BSAI reporting area, all hook-and-line gear and all pot gear.

(iii) For halibut harvested from any IFQ regulatory area, all fishing gear

comprised of lines with hooks attached, including one or more stationary, buoyed, and anchored lines with hooks attached.

(3) *Hook-and-line* means a stationary, buoyed, and anchored line with hooks attached, or the taking of fish by means of such a device.

(4) *Jig* means a single, non-buoyed, non-anchored line with hooks attached, or the taking of fish by means of such a device.

(5) *Longline* means a stationary, buoyed, and anchored line with hooks or two or more groundfish pots attached, or the taking of fish by means of such a device.

(6) *Longline pot* means a stationary, buoyed, and anchored line with two or more pots attached, or the taking of fish by means of such a device.

(7) *Nonpelagic trawl* means a trawl other than a pelagic trawl.

(8) *Nontrawl* means hook-and-line, jig, longline, and pot-and-line gear.

(9) *Pelagic trawl* means a trawl that:

- (i) Has no discs, bobbins, or rollers;
- (ii) Has no chafe protection gear attached to the footrope or fishing line;
- (iii) Except for the small mesh allowed under paragraph (9)(ix) of this definition:

(A) Has no mesh tied to the fishing line, headrope, and breast lines with less than 20 inches (50.8 cm) between knots and has no stretched mesh size of less than 60 inches (152.4 cm) aft from all points on the fishing line, headrope, and breast lines and extending past the fishing circle for a distance equal to or greater than one half the vessel's LOA; or

(B) Has no parallel lines spaced closer than 64 inches (162.6 cm) from all points on the fishing line, headrope, and breast lines and extending aft to a section of mesh, with no stretched mesh size of less than 60 inches (152.4 cm) extending aft for a distance equal to or greater than one half the vessel's LOA;

(iv) Has no stretched mesh size less than 15 inches (38.1 cm) aft of the mesh described in paragraph (9)(iii) of this definition for a distance equal to or greater than one half the vessel's LOA;

(v) Contains no configuration intended to reduce the stretched mesh

sizes described in paragraphs (9)(iii) and (iv) of this definition;

(vi) Has no flotation other than floats capable of providing up to 200 lb (90.7 kg) of buoyancy to accommodate the use of a net-sounder device;

(vii) Has no more than one fishing line and one footrope for a total of no more than two weighted lines on the bottom of the trawl between the wing tip and the fishing circle;

(viii) Has no metallic component except for connectors (e.g., hammerlocks or swivels) or a net-sounder device aft of the fishing circle and forward of any mesh greater than 5.5 inches (14.0 cm) stretched measure;

(ix) May have small mesh within 32 ft (9.8 m) of the center of the headrope as needed for attaching instrumentation (e.g., net-sounder device); and

(x) May have weights on the wing tips.

(10) *Pot-and-line* means a stationary, buoyed line with a single pot attached, or the taking of fish by means of such a device.

(11) *Scallop dredge* means gear consisting of a mouth frame attached to a holding bag constructed of metal rings, or any modification to this design that can be or is used in the harvest of scallops, or the taking of scallops by means of such gear.

(12) *Trawl* has the meaning specified in §600.10 of this chapter. For purposes of this part, this definition includes, but is not limited to, Danish seines and otter trawls.

(13) *Hand troll gear* means, for purposes of the High Seas Salmon Fishery, one or more lines with lures or hooks attached, drawn through the water behind a moving vessel, and retrieved by hand or hand-cranked reels or gurdies and not by any electrically, hydraulically, or mechanically-powered device or attachment.

(14) *Power troll gear* means, for purposes of the High Seas Salmon Fishery, one or more lines, with hooks or lures attached, drawn through the water behind a moving vessel, and originating from a power gurdy or power-driven spool fastened to the vessel, the extension or retraction of which is directly to the gurdy or spool.

*Basis species* means any species or species group that is open to directed

fishing that the vessel is authorized to harvest.

*Bering Sea and Aleutian Islands Area*, for purposes of regulations governing the commercial King and Tanner crab fisheries, means those waters of the EEZ off the west coast of Alaska lying south of Point Hope (68°21' N. lat), and extending south of the Aleutian Islands for 200 nm west of Scotch Cap Light (164°44'36" W. long).

*Bering Sea and Aleutian Islands Management Area (BSAI)*, for purposes of regulations governing the groundfish fisheries, means the Bering Sea and Aleutian Islands subareas (see Figure 1 of this part).

*Bering Sea Subarea of the BSAI* means that portion of the EEZ contained in Statistical Areas 508, 509, 512, 513, 514, 516, 517, 518, 519, 521, 523, 524, and 530 (see Figure 1 of this part).

*Bogoslof District* means that part of the Bering Sea Subarea contained in Statistical Area 518 (see Figure 1 of this part).

*Breast line* means the rope or wire running along the forward edges of the side panels of a net, or along the forward edge of the side rope in a rope trawl.

*Briefing* means a short (usually 2-4 day) training session that observers must complete to fulfill certification requirements.

*Buying station* means a person or tender vessel that receives unprocessed groundfish from a vessel for delivery to a shoreside processor or mothership and that does not process those fish.

*Bycatch Limitation Zone 1 (Zone 1)* means that part of the Bering Sea Subarea that is contained within the boundaries of Statistical Areas 508, 509, 512, and 516 (see Figure 1 of this part).

*Bycatch Limitation Zone 2 (Zone 2)* means that part of the Bering Sea Subarea that is contained within the boundaries of Statistical Areas 513, 517, and 521 (see Figure 1 of this part).

*Bycatch rate* means:

(1) For purposes of § 679.21(f) with respect to halibut, means the ratio of the total round weight of halibut, in kilograms, to the total round weight, in metric tons, of groundfish for which a TAC has been specified under § 679.20 while participating in any of the fisheries defined under § 679.21(f).

(2) For purposes of § 679.21(f) with respect to red king crab, means the ratio of number of red king crab to the total round weight, in metric tons, of BSAI groundfish for which a TAC has been specified under § 679.20 while participating in the BSAI yellowfin sole and BSAI "other trawl" fisheries, as defined under § 679.21(f).

*Bycatch species* means any species or species group for which a maximum retainable bycatch amount is calculated.

*Catcher/processor* means:

(1) With respect to groundfish record-keeping and reporting, a vessel that is used for catching fish and processing that fish.

(2) (Applicable through December 31, 1998). With respect to moratorium groundfish or crab species, a vessel that can be used as a catcher vessel and that can process or prepare fish to render it suitable for human consumption, industrial use, or long-term storage, including, but not limited to, cooking, canning, smoking, salting, drying, freezing, and rendering into meal or oil, but not including heading and gutting unless additional preparation is done.

(3) With respect to subpart E of this part, a processor vessel that is used for, or equipped to be used for, catching fish and processing that fish.

*Catcher vessel* means:

(1) With respect to groundfish record-keeping and reporting and subpart E of this part, a vessel that is used for catching fish and that does not process fish on board.

(2) (Applicable through December 31, 1998). With respect to moratorium groundfish, as defined in paragraph (1) of this definition; with respect to moratorium crab species, a vessel that is used to catch, take, or harvest moratorium crab species that are retained on board as fresh fish product at any time.

*Catcher Vessel Operational Area (CVOA)* (see Figure 2 of this part and § 679.22(a)(5)).

*CBL* means crab bycatch limit.

*Central Aleutian District* means that part of the Aleutian Islands Subarea contained in Statistical Area 542 (see Figure 1 of this part).

*Chief, RAM Division* means Chief of the Restricted Access Management Division, NMFS, Alaska Region.

*Chinook Salmon Savings Area of the BSAI* (see § 679.21(e)(7)(vii)(B)).

*Chum Salmon Savings Area of the BSAI CVOA* (see § 679.21(e)(7)(vi)(B)).

*Civil judgment*, for purposes of subpart E of this part, means a judgment or finding of a civil offense by any court of competent jurisdiction.

*Clearing officer* means a NMFS special agent, a NMFS fishery enforcement officer, or a NMFS enforcement aide who performs the function of clearing vessels at one of the primary ports listed in § 679.5(l)(3)(viii).

*Commercial fishing*, for purposes of the High Seas Salmon Fishery, means fishing for fish for sale or barter.

*Commissioner of ADF&G* means the principal executive officer of ADF&G.

*Community Development Plan (CDP)* (applicable through December 31, 1998) means a business plan for the development of a specific Western Alaska community or group of communities under the CDQ Program at § 679.30.

*Community Development Quota (CDQ)* (applicable through December 31, 1998) means a percentage of the CDQ reserve for a particular fish species that is allocated to a CDP.

*Community Development Quota Program (CDQ Program)* (applicable through December 31, 1998) means the Western Alaska Community Development Quota Program implemented under subpart C of this part.

*Community Development Quota Reserve (CDQ Reserve)* (applicable through December 31, 1998) means a percentage of the TAC for a particular management area for pollock, halibut, or hook-and-line sablefish that has been set aside for purposes of the CDQ program.

*Conviction*, for purposes of subpart E of this part, means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of nolo contendere.

*Council* means North Pacific Fishery Management Council.

*Daily reporting period or day* is the period from 0001 hours, A.l.t., until the following 2400 hours, A.l.t.

*Debriefing* means the post-deployment process that includes a one-on-one interview with NMFS staff, a NMFS preliminary data review, observer completion of all data corrections noted, observer preparation of affidavits and reports, and completion of tasks related to biological specimens or special projects.

*Decertification*, as used in § 679.50(j), means action taken by a decertifying official under § 679.50(j)(7) to revoke indefinitely certification of observers or observer contractors under this section; an observer or observer contractor whose certification is so revoked is decertified.

*Decertifying official*, for purposes of subpart E of this part, means a designee authorized by the Regional Administrator to impose decertification.

*Deployment* means the period between an observer's arrival at the point of embarkation and the date the observer disembarks for travel to debriefing.

*Direct financial interest* means any source of income to, or capital investment or other interest held by, an individual, partnership, or corporation or an individual's spouse, immediate family member or parent that could be influenced by performance or non-performance of observer or observer contractor duties.

*Directed fishing* means:

(1) With respect to groundfish record-keeping and reporting, any fishing activity that results in the retention of an amount of a species or species group on board a vessel that is greater than the maximum retainable bycatch amount for that species or species group as calculated under § 679.20.

(2) (Applicable through December 31, 1998). With respect to moratorium groundfish species, directed fishing as defined in paragraph (1) of this definition, or, with respect to moratorium crab species, the catching and retaining of any moratorium crab species.

*Dockside sale* means the transfer of IFQ halibut or IFQ sablefish from the person who harvested it to individuals for personal consumption, and not for resale.

*Donut Hole* means the international waters of the Bering Sea outside the limits of the EEZ and Russian economic zone as depicted on the current

edition of NOAA chart INT 813 Bering Sea (Southern Part).

*Eastern Aleutian District* means that part of the Aleutian Islands Subarea contained in Statistical Area 541 (see Figure 1 of this part).

*Federal waters* means waters within the EEZ off Alaska.

*Fish product weight* means the weight of the fish product in pounds or to at least the nearest thousandth of a metric ton (0.001 mt). Fish product weight is based upon the number of production units and the weight of those units. Production units include pans, cartons, blocks, trays, cans, bags, and individual fresh or frozen fish. The weight of a production unit is the average weight of representative samples of the product, and, for fish other than fresh fish, may include additives or water but not packaging. Any allowance for water added cannot exceed 5 percent of the gross product weight (fish, additives, and water).

*Fishermen* means persons who catch, take, or harvest fish.

*Fishing circle* means the circumference of a trawl intersecting the center point on a fishing line, and that is perpendicular to the long axis of a trawl.

*Fishing day* means a 24-hour period, from 0001 hours A.l.t. through 2400 hours A.l.t., in which fishing gear is retrieved and groundfish are retained. Days during which a vessel only delivers unsorted codends to a processor are not fishing days.

*Fishing line* means a length of chain or wire rope in the bottom front end of a trawl to which the webbing or lead ropes are attached.

*Fishing month* refers to a time period calculated on the basis of weekly reporting periods as follows: Each fishing month begins on the first day of the first weekly reporting period that has at least 4 days in the associated calendar month and ends on the last day of the last weekly reporting period that has at least 4 days in that same calendar month. Dates of each fishing month will be announced in the FEDERAL REGISTER published under § 679.21(f)(5).

*Fishing trip* means:

(1) With respect to monitoring compliance with groundfish directed fish-

ing closures, an operator of a vessel is engaged in a fishing trip from the time the harvesting, receiving, or processing of groundfish is begun or resumed in an area after the effective date of a notification prohibiting directed fishing in the same area under § 679.20 or § 679.21 until:

(i) The offload or transfer of all fish or fish product from that vessel;

(ii) The vessel enters or leaves an area where a different directed fishing prohibition applies; or

(iii) The end of a weekly reporting period, whichever comes first.

(2) With respect to the IFQ program, the period beginning when a vessel operator commences harvesting IFQ species and ending when the vessel operator lands any species.

(3) With respect to Part E of this part, one of the following periods:

(i) For a vessel used to process groundfish or a catcher vessel used to deliver groundfish to a mothership, a weekly reporting period during which one or more fishing days occur.

(ii) For a catcher vessel used to deliver fish to other than a mothership, the time period during which one or more fishing days occur, that starts on the day when fishing gear is first deployed and ends on the day the vessel offloads groundfish, returns to an Alaskan port, or leaves the EEZ off Alaska and adjacent waters of the State of Alaska.

*Fishing year* means 0001 hours, A.l.t., on January 1, through 2400 hours, A.l.t., on December 31 (see § 679.23).

*Food bank distributor* means a tax-exempt organization with the primary purpose of distributing food resources to hunger relief agencies.

*Food bank network* means a tax-exempt organization with the primary purpose of coordinating receipt and delivery of food resources to its member food bank distributors or hunger relief agencies.

*Footrope* means a chain or wire rope attached to the bottom front end of a trawl and attached to the fishing line.

*Gear deployment* means:

(1) For trawl gear: Where the trawl gear reaches the fishing level and begins to fish.

(2) For jig/troll, hook-and-line, or longline gear: Where the gear enters the water.

(3) For pot-and-line gear: Where the first pot enters the water.

*Gear retrieval* means:

(1) For trawl gear: Where retrieval of trawl cable commences.

(2) For jig/troll gear: Where the jig/troll gear leaves the water.

(3) For hook-and-line or longline pot gear: Where the last hook-and-line or longline pot gear of a set leaves the water, regardless of where the majority of the haul or set took place.

(4) For pot-and-line gear: Where the last pot of a set leaves the water.

*Governor* means the Governor of the State of Alaska.

*Groundfish* means target species and the "other species" category, specified annually pursuant to § 679.20(a)(2).

*Gulf of Alaska (GOA)* means that portion of the EEZ contained in Statistical Areas 610, 620, 630, 640, and 650 (see Figure 3 of this part).

*Halibut* means Pacific halibut (*Hippoglossus stenolepis*).

*Halibut CDQ reserve* means the amount of the halibut catch limit for IPHC regulatory areas 4B, 4C, 4D, and 4E that is reserved for the halibut CDQ program (see § 679.31(b)).

*Harvesting or to harvest* means the catching and retaining of any fish.

*Headrope* means a rope bordering the top front end of a trawl.

*Herring Savings Area* means any of three areas in the BSAI presented in Figure 4 (see also § 679.21(e)(7)(v) for additional closure information).

*High Seas Salmon Management Area* means the portion of the EEZ off Alaska east of 175 degrees E. long. The High Seas Salmon Management Area is divided into a West Area and an East Area:

(1) The *West Area* consists of the waters of the High Seas Salmon Management Area which are west of 143°53'36" W. long. (Cape Suckling).

(2) The *East Area* consists of the waters of the High Seas Salmon Management Area east of 143°53'36" W. long.

*Hunger relief agency* means a tax-exempt organization with the primary purpose of feeding economically disadvantaged individuals free of charge.

*Indictment*, for purposes of subpart E of this part, means indictment for a criminal offense. An information or other filing by competent authority charging a criminal offense must be given the same effect as an indictment.

*Individual* means a natural person who is not a corporation, partnership, association, or other such entity.

*Individual fishing quota (IFQ)* means the annual catch limit of sablefish or halibut that may be harvested by a person who is lawfully allocated a harvest privilege for a specific portion of the TAC of sablefish or halibut.

*IFQ crew member* means any individual who has at least 150 days experience working as part of the harvesting crew in any U.S. commercial fishery, or any individual who receives an initial allocation of QS. For purposes of this definition, "harvesting" means work that is directly related to the catching and retaining of fish. Work in support of harvesting, but not directly involved with harvesting, is not considered harvesting crew work. For example, searching for fish, work on a fishing vessel only as an engineer or cook, or work preparing a vessel for a fishing trip would not be considered work of a harvesting crew.

*IFQ halibut* means any halibut that is harvested with fixed gear in any IFQ regulatory area.

*IFQ landing* means the unloading or transferring of any IFQ halibut, IFQ sablefish, or products thereof from the vessel that harvested such fish.

*IFQ regulatory area means:*

(1) With respect to IFQ halibut, areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, or 4E as prescribed in the annual management measures published in the FEDERAL REGISTER pursuant to § 300.62 of chapter III of this title.

(2) With respect to IFQ sablefish, any of the three regulatory areas in the GOA and any subarea of the BSAI, and all waters of the State of Alaska between the shore and the inshore boundary of such regulatory areas and subareas, except waters of Prince William Sound and areas in which sablefish fishing is managed under a State of Alaska limited entry program.

*IFQ sablefish* means any sablefish that is harvested with fixed gear, either in the EEZ off Alaska or in waters

of the State of Alaska, by persons holding an IFQ permit, but does not include sablefish harvested in Prince William Sound or under a State of Alaska limited entry program.

*Inshore component* (applicable through December 31, 1998) means the following three categories of the U.S. groundfish fishery that process pollock harvested in a directed fishery for pollock in the GOA or BSAI, or Pacific cod harvested in a directed fishery for Pacific cod in the GOA, or both:

- (1) Shoreside processing operations.
- (2) Vessels less than 125 ft (38.1 m) in LOA, that process no more than 126 mt per week in round-weight equivalents of an aggregate amount of those fish.
- (3) Vessels that process those fish at a single geographic location in Alaska State waters during a fishing year. For the purposes of this definition, NMFS will determine the single geographic location in a fishing year for an individual processor from the geographic coordinates the vessel operator reports on the check-in report (§679.5(h)) when that vessel first engages in processing those fish.

*IPHC* means International Pacific Halibut Commission (see part 300 of chapter III of this title).

*King crab* means red king crab (*Paralithodes camtschatica*), blue king crab (*P. platypus*), brown (or golden) king crab (*Lithodes aequispina*), and scarlet (or deep sea) king crab (*Lithodes couesi*).

*Landing* means offloading fish.

*Legal landing* (applicable through June 30, 2000) means any amount of a moratorium species that was or is landed in compliance with Federal and state commercial fishing regulations in effect at the time of the landing.

*Legal landing of halibut or sablefish* (see §679.40(a)(3)(v)).

*Legal proceedings*, for purposes of subpart E of this part, means any civil judicial proceeding to which the Government is a party or any criminal proceeding. The term includes appeals from such proceedings.

*Length overall (LOA)* of a vessel means the horizontal distance, rounded to the nearest foot, between the foremost part of the stem and the aftermost part of the stern, excluding bowsprits, rudders, outboard motor

brackets, and similar fittings or attachments (see Figure 6 of this part; see also maximum LOA, original qualifying LOA, and reconstruction).

*Logbook* means Daily Cumulative Production Logbook (DCPL), Daily Cumulative Logbook (DCL), or a Daily Fishing Logbook (DFL) required by §679.5.

*Lost or destroyed vessel (applicable through December 31, 1998)* means a vessel that has sunk at sea or has been destroyed by fire or other accident and has been reported to the USCG on USCG Form 2692, Report of Marine Casualty.

*Management area* means any district, regulatory area, subpart, part, or the entire GOA or BSAI.

*Manager*, with respect to any shoreside processor or buying station, means the individual responsible for the operation of the shoreside processor operation or buying station.

*Maximum LOA* (applicable through December 31, 1998), with respect to a vessel's eligibility for a groundfish or crab moratorium permit, means:

- (1) Except for a vessel under reconstruction on June 24, 1992, if the original qualifying LOA is less than 125 ft (38.1 m) LOA, 1.2 times the original qualifying LOA or 125 ft (38.1 m), whichever is less.

- (2) Except for a vessel under reconstruction on June 24, 1992, if the original qualifying LOA is equal to or greater than 125 ft (38.1 m), the original qualifying LOA.

- (3) For an original qualifying vessel under reconstruction on June 24, 1992, the LOA on the date reconstruction was completed, provided that maximum LOA is certified under §679.4(c)(9).

*Moratorium crab species (applicable through December 31, 1998)* means species of king or Tanner crabs harvested in the Bering Sea and Aleutian Islands Area, the commercial fishing for which is governed by this part.

*Moratorium groundfish species* (applicable through December 31, 1998) means species of groundfish, except sablefish caught with fixed gear, harvested in the GOA or in the BSAI, the commercial fishing for which is governed by this part.

*Moratorium qualification* (applicable through December 31, 1998) with respect to the groundfish and crab vessel moratorium program means a transferable prerequisite for a moratorium permit.

*Moratorium species* means:

(1) (Applicable through June 30, 2000) any scallop species.

(2) (Applicable through December 31, 1998) any moratorium crab species or moratorium groundfish species.

*Mothership* means:

(1) A vessel that receives and processes groundfish from other vessels; or

(2) With respect to subpart E of this part, a processor vessel that receives and processes groundfish from other vessels and is not used for, or equipped to be used for, catching groundfish.

*Nearshore Bristol Bay Trawl Closure Area of the BSAI* (see § 679.22(a)(9))

*Net-sounder device* means a sensor used to determine the depth from the water surface at which a fishing net is operating.

*Non-allocated or nonspecified species* means those fish species, other than prohibited species, for which TAC has not been specified (e.g., grenadier, prowfish, lingcod).

*NMFS investigator*, for purposes of subpart E of this part, means a designee authorized by the Regional Administrator to conduct investigations under this section.

*North Pacific fishery* means any commercial fishery in state or Federal waters off Alaska.

*Observed or observed data* refers to data collected by observers (see § 679.21(f)(7) and subpart E of this part).

*Observer* means any individual that is awarded NMFS certification to serve as an observer under this part, is employed by an observer contractor for the purpose of providing observer services to vessels or shoreside processors under this part, and is acting within the scope of his/her employment.

*Observer contractor* means any person that is awarded NMFS certification to provide observer services to vessels and shoreside processors under subpart E and who contracts with observers to provide these services.

*Observer Program Office* means the administrative office of the Groundfish Observer Program located at Alaska

Fisheries Science Center (see **ADDRESSES**, part 600).

*Offshore component* (applicable through December 31, 1998) means all vessels not included in the definition of "inshore component" that process pollock caught in directed fisheries for pollock in the GOA or BSAI, or Pacific cod caught in directed fisheries for Pacific cod in the GOA, or both.

*Optimum yield* means:

(1) With respect to the High Seas Salmon Fishery, that amount of any species of salmon which will provide the greatest overall benefit to the Nation, with particular reference to food production and recreational opportunities, as specified in the Salmon FMP.

(2) With respect to the groundfish fisheries, see § 679.20(a)(1).

*Original qualifying LOA* (applicable through December 31, 1998) means the LOA of the original moratorium qualifying vessel on June 24, 1992.

*Original qualifying vessel* (applicable through December 31, 1998) means a vessel that made a legal landing during the moratorium qualifying period.

*Other species* is a category that consists of groundfish species in each management area that are not specified as target species (see Table 1 of the specifications provided at § 679.20(c)).

*Person* means:

(1) (Applicable through December 31, 1998). For purposes of the moratorium, any individual who is a citizen of the United States or any U.S. corporation, partnership, association, or other entity (or their successor in interest), whether or not organized or existing under the laws of any state.

(2) For purposes of IFQ species, any individual who is a citizen of the United States or any corporation, partnership, association, or other entity (or their successor in interest), whether or not organized or existing under the laws of any state, who is a U.S. citizen.

(3) For purposes of High Seas Salmon Fishery permits issued under § 679.4(h), the term "person" excludes any nonhuman entity.

*Personal use fishing* means, for purposes of the High Seas Salmon Fishery, fishing other than commercial fishing.

*Pollock roe* means product consisting of pollock eggs, either loose or in sacs or skeins.

*Preponderance of the evidence*, for purposes of subpart E of this part, means proof by information that, compared with that opposing it, leads to the conclusion that the fact at issue is more probably true than not.

*Processing*, or *to process*, means the preparation of fish to render it suitable for human consumption, industrial uses, or long-term storage, including but not limited to cooking, canning, smoking, salting, drying, freezing, or rendering into meal or oil, but does not mean icing, bleeding, heading, or gutting.

*Processor* means any shoreside processor, catcher/processor, mothership, any person who receives groundfish from fishermen for commercial purposes, any fisherman who transfers groundfish outside of the United States, and any fisherman who sells fish directly to a restaurant or to an individual for use as bait or personal consumption.

*Processor vessel* means, unless otherwise restricted, any vessel that has been issued a Federal fisheries permit and that can be used for processing groundfish.

*Prohibited species catch (PSC)* means any of the species listed in § 679.21(b).

*PRR* means standard product recovery rate (see Table 3 of this part).

*Qualified applicant* (see Western Alaska CDQ Program, § 679.30(d)(6)).

*Qualified person* (see IFQ Management Measures, § 679.40(a)(2)).

*Qualifying period* (applicable through December 31, 1998) with respect to the groundfish and crab vessel moratorium program means the period to qualify for the moratorium from January 1, 1988, through February 9, 1992.

*Quarter*, or *quarterly reporting period*, means one of four successive 3-month periods, which begin at 0001 hours, A.l.t., on the first day of each quarter, and end at 2400 hours, A.l.t., on the last day of each quarter, as follows:

- (1) 1st quarter: January 1 through March 31.
- (2) 2nd quarter: April 1 through June 30.
- (3) 3rd quarter: July 1 through September 30.
- (4) 4th quarter: October 1 through December 31.

*Quota share (QS)* means a permit, the face amount of which is used as a basis for the annual calculation of a person's IFQ.

*Reconstruction (applicable through December 31, 1998)* means a change in the LOA of the vessel from its original qualifying LOA.

*Red King Crab Savings Area (RKCSA) of the BSAI* (see § 679.22(a)(3))

*Red King Crab Savings Subarea (RKCSS) of the BSAI* (see § 679.21(e)(3)(ii)(B))

*Regional Administrator*, for purposes of this part, means the Administrator, Alaska Region, NMFS, as defined at § 600.10 of this chapter, or a designee.

*Regulatory area* means any of three areas of the EEZ in the GOA (see Figure 3 of this part).

*Reporting area* means any of the areas described in Figures 1 and 3 of this part.

*Resident fisherman* (see § 679.30(d)(7)).

*Round weight or round-weight equivalent*, for purposes of this part, means the weight of groundfish calculated by dividing the weight of the primary product made from that groundfish by the PRR for that primary product as listed in Table 3 of this part, or, if not listed, the weight of groundfish calculated by dividing the weight of a primary product by the standard PRR as determined using the best available evidence on a case-by-case basis.

*Sablefish* (black cod) means *Anoplopoma fimbria*.

*Sablefish CDQ reserve* means 20 percent of the sablefish fixed gear TAC for each subarea in the BSAI for which a sablefish TAC is specified (see § 679.31(c)).

*Salmon* means the following species:

- (1) Chinook (or king) salmon (*Oncorhynchus tshawytscha*);
- (2) Coho (or silver) salmon (*O. kisutch*);
- (3) Pink (or humpback) salmon (*O. gorbuscha*);
- (4) Sockeye (or red) salmon (*O. nerka*); and
- (5) Chum (or dog) salmon (*O. keta*).

*Scallop(s)* means any species of the family Pectinidae, including, without limitation, weathervane scallops (*Patinopectin caurinus*).

*SDP* means the Salmon Donation Program established under this section.

*SDP permit* means a permit issued by NMFS to an applicant who qualifies as an authorized distributor for purposes of the SDP.

*Set* means a string of pots or hook-and-line gear or a group of pots that is deployed in a similar location with similar soak time.

*Shoreside processor* means any person or vessel that receives unprocessed groundfish, except catcher/processors, motherships, buying stations, restaurants, or persons receiving groundfish for personal consumption or bait.

*Shucking machine* means any mechanical device that automatically removes the meat or the adductor muscle from the shell.

*Southeast Outside District* of the GOA means that part of the Eastern Regulatory Area contained in Statistical Area 650 (see Figure 3 of this part).

*Statistical area* means the part of any reporting area defined in Figures 1 and 3 of this part, contained in the EEZ.

*Steller Sea Lion Protection Areas* (see Tables 4, 5, and 6 of this part and §§ 679.22(a)(7), (a)(8), 679.22(b)(2), and 227.12 of this title).

*Stem* means the forward part of a vessel—that portion of the vessel where the sides are united at the fore end with the lower end attached to the keel and the bowsprit, if one is present, resting on the upper end.

*Stern* means the aft part of the vessel.

*Stretched mesh size* means the distance between opposite knots of a four-sided mesh when opposite knots are pulled tautly to remove slack.

*Superexclusive registration area* means any State of Alaska designated registration area within the Bering Sea and Aleutian Islands Area where, if a vessel is registered to fish for crab, that vessel is prohibited from fishing for crab in any other registration area during that registration year.

*Support vessel* means any vessel that is used in support of other vessels regulated under this part, including, but not limited to, supplying a fishing vessel with water, fuel, provisions, fishing equipment, fish processing equipment or other supplies, or transporting processed fish. The term “support vessel”

does not include processor vessels or tender vessels.

*Suspending official*, for purposes of subpart E of this part, means a designee authorized by the Regional Administrator to impose suspension.

*Suspension*, as used in § 679.50, means action taken by a suspending official under § 679.50(j) to suspend certification of observers or observer contractors temporarily until a final decision is made with respect to decertification.

*Tanner crab* means *Chionoecetes* species or hybrids of these species.

*Target species* are those species or species groups, except the “other species” category, for which a TAC is specified pursuant to § 679.20(a)(2).

*Tax-exempt organization* means an organization that received a determination letter from the Internal Revenue Service recognizing tax exemption under 26 CFR part 1 (§§ 1.501 to 1.640).

*Tender vessel* means a vessel that is used to transport unprocessed fish received from another vessel to a shoreside processor, mothership, or buying station.

*Transfer* includes any loading, off-loading, shipment or receipt of any groundfish product, including quantities transferred inside or outside the EEZ, within any state’s territorial waters, within the internal waters of any state, at any shoreside processor, or any offsite meal reduction plant.

*Trawl test areas* (see Figure 7 of this part and § 679.24(d)).

*U.S. citizen* means:

(1) Any individual who is a citizen of the United States at the time of application for QS; or

(2) Any corporation, partnership, association, or other entity that would have qualified to document a fishing vessel as a vessel of the United States during the QS qualifying years of 1988, 1989, and 1990.

*Vessel Activity Report (VAR)* (see § 679.5).

*Vessel operations category* (see § 679.4).

*Walrus Protection Areas* (see § 679.22(a)(4)).

*Weekly reporting period* means a time period that begins at 0001 hours, A.l.t., Sunday morning (except during the first week of each year, when it starts on January 1) and ends at 2400 hours, A.l.t., the following Saturday night

(except during the last week of each year, when it ends on December 31).

*West Yakutat District* of the GOA means that part of the GOA Eastern Regulatory Area contained in Statistical Area 640 (see Figure 3 of this part).

*Western Aleutian District* means that part of the Aleutian Islands Subarea contained in Statistical Area 543 (see Figure 1 of this part).

*Wing tip* means the point where adjacent breast lines intersect or where a breast line intersects with the fishing line.

[61 FR 31230, June 19, 1996, as amended at 61 FR 33384, June 27, 1996; 61 FR 35578, July 5, 1996; 61 FR 38104, July 23, 1996; 61 FR 38359, July 24, 1996; 61 FR 49981, Sept. 24, 1996; 61 FR 56429, Nov. 1, 1996; 61 FR 65987, Dec. 16, 1996; 62 FR 2045, Jan. 15, 1997; 62 FR 17752, 17755, Apr. 11, 1997; 62 FR 19687, Apr. 23, 1997; 62 FR 26428, May 14, 1997; 62 FR 38944, July 21, 1997]

#### § 679.3 Relation to other laws.

(a) *Foreign fishing for groundfish.* Regulations governing U.S. nationals fishing in the Russian fisheries are set forth in part 300 of chapter III of this title.

(b) *Domestic fishing for groundfish.* The conservation and management of groundfish in waters of the territorial sea and internal waters of the State of Alaska are governed by the Alaska Administrative Code at 5 AAC Chapter 28 and the Alaska Statute at A.S. 16.

(c) *Halibut.* Additional regulations governing the conservation and management of halibut are set forth in subpart E of part 300 of chapter III of this title.

(d) *King and Tanner crab.* Additional regulations governing conservation and management of king crab and Tanner crab in the Bering Sea and Aleutian Islands Area are contained in Alaska Statutes at A.S. 16 and Alaska Administrative Code at 5 AAC Chapters 34, 35, and 39.

(e) *Incidental catch of marine mammals.* Regulations governing exemption permits and the recordkeeping and reporting of the incidental take of marine mammals are set forth in § 216.24 and part 229 of this title.

(f) *Domestic fishing for high seas salmon.* (1) Additional regulations governing the conservation and management

of high seas salmon are set forth in § 600.705 of this chapter.

(2) This part does not apply to fishing for salmon by vessels other than vessels of the United States conducted under subpart H, part 660 (West Coast Salmon Fisheries) under the North Pacific Fisheries Act of 1954, 16 U.S.C. 1021-1035, concerning fishing for salmon seaward of Washington, Oregon, and California.

(3) The High Seas Salmon Fishery is administered in close coordination with ADF&G's administration of the State of Alaska's regulations governing the salmon troll fishery off Southeast Alaska. Because no commercial fishing for salmon is allowed in the EEZ west of Cape Suckling, all commercial salmon fishing west of Cape Suckling must take place in Alaska's territorial sea and, consequently, is subject to Alaska's management authority.

(4) For State of Alaska statutes and regulations governing commercial fishing, see Alaska Statutes, title 16—Fish and Game; title 5 of the Alaska Administrative Code, chapters 1-39.

(5) For State of Alaska regulations specifically governing the salmon troll fishery, see 5 Alaska Administrative Code 30 (Yakutat Area), and 5 Alaska Administrative Code 33 (Southeastern Alaska Area).

(6) For State of Alaska statutes and regulations governing sport and personal use salmon fishing other than subsistence fishing, see Alaska Statutes, title 16—Fish and Game; 5 Alaska Administrative Codes 42.010 through 75.995.

(7) For State of Alaska statutes and regulations governing subsistence fishing, see Alaska Statutes, title 16—Fish and Game; 5 Alaska Administrative Codes 01, 02, 39, and 99.010.

[61 FR 31230, June 19, 1996, as amended at 61 FR 35578, July 5, 1996; 62 FR 2045, Jan. 15, 1997; 62 FR 19688, Apr. 23, 1997]

#### § 679.4 Permits.

(a) *General requirements*—(1) *Application.* (i) A person may obtain or renew an application for any of the permits under this section and must mail completed forms to the Chief, RAM Division.

(ii) Upon receipt of an incomplete or improperly completed permit application, the Chief, RAM Division, will notify the applicant of the deficiency in the permit application. If the applicant fails to correct the deficiency, the permit will not be issued. No permit will be issued to an applicant until a complete application is received.

(iii) A separate application must be completed for each vessel, processor, or buying station and a copy must be retained of each completed or revised application.

(iv) The information requested on the application must be typed or printed legibly.

(2) *Amended applications.* An owner, operator, or manager who applied for and received a permit under this section must notify the Chief, RAM Division, in writing, of any change in the information within 10 days of the date of that change.

(3) *Alteration.* No person may alter, erase, or mutilate any permit, card, or document issued under this section. Any such permit, card, or document that is intentionally altered, erased, or mutilated is invalid.

(4) *Disclosure.* NMFS will maintain a list of permitted processors that may be disclosed for public inspection.

(5) *Sanctions and denials.* Procedures governing permit sanctions and denials are found at subpart D of 15 CFR part 904.

(b) *Federal Fisheries permit—(1) Groundfish.* No vessel of the United States may be used to fish for groundfish in the GOA or BSAI unless the owner first obtains a Federal fisheries permit for the vessel, issued under this part. A Federal fisheries permit is issued without charge.

(2) *Non-groundfish.* A vessel of the United States that fishes in the GOA or BSAI for any non-groundfish species, including but not limited to halibut, crab, salmon, scallops, and herring, and that does not retain any bycatch of groundfish is not required to obtain a Federal fisheries permit under this part.

(3) *Vessel operations categories.* (i) A Federal fisheries permit authorizes a vessel to conduct operations in the GOA and BSAI as a catcher vessel,

catcher/processor, mothership, tender vessel, or support vessel.

(ii) A vessel may be issued a Federal fisheries permit as a support vessel or as any combination of the other four categories (catcher vessel, catcher/processor, mothership, tender vessel). A vessel permitted as a catcher vessel, catcher/processor, mothership, or tender vessel also may conduct all operations authorized for a support vessel.

(4) *Duration.* (i) A Federal fisheries permit is issued on a 3-year cycle and is in effect from the date of issuance through the end of the current NMFS 3-year cycle, unless it is revoked, suspended, or modified under § 600.735 or § 600.740 of this chapter.

(ii) A Federal fisheries permit is surrendered when the original permit is submitted to and received by the NMFS Enforcement Office in Juneau, AK.

(5) *Application.* A complete application for a Federal fisheries permit must include the following information for each vessel:

(i) *Amended permit.* If application is for an amended permit, the current Federal fisheries permit number and information that has changed.

(ii) *Vessels.* The complete name and homeport (city and state) of the vessel; the ADF&G vessel number; the USCG documentation number or Alaska registration number; the vessel's LOA and registered net tonnage; and the telephone, fax, and COMSAT (satellite communication) numbers used on board the vessel.

(iii) *Owner information.* The owner of the vessel must record the owner's name, permanent business mailing address, telephone and fax numbers; and the name of any company (other than the owner) that manages the operations of the vessel or shoreside processor.

(iv) *Federal fisheries permit information.* The owner of the vessel must record:

(A) The fishery or fisheries and the vessel operations category for which the permit would apply, as set forth under paragraph (b)(3) of this section.

(B) If a catcher vessel or catcher/processor, the gear type(s) used for groundfish operations.

(C) If a catcher vessel, whether groundfish is retained only as bycatch from halibut, crab, or salmon fisheries; and whether sablefish is the only groundfish targeted in the GOA.

(D) If a mothership or catcher/processor, whether inshore or offshore, to indicate component in which Pacific cod in the GOA or pollock will be processed for the entire fishing year.

(v) *Signature.* The owner of the vessel must sign and date the application.

(6) *Issuance.* (i) Except as provided in subpart D of 15 CFR part 904, upon receipt of a properly completed permit application, the Regional Administrator will issue a Federal fisheries permit required by this paragraph (b).

(ii) The Regional Administrator will send the Federal fisheries permit to the applicant with the appropriate logbooks, as provided under §679.5.

(7) *Amended application.* If the application for an amended permit required under this section designates a change or addition of a vessel operations category, the amended permit must be on board the vessel before the new type of operations begins.

(8) *Transfer.* A Federal fisheries permit issued under this paragraph (b) is not transferable or assignable and is valid only for the vessel for which it is issued.

(9) *Inspection.* (i) An original Federal fisheries permit issued under this paragraph (b) must be carried on board the vessel whenever the vessel is fishing. Photocopied or faxed copies are not considered originals.

(ii) A permit issued under this paragraph (b) must be presented for inspection upon the request of any authorized officer.

(c) *Moratorium permits (applicable through December 31, 1998)—(1) General—*

(i) *Applicability.* Except as provided under paragraph (c)(2) of this section, any vessel used to catch and retain any moratorium crab species or to conduct directed fishing for any moratorium groundfish species must have a valid moratorium permit issued for that vessel under this part on board the vessel at all times it is engaged in fishing activities.

(ii) *Duration.* The moratorium permit is valid for the duration of the moratorium, unless otherwise specified.

(iii) *Validity.* A moratorium permit issued under this part is valid only if:

(A) The vessel's LOA does not exceed the maximum LOA as specified in §679.2;

(B) The vessel's moratorium qualification has not been transferred;

(C) The permit has not been revoked or suspended under 15 CFR part 904;

(D) The permit is endorsed for all gear types on board the vessel; and

(E) The permit's term covers the fishing year in which the vessel is fishing.

(iv) *Inspection.* A moratorium permit must be presented for inspection upon the request of any authorized officer.

(2) *Moratorium exempt vessels.* (i) A moratorium exempt vessel is not subject to the moratorium permit requirement of paragraph (c)(1) of this section and is not eligible for a moratorium permit.

(ii) A moratorium exempt vessel may catch and retain moratorium species, provided it complies with the permit requirements of the State of Alaska with respect to moratorium crab species, Federal permit requirements in this part with respect to moratorium groundfish species, and other applicable Federal and State of Alaska regulations.

(3) *Moratorium exempt vessel categories.* A moratorium exempt vessel is a vessel in any of the following categories:

(i) Vessels other than catcher vessels or catcher/processor vessels.

(ii) Catcher vessels or catcher/processor vessels less than or equal to 26 ft (7.9 m) LOA that conduct directed fishing for groundfish in the GOA.

(iii) Catcher vessels or catcher/processor vessels less than or equal to 32 ft (9.8 m) LOA that catch and retain moratorium crab species in the Bering Sea and Aleutian Islands Area or that conduct directed fishing for moratorium groundfish species in the BSAI.

(iv) Catcher vessels or catcher/processor vessels that are fishing for IFQ halibut, IFQ sablefish, or halibut or sablefish under the Western Alaska CDQ Program in accordance with regulations at subpart C of this part and that are not directed fishing for any moratorium species.

(v) Catcher vessels or catcher/processor vessels less than or equal to 125 ft (38.1 m) LOA that after November 18,

1992, are specifically constructed for and used in accordance with a CDP under §679.30, and that are designed and equipped to meet specific needs described in the CDP.

(4) *Moratorium permit endorsements—*

(i) *General.* A moratorium permit will be endorsed for one or more fishery-specific gear type(s) in accordance with the endorsement criteria of paragraph (c)(5) of this section.

(ii) *Authorization.* A fishery-specific gear type endorsement authorizes the use by the vessel of that gear type in the specified fisheries.

(iii) *Fishing gear requirements.* (A) Fishing gear requirements for the Bering Sea and Aleutian Islands Area crab fisheries are set forth in the Alaska Administrative Code at title 5, chapters 34 and 35.

(B) Fishing gear requirements for the GOA and the BSAI groundfish fisheries are set forth under §679.24.

(C) A moratorium permit may be endorsed for any one or a combination of the following fishing gear types:

(1) Trawl, which includes pelagic and nonpelagic trawl gear.

(2) Pot, which includes longline pot and pot-and-line gear.

(3) Hook, which includes hook-and-line and jig gear.

(5) *Gear endorsement criteria.* For purposes of this paragraph (c)(5), the period January 1, 1988, through February 9, 1992, is "period 1," and February 10, 1992, through December 11, 1994, is "period 2." Fishery-specific gear type endorsement(s) will be based on the following criteria:

(i) *Crab fisheries/pot gear.* A moratorium permit for a vessel may be endorsed for crab fisheries/pot gear if the vessel made a legal landing:

(A) Of a moratorium crab species in period 1;

(B) Of a moratorium groundfish species with any authorized fishing gear in period 1, and, in period 2, made a legal landing of a moratorium crab species; or

(C) Of moratorium groundfish in period 1 with pot gear.

(ii) *Groundfish fisheries/rawl gear.* A moratorium permit may be endorsed for groundfish fisheries/rawl gear if the vessel made a legal landing:

(A) Of a moratorium groundfish species with any authorized fishing gear in period 1; or

(B) Of a moratorium crab species in period 1, and, in period 2, made a legal landing of a moratorium groundfish species using trawl gear.

(iii) *Groundfish fisheries/pot gear.* A moratorium permit may be endorsed for groundfish fisheries/pot gear if the vessel made a legal landing:

(A) Of a moratorium groundfish species with any authorized fishing gear in period 1; or

(B) Of a moratorium crab species in period 1.

(iv) *Groundfish fisheries/hook gear.* A moratorium permit may be endorsed for groundfish fisheries/hook gear if the vessel made a legal landing:

(A) Of a moratorium groundfish species with any authorized fishing gear in period 1; or

(B) Of a moratorium crab species in period 1, and, in period 2, made a legal landing of a moratorium groundfish species using hook gear.

(6) *Application for permit.* A moratorium permit will be issued to the owner of a vessel of the United States if he/she submits to the Regional Administrator a complete moratorium permit application that is subsequently approved and if the vessel's LOA does not exceed the maximum LOA as specified in §679.2. A complete application for a moratorium permit must include the following information for each vessel:

(i) Name of the vessel, state registration number of the vessel and the USCG documentation number of the vessel, if any.

(ii) Name(s), business address(es), and telephone and fax numbers of the owner of the vessel.

(iii) Name of the managing company.

(iv) Valid documentation of the vessel's moratorium qualification, if requested by the Regional Administrator due to an absence of landings records for the vessel from January 1, 1988, through February 9, 1992.

(v) Reliable documentation of the vessel's original qualifying LOA, if requested by the Regional Administrator, such as a vessel survey, builder's plan, state or Federal registration certificate, fishing permit records, or other reliable and probative documents

that clearly identify the vessel and its LOA, and that are dated before June 24, 1992.

(vi) Specification of the fishing gear(s) used from January 1, 1988, through February 9, 1992, and, if necessary, the fishing gear(s) used from February 10, 1992, through December 11, 1994.

(vii) Specification of the vessel as either a catcher vessel or a catcher/processor vessel.

(viii) If applicable, transfer authorization if a permit request is based on transfer of moratorium qualification pursuant to paragraph (c) of this section.

(ix) Signature of the person who is the owner of the vessel or the person who is responsible for representing the vessel owner.

(7) *Moratorium qualification.* A vessel has moratorium qualification if:

(i) The vessel is an original qualifying vessel;

(ii) The vessel is not a moratorium exempt vessel under paragraph (c)(2) of this section;

(iii) The vessel's moratorium qualification has not been transferred;

(iv) The vessel receives a valid moratorium qualification through a transfer approved by the Regional Administrator under paragraph (c)(9) of this section; and

(v) That moratorium qualification is not subsequently transferred.

(8) *Application for moratorium qualification transfer*—(i) *General.* An application for approval of a transfer of moratorium qualification (see paragraph (c)(9) of this section) must be completed and the transfer approved by the Regional Administrator before an application for a moratorium permit based on that transfer can be approved. An application for approval of a transfer and an application for a moratorium permit may be submitted simultaneously.

(ii) *Contents of application.* A complete application for approval of transfer must include the following information, as applicable, for each vessel involved in the transfer of moratorium qualification:

(A) Name(s), business address(es), and telephone and fax numbers of the applicant(s) (including the owners of the

moratorium qualification that is to be or was transferred and the person who is to receive or received the transferred moratorium qualification).

(B) Name of the vessel whose moratorium qualification is to be or was transferred and the name of the vessel that would receive or received the transferred moratorium qualification (if any), the state registration number of each vessel and, if documented, the USCG documentation number of each vessel.

(C) The original qualifying LOA of the vessel whose moratorium qualification is to be or was transferred, its current LOA, and its maximum LOA.

(D) The LOA of the vessel that would receive or received the transferred moratorium qualification and documentation of that LOA by a current vessel survey or other reliable and probative document.

(E) Signatures of the persons from whom moratorium qualification would be transferred or their representative, and the persons who would receive the transferred moratorium qualification or their representative.

(iii) *Contract or agreement.* A legible copy of a contract or agreement must be included with the application for transfer that specifies the vessel or person from which moratorium qualification is to be or is transferred, the date of the transfer agreement, names and signatures of all current owner(s) of the vessel whose moratorium qualification is to be or was transferred, and names and signatures of all current owner(s) of the moratorium qualification that is to be or was transferred.

(iv) *Vessel reconstruction.* The following information must be included with the application for transfer:

(A) A legible copy of written contracts or written agreements with the firm that performed reconstruction of the vessel and that relate to that reconstruction.

(B) An affidavit signed by the vessel owner(s) and the owner/manager of the firm that performed the vessel reconstruction, specifying the beginning and ending dates of the reconstruction.

(C) An affidavit signed by the vessel owner(s) specifying the LOA of the reconstructed vessel.

(v) *Vessels lost or destroyed.* A copy of USCG Form 2692, Report of Marine Casualty, must be included with the application for transfer.

(9) *Transfer of moratorium qualification (applicable through December 31, 1998)*—

(i) *General.* A transfer of a vessel's moratorium qualification must be approved by the Regional Administrator before a moratorium permit may be issued under this section for the vessel to which the qualification is transferred. A moratorium permit is not transferrable or assignable. A fishery-specific gear type endorsement(s) is not severable from an endorsed permit. A transfer of moratorium qualification will not be approved by the Regional Administrator unless:

(A) A complete transfer application that satisfies all requirements specified in paragraph (c)(8) of this section is submitted;

(B) The LOA of the vessel to which the moratorium qualification is transferred does not exceed the maximum LOA of the original qualifying vessel; and

(C) The moratorium permit associated with the moratorium qualification is not revoked or suspended.

(ii) *Vessels lost or destroyed in 1988.* The moratorium qualification of a vessel that was lost or destroyed before January 1, 1989, may not be transferred to another vessel and is not valid for purposes of issuing a moratorium permit for that vessel, if salvaged, unless salvage began on or before June 24, 1992, and the LOA of the salvaged vessel does not exceed its maximum LOA. The moratorium qualification of such a vessel is not valid for purposes of issuing a moratorium permit for 1998 unless that vessel is used to make a legal landing of a moratorium species from January 1, 1996, through December 31, 1997.

(iii) *Vessels lost or destroyed from 1989 through 1995.* The moratorium qualification of any vessel that was lost or destroyed on or after January 1, 1989, but before January 1, 1996, is valid for purposes of issuing a moratorium permit for that vessel, if salvaged, regardless of when salvage began, provided that the vessel has not already been replaced and the LOA of the salvaged vessel does not exceed its maximum

LOA. The moratorium qualification of any vessel that was lost or destroyed on or after January 1, 1989, but before January 1, 1996, may be transferred to another vessel, provided the LOA of that vessel does not exceed the maximum LOA of the original qualifying vessel. The moratorium qualification of such a vessel is not valid for purposes of issuing a moratorium permit for 1998, unless that vessel is used to make a legal landing of a moratorium species from January 1, 1996, through December 31, 1997.

(iv) *Vessels lost or destroyed after 1995.* The moratorium qualification of any vessel that was lost or destroyed on or after January 1, 1996, is valid for purposes of issuing a moratorium permit for that vessel, if salvaged, regardless of when salvage began, provided that the vessel has not already been replaced and the LOA of the salvaged vessel does not exceed its maximum LOA. The moratorium qualification of any vessel that is lost or destroyed on or after January 1, 1996, may be transferred to another vessel, providing the LOA of that vessel does not exceed the maximum LOA of the original qualifying vessel.

(v) *Reconstruction.* The moratorium qualification of a vessel is not valid for purposes of issuing a moratorium permit if, after June 23, 1992, reconstruction is initiated that results in increasing the LOA of the vessel to exceed the maximum LOA of the original qualifying vessel. For a vessel whose reconstruction began before June 24, 1992, and was completed after June 24, 1992, the maximum LOA is the LOA on the date reconstruction was completed, provided the owner files an application for transfer and the Regional Administrator certifies that maximum LOA and approves the transfer based on information concerning the LOA of the reconstructed vessel submitted under paragraph (c)(8)(iv) of this section.

(10) *Appeal*—(i) *Determination.* The Chief, RAM Division, will issue an initial administrative determination to each applicant who is denied a moratorium permit by that official. An initial administrative determination may be appealed by the applicant in accordance with § 679.43. The initial administrative determination will be the final

agency action if a written appeal is not received by the Regional Administrator, within the period specified at § 679.43.

(ii) *Permit denial.* An initial administrative determination that denies an application for a moratorium permit must authorize the affected vessel to catch and retain moratorium crab or moratorium groundfish species with the type of fishing gear specified on the application. The authorization expires on the effective date of the final agency action relating to the application.

(iii) *Final action.* An administrative determination denying approval of the transfer of a moratorium qualification and/or denying the issuance of a moratorium permit based on that moratorium qualification is the final agency action for purposes of judicial review.

(d) *IFQ—(1) General.* In addition to the permit and licensing requirements prescribed in the annual management measures published in the FEDERAL REGISTER pursuant to § 300.62 of chapter III of this title and in the permit requirements of this section, all fishing vessels that harvest IFQ halibut or IFQ sablefish must have on board:

(i) *IFQ permit.* A copy of an IFQ permit that specifies the IFQ regulatory area and vessel category in which IFQ halibut or IFQ sablefish may be harvested by the IFQ permit holder and a copy of the most recent accompanying statement specifying the amount of each species that may be harvested during the current IFQ fishing season; and

(ii) *IFQ card.* An original IFQ card issued by the Regional Administrator.

(2) *Registered buyer permit.* Any person who receives IFQ halibut or IFQ sablefish from the person(s) that harvested the fish must possess a registered buyer permit, except under conditions of paragraph (d)(2) (i), (ii), or (iii) of this section. A registered buyer permit also is required of any person who harvests IFQ halibut or IFQ sablefish and transfers such fish:

(i) In a dockside sale;

(ii) Outside of an IFQ regulatory area; or

(iii) Outside the State of Alaska.

(3) *Permit issuance—(i) IFQ permits and cards—(A) Issuance.* IFQ permits and cards will be renewed or issued an-

nually by the Regional Administrator to each person with approved QS for IFQ halibut or IFQ sablefish allocated in accordance with this section.

(B) *IFQ permit.* Each IFQ permit issued by the Regional Administrator will identify the permitted person and will be accompanied by a statement that specifies the amount of IFQ halibut or IFQ sablefish that person may harvest from a specified IFQ regulatory area using fixed gear and a vessel of a specified vessel category.

(C) *IFQ card.* Each IFQ card issued by the Regional Administrator will display an IFQ permit number and the individual authorized by the IFQ permit holder to land IFQ halibut or IFQ sablefish for debit against the permit holder's IFQ.

(ii) *Registered buyer permits.* Registered buyer permits will be renewed or issued annually by the Regional Administrator to persons that have a registered buyer application approved by the Regional Administrator.

(4) *Duration—(i) IFQ permit.* An IFQ permit authorizes the person identified on the permit to harvest IFQ halibut or IFQ sablefish from a specified IFQ regulatory area at any time during an open fishing season during the fishing year for which the IFQ permit is issued until the amount harvested is equal to the amount specified under the permit, or until it is revoked, suspended, or modified under 15 CFR part 904.

(ii) *IFQ card.* An IFQ card authorizes the individual identified on the card to land IFQ halibut or IFQ sablefish for debit against the specified IFQ permit until the card expires, or is revoked, suspended, or modified under 15 CFR part 904, or cancelled on request of the IFQ permit holder.

(iii) *Registered buyer permit.* A registered buyer permit authorizes the person identified on the permit to receive or make an IFQ landing by an IFQ permit or card holder at any time during the fishing year for which it is issued until the registered buyer permit expires, or is revoked, suspended, or modified under 15 CFR part 904.

(5) *Transfer.* The IFQ permits issued under this section are not transferable, except as provided under § 679.41. IFQ

cards and registered buyer permits issued under this paragraph (d) are not transferable.

(6) *Inspection*—(i) *IFQ permit*. A legible copy of any IFQ permit issued under this section must be carried on board the vessel used by the permitted person to harvest IFQ halibut or IFQ sablefish at all times that such fish are retained on board.

(ii) *IFQ card*. Except as specified in §679.42(d), an individual that is issued an IFQ card must remain aboard the vessel used to harvest IFQ halibut or IFQ sablefish with that card during all fishing operations until arrival at the point of landing and during all IFQ landings. The IFQ cardholder must present a copy of the IFQ permit and the original IFQ card for inspection on request of any authorized officer, clearing officer, or registered buyer purchasing IFQ species. Nothing in this paragraph would prevent an individual who is issued an IFQ card from being absent from the vessel used to harvest IFQ halibut or IFQ sablefish between the time the vessel arrives at the point of landing until the commencement of landing.

(iii) *Registered buyer permit*. A legible copy of the registered buyer permit must be present at the location of an IFQ landing, and must be made available for inspection on request of any authorized officer or clearing officer.

(e) *Halibut/sablefish CDQ permits and CDQ cards*. See §679.33(a) and (b).

(f) *Federal processor permit*—(1) *Requirement*. No shoreside processor of the United States or vessel of the United States operating solely as a mothership in Alaska States waters may receive or process groundfish harvested in the GOA or BSAI, unless the owner first obtains a Federal processor permit issued under this part. A Federal processor permit is issued without charge.

(2) *Application*. A complete application for a Federal processor permit must include the following:

(i) If the application is for an amended permit, the current Federal processor permit number and an update of the permit information that has changed.

(ii) The shoreside processor's name, business street address, telephone number, and fax number.

(iii) The shoreside processor owner's name or names, business mailing address, managing company, if any, telephone number, ADF&G Processor Code, and fax number.

(iv) Indication of the fishery or fisheries for which the permit is requested.

(v) Indication of the shoreside processor operations category.

(vi) The owner of the shoreside processor must sign and date the application.

(3) *Issuance*. (i) Upon receipt of a properly completed permit application, the Regional Administrator will issue a Federal processor permit required by this paragraph (f).

(ii) The Regional Administrator will send the Federal processor permit to the applicant with the shoreside processor logbook, as provided under §679.5.

(4) *Duration*. (i) A Federal processor permit is issued for a 3-year period and remains in full force and effect from the date of issuance through the end of the current NMFS 3-year renewal cycle, unless it is revoked, suspended, or modified under §600.735 or §600.740 of this chapter.

(ii) A Federal processor permit is surrendered when the original permit is submitted to and received by the Chief, RAM Division, NMFS.

(5) *Transfer*. A Federal processor permit issued under this paragraph (f) is not transferable or assignable and is valid only for the processor for which it is issued.

(6) *Inspection*. (i) An original Federal processor permit issued under this paragraph (f) must be on site at the shoreside processor at all times. Photocopied or faxed copies are not considered originals.

(ii) A permit issued under this paragraph (f) must be presented for inspection upon the request of any authorized officer.

(g) *Scallop moratorium permits* (applicable through June 30, 2000)—(1) *General*—(i) *Applicability*. Except as provided under paragraph (g)(2) of this section, any vessel used to take or retain any scallop species in Federal waters must have a valid scallop moratorium permit on board the vessel at all times

when the vessel is engaged in fishing for scallops in Federal waters or has scallops taken from Federal waters retained on board. Any vessel used to take or retain scallops in Federal waters within Scallop Registration Area H must have a scallop moratorium permit endorsed for Registration Area H. Any vessel used to take or retain scallop species in Federal waters outside Registration Area H must have a scallop moratorium permit endorsed for Federal waters exclusive of Registration Area H.

(ii) *Applicable dates and duration.* The requirement to carry a moratorium permit is applicable from July 1, 1997, through June 30, 2000. A scallop moratorium permit is valid for the duration of the moratorium unless otherwise specified.

(iii) *Validity.* A scallop moratorium permit issued under this paragraph is valid only if:

(A) A person named on the moratorium permit is the owner or operator of the vessel on which the permit is used.

(B) The vessel's LOA does not exceed the maximum LOA specified on the permit.

(C) The permit has not been revoked or suspended under 15 CFR part 904.

(iv) *Inspection.* A scallop moratorium permit must be presented for inspection upon the request of any authorized officer.

(2) *Exemptions.* A vessel that has an LOA of less than or equal to 26 ft (7.9 m) in the GOA, and less than or equal to 32 ft (9.8 m) in the BSAI and that does not have dredge gear on board is exempt from the requirements of this paragraph (g) when fishing for scallops with dive gear.

(3) *Qualification criteria—(i) Qualifying period.* To qualify for a moratorium permit, a vessel must have made a legal landing of scallops during 1991, 1992, or 1993, or during at least 4 separate years from 1980 through 1990.

(ii) *Area endorsements.* A scallop moratorium permit may contain an area endorsement for Federal waters within Registration Area H, for Federal waters outside Registration Area H, or for both areas.

(A) *Registration Area H.* A scallop moratorium permit may be endorsed for fishing in Federal waters within

Registration Area H if a qualifying vessel made a legal landing of scallops taken inside Registration Area H during the qualifying period defined at paragraph (g)(3)(i) of this section.

(B) *Waters outside Registration Area H.* A scallop moratorium permit may be endorsed for fishing in Federal waters outside Registration Area H if the qualifying vessel made a legal landing of scallops taken in waters outside Registration Area H during the qualifying period defined at paragraph (g)(3)(i) of this section.

(iii) *Legal landings.* Evidence of legal landings shall be limited to documentation of State or Federal catch reports that indicate the amount of scallops harvested, the registration area or location in which they were caught, the vessel used to catch them, and the date of harvesting, landing, or reporting.

(4) *Maximum LOA—(i)* All scallop moratorium permits will specify a maximum LOA, which will be 1.2 times the LOA of the qualifying vessel on January 20, 1993, unless the qualifying vessel was under reconstruction on January 20, 1993.

(ii) If a qualifying vessel was under reconstruction on January 20, 1993, the maximum LOA will be the LOA on the date reconstruction was completed.

(5) *Application for permit.* A scallop moratorium permit will be issued to the person or successor in interest who was the owner of a qualifying vessel when it most recently made qualifying landings under paragraph (g)(3) of this section, if he/she submits to the Regional Administrator a complete scallop moratorium permit application that is subsequently approved. A complete application for a scallop moratorium permit must include the following information:

(i) Name(s), signature(s), business address(es), and telephone and fax numbers of the person(s) who owned the vessel when the most recent qualifying landing of scallops occurred.

(ii) Name of the qualifying vessel, state registration number of the vessel and the USCG number of the vessel, if any.

(iii) Valid documentation of the vessel's basis for moratorium qualification, if requested by the Regional Administrator due to an absence of landings records for the vessel for the qualifying period.

(iv) Reliable documentation of the vessel's qualifying LOA, if requested by the Regional Administrator, such as a vessel survey, builder's plan, state or Federal registration certificate, or other reliable and probative documents that clearly identify the vessel and its LOA and that are dated on or before January 20, 1993.

(v) Name(s) and signature(s) of the person(s) who is/are the owner(s) of the vessel or the person(s) responsible for representing the vessel owner.

(vi) If the qualifying vessel was under reconstruction on January 20, 1993, the permit application must contain the following additional information:

(A) A legible copy of written contracts or written agreements with the firm that performed reconstruction of the vessel and that relate to that reconstruction.

(B) An affidavit signed by the vessel owner(s) and the owner/manager of the firm that performed the reconstruction specifying the beginning and ending dates of the reconstruction.

(C) An affidavit signed by the vessel owner(s) specifying the LOA of the reconstructed vessel.

(6) *Vessel ownership.* Evidence of vessel ownership shall be limited to the following documents, in order of priority:

(i) For vessels required to be documented under the laws of the United States, the USCG abstract of title issued in respect to that vessel.

(ii) A certificate of registration that is determinative as to vessel ownership.

(iii) A bill of sale.

(7) *Permit transfer—(i) Applicability.* A moratorium permit transfer is required to effect any change in permit ownership including the addition or subtraction of partners. Area endorsements may not be transferred independently of a moratorium permit.

(ii) *Required information.* A complete application for approval of transfer of a scallop moratorium permit must include the following:

(A) The original moratorium permit to be transferred.

(B) Name(s), business address(es), and telephone and fax numbers of the applicant(s) including the holders of the scallop moratorium permit that is to be transferred and the person(s) who is to receive the transferred scallop moratorium permit.

(C) Name(s) and signature(s) of the person(s) from whom the moratorium permit would be transferred or their representative, and the person(s) who would receive the transferred moratorium permit or their representative.

(D) A legible copy of a contract or agreement to transfer the moratorium permit in question must be included with the application for transfer that specifies the person(s) from whom the scallop moratorium permit is to be transferred, the date of the transfer agreement, name(s) and signature(s) of the current holder(s) of the permit, and name(s) and signature(s) of person(s) to whom the scallop moratorium permit is to be transferred.

(8) *Appeal—(i) Determination.* The Chief, RAM Division, will issue an initial administrative determination to an applicant upon denial of a scallop moratorium permit by that official. An initial administrative determination may be appealed by the applicant in accordance with § 679.43. The initial administrative determination will be the final agency action if a written appeal is not received by the Regional Administrator postmarked within the period specified at § 679.43.

(ii) *Permit denial.* An initial administrative determination that denies an application for a scallop moratorium permit may authorize the affected person to take or retain scallops. Any administrative determination that authorizes fishing will expire on the effective date of the final agency action relating to the application.

(iii) *Final action.* An administrative determination denying the issuance of a scallop moratorium permit is the final agency action for purposes of judicial review.

(9) *Harvesting privilege.* Scallop moratorium permits issued pursuant to this part do not represent an interest that is subject to the "takings" provision of

the 5th Amendment to the U.S. Constitution. Rather, such permits represent only a harvesting privilege that may be revoked or amended subject to the requirements of the Magnuson-Stevens Act and other applicable laws.

(h) *High Seas Salmon permits*—(1) *Operators of commercial fishing vessels using power troll gear*. The operator of a fishing vessel using power troll gear may engage in commercial fishing for salmon in the High Seas Salmon Management Area if the operator:

(i) Held a valid State of Alaska power troll permanent entry permit on May 15, 1979, or is a transferee under paragraph (h)(13) of this section from an operator who held such a permit on that date;

(ii) Held a valid State of Alaska power troll interim use permit on May 15, 1979; or

(iii) Holds a High Seas Salmon Fishery permit issued by the Regional Administrator under paragraph (h)(7) of this section.

(2) *Crew members and other persons not the operator of a commercial fishing vessel using power trawl gear*. Crew members or other persons aboard but not the operator of a fishing vessel may assist in the vessel's commercial salmon fishing operations in the High Seas Management Area without a permit if a person described in paragraph (h)(1)(i) through (iii) of this section is also aboard the vessel and is engaged in the vessel's commercial fishing operations.

(3) *Personal use fishing*. Any person who holds a valid State of Alaska sport fishing license may engage in personal use fishing in the High Seas Salmon Management Area.

(4) *Duration*. Authorization under this paragraph (h) to engage in fishing for salmon in the High Seas Salmon Management Area constitutes a use privilege which may be revoked or modified without compensation.

(5) *Eligibility criteria for permits issued by the Regional Administrator*. (i) Any person is eligible to be issued a High Seas Salmon Fishery permit under paragraph (h)(7) of this section if that person, during any one of the calendar years 1975, 1976, or 1977:

(A) Operated a fishing vessel in the High Seas Salmon Management Area.

(B) Engaged in commercial fishing for salmon in the High Seas Salmon Management Area.

(C) Caught salmon in the High Seas Salmon Management Area using power troll gear.

(D) Landed such salmon.

(ii) The following persons are not eligible to be issued a High Seas Salmon Fishery permit under paragraph (h)(7) of this section:

(A) Persons described in paragraph (h)(1)(i) or (h)(1)(ii) of this section.

(B) Persons who once held but no longer hold a State of Alaska power troll permanent entry or interim-use permit.

(6) *Application*. Applications for a High Seas Salmon Fishery permit must be in writing, signed by the applicant, and submitted to the Regional Administrator, at least 30 days prior to the date the person wishes to commence fishing, and must include:

(i) The applicant's name, mailing address, and telephone number.

(ii) The vessel's name, USCG documentation number or State of Alaska registration number, home port, length overall, registered tonnage, and color of the fishing vessel.

(iii) The type of fishing gear used by the fishing vessel.

(iv) State of Alaska fish tickets or other equivalent documents showing the actual landing of salmon taken in the High Seas Salmon Management Area by the applicant with power troll gear during any one of the years 1975 to 1977.

(7) *Issuance*. (i) Except as provided in subpart D of 15 CFR part 904, upon receipt of a properly completed application, the Regional Administrator will determine whether the permit eligibility conditions have been met, and if so, will issue a High Seas Salmon Fishery permit.

(ii) If the permit is denied, the Regional Administrator will notify the applicant in accordance with paragraph (h)(16) of this section.

(iii) If an incomplete or improperly completed permit application is filed, the Regional Administrator will notify the applicant of the deficiency. If the applicant fails to correct the deficiency

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within 30 days following the date of receipt of notification, the application shall be considered abandoned.

(8) *Amended application.* Any person who applies for and receives a High Seas Salmon Fishery permit issued under paragraph (h)(7) of this section must notify the Regional Administrator within 30 days of a change in any of the information submitted under paragraph (h)(6) of this section.

(9) *Replacement.* Replacement permits may be issued for lost or unintentionally mutilated permits. An application for a replacement permit shall not be considered a new application.

(10) *Display.* Any permit or license described in paragraph (h)(1) or (h)(3) of this section must be on board the vessel at all times while the vessel is in the High Seas Salmon Management Area.

(11) *Inspection.* Any permit or license described in paragraph (h)(1) or (h)(3) of this section must be presented for inspection upon request by an authorized officer.

(12) *Sanctions.* Procedures governing permit sanctions and denials are found at subpart D of 15 CFR part 904.

(13) *Transfer of authority to fish in the High Seas Salmon Management Area—(i) State of Alaska power troll permanent entry permits.* The authority of any person to engage in commercial fishing for salmon using power troll gear in the High Seas Salmon Management Area shall expire upon the transfer of that person's State of Alaska power troll permanent entry permit to another and shall be transferred to the new holder of that permit.

(ii) *Transfer of Authority by the Regional Administrator.* (A) Any person to whom the proposed transfer of a State of Alaska power troll permanent entry permit is denied by the State of Alaska may apply, with the consent of the current holder of that permit, to the Regional Administrator for transfer to the applicant of the current holder's authority to engage in commercial fishing for salmon using power troll gear in the High Seas Salmon Management Area.

(B) The application for transfer shall be filed with the Regional Administrator within 30 days of the denial by

the State of Alaska of the proposed transfer of the permit.

(C) The application for transfer shall include all documents and other evidence submitted to the State of Alaska in support of the proposed transfer of the permit and a copy of the State of Alaska's decision denying the transfer of the permit. The Regional Administrator may request additional information from the applicant or from the State of Alaska to assist in the consideration of the application.

(D) The Regional Administrator shall approve the transfer if it is determined that:

(1) The applicant had the ability to participate actively in the fishery at the time the application for transfer of the permit was filed with the State of Alaska.

(2) The applicant has access to power troll gear necessary for participation in the fishery.

(3) The State of Alaska has not instituted proceedings to revoke the permit on the ground that it was fraudulently obtained.

(4) The proposed transfer of the permit is not a lease.

(E) Upon approval of the transfer application by the Regional Administrator, the authority of the permit holder to engage in commercial fishing for salmon in the High Seas Salmon Management Area using power troll gear shall expire, and that authority shall be transferred to the applicant.

(14) *Other Permits.* (i) Except for emergency transfers under paragraph (h)(15) of this section, the authority of any person described in paragraph (h)(1)(ii), (h)(1)(iii), or (h)(3) of this section to fish for salmon in the High Seas Salmon Management Area, may not be transferred to any other person.

(ii) Except for emergency transfers under paragraph (h)(15) of this section, the authority to engage in commercial fishing for salmon which was transferred under paragraph (h)(13)(ii) of this section may not be transferred to any other person except the current holder of the State of Alaska power troll permanent entry permit from which that authority was originally derived.

(iii) The authority described in paragraph (h)(14)(ii) of this section may be

transferred to the current holder of that permit upon receipt of written notification of the transfer by the Regional Administrator.

(15) *Emergency transfers—authority to use power troll gear.* (i) The authority of any person to engage in commercial fishing for salmon using power troll gear in the High Seas Salmon Management Area may be transferred to another person for a period not lasting beyond the end of the calendar year of the transfer when sickness, injury, or other unavoidable hardship prevents the holder of that authority from engaging in such fishing.

(ii) Such a transfer shall take effect automatically upon approval by the State of Alaska of an emergency transfer of a State of Alaska power troll entry permit, in accordance with the terms of the permit transfer.

(iii) Any person may apply to the Regional Administrator for emergency transfer of the current holder's authority to engage in commercial fishing for salmon using power troll gear in the High Seas Salmon Management Area for a period not lasting beyond the calendar year of the proposed transfer, if a person:

(A) Is denied emergency transfer of a State of Alaska power troll entry permit by the State of Alaska; or

(B) Requests emergency transfer of a Federal commercial power troll permit previously issued by the Regional Administrator, with the consent of the current holder of that permit.

(iv) The Regional Administrator shall approve the transfer if he determines that:

(A) Sickness, injury, or other unavoidable hardship prevents the current permit holder from engaging in such fishing.

(B) The applicant had the ability to participate actively in the fishery at the time the application for emergency transfer of the permit was filed with the State of Alaska or, in the case of a Federal permit, with the Regional Administrator.

(C) The applicant has access to power troll gear necessary for participation in the fishery.

(D) The State of Alaska has not instituted proceedings to revoke the permit

on the grounds that it was fraudulently obtained.

(v) The application in the case of a State of Alaska permit shall be filed with the Regional Administrator within 30 days of the denial by the State of Alaska of emergency transfer of the permit.

(vi) The application shall include all documents and other evidence submitted to the State of Alaska in support of the proposed emergency transfer of the permit and a copy of the State of Alaska's decision denying the emergency transfer of the permit. The Regional Administrator may request additional information from the applicant or from the State of Alaska to assist in the consideration of the application.

(vii) Upon approval of the application by the Regional Administrator, the authority of the permit holder to engage in commercial fishing for salmon using power troll gear in the High Seas Salmon Management Area shall expire for the period of the emergency transfer, and that authority shall be transferred to the applicant for that period.

(16) *Appeals and hearings.* (i) A decision by the Regional Administrator to deny a permit under paragraph (h)(7) of this section or to deny transfer of authority to engage in commercial fishing for salmon in the High Seas Salmon Management Area under paragraphs (h)(13) and (h)(14) of this section will:

(A) Be in writing.

(B) State the facts and reasons therefor.

(C) Advise the applicant of the rights provided in this paragraph (h)(16).

(ii) Any such decision of the Regional Administrator shall be final 30 days after receipt by the applicant, unless an appeal is filed with the NOAA/NMFS Assistant Administrator within that time.

(iii) Failure to file a timely appeal shall constitute waiver of the appeal.

(iv) Appeals under this paragraph (h)(16) must:

(A) Be in writing.

(B) Set forth the reasons why the appellant believes the Regional Administrator's decision was in error.

(C) Include any supporting facts or documentation.

(v) At the time the appeal is filed with the Assistant Administrator, the

appellant may request a hearing with respect to any disputed issue of material fact. Failure to request a hearing at this time will constitute a waiver of the right to request a hearing.

(vi) If a hearing is requested, the Assistant Administrator may order an informal fact-finding hearing if it is determined that a hearing is necessary to resolve material issues of fact and shall so notify the appellant.

(vii) If the Assistant Administrator orders a hearing, the order will appoint a hearing examiner to conduct the hearing.

(viii) Following the hearing, the hearing examiner shall promptly furnish the Assistant Administrator with a report and appropriate recommendations.

(ix) As soon as practicable after considering the matters raised in the appeal, and any report or recommendation of the hearing examiner in the event a hearing is held under this paragraph (h)(16), the Assistant Administrator shall decide the appeal.

(x) The Assistant Administrator shall promptly notify the appellant of the final decision. Such notice shall set forth the findings of the Assistant Administrator and set forth the basis of the decision. The decision of the Assistant Administrator shall be the final administrative action of the Department of Commerce.

[61 FR 31230, June 19, 1996, as amended at 61 FR 35578, July 5, 1996; 61 FR 41525, Aug. 9, 1996; 61 FR 56430, Nov. 1, 1996; 62 FR 2045, Jan. 15, 1997; 62 FR 17752, 17756, Apr. 11, 1997; 62 FR 19688, Apr. 23, 1997]

EFFECTIVE DATE NOTE: At 62 FR 17752, Apr. 11, 1997, § 679.4 was amended by adding a new paragraph (g), effective May 12, 1997 through June 30, 2000, except for paragraph (g)(1)(ii) which is effective July 1, 1997 through June 30, 2000.

#### § 679.5 Recordkeeping and reporting.

(a) *General requirements.* (1) Except as provided in paragraph (a)(1)(iii) of this section, the following must comply with the recordkeeping and reporting requirements of this section:

(i) Any catcher vessel, mothership, catcher/processor, or tender vessel, 5 net tons or larger, that is required to have a Federal fisheries permit under § 679.4.

(ii) Any shoreside processor, mothership, or buying station that receives groundfish from vessels required to have a Federal fisheries permit under § 679.4. A shoreside processor, mothership, or buying station subject to recordkeeping and reporting requirements must report all groundfish and prohibited species received, including:

(A) Fish received from vessels not required to have a Federal fisheries permit.

(B) Fish received under contract for handling or processing for another processor.

(iii) A catcher vessel less than 60 ft (18.3 m) LOA, is not required to comply with recordkeeping and reporting requirements contained in § 679.5 (a) through (j).

(2) *Applicability, Federal processor permit.* Any shoreside processor or vessel operating solely as a mothership in Alaska State waters that retains groundfish is responsible for complying with the applicable recordkeeping and reporting requirements of this section.

(3) *Responsibility.* The operator of a catcher vessel, catcher/processor, mothership, or buying station receiving from a catcher vessel and delivering to a mothership (hereafter referred to as the operator) and the manager of a shoreside processor or buying station receiving from a catcher vessel and delivering to a shoreside processor (hereafter referred to as the manager) are each responsible for complying with the applicable recordkeeping and reporting requirements of this section. In addition, the owner of a vessel, shoreside processor, or buying station must ensure that the operator, manager, or representative (see paragraph (b) of this section) complies with these requirements and is responsible for compliance.

(4) *Groundfish logbooks and forms.* The Regional Administrator will prescribe and provide groundfish logbooks and forms required under this section as shown in Table 9 of this part. The operator or manager must use these logbooks and forms or obtain approval from the Regional Administrator to use electronic versions of the logbooks and forms.

(5) *Participant identification information.* The operator or manager must

record on all required records, reports, and logbooks:

(i) The name of the catcher vessel, catcher/processor, mothership, shoreside processor, or buying station as displayed in official documentation.

(ii) If a vessel, the Federal fisheries permit number and ADF&G vessel number (if applicable).

(iii) If a shoreside processor, the Federal processor permit number and ADF&G processor number.

(iv) If a buying station, the name and ADF&G vessel number (if a vessel) of the buying station; the name, ADF&G processor code, and Federal processor permit number of associated shoreside processor or the Federal fisheries permit number of the associated mothership.

(v) If a shoreside processor or buying station delivering to a shoreside processor, the geographic location of operations.

(vi) If a representative, the name, daytime business telephone number (including area code), fax or telex number, and the COMSAT number (if applicable) of the representative.

(6) *Maintenance of records.* (i) The operator or manager must maintain all records, reports, and logbooks in a legible, timely, and accurate manner; in English; if handwritten, in indelible ink; if computer-generated, a printed, paper copy; and based on A.I.t.

(ii) The operator or manager must account for each day of the fishing year, starting with January 1 and ending with December 31, and the time periods must be consecutive in the logbook.

(iii) When applicable, the operator or manager must record in each report, form, and logbook the following information:

(A) *Page number.* Number the pages in each logbook consecutively, beginning with page one and continuing throughout the logbook for the remainder of the fishing year, except that the manager of a shoreside processor must number the DCPL pages within Part I and Part II separately, beginning with page one.

(B) *Date,* presented as month-day-year.

(C) *Time,* in military format to the nearest hour, A.I.t.

(D) *Position coordinates,* latitude and longitude to the nearest minute (Optional: Record to the nearest second or fraction of minute).

(E) *Reporting area codes,* given in Figures 1 and 3 of this part.

(F) *Species codes,* each target species, the "other species" category, and prohibited species under §679.21(b), using the species codes given in Table 2 of this part.

(G) *Original/revised report.* If a report is the first one submitted to the Regional Administrator for a given date, gear type, and reporting area, the report should be labeled, "ORIGINAL REPORT." If the report is a correction to a previously submitted report for a given date, gear type, and reporting area, the report should be labelled, "REVISED REPORT."

(H) *Weights.* Landings, product, and discards of groundfish and herring must be recorded in pounds or to the nearest 0.001 mt on all forms and logbooks.

(7) *Active and inactive periods.* The operator or manager must, in the DFL, DCL, or DCPL:

(i) Account for each day of the fishing year by indicating active and inactive periods as defined under §679.2.

(ii) Use a separate logbook page for each day of an active period.

(iii) Indicate on one page the first and last day of an inactive period.

(iv) Indicate all fishing activity, which is defined for each type of vessel as follows:

(A) If a catcher vessel—harvest or discard of groundfish.

(B) If a catcher/processor—harvest, discard, or processing of groundfish.

(C) If a mothership or shoreside processor—receipt, discard, or processing of groundfish.

(D) If a buying station—receipt, discard, or delivery of groundfish.

(v) If in an active period and conducting fishing activity, the operator or manager must record:

(A) The gear type used to harvest the groundfish. If a catcher vessel or catcher/processor and using hook-and-line longline gear, the average number of hooks per skate.

(B) The reporting area code where gear retrieval was completed; whether

gear retrieval was in Federal or Alaska State waters.

(C) If a catcher vessel, whether an observer is aboard the vessel. If a catcher/processor, mothership, or shoreside processor, the number of observers aboard or on site.

(D) The number of crew, except for certified observer(s).

(E) Whether harvest is under a CDQ program; if yes, the CDQ number. If fishing under more than one CDQ number, use a separate page for each.

(F) If a catcher vessel or buying station, the name and ADF&G processor number of the mothership or shoreside processor to which groundfish deliveries were made.

(vi) If in an active period and not conducting fishing activity, the operator or manager must indicate "NO FISHING ACTIVITY" and briefly describe the reason.

(8) *Landings information.* The manager of a shoreside processor must:

(i) Record and report groundfish landings by species codes and product codes as defined in Tables 1 and 2 of this part for each reporting area, whether from Alaska State waters or Federal waters, gear type, and CDQ number.

(ii) Record in the DCPL each day on the day such landings occur, the following additional information:

(A) The daily combined scale weight of landings retained for processing from a catcher vessel or any associated buying station, in pounds or to at least the nearest 0.001 mt.

(B) If more than one page is used during a weekly reporting period, the total amount of landings carried forward from the previous page.

(C) At the end of each weekly reporting period, the cumulative total weight, calculated by adding the daily totals and total carried forward for that week.

(iii) If no landings occurred, write "NO LANDINGS" for that day.

(9) *Product information.* The operator of a catcher/processor or mothership or the manager of a shoreside processor must, where required:

(i) Record and report groundfish products by species codes, product codes, and product designations as defined in Tables 1 and 2 of this part for

each reporting area, whether in Alaska State waters or Federal waters, gear type, and CDQ number.

(ii) Record in the DCPL each day on the day such production occurs, the daily total, balance brought forward (except for shoreside processor), and cumulative total fish product weight for each product of groundfish in pounds, or to at least the nearest 0.001 mt.

(iii) If no production occurred, write "NO PRODUCTION" for that day.

(10) *Discarded/donated species information*—(i) *General.* The operator or manager must record and report discards and donations by species codes and discard product codes as defined in Tables 1 and 2 of this part for each reporting area, whether in Alaska State waters or Federal waters, gear type, and CDQ number.

(A) The operator or manager must record and report discards and donations by species codes and discard product codes as defined in Tables 1 and 2 of this part for each gear type, CDQ number, and reporting area, whether in Alaska State waters or Federal waters.

(B) If there were no discards or donations, write "NO DISCARDS", "0", or "ZERO" for that day.

(ii) *Catcher vessel discards/donations.*

(A) The operator must record in the DFL each day on the day discards and donations as follows:

(1) The estimated daily total, balance brought forward, and cumulative total estimated round fish weight for each discard or donation of groundfish species, groundfish species groups, and Pacific herring in lb, or to at least the nearest 0.001 mt.

(2) The estimated daily total, balance brought forward, and cumulative total estimated numbers for each discard and donation of Pacific salmon, steelhead trout, halibut, king crab, and Tanner crab.

(B) For deliveries of unsorted codends, the catcher vessel is exempt from recording discards in the DFL and from submittal of the blue logsheet (discards copy) for that delivery. The operator must check the box entitled "unsorted codend," and the blue DFL logsheet (discards copy) remains in the DFL.

(C) For presorted deliveries or in the event a catcher vessel has “bled” a codend prior to delivery to a processor, the operator must check the “presorted delivery” box, enter the estimated amount of discards or donations by species, and submit with each harvest delivery the blue DFL logsheet (discards copy) to the mothership, buying station, or shoreside processor.

(iii) *Buying station discards/donations.*

(A) The operator or manager must record in the DCL on a daily basis, all estimated discards or donations that:

(1) Are reported by a catcher vessel delivering groundfish to the buying station;

(2) Occur after receipt of harvest from a catcher vessel; and

(3) Occur prior to delivery of harvest to a mothership or shoreside processor.

(B) The operator or manager must record in the DCL each day on the day discards and donations occur:

(1) Estimated daily total, balance brought forward, and cumulative total estimated round fish weight for each discard or donation of groundfish species, groundfish species groups, and Pacific herring in pounds, or to at least the nearest 0.001 mt.

(2) Estimated daily total, balance brought forward, and cumulative total estimated numbers for each discard and donation of Pacific salmon, steelhead trout, halibut, king crab, and Tanner crab.

(C) If a blue DFL logsheet submitted to the buying station from a catcher vessel contains reports of discards or donations, the operator or manager of a buying station must record in the DCL the discards and donations on the day the DFL logsheet is received from the catcher vessel.

(iv) *Catcher/processor discards/donations.* The operator of a catcher/processor must record in the DCPL each day on the day discards or donations occur, as follows:

(A) All discards or donations that occur prior to harvest, during harvest, and during processing.

(B) The estimated daily total, balance brought forward, and cumulative total estimated round fish weight for each discard or donation of groundfish species, groundfish species groups, and

Pacific herring in pounds, or to at least the nearest 0.001 mt.

(C) The estimated daily total, balance brought forward, and cumulative total estimated numbers for each discard and donation of Pacific salmon, steelhead trout, halibut, king crab, and Tanner crab.

(v) *Mothership or shoreside processor discards/donations.* (A) The operator of a mothership or manager of a shoreside processor must record in the DCPL each day on the day discards or donations occur that:

(1) Are reported on a blue DFL logsheet by a catcher vessel delivering groundfish to the mothership or shoreside processor.

(2) Occur on site after receipt of groundfish from a catcher vessel.

(3) Occur during processing of groundfish.

(B) The operator of a mothership or manager of a shoreside processor must record in the DCPL:

(1) The estimated daily total, balance brought forward, and cumulative total estimated round fish weight for each discard or donation of groundfish species, groundfish species groups, and Pacific herring in pounds, or to at least the nearest 0.001 mt.

(2) The estimated daily total, balance brought forward, and cumulative total estimated numbers for each discard and donation of Pacific salmon, steelhead trout, halibut, king crab, and Tanner crab.

(C) If an unsorted codend is received from a catcher vessel, the catcher vessel is not required to submit a blue discard logsheet to the mothership or shoreside processor. The operator of a mothership or manager of a shoreside processor must sort the catch received from the unsorted codends and must record the discards by species in the DCPL as discard at sea on the day the harvest is received from the catcher vessel.

(D) If discards are reported on a blue DFL logsheet from a catcher vessel delivering a presorted codend or if a catcher vessel reports an amount bled at sea, the operator of a mothership or manager of a shoreside processor must record in the DCPL the discards on the day the DFL logsheet is received from the catcher vessel.

(E) If a yellow DCL logsheet is received from a buying station and discards or donations are reported, the operator of a mothership or manager of a shoreside processor must record in the DCPL the discards or donations on the day the DCL logsheet is received from the buying station.

(11) *Contract processing.* (i) The manager of a shoreside processor or operator of a mothership who receives groundfish to be handled or processed under contract for another processor or business entity must report these fish to the Regional Administrator consistently throughout a fishing year using one of the following two methods:

(A) Record landings (if applicable), discards, and products of contract-processed groundfish routinely in the DCPL without separate identification; or

(B) Record landings (if applicable), discards, and products of contract-processed groundfish in a separate DCPL identified by the name, Federal processor permit number, Federal fisheries permit number (if applicable), and ADF&G processor code of the associated business entity.

(ii) If contract-processed groundfish records are kept separately from the routine DCPL, the operator of the mothership or manager of the shoreside processor must summarize and report that information on a WPR identified by the name, Federal processor permit number, Federal fisheries permit number (if applicable), and ADF&G processor code of the associated business entity.

(12) *Alteration of records.* (i) The operator, manager, or any other person may not alter or change any entry or record in a logbook, except that an inaccurate or incorrect entry or record may be corrected by lining out the original and inserting the correction, provided that the original entry or record remains legible.

(ii) No person except an authorized officer may remove any original page of any logbook.

(13) *Inspection of records.* The operator or manager must make all logbooks, reports, and forms required under this section available for inspection upon the request of an authorized officer.

(14) *Submittal of logbooks, reports and forms—(i) Logbooks.* (A) The operator of a catcher vessel, catcher/processor, or mothership, or the manager of a shoreside processor must submit the yellow logsheets on a quarterly basis to the NMFS Alaska Fisheries Science Center, Logbook Program, Seattle, WA, as follows: First quarter, by May 1 of that fishing year; second quarter, by August 1 of that fishing year; third quarter, by November 1 of that fishing year; and fourth quarter, by February 1 of the following fishing year.

(B) During an inactive period that extends across two or more successive quarters, the operator or manager must complete two logsheets: One to indicate the last day of the first inactive quarter and the next page to indicate the first day of the second inactive quarter.

(ii) *Reports and forms.* Reports and forms may be submitted by the operator or manager by:

(A) Using the NMFS printed form and faxing it to the fax number on the form; or

(B) Transmitting a data file with required information and forms to NMFS by modem or satellite (specifically INMARSAT standards A, B, or C).

(15) *Record retention—(i) Original.* (A) The operator of a catcher vessel, catcher/processor, or mothership, and the manager of a shoreside processor, must retain the original (white) copy of all logbooks and a paper copy of all reports and forms, including those reports and forms that were originally submitted electronically and must make these documents available for inspection by an authorized officer:

(1) On site until the end of the fishing year during which the records were made and for as long thereafter as fish or fish products recorded in the logbook, reports, and forms are retained.

(2) For 3 years after the end of the fishing year during which the records were made.

(B) The operator or manager of a buying station must retain the original (white) copy of all DCLs on site until the buying station has concluded receiving groundfish from a catcher vessel for delivery to a shoreside processor or mothership and for as long as fish

and fish products recorded in the DCL are retained by the buying station.

(ii) *Yellow DCL logsheet.* The operator of a mothership or manager of a shoreside processor must retain a photocopy of the yellow DCL logsheets submitted to NMFS under paragraph (a)(14) of this section that were received from associated buying stations until the mothership or shoreside processor receives the original DCL.

(iii) *Blue DFL logsheet.* (A) The operator of a mothership and the manager of a shoreside processor must retain the blue DFL logsheets (discard reports) submitted to them by operators of catcher vessels through the last day of the fishing year during which the records were made.

(B) The operator or manager of a buying station must submit to the mothership or shoreside processor any blue logsheets (discard report) received from catcher vessels delivering groundfish to the buying station.

(iv) *Pink DCL logsheet.* The operator or manager of a buying station must retain the pink DCL logsheets for 3 years after the end of the fishing year during which the records were made.

(16) *Integration of buying station records.* (i) The operator or manager of a buying station must maintain a separate DCL for each mothership or shoreside processor to which the buying station delivers groundfish during a fishing year.

(ii) The operator or manager of a buying station must submit upon delivery of catch the yellow DCL logsheets to the shoreside processor or mothership to which it delivers groundfish, along with the blue DFL logsheets and ADF&G fish tickets or catch receipts for that delivery.

(iii) Upon conclusion of receiving groundfish for a shoreside processor or mothership, the operator or manager of a buying station must submit the original DCL to the manager of a shoreside processor or operator of a mothership to which deliveries were made.

(iv) If the mothership or shoreside processor receives fish from a buying station, the operator of the mothership or manager of the shoreside processor must incorporate all of the DCL information into the DCPL.

(b) *Representative.* The operator of a catcher vessel, mothership, catcher/processor, or buying station delivering to a mothership or manager of a shoreside processor or buying station delivering to a shoreside processor may identify one person to fill out and sign the logbook, complete the record-keeping and reporting forms, or both, and to identify the contact person for inquiries from NMFS. Designation of a representative under this paragraph does not relieve the owner, operator, or manager of responsibility for compliance under paragraph (a)(3) of this section.

(c) *Catcher vessel DFL and catcher/processor DCPL—(1) Pair trawls.* If two catcher vessels are dragging a trawl between them (pair trawl), a separate DFL must be maintained by each vessel. Each vessel operator must log the amount of the catch retained by that vessel and any fish discarded by the vessel.

(2) *Time limit and submittal.* (i) The operator of a catcher vessel or catcher/processor must record in the DFL or DCPL, the time, position, and estimated groundfish catch weight within 2 hours after gear retrieval.

(ii) The operator of a catcher vessel must record all other information required in the DFL by noon of the day following gear retrieval.

(iii) The operator of a catcher/processor must record all other information required in the DCPL by noon of the day following completion of production.

(iv) The operator of a catcher vessel must submit the blue DFL logsheets with delivery of the harvest to the operator of a mothership or a buying station delivering to a mothership, or to the manager of a shoreside processor or buying station delivering to a shoreside processor.

(v) Notwithstanding other time limits, the operator of a catcher vessel must record all information required in the DFL within 2 hours after the vessel's catch is offloaded.

(vi) Notwithstanding other time limits, the operator of a catcher/processor must record all information required in the DCPL within 2 hours after the vessel's catch is offloaded.

(3) *Information required*—(i) *General*. In addition to requirements described in paragraphs (a) and (b) of this section, the operator of a catcher vessel or catcher/processor must record on each page:

(A) Page number as described in paragraph (a)(6)(iii)(A) of this section.

(B) The start date, end date, and trip number of the fishing trip.

(C) If a catcher vessel, the vessel name, ADF&G vessel registration number, and Federal fisheries permit number.

(D) If a catcher/processor, the vessel name, ADF&G processor code, and Federal fisheries permit number.

(E) The signature of the operator of the catcher vessel or catcher/processor.

(F) Whether catcher vessel or catcher/processor is in an active or inactive period as described in paragraph (a)(7) of this section.

(ii) *Haul/set information*. The operator of a catcher vessel or catcher/processor must record the following for each haul or set:

(A) If a catcher vessel, date (month-day-year).

(B) The number of haul or set, by sequence; begin time and position coordinates of gear deployment; average sea depth and average gear depth, recorded to the nearest meter or fathom.

(C) The date, time, and position coordinates of gear retrieval. If the vessel is using longline hook-and-line gear, the number of skates set. If the vessel is using longline pot or single pot gear, the total number of pots set.

(D) The estimated total round fish weight of the groundfish catch to the nearest lb or mt.

(E) The species code of the intended target species from Table 2 of this part.

(F) The estimated IFQ sablefish amounts in the "comments" column.

(iii) *Discard/donated species information*. The operator of a catcher vessel or catcher/processor must record discard/donation information as described in paragraph (a)(10) of this section.

(A) *Catcher vessels*. (1) If deliveries to a mothership or shoreside processor are unsorted codends, the operator must check the appropriate box.

(2) If deliveries to a mothership or shoreside processor are presorted at sea, the operator must check the ap-

propriate box and must record discard/donation information as described in paragraph (a)(10) of this section.

(B) *Catcher/processors*. The operator must record discard/donation information as described in paragraph (a)(10) of this section.

(iv) *Catcher vessel delivery information*. If a catcher vessel, the operator must record:

(A) The date of delivery.

(B) The name, ADF&G processor code, and ADF&G fish ticket number(s) provided by the operator of the mothership or buying station delivering to a mothership, or the manager of a shoreside processor or buying station delivering to a shoreside processor.

(v) *Catcher/processor product information*. If a catcher/processor, the operator must record product information as set forth in paragraph (a)(9) of this section.

(vi) *IFQ data*. The operator of a catcher vessel or catcher/processor must record IFQ information as follows:

(A) Check YES or NO to indicate if persons aboard have authorized IFQ permits.

(B) If YES, record the following:

(1) Vessel operator's (captain's) name and IFQ permit number, if any.

(2) The name of each IFQ holder aboard the vessel and each holder's IFQ permit number.

(3) Month and day of landing.

(4) Name of registered buyer.

(5) Name of unloading port.

(d) *Buying station DCL*—(1) *Time limits*. (i) The operator or manager of each buying station subject to this part must record entries in the DCL as to catcher vessel delivery information within 2 hours after completion of receipt of the groundfish.

(ii) All other information required in the DCL, must be recorded by noon of the day following the day the receipt of groundfish was completed or discard occurred.

(2) *Information required*—(i) *General*. In addition to requirements described in paragraphs (a) and (b) of this section, the operator or manager of a buying station must record on each page:

(A) Page number as described in paragraph (a)(6)(iii)(A) of this section.

(B) The date.

(C) The buying station name and, if a vessel, the ADF&G vessel number.

(D) The operator's or manager's signature.

(E) Whether the buying station is in an active or inactive period as described in paragraph (a)(7) of this section.

(F) The name and ADF&G processor code of the mothership or shoreside processor to which groundfish deliveries were made.

(G) The number of crew.

(ii) *Groundfish deliveries.* The operator or manager of a buying station must record the following information for each delivery of groundfish:

(A) The ADF&G fish ticket number issued to each catcher vessel delivering groundfish. If a fish ticket was not issued, the catch receipt number of the transaction.

(B) Whether blue DFL logsheets were received from the catcher vessel delivering the groundfish.

(C) The time when receipt of groundfish catch was completed.

(D) The name and ADF&G vessel registration number of the catcher vessel delivering the groundfish.

(E) The total groundfish delivery weight.

(iii) *Discard/donated species information.* The operator or manager of the buying station must record discard/donation information as described in paragraph (a)(10) of this section.

(e) *Mothership DCPL—(1) Time limits.*

(i) The operator of each mothership must record entries in the DCPL as to catcher vessel or buying station delivery information within 2 hours after completion of the groundfish receipt.

(ii) All other information required in the DCPL must be recorded by noon of the day following the day the catch receipt, discard, or production occurred.

(2) *Information required—(i) General.* In addition to requirements described in paragraphs (a) and (b) of this section, the operator of a mothership must record on each page:

(A) Page number as described in paragraph (a)(6)(iii)(A) of this section.

(B) The date.

(C) The name, ADF&G processor number, and Federal processor number.

(D) The operator's signature.

(E) Whether mothership is in an active or inactive period as described in paragraph (a)(7) of this section.

(ii) *Deliveries.* The operator or each mothership must record for each delivery:

(A) Whether delivery is from a catcher vessel or a buying station.

(B) The name and ADF&G vessel registration number (if applicable) of the catcher vessel or buying station delivering the groundfish.

(C) The time and position coordinates of the mothership when groundfish catch is received.

(D) The estimated total ground fish weight of the groundfish catch.

(E) The ADF&G fish ticket number issued to each catcher vessel delivering groundfish. If a fish ticket is not issued, record the catch receipt number of the transaction.

(iii) *Discard/donation.* The operator of each mothership must record discard/donation information as described in paragraph (a)(10) of this section.

(iv) *Production information.* The operator of each mothership must record product information as described in paragraph (a)(9) of this section.

(f) *Shoreside processor DCPL—(1) Time limits.* (i) The manager of each shoreside processor must record in the DCPL all catcher vessel or buying station delivery information within 2 hours after completion of the groundfish receipt.

(ii) All other information required in the DCPL must be recorded by noon of the day following the day the catch receipt, discard, or production occurred.

(2) *Information required—(i) Part IA.* In addition to requirements described in paragraphs (a) and (b) of this section, the manager of a shoreside processor must record on each page:

(A) If a page is for an individual day, the date. If a page is for 1 week, the week-ending date. See also paragraph (a)(6)(iii)(A) of this section.

(B) Participant identification information as described in paragraph (a)(5) of this section.

(C) The signature of the manager.

(D) Whether the shoreside processor is in an active or inactive period as described in paragraph (a)(7) of this section.

(ii) *Part IB.* The manager of each shoreside processor must record the

following information for each delivery:

(A) Date and time when receipt of groundfish catch was completed.

(B) Whether delivery is from catcher vessel or buying station.

(C) Whether blue DFL logsheets were submitted by catcher vessel.

(D) The name and ADF&G vessel registration number (if applicable) of the catcher vessel or buying station delivering the groundfish.

(E) The total scale weight of groundfish delivery in pounds or to the nearest 0.001 mt.

(F) The ADF&G fish ticket number issued to the catcher vessel delivering groundfish. If a fish ticket is not issued, record the catch receipt number of the transaction.

(iii) *Landings information, Part IC.* The manager must record:

(A) The date next to the appropriate day of the week (SUN through SAT).

(B) Landings information as described in paragraph (a)(8) of this section.

(iv) *Discarded/donated species information (Part ID).* The manager of each shoreside processor must record:

(A) The date next to the appropriate day of the week (SUN through SAT).

(B) Discard information, as described in paragraph (a)(10) of this section.

(v) *Part II.* The manager of each shoreside processor must record:

(A) Page numbers must be consecutive within Part II, beginning with page one for the first day product was produced after the start of the fishing year and continuing throughout the section for the remainder of the fishing year.

(B) The name, ADF&G processor code number, and Federal processor number of shoreside processor.

(C) The signature of the manager of the shoreside processor.

(D) *Product information. (1)* The week-ending date.

(2) The management area (BSAI or GOA).

(3) The date next to the appropriate day of the week (SUN through SAT).

(4) Product information as described in paragraph (a)(9) of this section.

(g) *Groundfish Product Transfer Report (PTR)—(1) Applicability.* (i) The operator of a mothership or catcher/proc-

essor or the manager of a shoreside processor must record each transfer of groundfish product on a separate PTR.

(ii) The manager of a shoreside processor must report on a PTR those fish products that are subsequently transferred to an offsite meal reduction plant.

(iii) The operator of a mothership or catcher/processor or manager of a shoreside processor must report on a PTR, daily sales or transfer of groundfish to vessels for bait. Individual sales of groundfish for bait purposes during a day may be aggregated when recording the amount of product leaving a facility that day.

(2) *Time limits and submittal.* The operator of a mothership or catcher/processor or manager of a shoreside processor must:

(i) Record all product transfer information on a PTR within 2 hours of the completion of the transfer.

(ii) Submit by fax a copy of each PTR to the Regional Administrator within 24 hours of completion of transfer.

(3) *Information required—(i) General.* The operator of a mothership or catcher/processor or manager of a shoreside processor must record on each page of a PTR:

(A) Whether the PTR is an original or revised report, as described in paragraph (a)(6)(iii)(G) of this section.

(B) Page numbers must be numbered consecutively, starting with the first transfer of the fishing year as page 1 and continuing throughout the remainder of the fishing year.

(C) "RECEIPT," if product (including raw fish) is received; "OFFLOAD," if product (including raw fish) is offloaded from a mothership or catcher/processor; "SHIPMENT," if product (including raw fish) is shipped from a shoreside processor.

(D) Representative identification information, as described in paragraph (a)(5)(vi) of this section.

(E) If a catcher/processor or mothership, the participant identification information as described in paragraph (a)(5) of this section and USCG documentation number. If a shoreside processor, the participant identification information as described in paragraph (a)(5) of this section.

(ii) *Transfer information.* The operator of a catcher/processor or mothership or manager of a shoreside processor must record on each page the following information for each transfer:

(A) If another vessel is involved with the transfer, the name and call sign of the vessel receiving or delivering groundfish or groundfish products.

(B) If a mothership or catcher/processor and the transfer takes place in port, the port of landing and country, if a foreign location.

(C) If the transfer is made to an agent, the agent's name. For purposes of this section, "agent" is defined as the transport company, the buyer, or the distributor.

(D) *Intended first destination of product.* (1) If an offload or shipment, the intended destination of the vessel or agent receiving the groundfish or groundfish product.

(2) If an offload or shipment has several destinations, the first intended destination.

(3) If offload or shipment has a single destination but requires loading on multiple vans, trucks, or airline flights, the transfer may be recorded on a single PTR page.

(E) *Date and time of product transfer—*(1) *Start date.* The date, as described in paragraph (a)(6)(iii)(B) of this section, and time, as described in paragraph (a)(6)(iii)(C) of this section, the transfer starts.

(2) *Finish date.* The date and time the transfer is completed, as follows:

(i) If shipment is an individual van load or flight, the date and time when each shipment leaves the plant.

(ii) If shipment involves multiple vans or trucks, the date and time when loading of vans or trucks is completed for each day.

(iii) If shipment involves airline flights, record date, as described in paragraph (a)(6)(iii)(B) of this section, and time, as described in paragraph (a)(6)(iii)(C) of this section, when the last airline flight shipment of the day leaves the plant.

(F) *Position transferred.* If a catcher/processor or mothership and transfer of product is made at sea, the transfer position coordinates.

(iii) *Products and quantities offloaded, shipped, or received.* The operator of a

catcher/processor or mothership or manager of a shoreside processor must record the following information:

(A) If a catcher/processor or mothership, the Harvest Zone code of the area in which groundfish were harvested as defined in Table 8 of this part.

(B) The species code and product code for each product transferred as defined in Tables 1 and 2 of this part.

(C) The number of cartons or production units transferred.

(D) The average net weight of one carton for each species and product code in kilograms or pounds.

(E) The total net weight (fish product weight, to the nearest 0.001 mt) of the products transferred.

(iv) *Total or partial offload.* If a catcher/processor or mothership, whether the transfer is a total or partial offload. If partial offload, the total fish product weight, to the nearest 0.001 mt, of the products (by harvest zone, species and product codes) remaining on board after this transfer.

(h) *Check-in/check-out report—*(1) *Applicability—*(i) *Transit between reporting areas.* If a vessel is transiting through a reporting area and is not fishing or receiving fish, a check-in or check-out report is not required from that area.

(ii) *Multiple vessel operations categories—*(A) *Check-in report.* If a catcher/processor is functioning simultaneously as a mothership in the same reporting area, the operator must submit a separate check-in report for each vessel operations category.

(B) *Check-out report.* Upon completion of each activity, the operator must submit a check-out report for each vessel operations category.

(2) *Time limits and submittal—*(i) *Check-in report (BEGIN message)—*(A) *Catcher/processor.* Before the operator of a catcher/processor commences harvest of groundfish in Alaska State or Federal waters of any reporting area except 300, 400, 550, or 690, the operator must submit by fax a check-in report (BEGIN message) to the Regional Administrator.

(B) *Mothership, shoreside processor, buying station.* Before a mothership, shoreside processor, or buying station commences receipt of groundfish from Alaska State or Federal waters of any

reporting area except 300, 400, 550, or 690, the operator or manager must submit by fax a check-in report (BEGIN message) to the Regional Administrator.

(C) *Directed fishing under a CDQ allocation.* The operator must submit by fax a check-in report to the Regional Administrator prior to directed fishing for each CDQ allocation.

(ii) *Check-out report (CEASE message)*—(A) *Catcher/processor.* If a catcher/processor departs a reporting area or moves between Alaska State and Federal waters in a reporting area, and gear retrieval is complete from that area, the operator must submit by fax a check-out report to the Regional Administrator within 24 hours after departing a reporting area or leaving either the Alaska State or Federal part of a reporting area but prior to checking-in another reporting area or either the Alaska State or Federal part of a reporting area.

(B) *Mothership or buying station delivering to a mothership.* If a mothership or buying station delivering to a mothership completes receipt of groundfish, the operator must submit by fax a check-out report to the Regional Administrator within 24 hours after departing a reporting area or leaving either the Alaska State or Federal part of a reporting area.

(C) *Shoreside processor.* If a shoreside processor, the manager must submit by fax a check-out report to the Regional Administrator within 48 hours after the end of the applicable weekly reporting period that a shoreside processor ceases to process groundfish for the fishing year or has not processed groundfish for more than one weekly reporting period.

(D) *Buying station delivering to a shoreside processor.*

(1) If a land-based buying station delivering to a shoreside processor, the manager must submit by fax a check-out report to the Regional Administrator within 24 hours after delivery of groundfish ceases for the fishing year or for a period greater than one weekly reporting period.

(2) If a buying station vessel delivering to a shoreside processor, the operator must submit by fax a check-out report to the Regional Administrator

within 24 hours after departing a reporting area.

(E) *End of fishing year.* If a check-out report has not previously been submitted during a fishing year, the operator or manager must submit a check-out report at the end of that fishing year, December 31.

(F) *Directed fishing under a CDQ allocation.* The operator must submit by fax a check-out report to the Regional Administrator within 24 hours after directed fishing for each species under each CDQ allocation has ceased.

(3) *Information required*—(i) *General.* The operator of a catcher/processor, mothership, or buying station delivering to a mothership or the manager of a shoreside processor or buying station delivering to a shoreside processor must record on each page:

(A) Whether it is an original or revised report as described in paragraph (a)(6)(iii)(G) of this section.

(B) Participant identification information as described in paragraph (a)(5) of this section.

(C) Representative identification information as described in paragraph (a)(5)(vi) of this section.

(D) For a mothership or catcher/processor, the processor type and gear type used to harvest the groundfish. If groundfish are received by a mothership in the same reporting area from more than one gear type, or if groundfish are caught by a catcher/processor in the same reporting area using more than one gear type, the operator must submit a separate form for each gear type.

(E) Whether harvest is under a CDQ program; if yes, the CDQ number. If fishing under more than one CDQ number, use a separate report for each.

(F) If a buying station, the number of crew on the last day of the reporting week.

(ii) *BEGIN message.* The operator of a catcher/processor, mothership, or buying station delivering to a mothership or the manager of a shoreside processor or buying station delivering to a shoreside processor must record:

(A) For a catcher/processor, date and time that gear is deployed. For a mothership, date and time that receipt of groundfish begins.

(B) For a catcher/processor, position coordinates where gear is set. For a mothership, position coordinates where groundfish receipt begins.

(C) For a catcher/processor, the reporting area code of gear deployment and whether gear deployment was in Federal or Alaska State waters. For a mothership or buying station delivering to a mothership, the reporting area code where groundfish receipt begins and whether receipt of groundfish occurred in Federal or Alaska State waters.

(D) For a shoreside processor, the date receipt of groundfish will begin, whether checking in for the first time in fishing year or checking in to restart receipt and processing of groundfish after filing a check-out report.

(E) For a mothership or catcher/processor, the primary and secondary species expected to be harvested. For a buying station, the intended primary target expected to be harvested. A change in intended target species within the same reporting area does not require a new BEGIN message.

(iii) *CEASE message*. The operator of a catcher/processor, mothership, or buying station delivering to a mothership or the manager of a shoreside processor or buying station delivering to a shoreside processor must report:

(A) If a catcher/processor, mothership or buying station delivering to a mothership, the date, time and position coordinates where the vessel departed the reporting area or moved to Federal waters from Alaska State waters within a reporting area, or vice versa.

(B) If a shoreside processor or buying station delivering to a shoreside processor, the date that receipt of groundfish ceased.

(iv) *Fish or fish product held at plant*. The manager of a shoreside processor must report the weight of the fish or fish products in pounds or to the nearest 0.001 mt by species and product codes.

(i) *Weekly Production Report (WPR)*—(1) *Applicability*. (i) The operator of a catcher/processor or mothership or the manager of a shoreside processor must submit a WPR for any week the mothership, catcher/processor, or shoreside processor is checked in pur-

suant to paragraph (h)(2)(i) of this section.

(ii) The operator of a vessel that is authorized to conduct operations as both a catcher/processor and as a mothership must submit separate WPRs to report production and discard as a catcher/processor and production and discard as a mothership.

(2) *Time limits and submittal*. The operator or manager must submit a WPR by fax to the Regional Administrator by 1200 hours, A.l.t., on the Tuesday following the end of the applicable weekly reporting period.

(3) *Information required*—(i) *General*. The operator of a catcher/processor or mothership, or the manager of a shoreside processor must record on each page:

(A) Whether an original or revised report, as described in paragraph (a)(6)(iii)(G) of this section.

(B) Participant identification information as described in paragraph (a)(5) of this section.

(C) Representative identification information as described in paragraph (a)(5)(vi) of this section and date WPR was completed.

(D) If a mothership or catcher/processor, the processor type and gear type used to harvest the groundfish.

(E) Whether harvest is under a CDQ Program; if yes, the CDQ number.

(F) The week-ending date.

(G) The primary and secondary target codes for the next week.

(H) If a mothership or catcher/processor, the number of crew on the last day of the reporting week.

(ii) *Landings information*. The manager of a shoreside processor must report landings information as described in paragraph (a)(8) of this section, except that each groundfish landing must be reported only in metric tons to at least the nearest 0.001 mt.

(iii) *Discarded/donated species information (Part ID)*. The operator of a catcher/processor or mothership, or the manager of a shoreside processor must report discarded/donated species information as described in paragraph (a)(10) of this section, except that each groundfish or herring discard/donation must be reported only in metric tons to at least the nearest 0.001 mt.

(iv) *Product information.* The operator of a catcher/processor or mothership, or the manager of a shoreside processor must report product information as described in paragraph (a)(9) of this section, except that each groundfish product must be reported only in metric tons to at least the nearest 0.001 mt.

(v) *Catcher vessel delivery information.* If ADF&G fish tickets are issued, the operator of the mothership or manager of the shoreside processor must list the fish ticket numbers issued to catcher vessels for the weekly reporting period, including the fish ticket numbers issued by an associated buying station.

(j) *Daily Production Report (DPR)—(1) Notification.* If the Regional Administrator determines that DPRs are necessary to avoid exceeding a groundfish TAC or prohibited species bycatch allowance, NMFS may require submission of DPRs from motherships, catcher-processors, and shoreside processors for reporting one or more specified species, in addition to a WPR. NMFS will publish notification in the FEDERAL REGISTER specifying the fisheries that require DPRs and the dates that submittal of DPRs are required.

(2) *Applicability.* (i) If a catcher/processor or mothership is checked in to the specified reporting area and is harvesting, receiving, processing, or discarding the specified species or is receiving reports from a catcher vessel of discard at sea of the specified species, the operator must submit a DPR.

(ii) If a shoreside processor is receiving, processing, or discarding the specified species or is receiving reports from a catcher vessel of discard at sea of the specified species, the manager must submit a DPR.

(iii) The operator of a catcher/processor or mothership or the manager of a shoreside processor must use a separate DPR for each gear type, processor type, and CDQ number.

(3) *Time limit and submittal.* The operator or manager must submit a DPR by fax to the Regional Administrator by 1200 hours, A.l.t., the day following each day of landings, discard, or production.

(4) *Information required—(i) General.* The operator of a catcher/processor or mothership, or the manager of a shore-

side processor must record on each page:

(A) Whether it is an original or revised report as described in paragraph (a)(6)(iii)(G) of this section.

(B) Participant identification information as described in paragraph (a)(5) of this section, and processor type.

(C) Representative identification information as described in paragraph (a)(5)(vi) of this section.

(D) The gear type used to harvest the groundfish, date landings were received, and Federal reporting area where landings were harvested.

(E) Whether harvest is under a CDQ Program; if yes, the CDQ number.

(ii) *Landings information.* The manager of a shoreside processor must report landings information as described in paragraph (a)(8) of this section, except that each groundfish landing must be reported only in metric tons to at least the nearest 0.001 mt.

(iii) *Product information.* The operator of a mothership or catcher/processor must report product information as described in paragraph (a)(9) of this section, except that each groundfish product must be reported only in metric tons to at least the nearest 0.001 mt.

(iv) *Discarded/donated species information.* The operator of a mothership or catcher/processor or the manager of a shoreside processor must report discarded/donated species information as described in paragraph (a)(10) of this section, except that each groundfish or herring discard/donation must be reported only in metric tons to at least the nearest 0.001 mt.

(k) *U.S. Vessel Activity Report (VAR)—(1) Applicability.* The operator of a catcher vessel, catcher/processor, or mothership regulated under this part must submit a VAR by fax to NMFS Alaska Enforcement Division, Juneau, AK, before the vessel crosses the seaward boundary of the EEZ off Alaska or crosses the U.S.-Canadian international boundary between Alaska and British Columbia.

(2) *Information required—(i) General.* The operator of each catcher vessel, catcher/processor, or mothership must record on each page:

(A) Whether an original or revised report as described in paragraph (a)(6)(iii)(G) of this section.

(B) Participant identification information as described in paragraph (a)(5) of this section.

(C) Representative identification information as described in paragraph (a)(5)(vi) of this section, and date VAR was completed.

(D) If the vessel is crossing into the seaward boundary of the EEZ off Alaska or crossing the U.S.-Canadian international boundary between Alaska and British Columbia, the operator must indicate "return" report.

(E) If the vessel is crossing out of the seaward boundary of the EEZ off Alaska or crossing the U.S.-Canadian international boundary between Alaska and British Columbia into Canadian waters, the operator must indicate "depart" report.

(F) Port of landing.

(G) Whether the vessel is returning from fishing or departing to fish in the Russian Zone.

(H) Date and time the vessel will cross the seaward boundary of the EEZ off Alaska or the U.S.-Canadian international boundary between Alaska and British Columbia.

(I) Latitude and longitude at the point of crossing the seaward boundary of the EEZ off Alaska or U.S.-Canadian international boundary between Alaska and British Columbia.

(ii) *Fish or fish products.* The operator of a catcher vessel, catcher/processor, or mothership must record the fish or fish product on board the vessel when crossing the seaward boundary of the EEZ off Alaska or U.S.-Canadian international boundary as follows:

(A) The Harvest Zone code of the area in which groundfish were harvested as defined in Table 8 of this part.

(B) The species code and product code for each species on board as defined in Tables 1 and 2 of this part.

(C) The fish product weight of products on board in pounds or to the nearest 0.001 mt.

(l) *IFQ recordkeeping and reporting requirements.* In addition to the recordkeeping and reporting requirements in this section and as prescribed in the annual management measures published in the FEDERAL REGISTER pursuant to § 300.62 of chapter III of this

title, the following reports are required.

(1) *IFQ landings report—(i) Prior notice of IFQ landing.* Except as provided in paragraph (l)(1)(i)(C) of this section, the operator of any vessel making an IFQ landing must notify the Alaska Region, NMFS, no fewer than 6 hours before landing IFQ halibut or IFQ sablefish, unless permission to commence an IFQ landing within 6 hours of notification is granted by a clearing officer.

(A) Notification of an IFQ landing must be made to the toll-free telephone number specified on the IFQ permit between the hours of 0600 hours, A.l.t., and 2400 hours, A.l.t.

(B) Notification must include: Name of the registered buyer(s) to whom the IFQ halibut or IFQ sablefish will be landed and the location of the landing; vessel identification; estimated weight of the IFQ halibut or IFQ sablefish that will be landed; identification number(s) of the IFQ card(s) that will be used to land the IFQ halibut or IFQ sablefish; and the date and time that the landing will take place.

(C) The operator of a category B, C, or D vessel, as defined at § 679.40(a)(5), making an IFQ landing of IFQ halibut of 500 lb (0.227 mt) or less of weight determined pursuant to § 679.42(c)(ii) and concurrent with a legal landing of salmon is exempt from the prior notice of landing required by this section.

(D) The operator of any vessel wishing to land IFQ halibut or IFQ sablefish before the date and time reported in the prior notice or later than 2 hours after the date and time reported in the prior notice must submit a new prior notice of IFQ landing in compliance with the provisions set forth in paragraphs (l)(1)(i) (A) through (C) of this section.

(ii) *Registered buyer reports IFQ landings.* (A) A registered buyer must report an IFQ landing in the manner prescribed on the registered buyer permit within 6 hours after all such fish are landed and prior to shipment or departure of the delivery vessel from the landing site.

(B) An IFQ landing may commence only between 0600 hours, A.l.t., and 1800 hours, A.l.t., unless:

(1) Permission to land at a different time is granted in advance by a clearing officer; or

(2) IFQ halibut of 500 lb (0.227 mt) or less of weight determined pursuant to §679.42(c)(ii) is landed concurrently with a legal landing of salmon by a category B, C, or D vessel, as defined at §679.40(a)(5).

(iii) *Verification and inspection.* (A) Each IFQ landing and all fish retained on board the vessel making an IFQ landing are subject to verification, inspection, and sampling by authorized officers, clearing officers, or observers. Each IFQ halibut landing is subject to sampling for biological information by persons authorized by the IPHC.

(B) A copy of all reports and receipts required by this section must be retained by registered buyers and be made available for inspection by an authorized officer or a clearing officer for a period of 3 years.

(iv) *Information required.* Information contained in a complete IFQ landing report shall include: Date, time, and location of the IFQ landing; names and permit numbers of the IFQ card holder and registered buyer; product type landed; and fish product weight of sablefish and halibut landed.

(2) *IFQ shipment report—(i) Applicability.* Each registered buyer, other than those conducting dockside sales, must report on a shipment report any shipments or transfers of IFQ halibut and IFQ sablefish to the first destination beyond the location of the IFQ landing.

(ii) *Submittal.* (A) A shipment report must be submitted to NMFS Alaska Enforcement Division prior to shipment or transfer, in a manner prescribed on the registered buyer permit.

(B) A shipment report must specify: Species and product type being shipped, number of shipping units, fish product weight, names of the shipper and receiver, names and addresses of the consignee and consignor, mode of transportation, and intended route.

(iii) *Registered Buyer.* A registered buyer must:

(A) Complete a Shipment Report for each shipment or transfer from that registered buyer prior to shipment and assure that the Shipment Report is submitted to, and received by, the NMFS Alaska Enforcement Division,

within 7 days of the date shipment or transfer commenced;

(B) Assure that a copy of the Shipment Report or a bill of lading that contains the same information accompanies the shipment to its first destination beyond the location of the IFQ landing; and

(C) Submit a revised Shipment Report if any information on the original Shipment Report changes prior to the first destination of the shipment. A revised Shipment Report must be clearly labeled "Revised Shipment Report," and must be received by the NMFS Alaska Enforcement Division, within 7 days of the change.

(iv) *Dockside sale and outside landing.* (A) A person holding a valid IFQ permit, IFQ card, and registered buyer permit may conduct a dockside sale of IFQ halibut or IFQ sablefish to a person who has not been issued a registered buyer permit.

(B) The person making such an IFQ landing must submit an IFQ landing report in the manner prescribed in paragraph (1)(1) of this section before any fish are sold, transferred, or removed from the immediate vicinity of the vessel with which they were harvested.

(C) A receipt that includes the date of sale or transfer, the registered buyer permit number, and the fish product weight of the sablefish or halibut transferred must be issued to each individual receiving IFQ halibut or IFQ sablefish through a dockside sale.

(D) A person holding a valid IFQ permit, IFQ card, and registered buyer permit may conduct a IFQ landing outside an IFQ regulatory area or the State of Alaska to a person who does not hold a registered buyer permit. The person making such an IFQ landing must submit an IFQ landing report in the manner prescribed in paragraph (1)(1) of this section.

(v) *Transshipment.* No person may transship processed IFQ halibut or IFQ sablefish between vessels without authorization by a clearing officer. Authorization from a clearing officer must be obtained for each instance of transshipment at least 24 hours before the transshipment is intended to commence. Requests for authorization

must specify the date and location of the transshipment.

(3) *IFQ vessel clearance*—(i) *Applicability*. A person who makes an IFQ landing at any location other than in an IFQ regulatory area or in the State of Alaska must obtain prelanding written clearance of the vessel and provide the weight of IFQ halibut and IFQ sablefish on board to the clearing officer.

(ii) *State of Alaska*. A vessel obtaining prelanding written clearance at a port in the State of Alaska must obtain that clearance prior to departing the waters of the EEZ adjacent to the jurisdictional waters of the State of Alaska, the territorial sea of the State of Alaska, or the internal waters of the State of Alaska.

(iii) *State other than Alaska*. (A) A vessel obtaining prelanding written clearance at a port in a state other than Alaska must provide a departure report to NMFS, Alaska Region, prior to departing the waters of the EEZ adjacent to the jurisdictional waters of the State of Alaska, the territorial sea of the State of Alaska, or the internal waters of the State of Alaska.

(B) The departure report must include the weight of the IFQ halibut or IFQ sablefish on board and the intended date and time the vessel will obtain prelanding written clearance at that port in a state other than Alaska.

(iv) *Foreign port other than Canada*. A vessel operator who lands IFQ species in a foreign port must first obtain vessel clearance from a clearing officer located at a primary port in the State of Alaska.

(v) *Canadian ports*. No person shall make an IFQ landing in Canada other than at the ports of Port Hardy, Prince Rupert, or Vancouver, British Columbia.

(vi) *Reporting requirements*. (A) A vessel operator must land and report all IFQ species on board at the same time and place as the first landing of any species harvested during a fishing trip.

(B) Any person requesting a vessel clearance must have valid IFQ and registered buyer permits and one or more valid IFQ cards on board that indicate that IFQ holdings are equal to or greater than all IFQ halibut and IFQ sablefish on board, and must report the

intended date, time, and location of IFQ landing.

(C) Any person granted a vessel clearance must submit an IFQ landing report, required under this section, for all IFQ halibut, IFQ sablefish, and products thereof that are on board the vessel at the first landing of any fish from the vessel.

(vii) *Inspection*. A vessel seeking clearance is subject to inspection of all fish, log books, permits, and other documents on board the vessel, at the discretion of the clearing officer.

(viii) *Primary ports*. Unless specifically authorized on a case-by-case basis, vessel clearances will be issued only by clearing officers at the following primary ports:

Port	North latitude	West longitude
Akutan .....	54°08'05"	165°46'20"
Bellingham .....	48°45'04"	122°30'02"
Cordova .....	60°33'00"	145°45'00"
Craig .....	55°28'30"	133°09'00"
Dutch Harbor/Unalaska.	53°53'27"	166°32'05"
Excursion Inlet .....	58°25'00"	135°26'30"
Homer .....	59°38'40"	151°33'00"
Ketchikan .....	55°20'30"	131°38'45"
King Cove .....	55°03'20"	162°19'00"
Kodiak .....	57°47'20"	152°24'10"
Pelican .....	57°57'30"	136°13'30"
Petersburg .....	56°48'10"	132°58'00"
St. Paul .....	57°07'20"	170°16'30"
Sand Point .....	55°20'15"	160°30'00"
Seward .....	60°06'30"	149°26'30"
Sitka .....	57°03'	135°20'
Yakutat .....	59°33'	139°44'

[61 FR 31230, June 19, 1996, as amended at 61 FR 35578, July 5, 1996; 61 FR 41525, Aug. 9, 1996; 61 FR 49981, Sept. 24, 1996; 62 FR 2045, Jan. 15, 1997; 62 FR 17756, Apr. 11, 1997; 62 FR 19690, Apr. 23, 1997; 62 FR 26247, May 13, 1997; 62 FR 26749, May 15, 1997]

**§ 679.6 Experimental fisheries.**

(a) *General*. For limited experimental purposes, the Regional Administrator may authorize, after consulting with the Council, fishing for groundfish in a manner that would otherwise be prohibited. No experimental fishing may be conducted unless authorized by an experimental fishing permit issued by the Regional Administrator to the participating vessel owner in accordance with the criteria and procedures specified in this section. Experimental fishing permits will be issued without charge and will expire at the end of a

calendar year unless otherwise provided for under paragraph (e) of this section.

(b) *Application.* An applicant for an experimental fishing permit shall submit to the Regional Administrator, at least 60 days before the desired effective date of the experimental fishing permit, a written application including, but not limited to, the following information:

- (1) The date of the application.
- (2) The applicant's name, mailing address, and telephone number.
- (3) A statement of the purpose and goal of the experiment for which an experimental fishing permit is needed, including a general description of the arrangements for disposition of all species harvested under the experimental fishing permit.
- (4) Technical details about the experiment, including:
  - (i) Amounts of each species to be harvested that are necessary to conduct the experiment, and arrangement for disposition of all species taken.
  - (ii) Area and timing of the experiment.
  - (iii) Vessel and gear to be used.
  - (iv) Experimental design (e.g., sampling procedures, the data and samples to be collected, and analysis of the data and samples).
  - (v) Provision for public release of all obtained information, and submission of interim and final reports.
- (5) The willingness of the applicant to carry observers, if required by the Regional Administrator, and a description of accommodations and work space for the observer(s).
- (6) Details for all coordinating parties engaged in the experiment and signatures of all representatives of all principal parties.
- (7) Information about each vessel to be covered by the experimental fishing permit, including:
  - (i) Vessel name.
  - (ii) Name, address, and telephone number of owner and master.
  - (iii) USCG documentation, state license, or registration number.
  - (iv) Home port.
  - (v) Length of vessel.
  - (vi) Net tonnage.
  - (vii) Gross tonnage.
- (8) The signature of the applicant.

(9) The Regional Administrator may request from an applicant additional information necessary to make the determinations required under this section. Any application that does not include all necessary information will be considered incomplete. An incomplete application will not be considered to be complete until the necessary information is provided in writing. An applicant for an experimental fishing permit need not be the owner or operator of the vessel(s) for which the experimental fishing permit is requested.

(c) *Review procedures.* (1) The Regional Administrator, in consultation with the Alaska Fishery Science Center, will review each application and will make a preliminary determination whether the application contains all the information necessary to determine if the proposal constitutes a valid fishing experiment appropriate for further consideration. If the Regional Administrator finds any application does not warrant further consideration, the applicant will be notified in writing of the reasons for the decision.

(2) If the Regional Administrator determines any application is complete and warrants further consideration, he or she will initiate consultation with the Council by forwarding the application to the Council. The Council's Executive Director shall notify the applicant of a meeting at which the Council will consider the application and invite the applicant to appear in support of the application, if the applicant desires. If the Regional Administrator initiates consultation with the Council, NMFS will publish notification of receipt of the application in the FEDERAL REGISTER with a brief description of the proposal.

(d) *Notifying the applicant.* (1) The decision of the Regional Administrator, after consulting with the Council, to grant or deny an experimental fishing permit is the final action of the agency. The Regional Administrator shall notify the applicant in writing of the decision to grant or deny the experimental fishing permit and, if denied, the reasons for the denial, including:

- (i) The applicant has failed to disclose material information required, or has made false statements as to any

material fact, in connection with the application.

(ii) According to the best scientific information available, the harvest to be conducted under the permit would detrimentally affect living marine resources, including marine mammals and birds, and their habitat in a significant way.

(iii) Activities to be conducted under the experimental fishing permit would be inconsistent with the intent of this section or the management objectives of the FMP.

(iv) The applicant has failed to demonstrate a valid justification for the permit.

(v) The activity proposed under the experimental fishing permit could create a significant enforcement problem.

(vi) The applicant failed to make available to the public information that had been obtained under a previously issued experimental fishing permit.

(vii) The proposed activity had economic allocation as its sole purpose.

(2) In the event a permit is denied on the basis of incomplete information or design flaws, the applicant will be provided an opportunity to resubmit the application, unless a permit is denied because experimental fishing would detrimentally affect marine resources, be inconsistent with the management objectives of the FMP, create significant enforcement problems, or have economic allocation as its sole purpose.

(e) *Terms and conditions.* The Regional Administrator may attach terms and conditions to the experimental fishing permit that are consistent with the purpose of the experiment, including, but not limited to:

(1) The maximum amount of each species that can be harvested and landed during the term of the experimental fishing permit, including trip limitations, where appropriate.

(2) The number, sizes, names, and identification numbers of the vessels authorized to conduct fishing activities under the experimental fishing permit.

(3) The time(s) and place(s) where experimental fishing may be conducted.

(4) The type, size, and amount of gear that may be used by each vessel oper-

ated under the experimental fishing permit.

(5) The condition that observers be carried aboard vessels operated under an experimental fishing permit.

(6) Reasonable data reporting requirements.

(7) Such other conditions as may be necessary to assure compliance with the purposes of the experimental fishing permit and consistency with the FMP objectives.

(8) Provisions for public release of data obtained under the experimental fishing permit.

(f) *Effectiveness.* Unless otherwise specified in the experimental fishing permit or superseding notification or regulation, an experimental fishing permit is effective for no longer than 1 calendar year, but may be revoked, suspended, or modified during the calendar year. Experimental fishing permits may be renewed following the application procedures in paragraph (b) of this section.

#### §679.7 Prohibitions.

In addition to the general prohibitions specified in §600.725 of this chapter, it is unlawful for any person to do any of the following:

(a) *Groundfish of the GOA and BSAI—*  
(1) *Federal fisheries permit.* Fish for groundfish with a vessel of the United States that does not have on board a valid Federal fisheries permit issued pursuant to §679.4.

(2) *Inseason adjustment.* Conduct any fishing contrary to notification of inseason adjustment issued under §679.25.

(3) *Groundfish Observer Program.* Fish for or process groundfish except in compliance with the terms of the Groundfish Observer Program as provided by subpart E of this part.

(4) *Pollock roe.* Retain pollock roe on board a vessel in violation of §679.20(g).

(5) *Bycatch rate standard.* Exceed a bycatch rate standard specified for a vessel under §679.21(f).

(6) *Gear.* Deploy any trawl, longline, single pot-and-line, or jig gear in an area when directed fishing for, or retention of, all groundfish by operators of vessels using that gear type is prohibited in that area, except that this paragraph (a)(6) shall not prohibit:

(i) Deployment of hook-and-line gear by operators of vessels fishing for halibut during seasons prescribed in the annual management measures published in the FEDERAL REGISTER pursuant to §300.62 of chapter III of this title.

(ii) Deployment of pot gear by operators of vessels fishing for crab during seasons governed by the State of Alaska.

(iii) Deployment of jig gear by operators of vessels fishing for salmon during seasons governed by the State of Alaska.

(7) *Inshore/offshore (Applicable through December 31, 1998).*

(i) Operate any vessel in more than one of the three categories included in the definition of "inshore component," in §679.2, during any fishing year.

(ii) Operate any vessel under both the "inshore component" and "offshore component" definitions in §679.2 during the same fishing year.

(8) *Fishing in Donut Hole.* Except as authorized by permit issued pursuant to the section of the Donut Hole Convention implementing legislation authorizing NMFS to issue Donut Hole fishing permits (Public Law 104-43, section 104(d)), it is unlawful for any person to:

(i) Fish in the Donut Hole from a vessel for which a Federal fisheries permit has been issued pursuant to §679.4 during the year for which the permit was issued.

(ii) Possess within the EEZ fish harvested from the Donut Hole on board a vessel for which a Federal fisheries permit has been issued pursuant to §679.4 during the year for which the permit was issued.

(9) *Authorized fishing gear.* Retain groundfish taken with other than authorized fishing gear as defined in §679.2, except that groundfish incidentally taken by pot gear by a vessel while participating in an open crab season governed by the State of Alaska may be retained for use as unprocessed bait on board that vessel.

(10) *Recordkeeping and reporting.* Fail to comply with or fail to ensure compliance with requirements in §679.5.

(11) *Tender vessel.* Use a catcher vessel or catcher/processor as a tender vessel before offloading all groundfish or

groundfish product harvested or processed by that vessel.

(12) *Salmon donation program.* Retain or possess salmon, except as permitted to do so under the Salmon Donation Program as provided by §679.26, or as authorized by other applicable law.

(13) *Halibut.* With respect to halibut caught with hook-and-line gear deployed from a vessel fishing for groundfish, except for vessels fishing for halibut as prescribed in the annual management measures published in the FEDERAL REGISTER pursuant to §300.62 of chapter III of this title:

(i) Fail to release the halibut outboard a vessel's rails.

(ii) Release the halibut by any method other than—(A) Cutting the gangion.

(B) Positioning the gaff on the hook and twisting the hook from the halibut.

(C) Straightening the hook by using the gaff to catch the bend of the hook and bracing the gaff against the vessel or any gear attached to the vessel.

(iii) Puncture the halibut with a gaff or other device.

(iv) Allow the halibut to contact the vessel, if such contact causes, or is capable of causing, the halibut to be stripped from the hook.

(14) *Trawl performance standard.* Use a vessel to participate in a directed fishery for pollock with trawl gear and have on board the vessel, at any particular time, 20 or more crab of any species that have a width of more than 1.5 inches (38 mm) at the widest dimension when directed fishing for pollock with nonpelagic trawl gear is closed.

(b) [Reserved]

(c) *Prohibitions specific to BSAI.*

(1) *Incidental salmon.* Discard any salmon taken incidental to a directed fishery for BSAI groundfish by vessels using trawl gear until notified by an observer that the number of salmon has been determined and the collection of any scientific data or biological samples has been completed as provided in §679.21(c)(1).

(2) *Prohibited species.* Conduct any fishing contrary to a notification issued under §679.21.

(d) *CDQ (Applicable through December 31, 1998).* (1) Participate in a Western Alaska CDQ program in violation of

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subpart C of this part, submit information that is false or inaccurate with a CDP application or request for an amendment, or exceed a CDQ as defined in §679.2.

(2) Operate a vessel that harvests pollock for credit to a CDQ allocation when that allocation has been fully harvested.

(e) *Moratorium on entry.* (1) Submit false or inaccurate information on a moratorium permit application or application to transfer moratorium qualification.

(2) Alter, erase, or mutilate any moratorium permit.

(3) Catch and retain a moratorium species with a vessel that has a LOA greater than the maximum LOA for the vessel.

(4) Catch and retain a moratorium species with a vessel that has received an unauthorized transfer of moratorium qualification.

(5) Catch and retain moratorium crab species or conduct directed fishing for any moratorium groundfish species with a vessel that has not been issued a valid moratorium permit, unless the vessel is lawfully conducting directed fishing for sablefish under subparts C and D of this part.

(6) Catch and retain moratorium crab species or conduct directed fishing for any moratorium groundfish species with a vessel that does not have a valid moratorium permit on board, unless the vessel is lawfully conducting directed fishing for sablefish under subparts C and D of this part.

(f) *IFQ fisheries.* (1) Fail to submit, or submit inaccurate information on, any report, application, or statement required under this part.

(2) Intentionally submit false information on any report, application, or statement required under this part.

(3) Retain halibut or sablefish caught with fixed gear without a valid IFQ permit and without an IFQ card in the name of an individual aboard.

(4) Except as provided in §679.5(1)(3), retain IFQ halibut or IFQ sablefish on a vessel in excess of the total amount of unharvested IFQ, applicable to the vessel category and IFQ regulatory area in which the vessel is deploying fixed gear, and that is currently held by all IFQ card holders aboard the ves-

sel, unless the vessel has an observer aboard under subpart E of this part and maintains the applicable daily fishing log prescribed in the annual management measures published in the FEDERAL REGISTER pursuant to §300.62 of chapter III of this title and §679.5.

(5) Possess, buy, sell, or transport IFQ halibut or IFQ sablefish harvested or landed in violation of any provision of this part.

(6) Make an IFQ landing without an IFQ card in the name of the individual making the landing.

(7) Possess on a vessel or land IFQ sablefish concurrently with non-IFQ sablefish, except that CDQ sablefish may be possessed on a vessel and landed concurrently with IFQ sablefish.

(8) Discard Pacific cod or rockfish that are taken when IFQ halibut or IFQ sablefish are on board, unless Pacific cod or rockfish are required to be discarded under §679.20 or unless, in waters within the State of Alaska, Pacific cod or rockfish are required to be discarded by laws of the State of Alaska.

(9) Harvest on any vessel more IFQ halibut or IFQ sablefish than are authorized under §679.42.

(10) Make an IFQ landing other than directly to (or by) a registered buyer.

(11) Discard halibut or sablefish caught with fixed gear from any catcher vessel when any IFQ card holder aboard holds unused halibut or sablefish IFQ for that vessel category and the IFQ regulatory area in which the vessel is operating, unless:

(i) Discard of halibut is required as prescribed in the annual management measures published in the FEDERAL REGISTER pursuant to §300.62 of chapter III of this title;

(ii) Discard of sablefish is required under §679.20 or, in waters within the State of Alaska, discard of sablefish is required under laws of the State of Alaska; or

(iii) Discard of halibut or sablefish is required under other provisions.

(12) Make an IFQ landing without prior notice of landing and before 6 hours after such notice, except as provided in §679.5.

(13) Possess processed and unprocessed IFQ species on board a vessel during the same trip except when fishing

exclusively with IFQ derived from vessel category A QS;

(14) Violate any other provision under subpart D of this part.

(15) Process fish on board a vessel on which a person aboard has unused IFQ derived from QS issued to vessel categories B, C, or D, except as provided in §679.42(k) of this part;

(g) *Groundfish Observer Program.* (1) Forcibly assault, resist, oppose, impede, intimidate, or interfere with an observer.

(2) Interfere with or bias the sampling procedure employed by an observer, including physical, mechanical, or other sorting or discarding of catch before sampling.

(3) Tamper with, destroy, or discard an observer's collected samples, equipment, records, photographic film, papers, or personal effects without the express consent of the observer.

(4) Prohibit or bar by command, impediment, threat, coercion, or by refusal of reasonable assistance, an observer from collecting samples, conducting product recovery rate determinations, making observations, or otherwise performing the observer's duties.

(5) Harass an observer by conduct that has sexual connotations, has the purpose or effect of interfering with the observer's work performance, or otherwise creates an intimidating, hostile, or offensive environment. In determining whether conduct constitutes harassment, the totality of the circumstances, including the nature of the conduct and the context in which it occurred, will be considered. The determination of the legality of a particular action will be made from the facts on a case-by-case basis.

(6) Fish for or process fish without observer coverage required under subpart E of this part.

(7) Require, pressure, coerce, or threaten an observer to perform duties normally performed by crew members, including, but not limited to, cooking, washing dishes, standing watch, vessel maintenance, assisting with the setting or retrieval of gear, or any duties associated with the processing of fish, from sorting the catch to the storage of the finished product.

(h) *Scallop fishery off Alaska.* It is unlawful for any person to violate any provision of subpart F of this part while fishing for scallops in the Federal waters off Alaska.

(i) *High Seas Salmon Fisheries.* (1) Fish for, take, or retain any salmon in violation of the North Pacific Fisheries Act of 1954, 16 U.S.C. 1021-1035 or this part.

(2) Engage in fishing for salmon in the High Seas Salmon Management Area except to the extent authorized by §679.4(h).

[61 FR 31230, June 19, 1996, as amended at 61 FR 33385, June 27, 1996; 61 FR 35578 July 5, 1996; 61 FR 38104, July 23, 1996; 61 FR 38359, July 24, 1996; 61 FR 41525, Aug. 9, 1996; 61 FR 56431, Nov. 1, 1996; 61 FR 65987, Dec. 16, 1996; 62 FR 2046, Jan. 15, 1997; 62 FR 19690, Apr. 23, 1997]

#### §679.8 Facilitation of enforcement.

See §600.740 of this chapter.

#### §679.9 Penalties.

See §600.735 of this chapter.

### Subpart B—Management Measures

#### §679.20 General limitations.

This section applies to vessels engaged in directed fishing for groundfish in the GOA and BSAI.

(a) *Harvest limits*—(1) *OY.* The OY for BSAI and GOA target species and the "other species" category is a range that can be harvested consistently with this part, plus the amounts of "nonspecified species" taken incidentally to the harvest of target species and the "other species" category. The species categories are defined in Table 1 of the specifications as provided in paragraph (c) of this section.

(i) *BSAI.* The OY for groundfish in the BSAI regulated by this section and by part 600 of this chapter is 1.4 to 2.0 million mt.

(ii) *GOA.* The OY for groundfish in the GOA regulated by this section and by part 600 of this chapter is 116,000 to 800,000 mt.

(2) *TAC.* NMFS, after consultation with the Council, will specify and apportion the annual TAC and reserves for each calendar year among the GOA and BSAI target species and the "other

species'' categories. TACs in the target species category may be split or combined for purposes of establishing new TACs with apportionments thereof under paragraph (c) of this section. The sum of the TACs so specified must be within the OY range specified in paragraph (a)(1) of this section.

(3) *Annual TAC determination.* The annual determinations of TAC for each target species and the "other species" category, and the reapportionment of reserves may be adjusted, based upon a review of the following:

(i) *Biological condition of groundfish stocks.* Resource assessment documents prepared annually for the Council that provide information on historical catch trend; updated estimates of the MSY of the groundfish complex and its component species groups; assessments of the stock condition of each target species and the "other species" category; assessments of the multispecies and ecosystem impacts of harvesting the groundfish complex at current levels, given the assessed condition of stocks, including consideration of rebuilding depressed stocks; and alternative harvesting strategies and related effects on the component species group.

(ii) *Socioeconomic considerations.* Socioeconomic considerations that are consistent with the goals of the fishery management plans for the groundfish fisheries of the BSAI and the GOA, including the need to promote efficiency in the utilization of fishery resources, including minimizing costs; the need to manage for the optimum marketable size of a species; the impact of groundfish harvests on prohibited species and the domestic target fisheries that utilize these species; the desire to enhance depleted stocks; the seasonal access to the groundfish fishery by domestic fishing vessels; the commercial importance of a fishery to local communities; the importance of a fishery to subsistence users; and the need to promote utilization of certain species.

(4) *Sablefish TAC—(i) GOA Eastern Area.* Vessels in the Eastern Area of the GOA using trawl gear will be allocated 5 percent of the sablefish TAC for bycatch in other trawl fisheries.

(ii) *GOA Central and Western Areas—(A) Hook-and-line gear.* Vessels in the Central and Western Areas of the GOA

using hook-and-line gear will be allocated 80 percent of the sablefish TAC in each of the Central and Western areas.

(B) *Trawl gear.* Vessels using trawl gear will be allocated 20 percent of the sablefish TAC in these areas.

(iii) *Bering Sea subarea—(A) Hook-and-line or pot gear.* Vessels in the Bering Sea subarea using hook-and-line or pot gear will be allocated 50 percent of each TAC for sablefish.

(B) *Trawl gear.* Vessels in the Bering Sea subarea using trawl gear will be allocated 50 percent of each TAC for sablefish.

(iv) *Aleutian Islands subarea—(A) Hook-and-line or pot gear.* Vessels in the Aleutian Islands subarea using hook-and-line or pot gear will be allocated 75 percent of each TAC for sablefish.

(B) *Trawl gear.* Vessels in the Aleutian Islands subarea using trawl gear will be allocated 25 percent of each TAC for sablefish.

(5) *Pollock TAC—(i) BSAI—(A) Seasonal allowances.* The TAC of pollock in each subarea or district of the BSAI will be divided, after subtraction of reserves, into two allowances. The first allowance will be available for directed fishing from 0001 hours Alaska local time (A.l.t.) January 1 through 1200 hours, A.l.t., April 15. The second allowance will be available for directed fishing from 1200 hours, A.l.t., September 1 through 1200 hours A.l.t., November 1, of each fishing year. Within any fishing year, unharvested amounts of the first allowance will be added to the second allowance, and harvests in excess of the first allowance will be deducted from the second allowance.

(B) *Apportionment to vessels using nonpelagic trawl gear—(1) General.* NMFS, in consultation with the Council, may limit the amount of pollock TAC that may be taken in the directed fishery for pollock using nonpelagic trawl gear.

(2) *Factors to be considered.* The Regional Administrator must consider the following information when limiting the amount of pollock TAC that is apportioned to the directed fishery for pollock using nonpelagic trawl gear:

(i) The PSC limits and PSC bycatch allowances established under § 679.21.

(ii) The projected bycatch of prohibited species that would occur with and

without a limit in the amount of pollock TAC that may be taken in the directed fishery for pollock using nonpelagic trawl gear.

(iii) The cost of a limit in terms of amounts of pollock TAC that may be taken with nonpelagic trawl gear on the nonpelagic and pelagic trawl fisheries.

(iv) Other factors pertaining to consistency with the goals and objectives of the FMP.

(3) *Notification.* NMFS will publish proposed and final apportionment of pollock TAC to the directed fishery for pollock using nonpelagic trawl gear in the FEDERAL REGISTER with notification of proposed and final specifications defined in § 679.20.

(ii) *GOA—(A) Apportionment by area.* The TAC for pollock in the combined GOA Western and Central Regulatory Areas will be apportioned among statistical areas 610, 620, and 630 in proportion to the distribution of the pollock biomass as determined by the most recent NMFS surveys.

(B) *Seasonal allowances.* Each apportionment will be divided into three seasonal allowances of 25 percent, 25 percent, and 50 percent of the apportionment, respectively, corresponding to the three fishing seasons defined at § 679.23(d)(2).

(1) Within any fishing year, any unharvested amount of any seasonal allowance will be added proportionately to all subsequent seasonal allowances, resulting in a sum for each allowance not to exceed 150 percent of the initial seasonal allowance.

(2) Within any fishing year, harvests in excess of a seasonal allowance will be deducted proportionately from all subsequent seasonal allowances.

(6) *Inshore/offshore apportionments (Applicable through December 31, 1998)—*

(i) *BSAI pollock.* The apportionment of pollock in each BSAI subarea or district, and for each seasonal allowance defined in paragraph (a)(5)(i) of this section, will be allocated 35 percent to vessels catching pollock for processing by the inshore component and 65 percent to vessels catching pollock for processing by the offshore component.

(ii) *GOA pollock.* The apportionment of pollock in all GOA regulatory areas and for each seasonal allowance de-

scribed in paragraph (a)(5)(ii) of this section will be allocated entirely to vessels catching pollock for processing by the inshore component after subtraction of an amount that is projected by the Regional Administrator to be caught by, or delivered to, the offshore component incidental to directed fishing for other groundfish species.

(iii) *GOA Pacific cod.* The apportionment of Pacific cod in all GOA regulatory areas will be allocated 90 percent to vessels catching Pacific cod for processing by the inshore component and 10 percent to vessels catching Pacific cod for processing by the offshore component.

(iv) *Directed fishing allowances and prohibitions.* The Regional Administrator may establish separate directed fishing allowances and prohibitions authorized under paragraph (d) of this section for:

(A) *BSAI pollock.* Vessels catching pollock in the BSAI for processing by the inshore component and for vessels catching pollock for processing by the offshore component.

(B) *GOA pollock.* Vessels catching pollock in the GOA for processing by the inshore component and for vessels catching pollock for processing by the offshore component.

(C) *GOA Pacific cod.* Vessels catching Pacific cod in the GOA for processing by the inshore component and for vessels catching Pacific cod for processing by the offshore component.

(v) *Reallocation—(A) BSAI pollock.* If, during a fishing year, the Regional Administrator determines that either the inshore or offshore component will not be able to process the entire amount of pollock in the BSAI allocated to vessels catching pollock for processing by that component, NMFS will publish notification in the FEDERAL REGISTER that reallocates the projected unused amount of pollock to vessels catching pollock for processing by the other component.

(B) *GOA pollock.* If the Regional Administrator determines that the inshore component will not be able to process the entire amount of pollock in the GOA allocated to vessels catching pollock for processing by the inshore component during a fishing year, NMFS will publish notification in the

FEDERAL REGISTER that reallocates the projected unused amount of pollock to vessels catching pollock for processing by the offshore component.

(C) *GOA Pacific cod.* If, during a fishing year, the Regional Administrator determines that either the inshore or offshore component will not be able to process the entire amount of Pacific cod in the GOA allocated to vessels catching Pacific cod for processing by that component, NMFS will publish notification in the FEDERAL REGISTER that reallocates the projected unused amount of Pacific cod to vessels catching Pacific cod for processing by the other component.

(7) *Pacific cod TAC, BSAI—(i) TAC by gear.* (A) The BSAI TAC of Pacific cod, after subtraction of reserves, will be allocated 2 percent to vessels using jig gear, 51 percent to vessels using hook-and-line or pot gear, and 47 percent to vessels using trawl gear.

(B) The portion of Pacific cod TAC allocated to trawl gear under paragraph (a)(7)(i)(A) of this section will be further allocated 50 percent to catcher vessels and 50 percent to catcher/processors as defined for the purposes of recordkeeping and reporting at § 679.2.

(C) The Regional Administrator may establish separate directed fishing allowances and prohibitions authorized under paragraph (d) of this section for vessels harvesting Pacific cod using jig gear, hook-and-line or pot gear, or trawl gear.

(ii) *Unused gear allocations—(A) Reallocation within the trawl sector.* If, during a fishing year, the Regional Administrator determines that either trawl catcher vessels or trawl catcher/processors will not be able to harvest the entire amount of Pacific cod in the BSAI allocated to those vessels under paragraph (a)(7)(i) or (a)(7)(ii)(B) of this section, NMFS will first make the projected unused amount of Pacific cod available to the other trawl vessel sector before any reallocation to vessels using other gear types.

(B) *Reallocation between gear types.* If, during a fishing year, the Regional Administrator determines that vessels using trawl gear or hook-and-line or pot gear will not be able to harvest the entire amount of Pacific cod in the BSAI allocated to those vessels under

paragraphs (a)(7)(i) or (a)(7)(iii) of this section, NMFS may reallocate the projected unused amount of Pacific cod to vessels harvesting Pacific cod using the other gear type(s) through notification in the FEDERAL REGISTER.

(iii) *Reallocation of TAC specified for jig gear.* On September 15 of each year, the Regional Administrator will reallocate any projected unused amount of Pacific cod in the BSAI allocated to vessels using jig gear to vessels using hook-and-line or pot gear through notification in the FEDERAL REGISTER.

(iv) *Seasonal allowances—(A) Time periods.* NMFS, after consultation with the Council, may divide the TAC allocated to vessels using hook-and-line or pot gear under paragraph (a)(7)(i) of this section among the following three periods: January 1 through April 30, May 1 through August 31, and September 1 through December 31.

(B) *Factors to be considered.* NMFS will base any seasonal allowance of the Pacific cod allocation to vessels using hook-and-line and pot gear on the following information:

(1) Seasonal distribution of Pacific cod relative to prohibited species distribution.

(2) Variations in prohibited species bycatch rates in the Pacific cod fisheries throughout the fishing year.

(3) Economic effects of any seasonal allowance of Pacific cod on the hook-and-line and pot-gear fisheries.

(C) *Unused seasonal allowances.* Any unused portion of a seasonal allowance of Pacific cod allocated to vessels using hook-and-line or pot gear will be reallocated to the remaining seasons during the current fishing year in a manner determined by NMFS, after consultation with the Council.

(8) *All other groundfish TAC.* The initial TAC for each target species and the “other species” category will be 85 percent of the TAC as provided under paragraph (b) of this section.

(b) *Reserves—(1) BSAI—(i) General.* Fifteen percent of the BSAI TAC for each target species and the “other species” category, except the hook-and-line and pot gear allocation for sablefish, is automatically placed in a reserve, and the remaining 85 percent of the TAC is apportioned for each target

species and the “other species” category, except the hook-and-line and pot gear allocation for sablefish.

(ii) *Nonspecified reserve.* The reserve is not designated by species or species group, and any amount of the reserve may be apportioned to a target species, except the hook-and-line gear and pot gear allocation for sablefish, or the “other species” category, provided that such apportionments are consistent with paragraph (a)(3) of this section and do not result in overfishing of a target species or the “other species” category.

(iii) *Inshore/offshore reapportionment (Applicable through December 31, 1998).* Any amounts of the BSAI nonspecific reserve that are reapportioned to pollock as provided by this paragraph (b) must be apportioned between inshore and offshore components in the same proportion specified in paragraph (a)(6)(i) of this section.

(iv) *Pacific cod (Applicable through December 31, 1996).* Any amounts of the BSAI nonspecific reserve that are apportioned to Pacific cod as provided by this paragraph (b) must be apportioned between vessels using jig, hook-and-line or pot, and trawl gear in the same proportion specified in paragraph (a)(7)(i) of this section, unless the Regional Administrator determines under paragraph (a)(7) (ii) or (iii) of this section that vessels using a certain gear type will not be able to harvest the additional amount of Pacific cod. In this case, the nonspecific reserve will be apportioned to vessels using the other gear type(s).

(2) *GOA.* Initial reserves are established for pollock, Pacific cod, flatfish, and “other species,” which are equal to 20 percent of the TACs for these species or species groups.

(i) *Pollock inshore/offshore reapportionment (Applicable through December 31, 1998).* Any amounts of the GOA reserve that are reapportioned to pollock as provided by this paragraph (b) must be apportioned between inshore and offshore components in the same proportion specified in paragraph (a)(6)(ii) of this section.

(ii) *Pacific cod inshore/offshore reapportionment (Applicable through December 31, 1998).* Any amounts of the GOA reserve that are reapportioned to

Pacific cod as provided by this paragraph (b) must be apportioned between inshore and offshore components in the same proportion specified in paragraph (a)(6)(iii) of this section.

(3) *Apportionment of reserves.* (i) *Notification.* (A) As soon as practicable after April 1, June 1, and August 1, and on such other dates as NMFS determines appropriate, NMFS will, by notification in the FEDERAL REGISTER, apportion all or part of the BSAI or GOA reserve in accordance with this paragraph (b).

(B) No apportionment, retention, or PSC limit adjustment may take effect until notification has been published in the FEDERAL REGISTER with a statement of the findings upon which the apportionment, retention, or adjustment is based.

(ii) *Apportionment—(A) General.* Except as provided in paragraph (b)(3)(ii)(B) of this section, NMFS will apportion the amount of BSAI or GOA reserve that will be harvested by U.S. vessels during the remainder of the year.

(B) *Exception.* Part or all of the BSAI or GOA reserve may be withheld if an apportionment would adversely affect the conservation of groundfish resources or prohibited species.

(iii) *Public comment—(A) Prior comment.* NMFS will provide all interested persons an opportunity to comment on the proposed apportionments, retentions, or PSC limit adjustments under this paragraph (b) before such apportionments, retentions, or adjustments are made, unless NMFS finds that there is good cause for not providing a prior comment opportunity, and publishes the reasons therefor in the notification of apportionment, retention, or adjustment.

(B) *Submittal dates.* Comments provided for in this paragraph (b)(3)(iii) must be received by NMFS not later than 5 days before April 1, June 1, and August 1, or other dates that may be specified.

(C) *Subsequent comment.* If NMFS determines for good cause that notification of apportionment, retention or PSC limit adjustment must be issued without providing interested persons a prior opportunity for public comment,

comments on the apportionment, retention or adjustment will be received for a period of 15 days after its effective date.

(D) *Response to comments.* NMFS will consider all timely comments in deciding whether to make a proposed apportionment, retention, or PSC limit adjustment or to modify an apportionment, retention, or adjustment that previously has been made, and shall publish responses to those comments in the FEDERAL REGISTER as soon as practicable.

(E) *Data available.* The Regional Administrator will make available to the public during business hours the aggregate data upon which any preliminary TAC or PSC limit figure is based or the data upon which any apportionment or retention of surplus or reserve, or PSC limit adjustment was or is proposed to be based. These data will be available for a sufficient period to facilitate informed comment by interested persons.

(c) *Annual specifications—(1) Proposed specifications—*

(i) *General—(A) Notification.* As soon as practicable after consultation with the Council, NMFS will publish proposed specifications for the succeeding fishing year. The proposed specifications will reflect as accurately as possible the projected changes in U.S. harvesting and processing capacity and the extent to which U.S. harvesting and processing will occur during the coming year.

(B) *Public comment.* NMFS will accept public comment on the proposed specifications for 30 days from the date of publication in the FEDERAL REGISTER.

(ii) *GOA.* The GOA proposed specifications will specify annual TAC amounts for each target species and the “other species” category and apportionments thereof established under § 679.20(a)(2), halibut prohibited species catch amounts established under § 679.21, seasonal allowances of pollock, and inshore/offshore Pacific cod.

(iii) *BSAI.* The BSAI proposed specifications will specify the annual TAC and initial TAC amounts for each target species and the “other species” category and apportionments thereof established under § 679.20(a)(2), prohibited species catch allowances established under § 679.21, seasonal allowances of

pollock TAC, and reserve amounts established under § 679.31(a) and (c) for pollock CDQ and sablefish CDQ.

(2) *Interim specifications.* Interim harvest specifications will be in effect on January 1 and will remain in effect until superseded by the filing of the final specifications by the Office of the Federal Register. Interim specifications will be established as follows:

(i) *GOA.* One-fourth of each proposed TAC and apportionment thereof (not including the reserves or the first seasonal allowance of pollock), one-fourth of the proposed halibut prohibited species catch amounts, and the proposed first seasonal allowance of pollock.

(ii) *BSAI.* Except for the hook-and-line and pot gear allocation of sablefish, one-fourth of each proposed initial TAC and apportionment thereof (not including the first seasonal allowance of pollock), one-fourth of the proposed prohibited species catch allowance established under § 679.21, and the proposed first seasonal allowance of pollock.

(3) *Final specifications—(i) Notification.* NMFS will consider comments on the proposed specifications received during the comment period and, after consultation with the Council, will publish final specifications in the FEDERAL REGISTER. The final specifications will supersede the interim specifications.

(ii) *GOA.* The final specifications will specify the annual TAC for each target species and the “other species” category and apportionments thereof, halibut prohibited species catch amounts, and seasonal allowances of pollock.

(iii) *BSAI.* The final specifications will specify the annual TAC for each target species and the “other species” category and apportionments thereof, prohibited species catch allowances, seasonal allowances of the pollock TAC, and the sablefish CDQ reserve amount established under § 679.31(c).

(4) *Inshore/offshore allocations (Applicable through December 31, 1998).* The proposed, interim, and final specifications will specify the allocation of GOA Pacific cod, GOA pollock, and BSAI pollock for processing by the inshore and offshore components, and any seasonal allowances thereof, as authorized under paragraphs (a)(5) and (a)(7) of this section.

(5) *BSAI Pacific cod gear allocations (Applicable through December 31, 1996)*. The proposed, interim, and final specifications will specify the allocation of BSAI Pacific cod among gear types as authorized under paragraph (a)(7) of this section.

(d) *Fishery closures*—(1) *Directed fishing allowance*—(i) *General*. If the Regional Administrator determines that any allocation or apportionment of a target species or “other species” category specified under paragraph (c) of this section has been or will be reached, the Regional Administrator may establish a directed fishing allowance for that species or species group.

(ii) *Specified fishery amounts*—(A) *Inseason adjustments*. The category allocations or apportionments established under paragraph (c) of this section may be revised by inseason adjustments for a given species or species group or pollock allowance, as identified by regulatory area, subarea, or district, and, if applicable, as further identified by gear type.

(B) *Incidental catch*. In establishing a directed fishing allowance, the Regional Administrator shall consider the amount of the allocation or apportionment established under paragraph (c) of this section that will be taken as incidental catch in directed fishing for other species in the same subarea, regulatory area, or district.

(iii) *Directed fishing closure*—(A) *Notification*. If the Regional Administrator establishes a directed fishing allowance for a fishery allocation or apportionment under this paragraph (d), and that allowance has been or will be reached before the end of the fishing season or year, NMFS will publish notification in the FEDERAL REGISTER prohibiting directed fishing in the specified subarea, regulatory area, or district.

(B) *Retention of bycatch species*. If directed fishing for a target species or the “other species” category is prohibited, a vessel may not retain that bycatch species in an amount that exceeds the maximum retainable bycatch amount, as calculated under paragraphs (e) and (f) of this section, at any time during a fishing trip.

(2) *Groundfish as prohibited species closure*. When the Regional Administrator

determines that the TAC of any target species or the “other species” category specified under paragraph (c) of this section, or the share of any TAC assigned to any type of gear, has been or will be achieved prior to the end of a year, NMFS will publish notification in the FEDERAL REGISTER requiring that target species or the “other species” be treated in the same manner as a prohibited species, as described under §679.21(b), for the remainder of the year.

(3) *Overfishing closure*—(i) *Notification*. If, in making a determination under paragraph (d)(2) of this section, the Regional Administrator also determines that fishing for other target species or species groups in the area, district or part thereof where the notification applies, may lead to the overfishing of the species or species group for which the allocation or apportionment has been or will be reached, NMFS will publish notification in the FEDERAL REGISTER specifying limitations or prohibitions designed to prevent overfishing of that species or species group.

(ii) *Limitations and prohibitions*. These limitations and prohibitions may prohibit directed fishing for other species or species groups in the area, district, or part thereof where the notification applies, or may limit time, area, or gear types that may be used in directed fishing for the other species or species groups.

(iii) *Factors to be considered*. When making the determinations specified under paragraphs (d)(1), (d)(2), and (d)(3) of this section, the Regional Administrator may consider allowing fishing to continue or resume with certain gear types or in certain areas and times based on findings of:

(A) The risk of biological harm to a groundfish species or species group for which the TAC or PSC limit is or will be reached.

(B) The risk of socioeconomic harm to authorized users of the groundfish for which the TAC or PSC limit will be or has been reached.

(C) The impact that the continued closure might have on the socioeconomic well-being of other domestic fisheries.

(e) *Maximum retainable bycatch amounts*—(1) *Proportion of basis species*.

The maximum retainable bycatch amount for a bycatch species or species group is calculated as a proportion of the basis species retained on board the vessel using the retainable percentages in Table 10 to this part for the GOA species categories and in Table 11 to this part for the BSAI species categories.

(2) *Calculation.* (i) To calculate the maximum retainable bycatch amount for a specific bycatch species, an individual retainable bycatch amount must be calculated with respect to each basis species that is retained on board that vessel.

(ii) To obtain these individual retainable bycatch amounts, multiply the appropriate retainable percentage for the bycatch species/basis species combination, set forth in Table 10 to this part for the GOA species categories and Table 11 to this part for the BSAI species categories, by the amount of that basis species, in round-weight equivalents.

(iii) The maximum retainable bycatch amount for that specific bycatch species is the sum of the individual retainable bycatch amounts.

(f) *Directed fishing calculations and determinations—(1) Round-weight equivalents.* Any determination concerning directed fishing, the amount or percentage of any species, species group, or any fish or fish products must be calculated in round-weight equivalents.

(2) *Retainable amounts.* Except as provided in Table 10 to this part, arrowtooth flounder, or any groundfish species for which directed fishing is closed, may not be used to calculate retainable amounts of other groundfish species.

(g) *Allowable retention of pollock roe—(1) Percentage of pollock roe.* (i) Pollock roe retained on board a vessel at any time during a fishing trip must not exceed 7 percent of the total round-weight equivalent of pollock, as calculated from the primary pollock product on board the vessel during the same fishing trip.

(ii) Determinations of allowable retention of pollock roe will be based on amounts of pollock harvested, received, or processed during a single fishing trip.

(iii) Pollock or pollock products from previous fishing trips that are retained on board a vessel may not be used to determine the allowable retention of pollock roe for that vessel.

(2) *Primary product.* (i) For purposes of this paragraph (g), only one primary pollock product per fish, other than roe, may be used to calculate the round-weight equivalent.

(ii) A primary pollock product that contains roe (such as headed and gutted pollock with roe) may not be used to calculate the round-weight equivalent of pollock.

(iii) The primary pollock product must be distinguished from ancillary pollock products in the DCPL required under §679.5. Ancillary products are those such as meal, heads, internal organs, pectoral girdles, or any other product that may be made from the same fish as the primary product.

(3) *Pollock product recovery rates (PRRs).* Only the following product types and standard PRRs may be used to calculate round-weight equivalents for pollock for purposes of this paragraph (g):

Product code	Product description	Standard product recovery rate
07 .....	Headed and gutted, western cut .....	0.65
08 .....	Headed and gutted, eastern cut .....	0.56
10 .....	Headed and gutted, without tail .....	0.50
20 .....	Fillets with skin & ribs .....	0.35
21 .....	Fillets with skin on, no ribs .....	0.30
22 .....	Fillets with ribs, no skin .....	0.30
23 .....	Fillets, skinless, boneless .....	0.21
24 .....	Deep skin fillets .....	0.16
30 .....	Surimi .....	0.16
31 .....	Mince .....	0.22
32 .....	Meal .....	0.17

(4) *Calculation of retainable pollock roe*—(i) *Round-weight equivalent.* (A) To calculate the amount of pollock roe that can be retained on board during a fishing trip, first calculate the round-weight equivalent by dividing the total amount of primary product on board by the appropriate PRR.

(B) To determine the maximum amount of pollock roe that can be retained on board a vessel during the same fishing trip, multiply the round-weight equivalent by 0.07.

(C) Pollock roe retained on board from previous fishing trips will not be counted.

(ii) *Two or more products from different fish.* (A) If two or more products, other than roe, are made from different fish, round-weight equivalents are calculated separately for each product.

(B) To determine the maximum amount of pollock roe that can be retained on board a vessel during a fishing trip, add the round-weight equivalents together; then, multiply the sum by 0.07.

(iii) *Two or more products from same fish.* If two or more products, other than roe, are made from the same fish, the maximum amount of pollock roe that can be retained during a fishing trip is determined from the primary product.

(5) *Primary pollock product*—(i) *Process prior to transfer.* Any primary pollock product used to calculate retainable amounts of pollock roe must be frozen, canned, or reduced to meal by the vessel retaining the pollock roe prior to any transfer of the product to another vessel.

(ii) *No discard of processed product.* Any pollock product that has been frozen, canned, or reduced to meal may not be discarded at sea.

(h) *Standard product types and standard PRRs*—(1) *Calculating round-weight equivalents from standard PRRs.* Round-weight equivalents for groundfish products are calculated using the product codes and standard PRRs specified in Table 3 of this part.

(2) *Adjustments.* The Regional Administrator may adjust standard PRRs and product types specified in Table 3 of this part if he or she determines that existing standard PRRs are inaccurate or if new product types are developed.

(i) Adjustments to any standard PRR listed in Table 3 of this part that are within and including 15 percent of that standard PRR may be made without providing notification and opportunity for prior public comment.

(ii) Adjustments of any standard PRR during a calendar year, when aggregated with all other adjustments made during that year, will not exceed 15 percent of the standard PRR listed in Table 3 of this part at the beginning of that calendar year.

(iii) No new product type will be announced until NMFS publishes the proposed adjustment and/or new product type in the FEDERAL REGISTER and provides the public with at least 30 days opportunity for public comment.

(iv) Any adjustment of a PRR that acts to further restrict the fishery will not be effective until 30 days after the date of publication in the FEDERAL REGISTER.

(v) If NMFS makes any adjustment or announcement without providing a prior notification and opportunity for prior public comment, the Regional Administrator will receive public comments on the adjustment or announcement for a period of 15 days from the date of publication in the FEDERAL REGISTER.

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#### **§ 679.21 Prohibited species bycatch management.**

(a) *Applicability.* (1) This section applies to all vessels required to have a Federal fisheries permit under § 679.4.

(2) Except as otherwise provided, this section also applies to all motherships and shoreside processors that receive groundfish from vessels required to have a Federal fisheries permit under § 679.4.

(b) *General*—(1) *Definition.* Prohibited species, for the purpose of this part, means any of the species of Pacific salmon (*Oncorhynchus* spp.), steelhead trout (*Oncorhynchus mykiss*), halibut, Pacific herring (*Clupea harengus pallasii*), king crab, and Tanner crab caught by a vessel regulated under this part while fishing for groundfish in the

BSAI or GOA, unless retention is authorized by other applicable laws, including the annual management measures published in the FEDERAL REGISTER pursuant to § 300.62 of this title.

(2) *Prohibited species catch restrictions.* The operator of each vessel engaged in directed fishing for groundfish in the GOA or BSAI must:

(i) Minimize its catch of prohibited species.

(ii) Sort its catch as soon as possible after retrieval of the gear and, except as provided under paragraph (c) of this section or § 679.26, must return all prohibited species or parts thereof to the sea immediately, with a minimum of injury, regardless of its condition, after allowing for sampling by an observer if an observer is aboard.

(3) *Rebuttable presumption.* Except as provided under paragraph (c) of this section, it will be a rebuttable presumption that any prohibited species retained on board a fishing vessel regulated under this part was caught and retained in violation of this section.

(4) *Prohibited species taken seaward of the EEZ off Alaska.* No vessel fishing for groundfish in the GOA or BSAI may have on board any species listed in this paragraph (b) that was taken in waters seaward of these management areas, regardless of whether retention of such species was authorized by other applicable laws.

(c) *Salmon taken in BSAI trawl fishery—* (1) *Salmon discard.* Except as provided in paragraph (c)(3) of this section, the operator of a vessel and the manager of a shoreside processor must not discard any salmon or transfer or process any salmon under the SDP at § 679.26, if the salmon were taken incidental to a directed fishery for BSAI groundfish by vessels using trawl gear until the number of salmon has been determined by an observer and the collection of any scientific data or biological samples from the salmon has been completed.

(2) *Salmon retention and storage.* (i) Operators of vessels carrying observers aboard and whose fishing operations allow for sorting of BSAI groundfish catch for salmon must retain all salmon bycatch from each haul in a separate bin or other location that allows an observer free and unobstructed

physical access to the salmon to count each fish and collect any scientific data or biological samples. Salmon from different hauls must be retained separately in a manner that identifies the haul from which the salmon were taken.

(ii) Operators of vessels not carrying observers aboard or whose fishing operations do not allow for sorting of BSAI groundfish catch for salmon must ice, freeze, or store in a refrigerated salt-water tank all salmon taken as bycatch in trawl operations for delivery to the processor receiving the vessel's BSAI groundfish catch.

(iii) Processors receiving BSAI groundfish harvested in a directed fishery for groundfish using trawl gear must retain all salmon delivered by each trawl vessel during a weekly reporting period in separate bins marked with the vessel's name and ADF&G fish ticket number(s) for each delivery until an observer has counted each salmon and collected any scientific data or biological samples from the salmon delivered to the processor by that vessel. Processors without an observer present must store whole salmon in an iced or frozen state until an observer is available to count each fish. Salmon must be stored at a location that allows an observer free and unobstructed physical access to each salmon.

(3) *Exemption.* Motherships and shoreside processors that are not required to obtain observer coverage during a month under § 679.50(c) and (d) are not required to retain salmon.

(4) *Assignment of crew to assist observer.* Operators of vessels and managers of shoreside processors that are required to retain salmon under paragraph (c)(1) of this section must designate and identify to the observer aboard the vessel or at the shoreside processor a crew person or employee to be responsible for sorting, retention, and storage of salmon. Upon request of the observer, the designated crew person or employee also is responsible for counting salmon and taking biological samples from retained salmon under the direction of the observer.

(5) *Release of salmon.* Salmon must be returned to Federal waters as soon as

is practicable, with a minimum of injury, regardless of condition, following notification by an observer that the number of salmon has been determined and the collection of any scientific data or biological samples has been completed.

(d) *GOA halibut PSC limits.* This section is applicable for vessels engaged in directed fishing for groundfish in the GOA.

(1) *Notification—(i) Proposed and final limits and apportionments.* NMFS will publish annually in the FEDERAL REGISTER proposed and final halibut PSC limits and apportionments thereof in the notification required under § 679.20.

(ii) *Modification of limits.* NMFS, by notification in the FEDERAL REGISTER, may change the halibut PSC limits during the year for which they were specified, based on new information of the types set forth in this paragraph (d)(1).

(2) *Public comment.* NMFS will accept public comment on the proposed halibut PSC limits, and apportionments thereof, for a period of 30 days from the date of publication in the FEDERAL REGISTER. NMFS will consider comments received on proposed halibut limits and, after consultation with the Council, will publish notification in the FEDERAL REGISTER specifying the final halibut PSC limits and apportionments thereof.

(3) *Trawl gear proposed halibut limit—(i) Notification.* After consultation with the Council, NMFS will publish notification in the FEDERAL REGISTER specifying the proposed halibut PSC limit for vessels using trawl gear.

(ii) *Bycatch allowance.* The halibut PSC limit specified for vessels using trawl gear may be further apportioned as bycatch allowances to the fishery categories listed in paragraph (d)(3)(iii) of this section, based on each category's proportional share of the anticipated halibut bycatch mortality during a fishing year and the need to optimize the amount of total groundfish harvest under the halibut PSC limit. The sum of all bycatch allowances will equal the halibut PSC limit established under this paragraph (d).

(iii) *Trawl fishery categories.* For purposes of apportioning the trawl halibut PSC limit among fisheries, the follow-

ing fishery categories are specified and defined in terms of round-weight equivalents of those GOA groundfish species for which a TAC has been specified under § 679.20:

(A) *Shallow-water species fishery.* Fishing with trawl gear during any weekly reporting period that results in a retained aggregate catch of pollock, Pacific cod, shallow-water flatfish, flathead sole, Atka mackerel, and "other species" that is greater than the retained aggregate amount of other GOA groundfish species or species group.

(B) *Deep-water species fishery.* Fishing with trawl gear during any weekly reporting period that results in a retained catch of groundfish and is not a shallow-water species fishery as defined under paragraph (d)(3)(iii)(A) of this section.

(4) *Hook-and-line and pot gear fisheries—(i) Notification.* After consultation with the Council, NMFS will publish notification in the FEDERAL REGISTER specifying the proposed and final halibut PSC limits for vessels using hook-and-line gear. The notification also may specify a halibut PSC limit for the pot gear fisheries.

(ii) *Halibut bycatch allowance.* The halibut PSC limit specified for vessels using hook-and-line gear may be further apportioned, as bycatch allowances, to the fishery categories listed in paragraph (d)(4)(iii) of this section, based on each category's proportional share of the anticipated halibut bycatch mortality during a fishing year and the need to optimize the amount of total groundfish harvest under the halibut PSC limit. The sum of all bycatch allowances will equal the halibut PSC limit established under this paragraph (d).

(iii) *Hook-and-line fishery categories.* For purposes of apportioning the hook-and-line halibut PSC limit among fisheries, the following fishery categories are specified and defined in terms of round-weight equivalents of those GOA groundfish species for which a TAC has been specified under § 679.20.

(A) *Demersal shelf rockfish in the Southeast Outside District.* Fishing with hook-and-line gear in the Southeast Outside District of the GOA Eastern Regulatory Area (SEEO) during any weekly reporting period that results in

a retained catch of demersal shelf rockfish that is greater than the retained amount of any other fishery category defined under this paragraph (d)(4)(iii).

(B) *Sablefish fishery.* Fishing with hook-and-line gear during any weekly reporting period that results in a retained catch of sablefish that is greater than the retained amount of any other fishery category defined under this paragraph (d)(4)(iii).

(C) *Other hook-and-line fishery.* Fishing with hook-and-line gear during any weekly reporting period that results in a retained catch of groundfish and is not a demersal shelf rockfish fishery or a sablefish fishery defined under paragraphs (d)(4)(iii)(A) and (B) of this section.

(5) *Seasonal apportionments—(i) General.* NMFS, after consultation with the Council, may apportion each halibut PSC limit or bycatch allowance specified under this paragraph (d) on a seasonal basis.

(ii) *Factors to be considered.* NMFS will base any seasonal apportionment of a halibut PSC limit or bycatch allowance on the following types of information:

(A) Seasonal distribution of halibut.

(B) Seasonal distribution of target groundfish species relative to halibut distribution.

(C) Expected halibut bycatch needs, on a seasonal basis, relative to changes in halibut biomass and expected catches of target groundfish species.

(D) Expected variations in bycatch rates throughout the fishing year.

(E) Expected changes in directed groundfish fishing seasons.

(F) Expected start of fishing effort.

(G) Economic effects of establishing seasonal halibut allocations on segments of the target groundfish industry.

(iii) *Unused seasonal apportionments.* Unused seasonal apportionments of halibut PSC limits specified for trawl, hook-and-line, or pot gear will be added to the respective seasonal apportionment for the next season during a current fishing year.

(iv) *Seasonal apportionment exceeded.* If a seasonal apportionment of a halibut PSC limit specified for trawl, hook-and-line, or pot gear is exceeded,

the amount by which the seasonal apportionment is exceeded will be deducted from the respective apportionment for the next season during a current fishing year.

(6) *Apportionment among regulatory areas and districts.* Each halibut PSC limit specified under this paragraph (d) also may be apportioned among the GOA regulatory areas and districts.

(7) *Halibut PSC closures—(i) Trawl gear fisheries.* If, during the fishing year, the Regional Administrator determines that U.S. fishing vessels participating in either of the trawl fishery categories listed in paragraph (d)(3)(iii) (A) or (B) of this section will catch the halibut bycatch allowance, or apportionments thereof, specified for that fishery category under paragraph (d)(1) of this section, NMFS will publish notification in the FEDERAL REGISTER closing the entire GOA or the applicable regulatory area or district to directed fishing with trawl gear for each species and/or species group that comprises that fishing category; provided, however, that when the halibut bycatch allowance, or seasonal apportionment thereof, specified for the shallow-water species fishery is reached, fishing for pollock by vessels using pelagic trawl gear may continue, consistent with other provisions of this part.

(ii) *Hook-and-line fisheries.* If, during the fishing year, the Regional Administrator determines that U.S. fishing vessels participating in any of the three hook-and-line gear fishery categories listed under paragraph (d)(4)(iii) of this section will catch the halibut bycatch allowance, or apportionments thereof, specified for that fishery category under paragraph (d)(1) of this section, NMFS will publish notification in the FEDERAL REGISTER closing the entire GOA or the applicable regulatory area or district to directed fishing with hook-and-line gear for each species and/or species group that comprises that fishing category.

(iii) *Pot gear fisheries.* If, during the fishing year, the Regional Administrator determines that the catch of halibut by operators of vessels using pot gear to participate in a directed fishery for groundfish will reach the halibut PSC limit, or seasonal apportionment thereof, NMFS will publish

notification in the FEDERAL REGISTER prohibiting directed fishing for groundfish by vessels using pot gear for the remainder of the season to which the halibut PSC limit or seasonal apportionment applies.

(iv) *Nonpelagic trawl gear fisheries—*

(A) *Continued fishing under specified conditions.* When the vessels to which a halibut PSC limit applies have caught an amount of halibut equal to that PSC, the Regional Administrator may, by notification in the FEDERAL REGISTER, allow some or all of those vessels to continue to fish for groundfish using nonpelagic trawl gear under specified conditions, subject to the other provisions of this part.

(B) *Factors to be considered.* In authorizing and conditioning such continued fishing with bottom-trawl gear, the Regional Administrator will take into account the following considerations, and issue relevant findings:

(1) The risk of biological harm to halibut stocks and of socio-economic harm to authorized halibut users posed by continued bottom trawling by these vessels.

(2) The extent to which these vessels have avoided incidental halibut catches up to that point in the year.

(3) The confidence of the Regional Administrator in the accuracy of the estimates of incidental halibut catches by these vessels up to that point in the year.

(4) Whether observer coverage of these vessels is sufficient to assure adherence to the prescribed conditions and to alert the Regional Administrator to increases in their incidental halibut catches.

(5) The enforcement record of owners and operators of these vessels, and the confidence of the Regional Administrator that adherence to the prescribed conditions can be assured in light of available enforcement resources.

(e) *BSAI PSC limits—(1) Trawl gear—*

(i) *Red king crab in Zone 1.* The PSC limit of red king crab caught by trawl vessels while engaged in directed fishing for groundfish in Zone 1 during any fishing year will be specified annually by NMFS, after consultation with the Council, based on abundance and spawning biomass of red king crab using the criteria set out under para-

graphs (e)(1)(i)(A) through (C) of this section.

(A) When the number of mature female red king crab is at or below the threshold of 8.4 million mature crab or the effective spawning biomass is less than or equal to 14.5 million lb (6,577 mt), the Zone 1 PSC limit will be 35,000 red king crab.

(B) When the number of mature female red king crab is above the threshold of 8.4 million mature crab and the effective spawning biomass is greater than 14.5 but less than 55 million lb (24,948 mt), the Zone 1 PSC limit will be 100,000 red king crab.

(C) When the number of mature female red king crab is above the threshold of 8.4 million mature crab and the effective spawning biomass is equal to or greater than 55 million lb, the Zone 1 PSC limit will be 200,000 red king crab.

(ii) *Tanner crab (*C. bairdi*).* The PSC limit of *C. bairdi* crabs caught by trawl vessels while engaged in directed fishing for groundfish in Zones 1 and 2 during any fishing year will be specified annually by NMFS under paragraph (e)(6) of this section, based on total abundance of *C. bairdi* crabs as indicated by the NMFS annual bottom trawl survey, using the criteria set out under paragraphs (e)(1)(ii)(A) and (B) of this section.

(A) *Zone 1.* When the total abundance of *C. bairdi* crabs is:

(1) 150 million animals or less, the PSC limit will be 0.5 percent of the total abundance.

(2) Over 150 million to 270 million animals, the PSC limit will be 750,000 animals.

(3) Over 270 million to 400 million animals, the PSC limit will be 850,000 animals.

(4) Over 400 million animals, the PSC limit will be 1,000,000 animals.

(B) *Zone 2.* When the total abundance of *C. bairdi* crabs is:

(1) 175 million animals or less, the PSC limit will be 1.2 percent of the total abundance.

(2) Over 175 million to 290 million animals, the PSC limit will be 2,100,000 animals.

(3) Over 290 million to 400 million animals, the PSC limit will be 2,550,000 animals.

(4) Over 400 million animals, the PSC limit will be 3,000,000 animals.

(iii) *Halibut*. The PSC limit of halibut caught while conducting any trawl fishery for groundfish in the BSAI during any fishing year is an amount of halibut equivalent to 3,775 mt of halibut mortality.

(iv) *Pacific herring*. The PSC limit of Pacific herring caught while conducting any domestic trawl fishery for groundfish in the BSAI is 1 percent of the annual eastern Bering Sea herring biomass. The PSC limit will be apportioned into annual herring PSC allowances, by target fishery, and will be published along with the annual herring PSC limit in the FEDERAL REGISTER with the proposed and final groundfish specifications defined in § 679.20.

(v) *Chinook salmon*. The PSC limit of chinook salmon caught while conducting any trawl fishery for groundfish in the BSAI between January 1 and April 15 is 48,000 fish.

(vi) *Non-chinook salmon*. The PSC limit of non-chinook salmon caught by vessels using trawl gear during August 15 through October 14 in the CVOA is 42,000 fish.

(2) *Nontrawl gear, halibut*. The PSC limit of halibut caught while conducting any nontrawl fishery for groundfish in the BSAI during any fishing year is an amount of halibut equivalent to 900 mt of halibut mortality.

(3) *PSC apportionment to trawl fisheries*—(i) *General*. NMFS, after consultation with the Council, will apportion each PSC limit set forth in paragraphs (e)(1)(i) through (vii) of this section into bycatch allowances for fishery categories defined in paragraph (e)(3)(iv) of this section, based on each category's proportional share of the anticipated incidental catch during a fishing year of prohibited species for which a PSC limit is specified and the need to optimize the amount of total groundfish harvested under established PSC limits. The sum of all bycatch allowances of any prohibited species will equal its PSC limit.

(ii) *Red king crab, C. bairdi Tanner crab, and halibut*—(A) *General*. For vessels engaged in directed fishing for groundfish in the GOA or BSAI, the PSC limits for red king crab, *C. bairdi*

Tanner crab, and halibut will be apportioned to the trawl fishery categories defined in paragraphs (e)(3)(iv) (B) through (F) of this section.

(B) *Red King Crab Savings Subarea (RKCSS)*. (1) The RKCSS is the portion of the RKCSA between 56°00' and 56°10' N. lat. Notwithstanding other provisions of this part, vessels using non-pelagic trawl gear in the RKCSS may engage in directed fishing for groundfish in a given year, if the ADF&G had established a guideline harvest level the previous year for the red king crab fishery in the Bristol Bay area.

(2) When the RKCSS is open to vessels fishing for groundfish with non-pelagic trawl gear under (e)(3)(ii)(B)(1) of this section, NMFS, after consultation with the Council, will specify an amount of the red king crab bycatch limit annually established under paragraph (e)(1)(i) of this section for the RKCSS. The amount of the red king crab bycatch limit specified for the RKCSS will not exceed an amount equivalent to 35 percent of the trawl bycatch allowance specified for the rock sole/flathead sole/"other flatfish" fishery category under this paragraph (e)(3) and will be based on the need to optimize the groundfish harvest relative to red king crab bycatch.

(C) *Incidental catch in midwater pollock fishery*. Any amount of red king crab, *C. bairdi* Tanner crab, or halibut that is incidentally taken in the midwater pollock fishery as defined in paragraph (e)(3)(iv)(A) of this section will be counted against the bycatch allowances specified for the pollock/Atka mackerel/"other species" category defined in paragraph (e)(3)(iv)(F) of this section.

(iii) *Pacific herring*. The PSC limit for Pacific herring will be apportioned to the BSAI trawl fishery categories defined in paragraphs (e)(3)(iv) (A) through (F) of this section.

(iv) *Trawl fishery categories*. For purposes of apportioning trawl PSC limits among fisheries, the following fishery categories are specified and defined in terms of round-weight equivalents of those groundfish species or species groups for which a TAC has been specified under § 679.20.

(A) *Midwater pollock fishery*. Fishing with trawl gear during any weekly reporting period that results in a catch of pollock that is 95 percent or more of the total amount of groundfish caught during the week.

(B) *Flatfish fishery*. Fishing with trawl gear during any weekly reporting period that results in a retained aggregate amount of rock sole, "other flatfish," and yellowfin sole that is greater than the retained amount of any other fishery category defined under this paragraph (e)(3)(iv).

(1) *Yellowfin sole fishery*. Fishing with trawl gear during any weekly reporting period that is defined as a flatfish fishery under this paragraph (e)(3)(iv)(B) and results in a retained amount of yellowfin sole that is 70 percent or more of the retained aggregate amount of rock sole, "other flatfish," and yellowfin sole.

(2) *Rock sole/flathead sole/"other flatfish" fishery*. Fishing with trawl gear during any weekly reporting period that is defined as a flatfish fishery under this paragraph (e)(3)(iv)(B) and is not a yellowfin sole fishery as defined under paragraph (e)(3)(iv)(B)(1) of this section.

(C) *Greenland turbot/arrowtooth flounder/sablefish fishery*. Fishing with trawl gear during any weekly reporting period that results in a retained aggregate amount of Greenland turbot, arrowtooth flounder, and sablefish that is greater than the retained amount of any other fishery category defined under this paragraph (e)(3)(iv).

(D) *Rockfish fishery*. Fishing with trawl gear during any weekly reporting period that results in a retained aggregate amount of rockfish species of the genera *Sebastes* and *Sebastolobus* that is greater than the retained amount of any other fishery category defined under this paragraph (e)(3)(iv).

(E) *Pacific cod fishery*. Fishing with trawl gear during any weekly reporting period that results in a retained aggregate amount of Pacific cod that is greater than the retained amount of any other groundfish fishery category defined under this paragraph (e)(3)(iv).

(F) *Pollock/Atka mackerel/"other species"*. Fishing with trawl gear during any weekly reporting period that results in a retained aggregate amount of

pollock other than pollock harvested in the midwater pollock fishery defined under paragraph (e)(3)(iv)(A) of this section, Atka mackerel, and "other species" that is greater than the retained amount of any other fishery category defined under this paragraph (e)(3)(iv).

(4) *Halibut apportionment to nontrawl fishery categories—(i) General*. NMFS, after consultation with the Council, may apportion the halibut PSC limit for nontrawl gear set forth under paragraph (e)(2) of this section into bycatch allowances for nontrawl fishery categories defined under paragraph (e)(4)(ii) of this section, based on each category's proportional share of the anticipated bycatch mortality of halibut during a fishing year and the need to optimize the amount of total groundfish harvested under the nontrawl halibut PSC limit. The sum of all halibut bycatch allowances will equal the halibut PSC limit established in paragraph (e)(2) of this section.

(ii) *Nontrawl fishery categories*. For purposes of apportioning the nontrawl halibut PSC limit among fisheries, the following fishery categories are specified and defined in terms of round-weight equivalents of those BSAI groundfish species for which a TAC has been specified under § 679.20.

(A) *Pacific cod hook-and-line fishery*. Fishing with hook-and-line gear during any weekly reporting period that results in a retained catch of Pacific cod that is greater than the retained amount of any other groundfish species.

(B) *Sablefish hook-and-line fishery*. Fishing with hook-and-line gear during any weekly reporting period that results in a retained catch of sablefish that is greater than the retained amount of any other groundfish species.

(C) *Groundfish jig gear fishery*. Fishing with jig gear during any weekly reporting period that results in a retained catch of groundfish.

(D) *Groundfish pot gear fishery*. Fishing with pot gear under restrictions set forth in § 679.24(b) during any weekly reporting period that results in a retained catch of groundfish.

(E) *Other nontrawl fisheries.* Fishing for groundfish with nontrawl gear during any weekly reporting period that results in a retained catch of groundfish and does not qualify as a Pacific cod hook-and-line fishery, a sablefish hook-and-line fishery, a jig gear fishery, or a groundfish pot gear fishery as defined under paragraph (e)(4)(ii) of this section.

(5) *Seasonal apportionments of bycatch allowances—(i) General.* NMFS, after consultation with the Council, may apportion fishery bycatch allowances on a seasonal basis.

(ii) *Factors to be considered.* NMFS will base any seasonal apportionment of a bycatch allowance on the following types of information:

(A) Seasonal distribution of prohibited species;

(B) Seasonal distribution of target groundfish species relative to prohibited species distribution;

(C) Expected prohibited species bycatch needs on a seasonal basis relevant to change in prohibited species biomass and expected catches of target groundfish species;

(D) Expected variations in bycatch rates throughout the fishing year;

(E) Expected changes in directed groundfish fishing seasons;

(F) Expected start of fishing effort; or

(G) Economic effects of establishing seasonal prohibited species apportionments on segments of the target groundfish industry.

(iii) *Seasonal trawl fishery bycatch allowances—(A) Unused seasonal apportionments.* Unused seasonal apportionments of trawl fishery bycatch allowances made under this paragraph (e)(5) will be added to its respective fishery bycatch allowance for the next season during a current fishing year.

(B) *Seasonal apportionment exceeded.* If a seasonal apportionment of a trawl fishery bycatch allowance made under paragraph (d)(5) of this section is exceeded, the amount by which the seasonal apportionment is exceeded will be deducted from its respective apportionment for the next season during a current fishing year.

(iv) *Seasonal nontrawl fishery bycatch allowances—(A) Unused seasonal apportionments.* Any unused portion of a sea-

sonal nontrawl fishery bycatch allowance made under this paragraph (e)(5) will be reapportioned to the fishery's remaining seasonal bycatch allowances during a current fishing year in a manner determined by NMFS, after consultation with the Council, based on the types of information listed under paragraph (e)(5)(ii) of this section.

(B) *Seasonal apportionment exceeded.* If a seasonal apportionment of a nontrawl fishery bycatch allowance made under this paragraph (e)(5) is exceeded, the amount by which the seasonal apportionment is exceeded will be deducted from the fishery's remaining seasonal bycatch allowances during a current fishing year in a manner determined by NMFS, after consultation with the Council, based on the types of information listed under paragraph (e)(5)(ii) of this section.

(6) *Notification—(i) General.* NMFS will publish annually in the FEDERAL REGISTER the annual red king crab PSC limit, and, if applicable, the amount of this PSC limit specified for the RKCSS, the annual *C. bairdi* PSC limit, the proposed and final bycatch allowances, seasonal apportionments thereof, and the manner in which seasonal apportionments of nontrawl fishery bycatch allowances will be managed, as required under this paragraph (e).

(ii) *Public comment.* Public comment will be accepted by NMFS on the proposed annual red king crab PSC limit and, if applicable, the amount of this PSC limit specified for the RKCSS, the annual *C. bairdi* PSC limit, the proposed and final bycatch allowances, seasonal apportionments thereof, and the manner in which seasonal apportionments of nontrawl fishery bycatch allowances will be managed, for a period of 30 days from the date of publication in the FEDERAL REGISTER.

(7) *Trawl PSC closures—(i) Exception.* When a bycatch allowance, or seasonal apportionment thereof, specified for the pollock/Atka mackerel/"other species" fishery category is reached, only directed fishing for pollock is closed to trawl vessels using nonpelagic trawl gear.

(ii) *Red king crab or C. bairdi Tanner crab, Zone 1, closure—(A) General.* Except as provided in paragraph (e)(7)(i) of this section, if, during the fishing

year, the Regional Administrator determines that U.S. fishing vessels participating in any of the fishery categories listed in paragraphs (e)(3)(iv)(B) through (F) of this section will catch the Zone 1 bycatch allowance, or seasonal apportionment thereof, of red king crab or *C. bairdi* Tanner crab specified for that fishery category under paragraph (e)(3) of this section, NMFS will publish in the FEDERAL REGISTER the closure of Zone 1, including the RKCSS, to directed fishing for each species and/or species group in that fishery category for the remainder of the year or for the remainder of the season.

(B) *RKCSS*. If, during the fishing year the Regional Administrator determines that the amount of the red king crab PSC limit that is specified for the RKCSS under §679.21(e)(3)(ii)(B) of this section will be caught, NMFS will publish in the FEDERAL REGISTER the closure of the RKCSS to directed fishing for groundfish with nonpelagic trawl gear for the remainder of the year.

(iii) *C. bairdi* Tanner crab, Zone 2, closure. Except as provided in paragraph (e)(7)(i) of this section, if, during the fishing year, the Regional Administrator determines that U.S. fishing vessels participating in any of the fishery categories listed in paragraphs (e)(3)(iv)(B) through (F) of this section will catch the Zone 2 bycatch allowance, or seasonal apportionment thereof, of *C. bairdi* Tanner crab specified for that fishery category under paragraph (e)(3) of this section, NMFS will publish in the FEDERAL REGISTER the closure of Zone 2 to directed fishing for each species and/or species group in that fishery category for the remainder of the year or for the remainder of the season.

(iv) *Halibut closure*. Except as provided in paragraph (e)(7)(i) of this section, if, during the fishing year, the Regional Administrator determines that U.S. fishing vessels participating in any of the trawl fishery categories listed in paragraphs (e)(3)(iv)(B) through (F) of this section in the BSAI will catch the halibut bycatch allowance, or seasonal apportionment thereof, specified for that fishery category under paragraph (e)(3) of this section, NMFS will publish in the FEDERAL

REGISTER the closure of the entire BSAI to directed fishing for each species and/or species group in that fishery category for the remainder of the year or for the remainder of the season.

(v) *Pacific herring*—(A) *Closure*. Except as provided in paragraph (e)(7)(v)(B) of this section, if, during the fishing year, the Regional Administrator determines that U.S. fishing vessels participating in any of the fishery categories listed in paragraphs (e)(3)(iv)(A) through (F) of this section in the BSAI will catch the herring bycatch allowance, or seasonal apportionment thereof, specified for that fishery category under paragraph (e)(3) of this section, NMFS will publish in the FEDERAL REGISTER the closure of the Herring Savings Area as defined in Figure 4 of this part to directed fishing for each species and/or species group in that fishery category.

(B) *Exceptions*—(1) *Midwater pollock*. When the midwater pollock fishery category reaches its specified bycatch allowance, or seasonal apportionment thereof, the Herring Savings Areas are closed to directed fishing for pollock with trawl gear.

(2) *Pollock/Atka mackerel/ "other species"*. When the pollock/Atka mackerel/ "other species" fishery category reaches its specified bycatch allowance, or seasonal apportionment thereof, the Herring Savings Areas are closed to directed fishing for pollock by trawl vessels using nonpelagic trawl gear.

(vi) *Chum salmon*. (A) If the Regional Administrator determines that 42,000 non-chinook salmon have been caught by vessels using trawl gear during August 15 through October 14 in the CVOA defined under §679.22(a)(5), NMFS will prohibit fishing with trawl gear for the remainder of the period September 1 through October 14 in the Chum Salmon Savings Area as defined in paragraph (e)(7)(vi)(B) of this section.

(B) *Chum Salmon Savings Area of the CVOA*. The Chum Salmon Savings Area is an area defined by straight lines connecting the following coordinates in the order listed:

56°00' N. lat., 167°00' W. long.  
56°00' N. lat., 165°00' W. long.  
55°30' N. lat., 165°00' W. long.  
55°30' N. lat., 164°00' W. long.

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55°00' N. lat., 164°00' W. long.  
55°00' N. lat., 167°00' W. long.  
56°00' N. lat., 167°00' W. long.

(vii) *Chinook salmon*—(A) *Closure*. When the Regional Administrator determines that 48,000 chinook salmon have been caught by vessels using trawl gear in the BSAI during the time period from January 1 through April 15, NMFS will prohibit fishing with trawl gear for the remainder of that period within the Chinook Salmon Savings Area defined in paragraph (e)(7)(vii)(B) of this section.

(B) *Chinook Salmon Savings Area*. The Chinook Salmon Savings Area is defined in the following three areas of the BSAI:

(1) The area defined by straight lines connecting the following coordinates in the order listed:

56°30' N. lat., 171°00' W. long.  
56°30' N. lat., 169°00' W. long.  
56°00' N. lat., 169°00' W. long.  
56°00' N. lat., 171°00' W. long.  
56°30' N. lat., 171°00' W. long.

(2) The area defined by straight lines connecting the following coordinates in the order listed:

54°00' N. lat., 171°00' W. long.  
54°00' N. lat., 170°00' W. long.  
53°00' N. lat., 170°00' W. long.  
53°00' N. lat., 171°00' W. long.  
54°00' N. lat., 171°00' W. long.

(3) The area defined by straight lines connecting the following coordinates in the order listed:

56°00' N. lat., 165°00' W. long.  
56°00' N. lat., 164°00' W. long.  
55°00' N. lat., 164°00' W. long.  
55°00' N. lat., 165°00' W. long.  
54°30' N. lat., 165°00' W. long.  
54°30' N. lat., 167°00' W. long.  
55°00' N. lat., 167°00' W. long.  
55°00' N. lat., 166°00' W. long.  
55°30' N. lat., 166°00' W. long.  
55°30' N. lat., 165°00' W. long.  
56°00' N. lat., 165°00' W. long.

(8) *Nontrawl halibut closures*. If, during the fishing year, the Regional Administrator determines that U.S. fishing vessels participating in any of the nontrawl fishery categories listed under paragraph (e)(4) of this section will catch the halibut bycatch allowance, or seasonal apportionment thereof, specified for that fishery category under paragraph (e)(4)(ii) of this section, NMFS will publish in the FED-

ERAL REGISTER the closure of the entire BSAI to directed fishing with the relevant gear type for each species and/or species group in that fishery category.

(f) *Program to reduce prohibited species bycatch rates*—(1) *Requirements*—(i) *General*. A vessel's bycatch rate, as calculated at the end of a fishing month under paragraph (f)(8)(ii) of this section, while participating in the fisheries identified in paragraph (f)(2) of this section, shall not exceed bycatch rate standards referenced in paragraph (f)(3) of this section.

(ii) *Applicability*. A vessel is subject to this paragraph (f) if the groundfish catch of the vessel is observed on board the vessel, or on board a mothership that receives unsorted codends from the vessel, at any time during a weekly reporting period, and the vessel is assigned to one of the fisheries defined under paragraph (f)(2) of this section.

(2) *Assigned fisheries*. During any weekly reporting period, a vessel's observed catch composition of groundfish species for which a TAC has been specified in the GOA or BSAI will determine the fishery to which the vessel is assigned, as follows:

(i) *GOA midwater pollock fishery* means fishing with trawl gear in the GOA that results in an observed catch of groundfish from the GOA during any weekly reporting period that is composed of 95 percent or more of pollock when the directed fishery for pollock by vessels using trawl gear other than pelagic trawl gear is closed.

(ii) *GOA other trawl fishery* means fishing with trawl gear in the GOA that results in an observed catch of groundfish from the GOA during any weekly reporting period that does not qualify as a midwater pollock fishery under paragraph (f)(2)(i) of this section.

(iii) *BSAI midwater pollock fishery* means fishing with trawl gear in the BSAI that results in an observed catch of groundfish from the BSAI during any weekly reporting period that is composed of 95 percent or more of pollock when the directed fishery for pollock by vessels using trawl gear other than pelagic trawl gear is closed.

(iv) *BSAI yellowfin sole fishery* means fishing with trawl gear in the BSAI that results in a retained aggregate amount of rock sole, "other flatfish,"

and yellowfin sole caught in the BSAI during any weekly reporting period that is greater than the retained amount of any other fishery under this paragraph (f)(2) and results in a retained amount of BSAI yellowfin sole that is 70 percent or more of the retained aggregate amount of BSAI rock sole, "other flatfish," and yellowfin sole.

(v) *BSAI bottom pollock fishery* means fishing with trawl gear in the BSAI that results in a retained amount of pollock caught in the BSAI during any weekly reporting period other than pollock harvested in the midwater pollock fishery in the BSAI defined in paragraph (f)(2)(iii) of this section, that is greater than the retained amount of any other fishery defined under this paragraph (f)(2).

(vi) *BSAI other trawl fishery* means fishing with trawl gear in the BSAI that results in a retained amount of groundfish caught in the BSAI during any weekly reporting period that does not qualify as a midwater pollock, yellowfin sole, or bottom pollock fishery.

(3) *Notification of bycatch rate standards*—(i) *Prior notice*. Prior to January 1 and July 1 of each year, the Regional Administrator will publish notification in the FEDERAL REGISTER specifying bycatch rate standards for the fisheries identified in this paragraph (f) that will be in effect for specified seasons within the 6-month periods of January 1 through June 30 and July 1 through December 31, respectively.

(ii) *Adjustments*. The Regional Administrator may adjust bycatch rate standards as frequently as he or she considers appropriate.

(4) *Factors upon which bycatch rate standards are based*. Bycatch rate standards for a fishery and adjustments to such standards will be based on the following information and considerations:

(i) Previous years' average observed bycatch rates for that fishery.

(ii) Immediately preceding season's average observed bycatch rates for that fishery.

(iii) The bycatch allowances and associated fishery closures specified under paragraphs (d) and (e) of this section.

(iv) Anticipated groundfish harvests for that fishery.

(v) Anticipated seasonal distribution of fishing effort for groundfish.

(vi) Other information and criteria deemed relevant by the Regional Administrator.

(5) *Public comment*—(i) *Prior comment*. Bycatch rate standards or adjustments to such standards specified under this section will not take effect until NMFS has published the proposed bycatch rate standards or adjustments to such standards in the FEDERAL REGISTER for public comment for a period of 30 days, unless NMFS finds for good cause that such notification and public comment are impracticable, unnecessary, or contrary to the public interest.

(ii) *Comment after notification*. If NMFS decides, for good cause, that bycatch rate standards or adjustments to such standards are to be made effective without affording a prior opportunity for public comment, public comments on the necessity for, and extent of, bycatch rate standards or adjustments to such standards will be received by the Regional Administrator for a period of 15 days after the effective date of notification.

(iii) *Public inspection of data*. During any such 15-day period, the Regional Administrator will make available for public inspection, during business hours, the aggregate data upon which bycatch rate standards or adjustments to such standards were based.

(iv) *Written comments*. If written comments are received during any such 15-day period that oppose or protest bycatch rate standards or adjustments to such standards issued under this section, NMFS will reconsider the necessity for the bycatch standards or adjustment to such standards and, as soon as practicable after that reconsideration, will either—

(A) Publish in the FEDERAL REGISTER notification of continued effectiveness of bycatch rate standards or adjustment to such standards, responding to comments received; or

(B) Modify or rescind bycatch rate standards or adjustment to such standards.

(6) *Notification of adjustment to bycatch rate standards*. Notification of adjustments to bycatch rate standards issued by NMFS under paragraph (f)(3)

of this section will include the following information:

(i) A description of the adjustment to one or more bycatch rate standards specified for a fishery.

(ii) The reasons for the adjustment and the determinations required under paragraph (f)(4) of this section.

(iii) The effective date and any termination date of such adjustment. If no termination date is specified, the adjustment will remain in effect until revised by subsequent notification in the FEDERAL REGISTER.

(7) *Vessel bycatch rates*—(i) *Observed data*. For purposes of this section, observed data collected for each haul sampled during a day will include: Date; Federal reporting area where trawl gear for the haul was retrieved; total round weight of groundfish, in metric tons in the portion of the haul sampled by groundfish species or species group for which a TAC has been specified under § 679.20; and total round weight of halibut, in kilograms, in the portion of the haul sampled. Observer data from the BSAI trawl fisheries also will include the total number of red king crab in the portion of the haul sampled.

(ii) *Observer sampling procedures*. (A) NMFS will randomly predetermine the hauls to be sampled by an observer during the time the observer is on a vessel.

(B) An observer will take samples at random from throughout the haul, and take samples prior to sorting of the haul by the crew for processing or discarding of the catch.

(C) An observer will sample a minimum of 100 kg of fish from each haul sampled.

(D) While an observer is at sea, the observer will report to NMFS, on at least a weekly basis, the data for sampled hauls.

(E) Upon request, the observer will allow the vessel operator to see all observed data set forth under paragraph (f)(7)(i) of this section that the observer submits to NMFS.

(8) *Determination of individual vessel bycatch rates*. For each vessel, the Regional Administrator will aggregate from sampled hauls the observed data collected during a weekly reporting period on the total round weight, in metric tons, of each groundfish species or

species group for which a TAC has been specified under § 679.20 to determine to which of the fisheries described in paragraph (f)(8)(i) of this section the vessel should be assigned for that week.

(i) *Vessel assignment to fisheries*—(A) *BSAI catcher/processors*. Catcher/processors will be assigned to fisheries at the end of each weekly reporting period based on the round-weight equivalent of the retained groundfish catch composition reported on a vessel's WPR that is submitted to the Regional Administrator under § 679.5.

(B) *BSAI catcher vessel delivery in Federal waters*. Catcher vessels that deliver to motherships in Federal waters during a weekly reporting period will be assigned to fisheries based on the round-weight equivalent of the retained groundfish catch composition reported on the WPR submitted to the Regional Administrator for that week by the mothership under § 679.5.

(C) *BSAI catcher vessel delivery in Alaska State waters*. Catcher vessels delivering groundfish to shoreside processors or to motherships in Alaska State waters during a weekly reporting period will be assigned to fisheries based on the round-weight equivalent of the groundfish retained by the processor and reported on an ADF&G fish ticket as required under Alaska State regulations at A.S. 16.05.690.

(ii) *Calculation of monthly bycatch rates*—(A) *Assigned fishery*. At the end of each fishing month during which an observer sampled at least 50 percent of a vessel's total number of trawl hauls retrieved while an observer was aboard (as recorded in the vessel's DFL), the Regional Administrator will calculate the vessel's bycatch rate based on observed data for each fishery to which the vessel was assigned for any weekly reporting period during that fishing month.

(B) *Verified observer data*. Only observed data that have been checked, verified, and analyzed by NMFS will be used to calculate vessel bycatch rates for purposes of this section.

(C) *Calculation*. The bycatch rate of a vessel for a fishery defined under paragraph (f)(2) of this section during a fishing month is a ratio of halibut to groundfish that is calculated by using

the total round weight of halibut (in kilograms), or total number of red king crab, in samples during all weekly reporting periods in which the vessel was assigned to that fishery and the total round weight of the groundfish (in metric tons) for which a TAC has been specified under §679.20 in samples taken during all such periods.

(9) *Compliance with bycatch rate standards.* A vessel has exceeded a bycatch rate standard for a fishery if the vessel's bycatch rate for a fishing month, as calculated under paragraph (f)(8)(ii) of this section exceeds the bycatch rate standard established for that fishery under paragraph (f)(2) of this section.

[61 FR 31230, June 19, 1996, as amended at 61 FR 35579, July 5, 1996; 61 FR 38359, July 24, 1996; 61 FR 56431, Nov. 1, 1996; 61 FR 65988, Dec. 16, 1996; 62 FR 13841, Mar. 24, 1997]

**§ 679.22 Closures.**

(a) *BSAI—(1) Zone 1 (512) closure to trawl gear.* No fishing with trawl gear is allowed at any time in reporting Area 512 of Zone 1 in the Bering Sea subarea.

(2) *Zone 1 (516) closure to trawl gear.* No fishing with trawl gear is allowed at any time in reporting Area 516 of Zone 1 in the Bering Sea Subarea during the period March 15 through June 15.

(3) *Red King Crab Savings Area.* Directed fishing for groundfish by vessels using trawl gear other than pelagic trawl gear is prohibited at all times, except as provided at §679.21(e)(3)(ii)(B), in that part of the Bering Sea subarea defined by straight lines connecting the following coordinates, in the order listed:

<i>Latitude</i>	<i>Longitude</i>
56°00' N.;	162°00' W.
56°00' N.;	164°00' W.
57°00' N.;	164°00' W.
57°00' N.;	162°00' W.
56°00' N.;	162°00' W.

(4) *Walrus protection areas.* From April 1 through September 30 of any fishing year, vessels with a Federal fisheries permit under §679.4 are prohibited in that part of the Bering Sea subarea between 3 and 12 nm seaward of the baseline used to measure the territorial sea around islands named Round Island and The Twins, as shown on National Ocean Survey Chart 16315,

and around Cape Pierce (58°33' N. lat., 161°43' W. long.).

(5) *Catcher Vessel Operational Area (CVOA) (applicable through December 31, 1998)—(i) Inshore component.* The CVOA is established annually from the beginning of the second season of directed fishing for pollock defined at §679.23(e) until either the date that NMFS determines that the pollock quota for processing by the inshore component has been harvested, or December 31, whichever is earlier.

(ii) *Offshore component.* (A) Vessels in the offshore component are prohibited from conducting directed fishing for pollock in the CVOA unless they are operating under a CDP approved by NMFS.

(B) Vessels in the offshore component that do not catch groundfish but do process pollock caught in a directed fishery for pollock may operate within the CVOA to process pollock.

(iii) *Other than pollock.* Vessels that catch or process groundfish in directed fisheries for species other than pollock may operate within the CVOA.

(6) *Pribilof Island Area Habitat Conservation Zone.* Trawling is prohibited at all times in the area bounded by a straight line connecting the following pairs of coordinates in the following order:

- 57°57.0' N. lat., 168°30.0' W. long.
- 56°55.2' N. lat., 168°30.0' W. long.
- 56°48.0' N. lat., 169°2.4' W. long.
- 56°34.2' N. lat., 169°2.4' W. long.
- 56°30.0' N. lat., 169°25.2' W. long.
- 56°30.0' N. lat., 169°44.1' W. long.
- 56°55.8' N. lat., 170°21.6' W. long.
- 57°13.8' N. lat., 171°0.0' W. long.
- 57°57.0' N. lat., 171°0.0' W. long.
- 57°57.0' N. lat., 168°30.0' W. long.

(7) *Steller sea lion protection areas, Bering Sea Subarea and Bogoslof District—(i) Year-round closures.* Trawling is prohibited within 10 nm (18.5 km) of each of the eight Steller sea lion rookeries shown in Table 4a of this part.

(ii) *Seasonal closures.* During January 1 through April 15, or a date earlier than April 15, if adjusted under §679.20, trawling is prohibited within 20 nm (37 km) of each of the six Steller sea lion rookeries shown in Table 4b of this part.

(8) *Steller sea lion protection areas, Aleutian Islands Subarea—(i) Year-round*

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*closures.* Trawling is prohibited within 10 nm (18.4 km) of each of the 19 Steller sea lion rookeries shown in Table 5a of this part.

(ii) *Seasonal closures.* During January 1 through April 15, or a date earlier than April 15, if adjusted under § 679.20, trawling is prohibited within 20 nm (37 km) of each of the two Steller sea lion rookeries shown in Table 5b of this part.

(9) *Nearshore Bristol Bay Trawl Closure.* Directed fishing for groundfish by vessels using trawl gear in Bristol Bay, as described in the current edition of NOAA chart 16006, is closed at all times in the area east of 162°00' W. long., except that the area bounded by a straight line connecting the following coordinates in the order listed below is open to trawling from 1200 hours (A.l.t.) April 1 to 1200 hours (A.l.t.) June 15 of each year:

<i>Latitude</i>	<i>Longitude</i>
58°00' N.,	160°00' W.;
58°43' N.,	160°00' W.;
58°43' N.,	159°00' W.;
58°00' N.,	159°00' W.;
58°00' N.,	160°00' W.

(10) Trawling is prohibited from August 1 through August 31 in the Chum Salmon Savings area defined at § 679.21(e)(7)(vi)(B).

(b) *GOA—(1) Kodiak Island, trawls other than pelagic trawls—(i) Type I closures.* No person may trawl in waters of the EEZ within the vicinity of Kodiak Island, as shown in Figure 5 of this part as Type I areas, from a vessel having any trawl other than a pelagic trawl either attached or on board.

(ii) *Type II closures.* From February 15 to June 15, no person may trawl in waters of the EEZ within the vicinity of Kodiak Island, as shown in Figure 5 of this part as Type II areas, from a vessel having any trawl other than a pelagic trawl either attached or on board.

(iii) *Type III closures.* Type III areas are open to any trawl other than a pelagic trawl gear year round.

(2) *Steller sea lion protection areas—(i) Year-round closures.* Trawling is prohibited in the GOA within 10 nm of the 14 Steller sea lion rookeries designated in Table 6a of this part.

(ii) *Seasonal closures.* During January 1 through April 15, or a date earlier

than April 15, if adjusted under § 679.20, trawling is prohibited in the GOA within 20 nm of each of the three Steller sea lion rookeries presented in Table 6b of this part.

(c) *Directed fishing closures.* See § 679.20(d).

(d) *Groundfish as prohibited species closures.* See § 679.20(d).

(e) *Overfishing closures.* See § 679.20(d).

(f) *Prohibited species closures.* See § 679.21.

(g) *Scallop closures and closed areas.* See § 679.62(c) and § 679.62(d).

[61 FR 31230, June 19, 1996, as amended at 61 FR 65988, Dec. 16, 1996; 62 FR 2046, Jan. 15, 1997]

§ 679.23 Seasons.

(a) *General.* Fishing for groundfish in the GOA and BSAI is authorized from 0001 hours, A.l.t., January 1, through 2400 hours, A.l.t., December 31, subject to the other provisions of this part, except as provided in paragraph (c) of this section.

(b) *Time of groundfish openings and closures.* The time of all openings and closures of fishing seasons, other than the beginning and end of the calendar fishing year, is 1200 hours, A.l.t.

(c) *GOA and BSAI trawl groundfish.* Notwithstanding other provisions of this part, fishing for groundfish with trawl gear in the GOA and BSAI is prohibited from 0001 hours, A.l.t., January 1, through 1200 hours, A.l.t., January 20.

(d) *GOA seasons—(1) Directed fishing for trawl rockfish.* Directed fishing for rockfish of the genera *Sebastes* and *Sebastolobus* with trawl gear is authorized from 1200 hours, A.l.t., on the first day of the third quarterly reporting period of a fishing year through 2400 hours, A.l.t., December 31, subject to other provisions of this part.

(2) *Directed fishing for pollock.* Subject to other provisions of this part, directed fishing for pollock in the Western and Central Regulatory Areas is authorized only during the three seasons:

(i) From 0001 hours, A.l.t., January 1, through 1200 hours, A.l.t., April 1;

(ii) From 1200 hours, A.l.t., June 1, through 1200 hours, A.l.t., July 1; and

(iii) From 1200 hours, A.l.t., September 1, through 2400 hours, A.l.t., December 31.

(e) *BSAI seasons*—(1) *Directed fishing for arrowtooth flounder and Greenland turbot.* Directed fishing for arrowtooth flounder and Greenland turbot in the BSAI is authorized from 1200 hours, A.l.t., May 1, through 2400 hours, A.l.t., December 31, subject to the other provisions of this part.

(2) *Directed fishing for pollock.* (i) Subject to other provisions of this part, and except as provided in paragraphs (e)(2)(ii) and (e)(2)(iii) of this section, directed fishing for pollock is authorized from 0001 hours, A.l.t., January 1, through 1200 hours, A.l.t., April 15, and from 1200 hours A.l.t., September 1, through 1200 hours A.l.t., November 1, of each fishing year.

(ii) *Applicable through December 31, 1998.* (A) Subject to other provisions of this part and except as provided in paragraphs (e)(2)(ii)(B) and (e)(2)(ii)(C) of this section, directed fishing for pollock by the offshore component, defined at §679.2 of this part, or by vessels delivering pollock to the offshore component, is authorized from 1200 hours A.l.t., January 26, through 1200 hours A.l.t., April 15.

(B) Directed fishing for pollock by the offshore component, or vessels delivering pollock to the offshore component is prohibited through 1200 hours, A.l.t., February 5, for those vessels that are used to fish prior to 1200 hours, A.l.t., January 26, for groundfish in the BSAI, groundfish in the GOA, as defined at §679.2, or king or Tanner crab in the Bering Sea and Aleutian Islands Area, as defined at §679.2.

(C) Neither paragraphs (e)(2)(ii)(B) nor (e)(2)(iii) of this section apply to vessels used to fish exclusively in a directed fishery for pollock prior to 1200 hours, A.l.t., January 26, or during the period that extends from 1200 hours, A.l.t., August 25, through 1200 hours A.l.t., September 1, under the Western Alaska Community Development Quota program pursuant to subpart C and §679.23(e)(2)(ii)(D) of this section.

(D) Directed fishing for pollock under the Western Alaska Community Development Quota program pursuant to subpart C of this part is authorized

from 0001 hours A.l.t., January 1, through the end of the fishing year.

(iii) Directed fishing for pollock is prohibited during the second pollock season defined at paragraph (e)(2)(i) of this section through 1200 hours, A.l.t., September 8, for any vessel that is used to fish with trawl gear for groundfish in the BSAI or the GOA as defined at §679.2 of this part, between 1200 hours A.l.t., August 25, and 1200 hours A.l.t., September 1.

(3) *CDQ fishing seasons.* (i) *CDQ halibut.* Fishing for CDQ halibut with fixed gear under an approved CDQ allocation may begin on the effective date of the allocation, except that CDQ fishing may occur only during the fishing periods specified in the annual management measures published in the FEDERAL REGISTER pursuant to §300.62 of chapter III of this title.

(ii) *CDQ sablefish.* Fishing for CDQ sablefish with fixed gear under an approved CDQ allocation may begin on the effective date of the allocation, except that it may occur only during the IFQ fishing season specified in paragraph (g)(1) of this section.

(f) *IFQ halibut.* The fishing period(s) for IFQ halibut are established by the IPHC and are specified in the annual management measures published in the FEDERAL REGISTER pursuant to §300.62 of chapter III of this title. Catches of halibut by fixed gear at times other than during the specified fishing periods must be treated as prohibited species as prescribed at §679.21(b).

(g) *IFQ sablefish.* (1) Directed fishing for sablefish using fixed gear in any IFQ regulatory area may be conducted in any fishing year during the period specified by the Regional Administrator and announced by publication in the FEDERAL REGISTER. The Regional Administrator will take into account the opening date of the halibut season when determining the opening date for sablefish for the purposes of reducing bycatch and regulatory discards between the two fisheries.

(2) Catches of sablefish by fixed gear during other periods may be retained up to the amounts provided for by the directed fishing standards specified at §679.20 when made by an individual aboard the vessel who has a valid IFQ

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card and unused IFQ in the account on which the card was issued.

(3) Catches of sablefish in excess of the maximum retainable bycatch amounts and catches made without IFQ must be treated in the same manner as prohibited species.

[61 FR 31230, June 19, 1996, as amended at 61 FR 35579, July 5, 1996; 61 FR 39602, July 30, 1996; 62 FR 2046, Jan. 15, 1997]

**§ 679.24 Gear limitations.**

Regulations pertaining to vessel and gear markings are set forth in this section and as prescribed in the annual management measures published in the FEDERAL REGISTER pursuant to § 300.62 of chapter III of this title.

(a) *Marking of gear—longline marker buoys.* (1) All longline marker buoys carried on board or used by any vessel regulated under this part shall be marked with the following:

- (i) The vessel's name; and
- (ii) The vessel's Federal fisheries permit number; or
- (iii) The vessel's registration number.

(2) Markings shall be in characters at least 4 inches (10.16 cm) in height and 0.5 inch (1.27 cm) in width in a contrasting color visible above the water line and shall be maintained so the markings are clearly visible.

(b) *Gear restrictions—(1) Pots—(i) Biodegradable panel.* Each pot used to fish for groundfish must be equipped with a biodegradable panel at least 18 inches (45.72 cm) in length that is parallel to, and within 6 inches (15.24 cm) of, the bottom of the pot, and that is sewn up with untreated cotton thread of no larger size than No. 30.

(ii) *Tunnel opening.* Each pot used to fish for groundfish must be equipped with rigid tunnel openings that are no wider than 9 inches (22.86 cm) and no higher than 9 inches (22.86 cm), or soft tunnel openings with dimensions that are no wider than 9 inches (22.86 cm).

(iii) *Longline pot gear.* Any person using longline pot gear must treat any catch of groundfish as a prohibited species, except:

- (A) In the Aleutian Islands subarea.
- (B) While directed fishing for sablefish in the Bering Sea subarea, except as provided in paragraph (c)(4)(ii) of this section.

(2) *Net-sounder device.* Each person trawling in any GOA area limited to pelagic trawling under § 679.22 must maintain on that trawl a properly functioning, recording net-sounder device, and must retain all net-sounder recordings on board the fishing vessel during the fishing year.

(3) *Trawl footrope.* No person trawling in any GOA area limited to pelagic trawling under § 679.22 may allow the footrope of that trawl to be in contact with the seabed for more than 10 percent of the period of any tow, as indicated by the net-sounder device.

(c) *Gear restrictions for sablefish—(1) Gear allocations.* Gear allocations of sablefish TAC are set out under § 679.20.

(2) *GOA Eastern Area—(i) General.* (A) No person may use any gear other than hook-and-line and trawl gear when fishing for sablefish in the GOA Eastern Area.

(B) No person may use any gear other than hook-and-line gear to engage in directed fishing for sablefish.

(ii) *Sablefish as prohibited species—(A) Trawl gear.* When operators of vessels using trawl gear have harvested 5 percent of the TAC for sablefish in the GOA Eastern Regulatory Area during any year, further trawl catches of sablefish must be treated as prohibited species as provided by § 679.21(b).

(B) *Other gear.* Operators of vessels using gear types other than those specified in paragraph (c)(2)(i) of this section in the GOA Eastern Regulatory Area must treat any catch of sablefish as a prohibited species as provided by § 679.21(b).

(3) *GOA Central and Western Areas; sablefish as prohibited species.* Operators of vessels using gear types other than hook-and-line and trawl gear in the GOA Central and Western Regulatory Areas must treat any catch of sablefish in these areas as a prohibited species as provided by § 679.21(b).

(4) *BSAI.* (i) Operators of vessels using gear types other than hook-and-line, longline pot, pot-and-line, or trawl gear in the BSAI must treat sablefish as a prohibited species as provided by § 679.21(b).

(ii) Longline pot gear is prohibited in directed fishing for sablefish from 0001 hrs, A.l.t., on June 1 until 1200 hrs, A.l.t., on June 30.

(d) *Trawl gear test areas*—(1) *General.* For purposes of allowing pelagic and nonpelagic trawl fishermen to test trawl fishing gear, NMFS may establish, after consulting with the Council, locations for the testing of trawl fishing gear in areas that would otherwise be closed to trawling.

(2) *Trawl gear testing.* For the purposes of this section, “trawl gear testing” means deploying trawl gear in areas designated in this paragraph (d) under the following conditions.

(i) The codend shall be unzipped while trawl gear testing.

(ii) Groundfish shall not be possessed on board when trawl gear testing.

(iii) Observers aboard vessels during the time spent trawl gear testing shall not fulfill observer requirements at subpart E of this part.

(3) *Criteria.* The establishment of test areas must comply with the following criteria:

(i) Depth and bottom type must be suitable for testing the particular gear type.

(ii) The areas must be outside State waters.

(iii) The areas must be in locations not normally closed to fishing with that gear type.

(iv) The areas must be in locations that are not usually fished heavily by that gear type.

(v) The areas must not be within a designated Steller sea lion protection area at any time of the year.

(4) *Test areas.* Trawl gear testing is allowed in the following areas (Figure 7 of this part) bounded by straight lines connecting the coordinates in the order listed, at all times:

(i) *Kodiak Test Area.*

57°37' N. lat., 152°02' W. long.  
 57°37' N. lat., 151°25' W. long.  
 57°23' N. lat., 151°25' W. long.  
 57°23' N. lat., 152°02' W. long.  
 57°37' N. lat., 152°02' W. long.

(ii) *Sand Point Test Area.*

54°50' N. lat., 161°00' W. long.  
 54°50' N. lat., 160°30' W. long.  
 54°35' N. lat., 160°30' W. long.  
 54°35' N. lat., 161°00' W. long.  
 54°50' N. lat., 161°00' W. long.

(iii) *Bering Sea Test Area.*

55°00' N. lat., 167°00' W. long.  
 55°00' N. lat., 166°00' W. long.

54°40' N. lat., 166°00' W. long.  
 54°40' N. lat., 167°00' W. long.  
 55°00' N. lat., 167°00' W. long.

(e) *Seabird avoidance gear and methods for hook-and-line vessels fishing for groundfish*—(1) *Applicability.* (i) Except as provided in paragraph (e)(1)(ii) of this section, the operator of a vessel that is required to obtain a Federal fisheries permit under § 679.4(b)(1) must comply with the seabird avoidance measures in paragraph (e)(2) of this section while fishing for groundfish with hook-and-line gear in the BSAI, in the GOA, or in waters of the State of Alaska that are shoreward of the BSAI and the GOA.

(ii) The operator of a vessel is not required to comply with the seabird avoidance measures in paragraph (e)(2) of this section whenever the round-weight equivalent of halibut retained on board exceeds the round-weight equivalent of groundfish retained on board.

(2) The operator of a vessel described in paragraph (e)(1) of this section must conduct fishing operations in the following manner:

(i) Use hooks that when baited, sink as soon as they are put in the water.

(ii) Any discharge of offal from a vessel must occur in a manner that distracts seabirds, to the extent practicable, from baited hooks while gear is being set or hauled. The discharge site on board a vessel must either be aft of the hauling station or on the opposite side of the vessel from the hauling station.

(iii) Make every reasonable effort to ensure that birds brought on board alive are released alive and that wherever possible, hooks are removed without jeopardizing the life of the birds.

(iv) Employ one or more of the following seabird avoidance measures:

(A) Tow a streamer line or lines during deployment of gear to prevent birds from taking hooks;

(B) Tow a buoy, board, stick or other device during deployment of gear, at a distance appropriate to prevent birds from taking hooks. Multiple devices may be employed;

(C) Deploy hooks underwater through a lining tube at a depth sufficient to prevent birds from settling on hooks during deployment of gear; or

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(D) Deploy gear only during the minimum vessel's lights necessary for hours specified below, using only the safety.

HOURS THAT HOOK-AND-LINE GEAR CAN BE DEPLOYED FOR SPECIFIED LONGITUDES ACCORDING TO PARAGRAPH (E)(2)(IV) OF THIS SECTION  
 [Hours are Alaska local time]

Calendar month	Longitude		
	Shoreward to 150°W	151 to 165°W	166 to 180°W
January .....	1800-0700	1900-0800	2000-0900
February .....	1900-0600	2000-0700	2100-0800
March .....	2000-0500	2100-0600	2200-0700
April .....	2100-0400	2200-0500	2300-0600
May .....	2200-0300	2300-0400	2400-0500
June .....	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )
July .....	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )
August .....	2200-0400	2300-0500	2400-0600
September .....	2000-0500	2100-0600	2200-0700
October .....	1900-0600	2000-0700	2100-0800
November .....	1800-0700	1900-0800	2000-0900
December .....	1700-0700	1800-0800	1900-0900

<sup>1</sup> This measure cannot be exercised during June.  
<sup>2</sup> This measure cannot be exercised during July.

[61 FR 31230, June 19, 1996, as amended at 61 FR 35579, July 5, 1996; 61 FR 49077, Sept. 18, 1996; 62 FR 23183, Apr. 29, 1997]

§ 679.25 Inseason adjustments.

(a) *General*—(1) *Types of adjustments.* Inseason adjustments issued by NMFS under this section include:

- (i) Closure, extension, or opening of a season in all or part of a management area.
- (ii) Modification of the allowable gear to be used in all or part of a management area.
- (iii) Adjustment of TAC and PSC limits.
- (iv) Interim closures of statistical areas, or portions thereof, to directed fishing for specified groundfish species.

(2) *Determinations.* (i) Any inseason adjustment taken under paragraphs (a)(1)(i), (ii), or (iii) of this section must be based on a determination that such adjustments are necessary to prevent:

- (A) Overfishing of any species or stock of fish or shellfish;
- (B) Harvest of a TAC for any groundfish species or the taking of a PSC limit for any prohibited species that, on the basis of the best available scientific information, is found by NMFS to be incorrectly specified; or
- (C) Underharvest of a TAC or gear share of a TAC for any groundfish species when catch information indicates

that the TAC or gear share has not been reached.

(ii) Any inseason closure of a statistical area, or portion thereof, under paragraph (a)(1)(iv) of this section, must be based upon a determination that such closures are necessary to prevent:

- (A) A continuation of relatively high bycatch rates of prohibited species specified under § 679.21(b) in a statistical area, or portion thereof;
- (B) Take of an excessive share of PSC limits or bycatch allowances established under § 679.21(d) and (e) by vessels fishing in a statistical area, or portion thereof;
- (C) Closure of one or more directed fisheries for groundfish due to excessive prohibited species bycatch rates occurring in a specified fishery operating within all or part of a statistical area; or
- (D) Premature attainment of established PSC limits or bycatch allowances and associated loss of opportunity to harvest the groundfish OY.

(iii) The selection of the appropriate inseason management adjustments under paragraphs (a)(1)(i) and (ii) of this section must be from the following authorized management measures and must be based upon a determination by the Regional Administrator that the management adjustment selected is

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the least restrictive necessary to achieve the purpose of the adjustment:

(A) Any gear modification that would protect the species in need of conservation, but that would still allow other fisheries to continue;

(B) An inseason adjustment that would allow other fisheries to continue in noncritical areas and time periods;

(C) Closure of a management area and season to all groundfish fishing; or

(D) Reopening of a management area or season to achieve the TAC or gear share of a TAC for any of the target species or the "other species" category.

(iv) The adjustment of a TAC or PSC limit for any species under paragraph (a)(1)(iii) of this section must be based upon a determination by the Regional Administrator that the adjustment is based upon the best available scientific information concerning the biological stock status of the species in question and that the currently specified TAC or PSC limit is incorrect. Any adjustment to a TAC or PSC limit must be reasonably related to the change in biological stock status.

(v) The inseason closure of a statistical area, or a portion thereof, under paragraph (a)(1)(iv) of this section shall not extend beyond a 60-day period unless information considered under paragraph (b) of this section warrants an extended closure period. Any closure of a statistical area, or portion thereof, to reduce prohibited species bycatch rates requires a determination by the Regional Administrator that the closure is based on the best available scientific information concerning the seasonal distribution and abundance of prohibited species and bycatch rates of prohibited species associated with various groundfish fisheries.

(b) *Data.* All information relevant to one or more of the following factors may be considered in making the determinations required under paragraphs (a)(2)(i) and (ii) of this section:

(1) The effect of overall fishing effort within a statistical area;

(2) Catch per unit of effort and rate of harvest;

(3) Relative distribution and abundance of stocks of groundfish species and prohibited species within all or part of a statistical area;

(4) Condition of a stock in all or part of a statistical area;

(5) Inseason prohibited species bycatch rates observed in groundfish fisheries in all or part of a statistical area;

(6) Historical prohibited species bycatch rates observed in groundfish fisheries in all or part of a statistical area;

(7) Economic impacts on fishing businesses affected; or

(8) Any other factor relevant to the conservation and management of groundfish species or any incidentally caught species that are designated as prohibited species or for which a PSC limit has been specified.

(c) *Procedure.* (1) No inseason adjustment issued under this section will take effect until—

(i) NMFS has filed the proposed adjustment for public inspection with the Office of the Federal Register; and

(ii) NMFS has published the proposed adjustment in the FEDERAL REGISTER for public comment for a period of 30 days before it is made final, unless NMFS finds for good cause that such notification and public procedure is impracticable, unnecessary, or contrary to the public interest.

(2) If NMFS decides, for good cause, that an adjustment is to be made without affording a prior opportunity for public comment, public comments on the necessity for, and extent of, the adjustment will be received by the Regional Administrator for a period of 15 days after the effective date of notification.

(3) During any such 15-day period, the Regional Administrator will make available for public inspection, during business hours, the aggregate data upon which an adjustment was based.

(4) If written comments are received during any such 15-day period that oppose or protest an inseason adjustment issued under this section, NMFS will reconsider the necessity for the adjustment and, as soon as practicable after that reconsideration, will either—

(i) Publish in the FEDERAL REGISTER notification of continued effectiveness of the adjustment, responding to comments received; or

(ii) Modify or rescind the adjustment.

(5) Notifications of inseason adjustments issued by NMFS under paragraph (a) of this section will include the following information:

- (i) A description of the management adjustment.
- (ii) Reasons for the adjustment and the determinations required under paragraph (a)(2)(i) of this section.
- (iii) The effective date and any termination date of such adjustment. If no termination date is specified, the adjustment will terminate on the last day of the fishing year.

**§ 679.26 Salmon Donation Program.**

(a) *Authorized distributors*—(1) *Application*. An applicant seeking to become an authorized distributor must provide the Regional Administrator with the following information:

- (i) Proof of the applicant's tax-exempt status.
- (ii) A description of the arrangements for processing, shipping, storing, and transporting donated salmon and an estimate of the associated costs.
- (iii) A statement describing the applicant's expertise in providing for the distribution of food product from remote Alaskan locations to hunger relief agencies, food bank networks, or food bank distributors, including arrangements for transportation, distribution costs, and product quality control.
- (iv) Documentation of support from cold storage and transportation facilities.
- (v) A proposed operating budget that is adequate to ensure that salmon donated under this program will be distributed to hunger relief agencies, food bank networks, or food bank distributors and that the salmon will be maintained in a manner fit for human consumption.
- (vi) Proof of the applicant's ability to obtain and maintain adequate funding for the distribution of salmon under the SDP.
- (vii) A copy of the applicant's articles of incorporation and bylaws showing that the purpose of the applicant includes providing food resources to hunger relief agencies, food bank networks, or food bank distributors.
- (viii) Proof of the applicant's ability to take full responsibility for the docu-

mentation and disposition of salmon received under the SDP, including sufficient liability insurance to cover public interests relating to the quality of salmon distributed for human consumption.

(ix) Quality control criteria to be followed by vessels, processors, hunger relief agencies, food bank networks, and food bank distributors.

(x) The number of vessels and processors that the applicant is capable of administering effectively.

(xi) A list of all vessels and processors, food bank networks and food bank distributors participating in the SDP. The list of vessels and processors must include:

(A) The vessel's or processor's Federal fisheries permit number or Federal processor permit number.

(B) The name of the vessel owner or responsible operator or the name of the owner or plant manager of the processor.

(C) The vessel's or processor's telephone number and fax number.

(D) The signature of the vessel owner or responsible operator or the owner or plant manager of the processor.

(xii) A signed statement from the applicant and all persons listed under paragraph (a)(1)(xi) of this section who would conduct activities pursuant to the SDP permit waiving any and all claims against the United States and its agents and employees for any liability for personal injury, death, sickness, damage to property directly or indirectly due to activities conducted under the SDP.

(xiii) A list of locations where salmon must be delivered by participating vessels and processors.

(2) *Selection*. The Regional Administrator may select one or more tax-exempt organizations to be authorized distributors under the SDP based on the information submitted by applicants under paragraph (a)(1) of this section. The number of authorized distributors selected by the Regional Administrator will be based on the following criteria:

(i) The number and qualifications of applicants for SDP permits.

(ii) The number of harvesters and the quantity of salmon that applicants can effectively administer.

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(iii) The anticipated level of salmon bycatch based on the salmon bycatch from previous years.

(iv) The potential number of vessels and processors participating in the groundfish trawl fisheries.

(3) *SDP Permit.* (i) After review of qualified applicants, the Regional Administrator will announce the selection of authorized distributor(s) in the FEDERAL REGISTER and will issue SDP permit(s).

(ii) The Regional Administrator may impose additional terms and conditions on an SDP permit consistent with the objectives of the SDP.

(iii) An SDP permit may be suspended, modified, or revoked under 15 CFR part 904 for noncompliance with terms and conditions specified in the permit or for a violation of this section or other regulations in this part.

(iv) An SDP permit remains in effect for a 3-year period after the selection notice is published in the FEDERAL REGISTER unless suspended or revoked. An SDP permit may not be transferred. An SDP permit issued to an authorized distributor may be renewed following the application procedures in this section.

(v) If the authorized distributor modifies any information on the SDP permit application submitted under paragraph (a)(1)(xi) or (a)(1)(xiii) of this section, the authorized distributor must submit a modified list of participants or a modified list of delivery locations to the Regional Administrator.

(b) *Reporting and Recordkeeping Requirements.* (1) A vessel or processor retaining salmon under the SDP must comply with all applicable recordkeeping and reporting requirements. A vessel or processor participating in the SDP must comply with applicable regulations at §§ 679.7(c)(2), and 679.21(c) that allow for the collection of data and biological sampling by an observer prior to processing any salmon under the SDP.

(2) Salmon retained under the SDP must be packaged, and all packages must be labeled with the date of processing, the name of the processing facility, the contents and the weight of the salmon contained in the package and the words, "NMFS SALMON DO-

NATION PROGRAM—NOT FOR SALE—PERISHABLE PRODUCT—KEEP FROZEN".

(3) A processor retaining or receiving salmon under the SDP and an authorized distributor must keep on file and make available for inspection by an authorized officer all documentation including receipt and cargo manifests setting forth the origin, weight, and destination of all salmon. Such documentation must be retained until 1 year after the effective period of the SDP permit.

(c) *Processing, handling, and distribution.* (1) Processing and reprocessing of all salmon retained under the SDP must be carried out under the direction of the authorized distributor. A processor retaining or receiving salmon under the SDP, at a minimum, must head, gut, and freeze the salmon in a manner that makes it fit for human consumption.

(2) Salmon that are determined to be unfit for human consumption prior to delivery to an authorized distributor must be discarded under § 679.21(b). Salmon that are determined to be unfit for human consumption after delivery to the authorized distributor must be destroyed in accordance with applicable sanitation laws and regulations.

(3) Authorized distributors and persons conducting activities supervised by authorized distributors may retain salmon only for the purpose of processing and delivering the salmon to hunger relief agencies, food networks or food distributors as provided by this section. Such persons may not consume or retain salmon for personal use and may not sell, trade or barter, or attempt to sell, trade or barter any salmon that is retained under the SDP.

(4) No salmon bycatch may be retained by a vessel or processor, or delivered to a delivery location under this section, unless the vessel or processor and delivery location is included on the list provided to the Regional Administrator under paragraph (a)(1)(xi), (a)(1)(xiii), or (a)(3)(v) of this section.

[61 FR 38359, July 24, 1996]

### Subpart C—Western Alaska Community Development Quota Program

#### § 679.30 General CDQ regulations.

(a) *State of Alaska CDQ responsibilities*—(1) *Compliance*. The State of Alaska must be able to ensure implementation of the CDPs once approved by NMFS. To accomplish this, the State must establish a monitoring system that defines what constitutes compliance and non-compliance.

(2) *Public hearings*. Prior to granting approval of a CDP recommended by the Governor, NMFS shall find that the Governor developed and approved the CDP after conducting at least one public hearing, at an appropriate time and location in the geographical area concerned, so as to allow all interested persons an opportunity to be heard. Hearing(s) on the CDP do not have to be held on the actual documents submitted to the Governor under paragraph (b) of this section, but must cover the substance and content of the proposed CDP in such a manner that the general public, and particularly the affected parties, have a reasonable opportunity to understand the impact of the CDP. The Governor must provide reasonable public notification of hearing date(s) and location(s). The Governor must make available for public review, at the time of public notification of the hearing, all state materials pertinent to the hearing(s) and must include a transcript or summary of the public hearing(s) with the Governor's recommendations to NMFS in accordance with this subpart. At the same time this transcript is submitted to NMFS, it must be made available, upon request, to the public. The public hearing held by the Governor will serve as the public hearing for purposes of NMFS review under paragraph (c) of this section.

(3) *Council consultation*. Before sending his/her recommendations for approval of CDPs to NMFS, the Governor must consult with the Council, and make available, upon request, CDPs that are not part of the Governor's recommendations.

(b) *CDP application*. The Governor, after consultation with the Council, shall include in his or her written find-

ings to NMFS recommending approval of a CDP, that the CDP meets the requirements of these regulations, the Magnuson-Stevens Act, the Alaska Coastal Management Program, and other applicable law. At a minimum, the submission must discuss the determination of a community as eligible; information regarding community development, including goals and objectives; business information; and a statement of the managing organization's qualifications. For purposes of this section, an eligible community includes any community or group of communities that meets the criteria set out in paragraph (d) of this section. Applications for a CDP must include the following information:

(1) *Community development information*. Community development information includes:

(i) *Project description*. A description of the CDP projects that are proposed to be funded by the CDQ and how the CDP projects satisfy the goals and purpose of the CDQ program.

(ii) *Allocation request*. The allocation of each CDQ species requested for each subarea or district of the BSAI, as defined at §679.2 and for each IPHC regulatory area, as prescribed in the annual management measures published in the FEDERAL REGISTER pursuant to §300.62 of chapter III of this title.

(iii) *Project schedule*. The length of time the CDQ will be necessary to achieve the goals and objectives of the CDP, including a project schedule with measurable milestones for determining progress.

(iv) *Employment*. The number of individuals to be employed under the CDP, the nature of the work provided, the number of employee-hours anticipated per year, and the availability of labor from the applicant's community(ies).

(v) *Vocational and educational programs*. Description of the vocational and educational training programs that a CDQ allocation under the CDP would generate.

(vi) *Existing infrastructure*. Description of existing fishery-related infrastructure and how the CDP would use or enhance existing harvesting or processing capabilities, support facilities, and human resources.

(vii) *New capital.* Description of how the CDP would generate new capital or equity for the applicant's fishing and/or processing operations.

(viii) *Transition plan.* A plan and schedule for transition from reliance on the CDQ allocation under the CDP to self-sufficiency in fisheries.

(ix) *Short- and long-term benefits.* A description of short- and long-term benefits to the applicant from the CDQ allocation.

(2) *Business information.* Business information includes:

(i) *Method of harvest.* Description of the intended method of harvesting the CDQ allocation, including the types of products to be produced; amounts to be harvested; when, where, and how harvesting is to be conducted; and names and permit numbers of the vessels that will be used to harvest a CDQ allocation.

(ii) *Target market and competition.* Description of the target market for sale of products and competition existing or known to be developing in the target market.

(iii) *Business relationships.* Description of business relationships between all business partners or with other business interests, if any, including arrangements for management, audit control, and a plan to prevent quota overages. For purposes of this section, business partners means all individuals who have a financial interest in the CDQ project.

(iv) *Profit sharing.* Description of profit sharing arrangements.

(v) *Funding.* Description of all funding and financing plans.

(vi) *Partnerships.* Description of joint venture arrangements, loans, or other partnership arrangements, including the distribution of proceeds among the parties.

(vii) *General budget for implementing the CDP.* A general budget is a general account of estimated income and expenditures for each CDP project that is described in paragraph (b)(1)(i) of this section for the total number of calendar years that the CDP is in effect.

(viii) *Capital equipment.* A list of all capital equipment.

(ix) *Cash flow.* A cash flow and break-even analysis.

(x) *Income statement.* A balance sheet and income statement, including profit, loss, and return on investment for the proposed CDP.

(3) *Statement of managing organization's qualifications.* Statement of the managing organization's qualifications includes:

(i) *Structure and personnel.* Information regarding its management structure and key personnel, such as resumes and references; including the name, address, fax number, and telephone number of the managing organization's representative; and

(ii) *Management qualifications.* A description of how the managing organization is qualified to manage a CDQ allocation and prevent quota overages. For purposes of this section, a qualified managing organization means any organization or firm that would assume responsibility for managing all or part of the CDP and that meets the following criteria:

(A) *Official letter of support.* Documentation of support from each community represented by the applicant for a CDP through an official letter of support approved by the governing body of the community.

(B) *Legal relationship.* Documentation of a legal relationship between the CDP applicant and the managing organization (if the managing organization is different from the CDP applicant), which clearly describes the responsibilities and obligations of each party as demonstrated through a contract or other legally binding agreement.

(C) *Expertise.* Demonstration of management and technical expertise necessary to carry out the CDP as proposed by the CDP application (e.g., proven business experience as shown by a balance and income statement, including profit, loss, and the return on investment on all business ventures within the previous 12 months by the managing organization).

(c) *Review and approval of CDPs—(1) Consistent with criteria.* (i) Upon receipt by NMFS of the Governor's recommendation for approval of proposed CDPs, NMFS will review the record to determine whether the community eligibility criteria and the evaluation criteria set forth in paragraph (d) of this section have been met. NMFS shall

then approve or disapprove the Governor's recommendation within 45 days of its receipt.

(ii) In the event of approval, NMFS shall notify the Governor and the Council in writing that the Governor's recommendations for CDPs are consistent with the evaluation criteria under paragraph (d) of this section and other applicable law, including NMFS reasons for approval.

(iii) Publication of the decision, including the percentage of each CDQ reserve for each subarea or district allocated under the CDPs and the availability of the findings, will be published in the FEDERAL REGISTER.

(iv) NMFS will allocate no more than 33 percent of the total CDQ to any approved CDP application.

(v) A CDQ community may not concurrently receive more than one pollock, halibut, or sablefish allocation and only one application for each type of CDP per CDQ applicant will be accepted.

(2) *Not consistent with criteria.* (i) If NMFS finds that the Governor's recommendations for CDQ allocations are not consistent with the evaluation criteria set forth in these regulations and disapproves the Governor's recommendations, NMFS shall so advise the Governor and the Council in writing, including the reasons therefor.

(ii) Notification of the decision will be published in the FEDERAL REGISTER.

(3) *Revised CDP.* (i) The CDP applicant may submit a revised CDP to the Governor for submission to NMFS.

(ii) Review by NMFS of a revised CDP application will be in accordance with the provisions set forth in this section.

(d) *Evaluation criteria.* NMFS will approve the Governor's recommendations for CDPs if NMFS finds the CDP is consistent with the requirements of these regulations, including the following:

(1) *CDP application.* Each CDP application is submitted in compliance with the application procedures described in paragraph (b) of this section.

(2) *NMFS review.* Prior to approval of a CDP recommended by the Governor, NMFS will review the Governor's findings to determine that each community that is part of a CDP is listed in Table 7 of this part or meets the fol-

lowing criteria for an eligible community:

(i) The community is located within 50 nm from the baseline from which the breadth of the territorial sea is measured along the Bering Sea coast from the Bering Strait to the western most of the Aleutian Islands, or on an island within the Bering Sea. A community is not eligible if it is located on the GOA coast of the North Pacific Ocean, even if it is within 50 nm of the baseline of the Bering Sea.

(ii) The community is certified by the Secretary of the Interior pursuant to the Native Claims Settlement Act (Public Law 92-203) to be a native village.

(iii) The residents of the community conduct more than half of their current commercial or subsistence fishing effort in the waters of the BSAI.

(iv) The community has not previously developed harvesting or processing capability sufficient to support substantial groundfish fisheries participation in the BSAI, unless the community can show that benefits from an approved CDP would be the only way to realize a return from previous investments. The community of Unalaska is excluded under this provision.

(3) *Qualified managing organization.* Each CDP application demonstrates that a qualified managing organization will be responsible for the harvest and use of the CDQ allocation pursuant to the CDP.

(4) *Exceeding the CDQ allocation.* Each CDP application demonstrates that its managing organization can effectively prevent exceeding the CDQ allocation.

(5) *Governor's findings.* The Governor has found for each recommended CDP that:

(i) The CDP and the managing organization are fully described in the CDP application, and have the ability to successfully meet the CDP milestones and schedule.

(ii) The managing organization has an adequate budget for implementing the CDP, and the CDP is likely to be successful.

(iii) A qualified applicant has submitted the CDP application and the applicant and managing organization have the support of each community participating in the proposed CDQ project as

demonstrated through an official letter approved by the governing body of each such community.

(iv) The following factors have been considered:

(A) The number of individuals from applicant communities who will be employed under the CDP, the nature of their work, and career advancement.

(B) The number and percentage of low income persons residing in the applicant communities, and the economic opportunities provided to them through employment under the CDP.

(C) The number of communities co-operating in the application.

(D) The relative benefits to be derived by participating communities and the specific plans for developing a self-sustaining fisheries economy.

(E) The success or failure of the applicant and/or the managing organization in the execution of a prior CDP (e.g., exceeding a CDQ allocation or any other related violation may be considered a failure and may therefore result in partially or fully precluding a CDP from a future CDQ allocation).

(6) *Qualified applicant.* For purposes of this paragraph (d), “qualified applicant” means:

(i) A local fishermen’s organization from an eligible community, or group of eligible communities, that is incorporated under the laws of the State of Alaska, or under Federal law, and whose board of directors is composed of at least 75 percent resident fishermen of the community (or group of communities) that is (are) making an application; or

(ii) A local economic development organization incorporated under the laws of the State of Alaska, or under Federal law, specifically for the purpose of designing and implementing a CDP, and that has a board of directors composed of at least 75 percent resident fishermen of the community (or group of communities) that is (are) making an application.

(7) *Resident fisherman.* For the purpose of this paragraph (d), “resident fisherman” means an individual with documented commercial or subsistence fishing activity who maintains a mailing address and permanent domicile in the community and is eligible to re-

ceive an Alaska Permanent Fund dividend at that address.

(8) *Board of directors.* If a qualified applicant represents more than one community, the board of directors of the applicant must include at least one member from each of the communities represented.

(e) *Monitoring of CDPs—(1) CDP reports.* The following reports must be submitted to NMFS:

(i) *Annual progress reports.* (A) CDP applicants are required to submit annual progress reports to the Governor by June 30 of the year following allocation.

(B) Annual progress reports will include information describing how the CDP has met its milestones, goals, and objectives.

(C) On the basis of those reports, the Governor will submit an annual progress report to NMFS and recommend whether CDPs should be continued.

(D) NMFS must notify the Governor in writing within 45 days of receipt of the Governor’s annual progress report, accepting or rejecting the annual progress report and the Governor’s recommendations.

(E) If NMFS rejects the Governor’s annual progress report, NMFS will return it for revision and resubmission.

(F) The report will be deemed approved if NMFS does not notify the Governor in writing within 45 days of the report’s receipt.

(ii) *Annual budget report.* (A) An annual budget report is a detailed estimation of income and expenditures for each CDP project as described in paragraph (b)(1)(i) of this section for a calendar year.

(B) The annual budget report must be submitted to NMFS by December 15 preceding the year for which the annual budget applies.

(C) Annual budget reports are approved upon receipt by NMFS, unless disapproved in writing by December 31. If disapproved, the annual budget report may be revised and resubmitted to NMFS.

(D) NMFS will approve or disapprove a resubmitted annual budget report in writing.

(iii) *Annual budget reconciliation report.* A CDQ group must reconcile each

annual budget by May 30 of the year following the year for which the annual budget applied. Reconciliation is an accounting of the annual budget's estimated income and expenditures with the actual income and expenditures, including the variance in dollars and variance in percentage for each CDP project that is described in paragraph (b)(1)(i) of this section. If a general budget, as described in paragraph (b)(2)(vii) of this section, is no longer correct due to the reconciliation of an annual budget, then the general budget must also be revised to reflect the annual budget reconciliation. The revised general budget must be included with the annual budget reconciliation report.

(2) *Increase in CDQ allocation.* If an applicant requests an increase in a CDQ, the applicant must submit a new CDP application for review by the Governor and approval by NMFS as described in paragraphs (b) and (c) of this section.

(3) *Substantial amendments.* (i) A CDP is a working business plan and must be kept up to date. Substantial amendments, as described in paragraph (e)(3)(iv) of this section, to a CDP will require written notification to the Governor and subsequent approval by the Governor and NMFS before any change in a CDP can occur. The Governor may recommend to NMFS that the request for an amendment be approved.

(ii) NMFS may notify the Governor in writing of approval or disapproval of the amendment within 30 days of receipt of the Governor's recommendation. The Governor's recommendation for approval of an amendment will be deemed approved if NMFS does not notify the Governor in writing within 30 calendar days of receipt of the Governor's recommendation.

(iii) If NMFS determines that the CDP, if changed, would no longer meet the criteria under paragraph (d) of this section, or if any of the requirements under this section would not be met, NMFS shall notify the Governor in writing of the reasons why the amendment cannot be approved.

(iv) For the purposes of this section, substantial amendments are defined as

changes in a CDP, including, but not limited to, any of the following:

(A) Any change in the applicant communities or replacement of the managing organization.

(B) A change in the CDP applicant's harvesting or processing partner.

(C) Funding a CDP project in excess of \$100,000 that is not part of an approved general budget.

(D) More than a 20-percent increase in the annual budget of an approved CDP project.

(E) More than a 20-percent increase in actual expenditures over the approved annual budget for administrative operations.

(F) A change in the contractual agreement(s) between the CDP applicant and its harvesting or processing partner, or a change in a CDP project, if such change is deemed by the Governor or NMFS to be a material change.

(v) Notification of an amendment to a CDP shall include the following information:

(A) The background and justification for the amendment that explains why the proposed amendment is necessary and appropriate.

(B) An explanation of why the proposed change to the CDP is an amendment according to paragraph (e)(3)(i) of this section.

(C) A description of the proposed amendment, explaining all changes to the CDP that result from the proposed amendment.

(D) A comparison of the original CDP text with the text of the proposed changes to the CDP, and the changed pages of the CDP for replacement in the CDP binder.

(E) Identification of any NMFS findings that would need to be modified if the amendment is approved along with the proposed modified text.

(F) A description of how the proposed amendment meets the requirements of this subpart. Only those CDQ regulations that are affected by the proposed amendment need to be discussed.

(4) *Technical amendments.* (i) Any change to a CDP that is not a substantial amendment as defined in paragraph (e)(3)(iv) of this section is a technical amendment. It is the responsibility of the CDQ group to coordinate

with the Governor to ensure that a proposed technical amendment does not meet the definition for a substantial amendment. Technical amendments require written notification to the Governor and NMFS before the change in a CDP occurs.

(ii) A technical amendment will be approved when the CDQ group receives a written notification from NMFS announcing the receipt of the technical amendment. The Governor may recommend to NMFS, in writing, that a technical amendment be disapproved at any time. NMFS may disapprove a technical amendment in writing at any time, with the reasons therefor.

(iii) Notification should include:

(A) The pages of the CDP, with the text highlighted to show deletions and additions.

(B) The changed pages of the CDP for replacement in the CDP binder.

(5) *Cease fishing operations.* It is the responsibility of the CDQ-managing organization to cease fishing operations once a CDQ allocation has been reached.

(f) *Suspension or termination of a CDP—(1) Governor's recommendation.* (i) NMFS, at any time, may partially suspend, suspend, or terminate any CDP upon written recommendation of the Governor setting out his or her reasons that the CDP recipient is not complying with these regulations.

(ii) After review of the Governor's recommendation and reasons for a partial suspension, suspension, or termination of a CDP, NMFS will notify the Governor in writing of approval or disapproval of his or her recommendation within 45 days of its receipt.

(iii) In the event of approval of the Governor's recommendation, NMFS will publish an announcement in the FEDERAL REGISTER that the CDP has been partially suspended, suspended, or terminated, along with reasons therefor.

(2) *Non-compliance.* NMFS also may partially suspend, suspend, or terminate any CDP at any time if NMFS finds a recipient of a CDQ allocation pursuant to the CDP is not complying with these regulations, other regulations, or provisions of the Magnuson-Stevens Act or other applicable law. Publication of suspension or termi-

nation will appear in the FEDERAL REGISTER, along with the reasons therefor.

(3) *Review of allocation.* An annual progress report, required under paragraph (e)(1)(i) of this section, will be used by the Governor to review each CDP to determine whether the CDP and CDQ allocation thereunder should be continued, decreased, partially suspended, suspended, or terminated under the following circumstances:

(i) If the Governor determines that the CDP will successfully meet its goals and objectives, the CDP may continue without any Secretarial action.

(ii) If the Governor recommends to NMFS that an allocation be decreased, the Governor's recommendation for decrease will be deemed approved if NMFS does not notify the Governor, in writing, within 30 days of receipt of the Governor's recommendation.

(iii) If the Governor determines that a CDP has not successfully met its goals and objectives, or appears unlikely to become successful, the Governor may submit a recommendation to NMFS that the CDP be partially suspended, suspended, or terminated. The Governor must set out, in writing, his or her reasons for recommending suspension or termination of the CDP.

(iv) After review of the Governor's recommendation and reasons therefor, NMFS will notify the Governor, in writing, of approval or disapproval of his or her recommendation within 30 days of its receipt. In the case of suspension or termination, NMFS will publish notification in the FEDERAL REGISTER, with reasons therefor.

[61 FR 31230, June 19, 1996, as amended at 61 FR 35579, July 5, 1996; 61 FR 41745, Aug. 12, 1996]

#### § 679.31 CDQ reserve.

(a) *Pollock CDQ reserve (applicable through December 31, 1998).* (1) In the proposed and final harvest specifications required under § 679.20(c), one-half of the pollock TAC placed in the reserve for each subarea or district will be assigned to a CDQ reserve for each subarea or district.

(2) NMFS may add any amount of a CDQ reserve back to the nonspecific reserve if, after September 30, the Regional Administrator determines that

amount will not be used during the remainder of the fishing year.

(b) *Halibut CDQ reserve.* (1) NMFS will annually withhold from IFQ allocation the proportions of the halibut catch limit that are specified in this paragraph (b) for use as a CDQ reserve.

(2) Portions of the CDQ for each specified IPHC regulatory area may be allocated for the exclusive use of an eligible Western Alaska community or group of communities in accordance with a CDP approved by the Governor in consultation with the Council and approved by NMFS.

(3) The proportions of the halibut catch limit annually withheld for purposes of the CDQ program, exclusive of issued QS, are as follows for each IPHC regulatory area:

(i) *Area 4B.* In IPHC regulatory area 4B, 20 percent of the annual halibut quota shall be made available for the halibut CDQ program to eligible communities physically located in or proximate to this regulatory area. For the purposes of this section, "proximate to" an IPHC regulatory area means within 10 nm from the point where the boundary of the IPHC regulatory area intersects land.

(ii) *Area 4C.* In IPHC regulatory area 4C, 50 percent of the halibut quota shall be made available for the halibut CDQ program to eligible communities physically located in IPHC regulatory area 4C.

(iii) *Area 4D.* In IPHC regulatory area 4D, 30 percent of the halibut quota shall be made available for the halibut CDQ program to eligible communities located in or proximate to IPHC regulatory areas 4D and 4E.

(iv) *Area 4E.* In IPHC regulatory area 4E, 100 percent of the halibut quota shall be made available for the halibut CDQ program to communities located in or proximate to IPHC regulatory area 4E. A fishing trip limit of 6,000 lb (2.7 mt) will apply to halibut CDQ harvesting in IPHC regulatory area 4E.

(c) *Sablefish CDQ reserve.* In the proposed and final harvest limit specifications required under § 679.20(c), NMFS will specify 20 percent of the fixed gear allocation of sablefish in each BSAI subarea as a sablefish CDQ reserve, exclusive of issued QS. Portions of the CDQ reserve for each subarea may be

allocated for the exclusive use of CDQ applicants in accordance with CDPs approved by the Governor in consultation with the Council and approved by NMFS. NMFS will allocate no more than 33 percent of the total CDQ for all subareas combined to any one applicant with an approved CDP application.

**§ 679.32 Estimation of total pollock harvest in the CDQ fisheries (applicable through December 31, 1998).**

(a) *Recordkeeping and reporting requirements.* Vessels and processors participating in pollock CDQ fisheries must comply with recordkeeping and reporting requirements set out at § 679.5.

(b) *Total pollock harvests—(1) Observer estimates.* Total pollock harvests for each CDP will be determined by observer estimates of total catch and catch composition, as reported on the daily observer catch message.

(2) *Cease fishing.* The CDQ-managing organization must arrange to receive a copy of the observer daily catch message from processors in a manner that allows the CDQ-managing organization to inform processors to cease fishing operations before the CDQ allocation has been exceeded. CDQ-managing organization representatives must also inform NMFS within 24 hours after the CDQ has been reached and fishing has ceased.

(3) *NMFS estimates.* If NMFS determines that the observer, the processor, or the CDQ-managing organization failed to follow the procedures described in paragraphs (c), (d), and (e) of this section for estimating the total harvest of pollock, or violated any other regulation in this subpart C of this part, NMFS reserves the right to estimate the total pollock harvest based on the best available data.

(c) *Observer coverage.* Vessel operators and processors participating in CDQ fisheries must comply with the following requirements for observer coverage:

(1) *Shoreside processor.* (i) Each shoreside processor participating in the CDQ fisheries must have one observer present at all times while groundfish harvested under a CDQ are being received or processed.

(ii) The Regional Administrator is authorized to require more than one observer for a shoreside processor if:

(A) The CDQ delivery schedule requires an observer to be on duty more than 12 hours in a 24-hour period;

(B) Simultaneous deliveries of CDQ harvests by more than one vessel cannot be monitored by a single observer; or

(C) One observer is not capable of adequately monitoring CDQ deliveries.

(2) *Processor vessel.* Each processor vessel participating in the CDQ fisheries must have two observers aboard the vessel at all times while groundfish harvested under a CDQ are being harvested, processed, or received from another vessel.

(3) *Catcher vessel.* Observer coverage requirements for catcher vessels participating in the CDQ fisheries are in addition to any observer coverage requirements in subpart E of this part. Each catcher vessel delivering groundfish harvested under a CDQ, other than a catcher vessel delivering only unsorted codends to a processor or another vessel, must have an observer on the vessel at all times while the vessel is participating in the CDQ fisheries, regardless of the vessel length.

(d) *Shoreside processor equipment and operational requirements.* Each shoreside processor participating in the CDQ fisheries must comply with the following requirements:

(1) *Certified scale.* Groundfish harvested in the CDQ fisheries must be recorded and weighed on a scale certified by the State of Alaska. Such a scale must measure catch weights at all times to at least 95-percent accuracy, as determined by an observer or authorized officer. The scale and scale display must be visible simultaneously by the observer.

(2) *Access to scale.* Observers must be provided access to the scale used to weigh groundfish landings.

(3) *Retention of scale printouts.* Printouts of scale measurements of each CDQ delivery must be made available to observers and be maintained in the shoreside processor for the duration of the fishing year, or for as long after a fishing year as product from fish harvested during that year are retained in the shoreside processor.

(4) *Prior notice of offloading schedule.*

The manager of each shoreside processor must notify the observer(s) of the offloading schedule of each CDQ groundfish delivery at least 1 hour prior to offloading to provide the observer an opportunity to monitor the weighing of the entire delivery.

(e) *Processor vessel measurement requirements.* Each processor vessel participating in the CDQ fishery for pollock must estimate the total weight of its groundfish catch by the volumetric procedures specified in this paragraph (e).

(1) *Receiving bins.* Each processor vessel estimating its catch by volumetric measurement must have one or more receiving bins in which all fish catches are placed to determine total catch weight prior to sorting operations.

(2) *Bin volume.* The volume of each bin must be accurately measured, and the bin must be permanently marked and numbered in 10-cm increments on all internal sides of the bin. Marked increments, except those on the wall containing the viewing port or window, must be readable from the outside of the bin at all times. Bins must be lighted in a manner that allows marked increments to be read from the outside of the bin by an observer or authorized officer.

(3) *Bin certification.* (i) The bin volume and marked and numbered increments must be certified by a registered engineer with no financial interest in fishing, fish processing, or fish tender vessels, or by a qualified organization that has been designated by the USCG Commandant, or an authorized representative thereof, for the purpose of classing or examining commercial fishing industry vessels under the provisions of 46 CFR 28.76.

(ii) Bin volumes and marked and numbered increments must be recertified each time a bin is structurally or physically changed.

(iii) The location of bin markings, as certified, must be described in writing. Tables certified under this paragraph (e)(1)(iii) indicating the volume of each certified bin in cubic meters for each 10-cm increment marked on the sides of the bins, must be submitted to the NMFS Observer Program prior to harvesting or receiving groundfish and

must be maintained on board the vessel and made available to observers at all times.

(iv) All bin certification documents must be dated and signed by the certifier.

(4) *Prior notification.* Vessel operators must notify observers prior to any removal or addition of fish from each bin used for volumetric measurements of catch in such a manner that allows an observer to take bin volume measurements prior to fish being removed from or added to the bin. Once a volumetric measurement has been taken, additional fish may not be added to the bin until at least half the original volume has been removed. Fish may not be removed from or added to a bin used for volumetric measurements of catch until an observer indicates that bin volume measurements have been completed and any samples of catch required by the observer have been taken.

(5) *Separation of fish.* Fish from separate hauls or deliveries from separate harvesting vessels may not be mixed in any bin used for volumetric measurements of catch.

(6) *Bin viewing port.* The receiving bins must not be filled in a manner that obstructs the viewing ports or prevents the observer from seeing the level of fish throughout the bin.

[61 FR 31230, June 19, 1996; 61 FR 37843, July 22, 1996 as amended at 61 FR 41745, Aug. 12, 1996]

**§ 679.33 Halibut and sablefish CDQ.**

(a) *Permits.* The Regional Administrator will issue a halibut and/or sablefish CDQ permit to the managing organization responsible for carrying out an approved CDQ project. A copy of the halibut and/or sablefish CDQ permit must be carried on any fishing vessel operated by or for the managing organization, and be made available for inspection by an authorized officer. Each halibut and/or sablefish CDQ permit will be non-transferable and will be effective for the duration of the CDQ project or until revoked, suspended, or modified.

(b) *CDQ cards.* The Regional Administrator will issue halibut and/or sablefish CDQ cards to all individuals named on an approved CDP application. Each

halibut and/or sablefish CDQ card will identify a CDQ permit number and the individual authorized by the managing organization to land halibut and/or sablefish for debit against its CDQ allocation.

(c) *Alteration.* No person may alter, erase, or mutilate a halibut and/or sablefish CDQ permit, card, registered buyer permit, or any valid and current permit or document issued under this part. Any such permit, card, or document that has been intentionally altered, erased, or mutilated will be invalid.

(d) *Landings.* All landings of halibut and/or sablefish harvested under an approved CDQ project, dockside sales, and outside landings of halibut and/or sablefish must be landed by a person with a valid halibut and/or sablefish CDQ card to a person with a valid registered buyer permit, and reported in compliance with § 679.5 (l)(1) and (l)(2).

(e) *CDQ fishing seasons.* See § 679.23(e)(4).

**§ 679.34 CDQ halibut and sablefish determinations and appeals.**

Section 679.43 describes the procedure for appealing initial administrative determinations for the halibut and sablefish CDQ program made under this subpart C of this part.

**Subpart D—Individual Fishing Quota Management Measures**

**§ 679.40 Sablefish and halibut QS.**

The Regional Administrator shall annually divide the TAC of halibut and sablefish that is apportioned to the fixed gear fishery pursuant to the annual management measures published in the FEDERAL REGISTER pursuant to § 300.62 of chapter III of this title and § 679.20, minus the CDQ reserve, among qualified halibut and sablefish quota share holders, respectively.

(a) *Initial allocation of QS—(1) General.* The Regional Administrator shall initially assign to qualified persons, on or after October 18, 1994, halibut and sablefish fixed gear fishery QS that are specific to IFQ regulatory areas and vessel categories. QS will be assigned as a block in the appropriate IFQ regulatory area and vessel category, if that

QS would have resulted in an allocation of less than 20,000 lb (9 mt) of IFQ for halibut or sablefish based on the 1994 TAC for fixed gear in those fisheries for specific IFQ regulatory areas and the QS pools of those fisheries for specific IFQ regulatory areas as of October 17, 1994.

(2) *Qualified person.* (i) As used in this section, a "qualified person" means a "person," as defined in § 679.2:

(A) That owned a vessel that made legal landings of halibut or sablefish, harvested with fixed gear, from any IFQ regulatory area in any QS qualifying year; or

(B) That leased a vessel that made legal landings of halibut or sablefish, harvested with fixed gear, from any IFQ regulatory area in any QS qualifying year. A person who owns a vessel cannot be a qualified person based on the legal fixed gear landings of halibut or sablefish made by a person who leased the vessel for the duration of the lease.

(ii) Qualified persons, or their successors-in-interest, must exist at the time of their application for QS.

(iii) A former partner of a dissolved partnership or a former shareholder of a dissolved corporation who would otherwise qualify as a person may apply for QS in proportion to his or her interest in the dissolved partnership or corporation.

(iv) Sablefish harvested within Prince William Sound, or under a State of Alaska limited entry program, will not be considered in determining whether a person is a qualified person.

(3) *Qualification for QS—(i) Year.* A QS qualifying year is 1988, 1989, or 1990.

(ii) *Vessel ownership.* Evidence of vessel ownership shall be limited to the following documents, in order of priority:

(A) For vessels required to be documented under the laws of the United States, the USCG abstract of title issued in respect of that vessel.

(B) A certificate of registration that is determinative as to vessel ownership.

(C) A bill of sale.

(iii) *Vessel lease.* Conclusive evidence of a vessel lease will include a written vessel lease agreement or a notarized statement from the vessel owner and

lease holder attesting to the existence of a vessel lease agreement at any time during the QS qualifying years. Conclusive evidence of a vessel lease must identify the leased vessel and indicate the name of the lease holder and the period of time during which the lease was in effect. Other evidence, which may not be conclusive, but may tend to support a vessel lease, may also be submitted.

(iv) *Ownership interest.* Evidence of ownership interest in a dissolved partnership or corporation shall be limited to corporate documents (e.g., articles of incorporation) or notarized statements signed by each former partner, shareholder or director, and specifying their proportions of interest.

(v) *Legal landing of halibut or sablefish—(A) Definition.* As used in this section, a "legal landing of halibut or sablefish" means halibut or sablefish harvested with fixed gear and landed in compliance with state and Federal regulations in effect at the time of the landing.

(B) *Documentation.* Evidence of legal landings shall be limited to documentation of state or Federal catch reports that indicate the amount of halibut or sablefish harvested, the IPHC regulatory area or groundfish reporting area in which it was caught, the vessel and gear type used to catch it, and the date of harvesting, landing, or reporting. State catch reports are Alaska, Washington, Oregon, or California fish tickets. Federal catch reports are WPRs required under § 679.5. Sablefish harvested within Prince William Sound or under a State of Alaska limited entry program will not be considered in determining qualification to receive QS, nor in calculating initial QS.

(4) *Calculation of initial QS—(i) Halibut QS.* The Regional Administrator shall calculate the halibut QS for any qualified person in each IFQ regulatory area based on that person's highest total legal landings of halibut in each IPHC regulatory area for any 5 years of the 7-year halibut QS base period 1984 through 1990. The sum of all halibut QS for an IFQ regulatory area will be the halibut QS pool for that area.

(ii) *Sablefish QS.* The Regional Administrator shall calculate the sablefish QS for any qualified person in each

IFQ regulatory area based on that person's highest total legal landings of sablefish in each groundfish reporting area for any 5 years of the 6-year sablefish QS base period 1985 through 1990. The sum of all sablefish QS for an IFQ regulatory area will be the sablefish QS pool for that area.

(iii) *CDQ program.* Each initial QS calculation will be modified to accommodate the CDQ program prescribed at subpart C of this part.

(5) *Assignment of QS to vessel categories—(i) LOA.* Each qualified person's QS will be assigned to a vessel category based on the LOA of vessel(s) from which that person made fixed gear legal landings of groundfish or halibut in the most recent year of participation and the product type landed. As used in this paragraph (a)(5), "the most recent year of participation" means the most recent of 4 calendar years in which any groundfish or halibut were harvested using fixed gear, as follows: 1988, 1989, or 1990; or calendar year 1991 prior to September 26, 1991.

(ii) *Vessel categories.* QS and its associated IFQ assigned to vessel categories include:

(A) Category A QS and associated IFQ, which authorizes an IFQ cardholder to harvest and process IFQ species on a vessel of any length;

(B) Category B QS and associated IFQ, which authorizes an IFQ cardholder to harvest IFQ species on a vessel of any length;

(C) Category C QS and associated IFQ, which authorizes an IFQ cardholder to harvest IFQ species on a vessel less than or equal to 60 ft (18.3 m) LOA;

(D) Category D QS and associated IFQ, which authorizes an IFQ cardholder to harvest IFQ halibut on a vessel less than or equal to 35 ft (10.7 m) LOA;

(iii) *QS assignment.* A qualified person's QS will be assigned:

(A) To vessel category A if, at any time during his/her most recent year of participation, that person's vessel processed any groundfish or halibut caught with fixed gear.

(B) To vessel category B if, at any time during his/her most recent year of participation, that person's vessel was greater than 60 ft (18.3 m) LOA and did

not process any groundfish or halibut caught with fixed gear.

(C) To each applicable vessel category in proportion to the landings of halibut or sablefish made by that person if, at any time during their most recent year of participation, that person used more than one vessel in different categories.

(iv) *Sablefish QS.* A qualified person's sablefish QS will be assigned:

(A) To vessel category C if, at any time during his/her most recent year of participation, that person's vessel was less than or equal to 60 ft (18.3 m) LOA and did not process any groundfish or halibut caught with fixed gear.

(B) To the vessel category in which halibut and groundfish were landed, or vessel categories in proportion to the total fixed gear landings of halibut and groundfish, if, at any time during the most recent year of participation, that person's vessel(s) makes no landing(s) of sablefish.

(v) *Halibut QS.* A qualified person's halibut QS will be assigned:

(A) To vessel category C if, at any time during his/her most recent year of participation, that person's vessel was less than or equal to 60 ft (18.3 m), but greater than 35 ft (10.7 m), LOA and did not process any groundfish or halibut caught with fixed gear.

(B) To vessel category D if, at any time during his/her most recent year of participation, that person's vessel was less than or equal to 35 ft (10.7 m) LOA and did not process any groundfish or halibut caught with fixed gear.

(C) To the vessel category in which groundfish were landed, or vessel categories in proportion to the total fixed gear landings of groundfish, if, at any time during the most recent year of participation, that person's vessel(s) makes no landing(s) of halibut.

(vi) *Both species QS.* A qualified person's QS for both species will be assigned to the vessel category in which groundfish were landed in the most recent year of participation if, at any time during that year, that person landed halibut in one vessel category and sablefish in a different vessel category.

(6) *Application for initial QS—(i) Application form.* Upon request, the Regional Administrator shall make available to

any person an application form for an initial allocation of QS. The application form sent to the person requesting a QS allocation will include all data on that person's vessel ownership and catch history of halibut and sablefish that can be released to the applicant under current state and Federal confidentiality rules, and that are available to the Regional Administrator at the time of the request.

(ii) *Application period.* An application period of no less than 180 days will be specified by notification in the FEDERAL REGISTER and other information sources that the Regional Administrator deems appropriate.

(iii) *Complete application.* Complete applications received by the Regional Administrator will be acknowledged. An incomplete application will be returned to the applicant with specific kinds of information identified that are necessary to make it complete.

(7) *Insufficient documentation.* Halibut and sablefish catch history, vessel ownership or lease data, and other information supplied by an applicant will be compared with data compiled by the Regional Administrator. If additional data presented in an application are not consistent with the data compiled by the Regional Administrator, the applicant will be notified of insufficient documentation. The applicant will have 90 days to submit corroborating documents (as specified in paragraph (a) of this section) in support of his/her application or to resubmit a revised application. All applicants will be limited to one opportunity to provide corroborating documentation or a revised application in response to notification of insufficient documentation.

(8) *Verified data.* Uncontested data in applications will be approved by the Regional Administrator. Based on these data, the Regional Administrator will calculate each applicant's initial halibut and sablefish QS, as provided in paragraph (b) of this section, for each IFQ regulatory area, respectively, and will add each applicant's halibut and sablefish QS for an IFQ regulatory area to the respective QS pool for that area.

(9) *Unverified data.* Catch history, vessel ownership, or lease data that cannot be verified by the Regional Administrator, following the procedure

described in paragraph (a)(7) of this section, will not qualify for QS. An initial determination denying QS on the grounds that claimed catch history, vessel ownership or lease data were not verified may be appealed following the procedure described in §679.43. Quota share reflecting catch history, vessel ownership, or lease data that are contested between two or more applicants, at least one of which is likely to qualify for QS when the dispute is resolved, will be assigned to a reserve that will be considered part of the QS pool for the appropriate IFQ regulatory area. Any QS and IFQ that results from agency action resolving the dispute will be assigned to the prevailing applicant(s) pursuant to paragraphs (a)(4), (a)(5), (b), and (c) of this section. If the assigned IFQ for the 1995 fishing season becomes moot by passage of time needed to resolve the dispute, the assignment of QS and IFQ for subsequent fishing seasons will be unaffected.

(b) *Annual allocation of IFQ.* The Regional Administrator shall assign halibut or sablefish IFQs to each person holding unrestricted QS for halibut or sablefish, respectively, up to the limits prescribed in §679.42 (e) and (f). Each assigned IFQ will be specific to an IFQ regulatory area and vessel category, and will represent the maximum amount of halibut or sablefish that may be harvested from the specified IFQ regulatory area and by the person to whom it is assigned during the specified fishing year, unless the IFQ assignment is changed by the Regional Administrator within the fishing year because of an approved transfer or because all or part of the IFQ is sanctioned for violating rules of this part.

(c) *Calculation of annual IFQ allocation—(1) General.* The annual allocation of IFQ to any person (person p) in any IFQ regulatory area (area a) will be equal to the product of the TAC of halibut or sablefish by fixed gear for that area (after adjustment for purposes of the Western Alaska CDQ Program) and that person's QS divided by the QS pool for that area. Overages will be subtracted from a person's IFQ pursuant to paragraph (d) of this section. Expressed algebraically, the annual IFQ allocation formula is as follows:

IFQ<sub>pa</sub> = [(fixed gear TAC<sub>a</sub> - CDQ reserve<sub>a</sub>) × (QS<sub>pa</sub>/QS pool<sub>a</sub>)] - overage of IFQ<sub>pa</sub>.

(2) *QS amounts.* For purposes of calculating IFQs for any fishing year, the amount of a person's QS and the amount of the QS pool for any IFQ regulatory area will be the amounts on record with the Alaska Region, NMFS, as of 1200 hours, A.l.t., on January 31 of that year.

(3) *IFQ permit.* The Regional Administrator shall issue to each QS holder, pursuant to §679.4, an IFQ permit accompanied by a statement specifying the maximum amount of halibut and sablefish that may be harvested with fixed gear in a specified IFQ regulatory area and vessel category as of January 31 of that year. Such IFQ permits will be mailed to each QS holder at the address on record for that person after the beginning of each fishing year but prior to the start of the annual IFQ fishing season.

(d) *Ten-percent adjustment policy.* A person's annual IFQ account will be adjusted in the year following a determination that the person harvested or landed IFQ species in an amount is greater than the amount available in the person's annual IFQ account and if the amount greater than the amount available does not exceed 10 percent of the amount available in the person's annual IFQ account at the time of landing. The adjustment would be a deduction of the amount of IFQ species harvested or landed that was determined to exceed the amount available in the person's annual IFQ account and will apply to any person to whom the affected IFQ is allocated in the year following the determination.

(e) *Underages.* Underages of up to 10 percent of a person's total annual IFQ account for a current fishing year will be added to that person's annual IFQ account in the year following determination of the underage. This underage adjustment to the annual IFQ allocation will be specific to IFQ species, IFQ regulatory area, and vessel category for which an IFQ is calculated, and will apply to any person to whom the affected IFQ is allocated in the year following determination of an underage.

(f) *Harvesting privilege.* Quota shares allocated or permits issued pursuant to this part do not represent either an absolute right to the resource or any interest that is subject to the "takings" provision of the Fifth Amendment of the U.S. Constitution. Rather, such quota shares or permits represent only a harvesting privilege that may be revoked or amended subject to the requirements of the Magnuson-Stevens Act and other applicable law.

(g) *Tagged halibut and sablefish.* (1) Nothing contained in this part shall prohibit any person at any time from retaining and landing a Pacific halibut or sablefish that bears at the time of capture a research tag from any state, Federal, or international agency, provided that the halibut or sablefish is:

(i) A Pacific halibut landed pursuant to 50 CFR 300.18; or

(ii) A sablefish landed in accordance with the Tagged Groundfish Research Program.

(2) Tagged halibut or sablefish landed pursuant to paragraphs (1)(i) or (1)(ii) of this section shall not be calculated as part of an individual's IFQ harvest or be debited against an individual's halibut or sablefish IFQ.

[61 FR 31230, June 19, 1996, as amended at 61 FR 35579, July 5, 1996; 61 FR 41525, Aug. 9, 1996; 61 FR 43314, Aug. 22, 1996]

**§679.41 Transfer of QS and IFQ.**

(a) *General.* (1) Except as provided in paragraph (a)(2) of this section, transfer of QS or IFQ means any transaction requiring QS, or the use thereof in the form of IFQ, to pass from one person to another, permanently or for a fixed period of time.

(2) Transactions requiring IFQ cards to be issued in the name of a vessel master employed by an individual or a corporation are not transfers of QS or IFQ.

(b) *Transfer procedure—(1) Application for transfer.* An Application for Transfer of QS/IFQ (Application for Transfer) must be approved by the Regional Administrator before a person may use IFQ to harvest IFQ halibut or IFQ sablefish, whether the IFQ was the result of a direct transfer or the result of a QS transfer. An Application for Transfer will not be approved until the Regional Administrator has reviewed and

approved the transfer agreement signed by the parties to the transaction. The Regional Administrator shall provide an Application for Transfer form to any person on request. Persons who submit an Application for Transfer to the Regional Administrator for approval will receive notification of the Regional Administrator's decision to approve or disapprove the Application for Transfer, and, if applicable, the reason(s) for disapproval, by mail posted on the date of that decision, unless another communication mode is requested on the Application for Transfer.

(2) *QS or IFQ accounts.* QS or IFQ accounts affected by an Application for Transfer approved by the Regional Administrator will change on the date of approval. Any necessary IFQ permits will be sent with the notification of the Regional Administrator's decision.

(c) *Application for Transfer approval criteria.* Except as provided in paragraph (f) of this section, an Application for Transfer will not be approved until the Regional Administrator has determined that:

(1) The person applying for transfer received the QS or IFQ to be transferred:

(i) By initial assignment by the Regional Administrator as provided in §679.40(a); or

(ii) By approved transfer.

(2) The person applying to receive the QS or IFQ meets the requirements of eligibility in paragraph (d) of this section.

(3) The person applying for transfer and the person applying to receive the QS or IFQ have their notarized signatures on the Application for Transfer.

(4) There are no fines, civil penalties, or other payments due and owing, or outstanding permit sanctions, resulting from Federal fishery violations involving either person.

(5) The person applying to receive the QS or IFQ currently exists.

(6) The transfer would not cause the person applying to receive the QS or IFQ to exceed the use limits in §679.42 (e) or (f).

(7) The transfer would not violate the provisions of paragraph (g) of this section.

(8) Other pertinent information requested on the Application for Transfer has been supplied to the satisfaction of the Regional Administrator.

(d) *Eligibility to receive QS or IFQ by transfer—(1) Application for Eligibility.* All persons applying to receive QS or IFQ must submit an Application for Eligibility to Receive QS/IFQ (Application for Eligibility), containing accurate information, to the Regional Administrator. The Regional Administrator will not approve a transfer of IFQ or QS to a person until the Application for Eligibility for that person is approved by the Regional Administrator. The Regional Administrator shall provide an Application for Eligibility form to any person on request.

(2) *Type of eligibility.* A person must indicate on the Application for Eligibility whether the eligibility sought is as:

(i) An individual; or

(ii) A corporation, partnership, or other entity.

(3) *Application filing order.* A person may submit the Application for Eligibility with the Application for Transfer or file the Application for Eligibility prior to submitting the Application for Transfer. If a person, as described in paragraph (d)(2)(ii) of this section, files the Application for Eligibility prior to submitting the Application for Transfer, and that person's status subsequently changes, as described in §679.42(j), that person must resubmit an Application for Eligibility before submitting, or with, the Application for Transfer.

(4) *Notification of approval.* Applicants will be notified by mail of the Regional Administrator's approval of an application for eligibility.

(5) *Notification of disapproval.* The Regional Administrator will notify the applicant if an Application for Eligibility is disapproved. This notification of disapproval will include:

(i) The disapproved Application for Eligibility.

(ii) An explanation of why the Application for Eligibility was not approved.

(6) *Reasons for disapproval.* Reasons for disapproval of an Application for Eligibility may include, but are not limited to:

(i) Fewer than 150 days of experience working as an IFQ crewmember.

(ii) Lack of compliance with the U.S. citizenship or corporate ownership requirements specified by the definition of "person" at §679.2.

(iii) An incomplete Application for Eligibility.

(iv) Fines, civil penalties, or other payments due and owing, or outstanding permit sanctions, resulting from Federal fishery violations.

(e) *Transfers of QS blocks.* (1) A QS block must be transferred as an undivided whole, unless the size of the QS block exceeds the use limits specified at §679.42. If the QS block to be transferred exceeds the use limits specified at §679.42, the Regional Administrator will divide the block into two blocks, one block containing the maximum amount of QS allowable under the QS use limits and the other block containing the residual QS.

(2) QS blocks for the same IFQ regulatory area and vessel category that represent less than 5,000 lb (2.3 mt) of sablefish IFQ, based on the 1996 TAC share for fixed gear sablefish in a specific IFQ regulatory area and the QS pool for that IFQ regulatory area on January 31, 1996, may be consolidated into larger QS blocks provided that the consolidated blocks do not represent greater than 5,000 lbs (2.3 mt) of sablefish IFQ based on the preceding criteria. A consolidated block cannot be divided and is considered a single block for purposes of use and transferability. The maximum number of QS units that may be consolidated into a single QS block in each IFQ regulatory area is as follows:

(i) Southeast Outside district: 33,270 QS.

(ii) West Yakutat district: 43,390 QS.

(iii) Central Gulf area: 46,055 QS.

(iv) Western Gulf area: 48,410 QS.

(v) Aleutian Islands subarea: 99,210 QS.

(vi) Bering Sea subarea: 91,275 QS.

(3) QS blocks for the same IFQ regulatory area and vessel category that represent less than 3,000 lbs (1.4 mt) of halibut IFQ, based on the 1996 catch limit for halibut in a specific IFQ regulatory area and the QS pool for that IFQ regulatory area on January 31, 1996, may be consolidated into larger

QS blocks provided that the consolidated blocks do not represent greater than 3,000 lbs (1.4 mt) of halibut IFQ based on the preceding criteria. A consolidated block cannot be divided and is considered a single block for purposes of use and transferability. The maximum number of QS units that may be consolidated into a single block in each IFQ regulatory area is as follows:

(i) Area 2C: 19,992 QS.

(ii) Area 3A: 27,912 QS.

(iii) Area 3B: 44,193 QS.

(iv) Subarea 4A: 22,947 QS.

(v) Subarea 4B: 15,087 QS.

(vi) Subarea 4C: 30,930 QS.

(vii) Subarea 4D: 26,082 QS.

(viii) Subarea 4E: 0 QS.

(f) *Transfer of QS or IFQ with restrictions.* If QS or IFQ must be transferred as a result of a court order, operation of law, or as part of a security agreement, but the person receiving the QS or IFQ by transfer does not meet all of the eligibility requirements of this section, the Regional Administrator will approve the Application for Transfer with restrictions. The Regional Administrator will not assign IFQ resulting from the restricted QS to any person. IFQ with restrictions may not be used for harvesting halibut or sablefish with fixed gear. The QS or IFQ will remain restricted until:

(1) The person who received the QS or IFQ with restrictions meets the eligibility requirements of this section and the Regional Administrator approves an Application for Eligibility for that person; or

(2) The Regional Administrator approves the Application for Transfer from the person who received the QS or IFQ with restrictions to a person who meets the requirements of this section.

(g) *Transfer restrictions.* (1) Except as provided in paragraph (f) or paragraph (g)(2) of this section, only persons who are IFQ crew members or who were initially issued QS assigned to vessel categories B, C, or D, and meet the other requirements in this section, may receive by transfer QS assigned to vessel categories B, C, or D, or the IFQ resulting from it.

(2) Except as provided in paragraph (g)(3) of this section, only persons who are IFQ crew members, and meet the

other requirements in this section, may receive by transfer QS assigned to vessel categories B, C, or D, or the IFQ resulting from it, in IFQ regulatory area 2C for halibut or in the IFQ regulatory area east of 140° W. long. for sablefish.

(3) Individuals who were initially issued QS assigned to vessel categories B, C, or D may transfer that QS to a corporation that is solely owned by the same individual. Such transfers of QS assigned to vessel categories B, C, or D in IFQ regulatory area 2C for halibut or in the IFQ regulatory area east of 140° W. long. for sablefish will be governed by the use provisions of § 679.42(i); the use provisions pertaining to corporations at § 679.42(j) shall not apply.

(4) The Regional Administrator will not approve an Application for Transfer of QS assigned to vessel categories B, C, or D subject to a lease or any other condition of repossession or resale by the person transferring QS, except as provided in paragraph (h) of this section, or by court order, operation of law, or as part of a security agreement. The Regional Administrator may request a copy of the sales contract or other terms and conditions of transfer between two persons as supplementary information to the transfer application.

(h) *Transfer of IFQ.* (1) Pursuant to paragraph (a) of this section, an Application for Transfer must be approved by the Regional Administrator before a person may use any IFQ that results from a direct transfer to harvest halibut or sablefish. After approving the Application for Transfer, the Regional Administrator will change any IFQ accounts affected by the approved transfer and issue all necessary IFQ permits.

(2) (Applicable until January 2, 1998). A person may transfer no more than 10 percent of the total IFQ resulting from QS held by that person and assigned to vessel categories B, C, or D for any IFQ species in any IFQ regulatory area to one or more persons for any fishing year.

(i) *Transfer across catcher vessel categories*—(1) *CDQ compensation.* Persons issued CDQ compensation QS in a catcher vessel category, pursuant to § 679.41(j), and in an IFQ regulatory

area in which they do not hold QS other than CDQ compensation QS, may use that CDQ compensation QS on any catcher vessel. This exemption from catcher vessel categories ends upon the first transfer of the CDQ compensation QS. CDQ compensation QS being transferred will be permanently assigned to a specific catcher vessel category as designated by the person receiving the transfer.

(2) *Redesignated catcher vessel category (Applicable until February 24, 1997).* Catcher vessel QS transferred as partial or total consideration for the transfer of CDQ compensation QS may be redesignated into a new catcher vessel category if the CDQ compensation QS being transferred can be used on any catcher vessel pursuant to the exemption in paragraph (i)(1) of this section and the person to which that CDQ compensation QS was issued is party to the transfer.

(3) *CDQ compensation QS definition.* For purposes of this paragraph (i), CDQ compensation QS is QS issued as compensation for halibut and sablefish harvest privileges foregone due to the CDQ Program, as provided in paragraph (j) of this section.

(j) *Compensation for CDQ allocations.* (1) The Regional Administrator will compensate persons that receive a reduced halibut QS in IPHC regulatory areas 4B, 4C, 4D, or 4E because of the halibut CDQ program by adding halibut QS from IPHC regulatory areas 2C, 3A, 3B, and 4A. This compensation of halibut QS from areas 2C, 3A, 3B, and 4A will be allocated in proportion to the amount of halibut QS foregone due to the CDQ allocation authorized by this section.

(2) The Regional Administrator will compensate persons that receive a reduced sablefish QS in any BSAI IFQ regulatory area because of the sablefish CDQ program by taking sablefish QS from the IFQ regulatory areas of the GOA and allocating it in proportion to the loss suffered by persons in the BSAI area. Such additional compensation of sablefish QS will be allocated in proportion to the amount of sablefish QS foregone due to the CDQ allocation authorized by this section.

(3) Persons initially issued QS for IFQ regulatory areas in which a portion of the TAC is allocated to the CDQ Program will be compensated for halibut and sablefish harvest privileges foregone due to the CDQ Program. If a person does not hold QS in an IFQ regulatory area on the date the compensation is issued, that person's compensation will be issued as unblocked. If a person does hold QS in an IFQ regulatory area on the date compensation is issued, that person's compensation will be added to their existing QS in that IFQ regulatory area. The resulting QS amount will be blocked or unblocked according to the criteria found at §679.40(a). Compensation will be calculated for each non-CDQ area using the following formula:

$$Q_N = \frac{(Q_C \times QSP_N \times RATE)}{(SUM_{CDQ} - [RATE \times SUM_{TAC}]) \times TAC_{AVE}} \times (QSP_C \times [CDQ_{PCT} - RATE])$$

Where:

- Q<sub>N</sub> = quota share in non-CDQ area
- Q<sub>C</sub> = quota share in CDQ area
- QSP<sub>N</sub> = quota share pool in non-CDQ area (as existing on January 31, 1995)
- RATE = SUM<sub>CDQ</sub>/average of the TAC (1988-1994) for all CDQ and non-CDQ areas
- TAC<sub>AVE</sub> = average of the TAC (1988-1994) for CDQ area
- QSP<sub>C</sub> = quota share pool in CDQ area (as existing on January 31, 1995)
- CDQ<sub>PCT</sub> = CDQ percentage for CDQ area
- SUM<sub>CDQ</sub> = sum [TAC<sub>AVE</sub> × CDQ<sub>PCT</sub>]
- SUM<sub>TAC</sub> = sum [TAC<sub>AVE</sub>]

(k) *Transfer to the surviving spouse.* (1) On the death of an individual who holds QS or IFQ, the surviving spouse receives all QS and IFQ held by the decedent by right of survivorship, unless a contrary intent was expressed by the decedent in a will that is probated. The Regional Administrator will approve an Application for Transfer to the surviving spouse when sufficient evidence has been provided to verify the death of the individual.

(2) The Regional Administrator will approve, for 3 calendar years following the date of death of an individual, an Application for Transfer of IFQ from the surviving spouse to a person eligible to receive IFQ under the provisions of this section, notwithstanding the

limitations on transfers of IFQ in paragraph (g)(2) of this section.

[61 FR 31230, June 19, 1996, as amended at 61 FR 33385, June 27, 1996; 61 FR 41526, Aug. 9, 1996; 61 FR 67964, Dec. 26, 1996]

**§679.42 Limitations on use of QS and IFQ.**

(a) *IFQ regulatory area and vessel category.* The QS or IFQ specified for one IFQ regulatory area must not be used in a different IFQ regulatory area. Except as provided in paragraph (k) of this section or in §679.41(i)(1) of this part, the IFQ assigned to one vessel category must not be used to harvest IFQ species on a vessel of a different vessel category. Notwithstanding §679.40(a)(5)(ii) of this part, IFQ assigned to vessel Category B must not be used on any vessel less than or equal to 60 ft (18.3 m) LOA to harvest IFQ halibut in IFQ regulatory area 2C or IFQ sablefish in the IFQ regulatory area east of 140° W. long, unless such IFQ derives from blocked QS units that result in IFQ of less than 5,000 lb (2.3 mt), based on the 1996 TAC for fixed gear specified for the IFQ halibut fishery and the IFQ sablefish fishery in each of these two regulatory areas.

(b) *Gear.* Halibut IFQ must be used only to harvest halibut with fishing gear authorized in §679.2. Sablefish fixed gear IFQ must not be used to harvest sablefish with trawl gear in any IFQ regulatory area, or with pot gear in any IFQ regulatory area of the GOA.

(c) *Requirements.* Any individual who harvests halibut or sablefish with fixed gear must:

- (1) Have a valid IFQ card.
- (2) Be aboard the vessel at all times during fishing operations.
- (3) Sign any required fish ticket or IFQ landing report for the amount of halibut or sablefish that will be debited against the IFQ associated with their IFQ card.

(i) *Sablefish PRRs.* The amount of sablefish to be reported to NMFS for debit from an IFQ account will be the round-weight equivalent determined by dividing the initial accurate scale weight of the sablefish product obtained at time of landing by the standard PRRs for sablefish in Table 3 to this part.

(ii) *Halibut PRRs*. The amount of halibut to be reported to NMFS for debit from an IFQ account will be the gutted, head-off weight determined by multiplying the initial accurate scale weight of the halibut obtained at the time of landing by the following conversion factors:

Product code	Product description	Conversion factor
01 .....	Whole fish .....	0.75
04 .....	Gutted, head on .....	0.90
05 .....	Gutted, head off .....	1.00

(d) *Emergency waiver*. The requirement of paragraph (c) of this section for an individual IFQ card holder to be aboard the vessel during fishing operations and to sign the IFQ landing report may be waived in the event of extreme personal emergency involving the IFQ user during a fishing trip. The waiving of these requirements shall apply only to IFQ halibut or IFQ sablefish retained on the fishing trip during which such emergency occurred.

(e) *Sablefish QS use*. (1) No person, individually or collectively, may use an amount of sablefish QS greater than 1 percent of the combined total sablefish QS for the GOA and BSAI IFQ regulatory areas, unless the amount in excess of 1 percent was received in the initial allocation of QS.

(2) In the IFQ regulatory area east of 140° W. long., no person, individually or collectively, may use more than 1 percent of the total amount of QS for this area, unless the amount in excess of 1 percent was received in the initial allocation of QS.

(f) *Halibut QS use*. Unless the amount in excess of the following limits was received in the initial allocation of halibut QS, no person, individually or collectively, may use more than:

(1) *IFQ regulatory area 2C*. 599,799 units of halibut QS.

(2) *IFQ regulatory areas 2C, 3A, and 3B*. 1,502,823 units of halibut QS.

(3) *IFQ regulatory areas 4A, 4B, 4C, 4D, and 4E*. 495,044 units of halibut QS.

(g) *Limitations on QS blocks*—(1) *Number of blocks per species*. (i) Except as provided in paragraph (g)(1)(ii) of this section, no person, individually or collectively, may hold more than two blocks for each species in any IFQ regulatory area.

(ii) If that person, individually or collectively, holds unblocked QS for a species in an IFQ regulatory area, such person may only hold one QS block for that species in that IFQ regulatory area.

(2) *Holding or to hold blocks of QS*. For purposes of this section, “holding” or “to hold” blocks of QS means being registered by NMFS as the person who received QS by initial assignment or approved transfer.

(h) *Vessel limitations*—(1) *Halibut*. (i) Except as provided in paragraph (h)(1)(ii) of this section, no vessel may be used, during any fishing year, to harvest more than one-half percent of the combined total catch limits of halibut for IFQ regulatory areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E.

(ii) In IFQ regulatory area 2C, no vessel may be used to harvest more than 1 percent of the halibut catch limit for this area.

(2) *Sablefish*. (i) Except as provided in paragraph (h)(2)(ii) of this section, no vessel may be used, during any fishing year, to harvest more than 1 percent of the combined fixed gear TAC of sablefish for the GOA and BSAI IFQ regulatory areas.

(ii) In the IFQ regulatory area east of 140° W. long., no vessel may be used to harvest more than 1 percent of the fixed gear TAC of sablefish for this area.

(3) *Excess*. A person who receives an approved IFQ allocation of halibut or sablefish in excess of these limitations may nevertheless catch and retain all of that IFQ with a single vessel. However, two or more persons may not catch and retain their IFQs with one vessel in excess of these limitations.

(i) *Use of IFQ resulting from QS assigned to vessel categories B, C, or D by individuals*. In addition to the requirements of paragraph (c) of this section, IFQ cards issued for IFQ resulting from QS assigned to vessel categories B, C, or D must be used only by the individual who holds the QS from which the associated IFQ is derived, except as provided in paragraph (i)(1) of this section.

(1) An individual who receives an initial allocation of QS assigned to vessel categories B, C, or D does not have to

be on board and sign IFQ landing reports if that individual owns the vessel on which IFQ sablefish or halibut are harvested, and is represented on the vessel by a master employed by the individual who received the initial allocation of QS.

(2) The exemption provided in paragraph (i)(1) of this section does not apply to individuals who receive an initial allocation of QS assigned to vessel categories B, C, or D for halibut in IFQ regulatory area 2C or for sablefish QS in the IFQ regulatory area east of 140° W. long., and this exemption is not transferrable.

(j) *Use of IFQ resulting from QS assigned to vessel categories B, C, or D by corporations and partnerships.* A corporation or partnership that receives an initial allocation of QS assigned to vessel categories B, C, or D may use the IFQ resulting from that QS and any additional QS acquired within the limitations of this section provided the corporation or partnership owns the vessel on which its IFQ is used, and it is represented on the vessel by a master employed by the corporation or partnership that received the initial allocation of QS. This provision is not transferrable and does not apply to QS assigned to vessel categories B, C, or D for halibut in IFQ regulatory area 2C or for sablefish in the IFQ regulatory area east of 140° W. long. that is transferred to a corporation or partnership. Such transfers of additional QS within these areas must be to an individual pursuant to §679.41(c) of this part and be used pursuant to paragraphs (c) and (i) of this section.

(1) A corporation or partnership, except for a publicly-held corporation, that receives an initial allocation of QS assigned to vessel categories B, C, or D loses the exemption provided under paragraph (j) of this section on the effective date of a change in the corporation or partnership from that which existed at the time of initial allocation.

(2) For purposes of this paragraph (j), "a change in the corporation or partnership" means the addition of any new shareholder(s) or partner(s), except that a court appointed trustee to act on behalf of a shareholder or partner who becomes incapacitated is not a

change in the corporation or partnership.

(3) The Regional Administrator must be notified of a change in a corporation or partnership as defined in this paragraph (j) within 15 days of the effective date of the change. The effective date of change, for purposes of this paragraph (j), is the date on which the new shareholder(s) or partner(s) may realize any corporate liabilities or benefits of the corporation or partnership.

(4) QS assigned to vessel categories B, C, or D and IFQ resulting from that QS held in the name of a corporation or partnership that changes, as defined in this paragraph, must be transferred to an individual, as prescribed in §679.41 of this part, before it may be used at any time after the effective date of the change.

(k) *Processing of fish other than IFQ halibut and IFQ sablefish.* Fish other than IFQ halibut or IFQ sablefish may be processed on a vessel on which persons:

(1) Are authorized to harvest IFQ halibut or IFQ sablefish based on allocations of IFQ resulting from QS assigned to vessel category A; or

(2) Are authorized to harvest IFQ sablefish based on allocations of IFQ resulting from QS assigned to vessel categories B or C unless any person aboard the vessel is authorized to harvest IFQ halibut based on allocations of IFQ resulting from QS assigned to vessel categories B, C, or D.

[61 FR 31230, June 19, 1996, as amended at 61 FR 33385, June 27, 1996; 61 FR 43314, Aug. 22, 1996; 62 FR 7948, Feb. 21, 1997; 62 FR 19690, Apr. 23, 1997]

#### §679.43 Determinations and appeals.

(a) *General.* This section describes the procedure for appealing initial administrative determinations made under this subpart as well as §679.4(c), §679.4(g), and portions of subpart C of this part that apply to the halibut and sablefish CDQ program.

(b) *Who may appeal.* Any person whose interest is directly and adversely affected by an initial administrative determination may file a written appeal. For purposes of this section, such persons will be referred to as "applicant" or "appellant."

(c) *Submission of appeals.* Appeals must be in writing and must be submitted in original form to the Regional Administrator. Contact the Regional Administrator for appeals address. Appeals transmitted by electronic means will not be accepted.

(d) *Timing of appeals.* (1) If an applicant appeals an initial administrative determination, the appeal must be filed not later than 60 days after the date the determination is issued.

(2) The time period within which an appeal may be filed begins to run on the date the initial administrative determination is issued. If the last day of the time period is a Saturday, Sunday, or Federal holiday, the time period will extend to the close of business on the next business day.

(e) *Address of record.* NMFS will establish as the address of record the address used by the applicant in initial correspondence to Chief, RAM Division, after the application period has begun. Notifications of all actions affecting the applicant after establishing an address of record will be mailed to that address, unless the applicant provides NMFS, in writing, with any changes to that address. NMFS bears no responsibility if a notification is sent to the address of record and is not received because the applicant's actual address has changed without notification to NMFS.

(f) *Statement of reasons for appeals.* Applicants must timely submit a full written statement in support of the appeal, including a concise statement of the reasons the initial administrative determination has a direct and adverse effect on the applicant and should be reversed or modified. If the applicant requests a hearing on any issue presented in the appeal, such request for hearing must be accompanied by a concise written statement raising genuine and substantial issues of adjudicative fact for resolution and a list of available and specifically identified reliable evidence upon which the factual issues can be resolved. The appellate officer will limit his/her review to the issues stated in the appeal; all issues not set out in the appeal will be waived.

(g) *Hearings.* The appellate officer will review the applicant's appeal and

request for hearing, and has discretion to proceed as follows:

(1) Deny the appeal;

(2) Issue a decision on the merits of the appeal, if the record contains sufficient information on which to reach final judgment; or

(3) Order that a hearing be conducted. The appellate officer may so order only if the appeal demonstrates the following:

(i) There is a genuine and substantial issue of adjudicative fact for resolution at a hearing. A hearing will not be ordered on issues of policy or law.

(ii) The factual issue can be resolved by available and specifically identified reliable evidence. A hearing will not be ordered on the basis of mere allegations or denials or general descriptions of positions and contentions.

(iii) The evidence described in the request for hearing, if established at hearing, would be adequate to justify resolution of the factual issue in the way sought by the applicant. A hearing will not be ordered if the evidence described is insufficient to justify the factual determination sought, even if accurate.

(iv) Resolution of the factual issue in the way sought by the applicant is adequate to justify the action requested. A hearing will not be ordered on factual issues that are not determinative with respect to the action requested.

(h) *Types of hearings.* If the appellate officer determines that a hearing should be held to resolve one or more genuine and substantial issues of adjudicative fact, he/she may order:

(1) A written hearing, as provided in paragraph (m) of this section; or

(2) An oral hearing, as provided in paragraph (n) of this section.

(i) *Authority of the appellate officer.* The appellate officer is vested with general authority to conduct all hearings in an orderly manner, including the authority to:

(1) Administer oaths.

(2) Call and question witnesses.

(3) Issue a written decision based on the record.

(j) *Evidence.* All evidence that is relevant, material, reliable, and probative may be included in the record. Formal rules of evidence do not apply to hearings conducted under this section.

(k) *Appellate officers' decisions.* The appellate officer will close the record and issue a decision after determining there is sufficient information to render a decision on the record of the proceedings and that all procedural requirements have been met. The decision must be based solely on the record of the proceedings. Except as provided in paragraph (o) of this section, an appellate officer's decision takes effect 30 days after it is issued and, upon taking effect, is the final agency action for purposes of judicial review.

(l) *Disqualification of an appellate officer.* (1) The appellate officer will withdraw from an appeal at any time he/she deems himself/herself disqualified.

(2) The appellate officer may withdraw from an appeal on an appellant's motion if:

(i) The motion is entered prior to the appellate officer's issuance of a decision; and

(ii) The appellant demonstrates that the appellate officer has a personal bias or any other basis for disqualification.

(3) If the appellate officer denies a motion to withdraw, he/she will so rule on the record.

(m) *Written hearing.* (1) An appellate officer may order a written hearing under paragraph (h)(1) of this section if he/she:

(i) Orders a hearing as provided in paragraph (g)(3) of this section; and

(ii) Determines that the issues to be resolved at hearing can be resolved by allowing the appellant to present written materials to support his/her position.

(2) After ordering a written hearing, the appellate officer will:

(i) Provide the appellant with notification that a written hearing has been ordered.

(ii) Provide the appellant with a statement of issues to be determined at hearing.

(iii) Provide the appellant with 30 days to file a written response. The appellant may also provide documentary evidence to support his/her position. The period to file a written response may be extended at the sole discretion of the appellate officer, if the appellant shows good cause for the extension.

(3) The appellate officer may, after reviewing the appellant's written response and documentary evidence:

(i) Order that an oral hearing be held, as provided in paragraph (h)(2) of this section, to resolve issues that cannot be resolved through the written hearing process;

(ii) Request supplementary evidence from the appellant before closing the record; or

(iii) Close the record.

(4) The appellate officer will close the record and issue a decision after determining that the information on the record is sufficient to render a decision.

(n) *Oral hearing.* (1) The appellate officer may order an oral hearing under paragraphs (h)(2) and (m)(3)(i) of this section if he/she:

(i) Orders a hearing as provided in paragraph (g)(3) of this section; and

(ii) Determines that the issues to be resolved at hearing can best be resolved through the oral hearing process.

(2) After ordering an oral hearing, the appellate officer will:

(i) Provide the appellant with notification that an oral hearing has been ordered.

(ii) Provide the appellant with a statement of issues to be determined at hearing.

(iii) Provide the appellant with notification, at least 30 days in advance, of the place, date, and time of the oral hearing. Oral hearings will be held in Juneau, AK, at the prescribed date and time, unless the appellate officer determines, based upon good cause shown, that a different place, date, or time will better serve the interests of justice. A continuance of the oral hearing may be ordered at the sole discretion of the appellate officer if the appellant shows good cause for the continuance.

(3) The appellate officer may, either at his/her own discretion or on the motion of the appellant, order a pre-hearing conference, either in person or telephonically, to consider:

(i) The simplification of issues.

(ii) The possibility of obtaining stipulations, admissions of facts, and agreements to the introduction of documents.

(iii) The possibility of settlement or other means to facilitate resolution of the case.

(iv) Such other matters as may aid in the disposition of the proceedings.

(4) The appellate officer must provide the appellant with notification of a pre-hearing conference, if one is ordered, at least 30 days in advance of the conference. All action taken at the pre-hearing conference will be made part of the record.

(5) At the beginning of the oral hearing, the appellate officer may first seek to obtain stipulations as to material facts and the issues involved and may state any other issues on which he/she may wish to have evidence presented. Issues to be resolved at the hearing will be limited to those identified by the appellate officer as provided in paragraph (g)(3) of this section. The appellant will then be given an opportunity to present his/her case.

(6) During the oral hearing, the appellant has the right to present reliable and material oral or documentary evidence and to conduct such cross-examination as may be required in the interests of justice.

(7) After the conclusion of the oral hearing, the appellant may be given time by the appellate officer to submit any supplementary information that may assist in the resolution of the case.

(8) The appellate officer will close the record and issue a decision after determining that the information on the record is sufficient to render a decision.

(o) *Review by the Regional Administrator.* An appellate officer's decision is subject to review by the Regional Administrator, as provided in this paragraph (o).

(1) The Regional Administrator may affirm, reverse, modify, or remand the appellate officer's decision before the 30-day effective date of the decision provided in paragraph (k) of this section.

(2) The Regional Administrator may take any of these actions on or after the 30-day effective date by issuing a stay of the decision before the 30-day effective date. An action taken under paragraph (o)(1) of this section takes effect immediately.

(3) The Regional Administrator must provide a written explanation why an appellate officer's decision has been reversed, modified, or remanded.

(4) The Regional Administrator must promptly notify the appellant(s) of any action taken under this paragraph (o).

(5) The Regional Administrator's decision to affirm, reverse, or modify an appellate officer's decision is a final agency action for purposes of judicial review.

[61 FR 31230, June 19, 1996, as amended at 62 FR 17753, Apr. 11, 1997]

#### § 679.44 Penalties.

Any person committing, or a fishing vessel used in the commission of, a violation of the Magnuson-Stevens Act or Halibut Act, or any regulation issued under the Magnuson-Stevens Act or Halibut Act, is subject to the civil and criminal penalty provisions and civil forfeiture provisions of the Magnuson-Stevens Act or Halibut Act, to part 600 of this chapter, to 15 CFR part 904 (Civil Procedures), and to other applicable law. Penalties include but are not limited to permanent or temporary sanctions to QS and associated IFQ.

#### Subpart E—Groundfish Observer Program

SOURCE: 61 FR 56431, Nov. 1, 1996, unless otherwise noted.

#### § 679.50 Groundfish Observer Program applicable through December 31, 1997.

(a) *General.* Operators of vessels possessing a Federal fisheries permit under § 679.4(b)(1) and processors that possess a Federal processor permit under § 679.4(f)(1), must comply with this section. The owner of a fishing vessel subject to this part or a processor subject to this part must ensure that the operator or manager complies with this section and is jointly and severally liable for such compliance. Observer coverage requirements specified under this section are in addition to observer coverage requirements specified at § 679.32(c) for vessel operators and processors participating in CDQ fisheries.

(b) *Purpose.* The purpose of the Groundfish Observer Program is to allow observers to collect Alaska fisheries data deemed by the Regional Administrator to be necessary and appropriate for management, compliance monitoring, and research of groundfish fisheries and for the conservation of marine resources or their environment.

(c) *Observer requirements for vessels.* (1) Observer coverage is required as follows:

(i) A mothership of any length that processes 1,000 mt or more in round weight or round-weight equivalent of groundfish during a calendar month is required to have an observer aboard the vessel each day it receives or processes groundfish during that month.

(ii) A mothership of any length that processes from 500 mt to 1,000 mt in round weight or round-weight equivalent of groundfish during a calendar month is required to have an observer aboard the vessel at least 30 percent of the days it receives or processes groundfish during that month.

(iii) Each mothership that receives pollock harvested by catcher vessels in the catcher vessel operational area during the second pollock season that starts on September 1 under § 679.23(e)(2) is required to have a second observer aboard, in addition to the observer required under paragraphs (c)(1) (i) and (ii) of this section, for each day of the second pollock season until the chum salmon savings area is closed under § 679.21(e)(7)(vi), or October 15, whichever occurs first.

(iv) A catcher/processor or catcher vessel 125 ft (38.1 m) LOA or longer must carry an observer during 100 percent of its fishing days except for a vessel fishing for groundfish with pot gear as provided in paragraph (c)(1)(vii) of this section.

(v) A catcher/processor or catcher vessel equal to or greater than 60 ft (18.3 m) LOA, but less than 125 ft (38.1 m) LOA, that participates for more than 3 fishing days in a directed fishery for groundfish in a calendar quarter must carry an observer during at least 30 percent of its fishing days in that calendar quarter and at all times during at least one fishing trip in that calendar quarter for each of the groundfish fishery categories defined under

paragraph (c)(2) of this section in which the vessel participates.

(vi) A catcher/processor or catcher vessel fishing with hook-and-line gear that is required to carry an observer under paragraph (c)(1)(v) of this section must carry an observer at all times during at least one fishing trip in the Eastern Regulatory Area of the GOA during each calendar quarter in which the vessel participates in a directed fishery for groundfish in the Eastern Regulatory Area.

(vii) A catcher/processor or catcher vessel equal to or greater than 60 ft (18.3 m) LOA fishing with pot gear that participates for more than 3 fishing days in a directed fishery for groundfish in a calendar quarter must carry an observer during at least 30 percent of its fishing days in that calendar quarter and at all times during at least one fishing trip in a calendar quarter for each of the groundfish fishery categories defined under paragraph (c)(2) of this section in which the vessel participates.

(viii) *Red King Crab Savings Area.* (A) Any catcher/processor or catcher vessel used to fish for groundfish in the Red King Crab Savings area must carry an observer during 100 percent of its fishing days in which the vessel uses pelagic trawl gear, pot, jig, or longline gear.

(B) Any catcher/processor or catcher vessel used to fish for groundfish in the Red King Crab Savings Subarea and subject to this subarea being open to vessels fishing for groundfish with non-pelagic trawl gear under § 679.21(e)(3)(ii)(B), must carry an observer during 100 percent of its fishing days in which the vessel uses non-pelagic trawl gear.

(ix) *Nearshore Bristol Bay Trawl Closure.* Any catcher/processor or catcher vessel used to fish for groundfish in the Nearshore Bristol Bay Trawl Closure area must carry an observer during 100 percent of its fishing days in which the vessel uses trawl gear.

(2) *Groundfish fishery categories requiring separate coverage.* Directed fishing for groundfish, during any fishing trip, that results:

(i) *Pollock fishery.* In a retained catch of pollock that is greater than the retained catch of any other groundfish

species or species group that is specified as a separate groundfish fishery under this paragraph (c)(2).

(ii) *Pacific cod fishery*. In a retained catch of Pacific cod that is greater than the retained catch of any other groundfish species or species group that is specified as a separate groundfish fishery under this paragraph (c)(2).

(iii) *Sablefish fishery*. In a retained catch of sablefish that is greater than the retained catch of any other groundfish species or species group that is specified as a separate groundfish fishery under this paragraph (c)(2).

(iv) *Rockfish fishery*. In a retained aggregate catch of rockfish of the genera *Sebastes* and *Sebastolobus* that is greater than the retained catch of any other groundfish species or species group that is specified as a separate groundfish fishery under this paragraph (c)(2).

(v) *Flatfish fishery*. In a retained aggregate catch of all flatfish species, except Pacific halibut, that is greater than the retained catch of any other groundfish species or species group that is specified as a separate groundfish fishery under this paragraph (c)(2).

(vi) *Other species fishery*. In a retained catch of groundfish that does not qualify as a pollock, Pacific cod, sablefish, rockfish, or flatfish fishery as defined under paragraphs (c)(2) (i) through (v) of this section.

(3) *Assignment of vessels to fisheries*. At the end of any fishing trip, a vessel's retained catch of groundfish species or species groups for which a TAC has been specified under §679.20, in round weight or round-weight equivalent, will determine to which fishery category listed under paragraph (c)(2) of this section the vessel is assigned.

(i) *Catcher/processors*. A catcher/processor will be assigned to a fishery category based on the retained groundfish catch composition reported on the vessel's weekly production report submitted to the Regional Administrator under §679.5(i).

(ii) *Catcher vessel delivery in Federal waters*. A catcher vessel that delivers to a mothership in Federal waters will be assigned to a fishery category based on the retained groundfish catch composition reported on the weekly production report submitted to the Re-

gional Administrator for that week by the mothership under §679.5(i).

(iii) *Catcher vessel delivery in Alaska State waters*. A catcher vessel that delivers groundfish to a shoreside processor or to a mothership processor vessel in Alaska State waters will be assigned to a fishery category based on the retained groundfish catch composition reported on one or more ADF&G fish tickets as required under Alaska Statutes at A.S. 16.05.690.

(d) *Observer requirements for shoreside processors*. Observer coverage is required as follows. A shoreside processor that:

(1) Processes 1,000 mt or more in round weight or round weight equivalent of groundfish during a calendar month is required to have an observer present at the facility each day it receives or processes groundfish during that month.

(2) Processes 500 mt to 1,000 mt in round weight or round-weight equivalent of groundfish during a calendar month is required to have an observer present at the facility at least 30 percent of the days it receives or processes groundfish during that month.

(3) Offloads pollock at more than one location on the same dock and has distinct and separate equipment at each location to process those pollock and that receives pollock harvested by catcher vessels in the catcher vessel operational area during the second pollock season that starts on September 1, under §679.23(e)(2), is required to have an observer, in addition to the observer required under paragraphs (d) (1) and (2) of this section, at each location where pollock is offloaded, for each day of the second pollock season until the chum salmon savings area is closed under §679.21(e)(7)(vi), or October 15, whichever occurs first.

(e) *Inseason adjustments in observer coverage requirements*.

(1) The Regional Administrator may adjust the observer coverage requirements set out under paragraphs (c) and (d) of this section at any time to improve the accuracy, reliability, and availability of observer data, so long as the changes are based on one or more of the following:

(i) A finding that fishing methods, times, or areas, or catch or bycatch

composition for a specific fishery or fleet component have changed significantly, or are likely to change significantly.

(ii) A finding that such modifications are necessary to improve data availability or quality in order to meet specific fishery management objectives.

(2) *Procedure.* Observer coverage requirements may be adjusted in accordance with § 679.25(c). NMFS must publish changes in observer coverage requirements in the FEDERAL REGISTER, with the reasons for the changes and any special instructions to vessels or shoreside processors required to carry observers, at least 10 calendar days prior to their effective date.

(f) *Responsibilities*—(1) *Vessel responsibilities.* An operator of a vessel required to carry one or more observers must:

(i) *Accommodations and food.* Provide, at no cost to observers or the United States, accommodations and food on the vessel for the observer or observers that are equivalent to those provided for officers, engineers, foremen, deckbosses or other management level personnel of the vessel.

(ii) *Safe conditions.* (A) Maintain safe conditions on the vessel for the protection of observers including adherence to all U.S. Coast Guard and other applicable rules, regulations, or statutes pertaining to safe operation of the vessel.

(B) Have on board:

(1) A valid Commercial Fishing Vessel Safety Decal issued within the past 2 years that certifies compliance with regulations found in 33 CFR Chapter I and 46 CFR Chapter I;

(2) A certificate of compliance issued pursuant to 46 CFR 28.710; or

(3) A valid certificate of inspection pursuant to 46 U.S.C. 3311.

(iii) *Transmission of data.* Facilitate transmission of observer data by:

(A) *Observer use of equipment.* Allowing observers to use the vessel's communication equipment and personnel, on request, for the entry, transmission, and receipt of work-related messages, at no cost to the observers or the United States.

(B) *Communication equipment requirements*—(1) *Hardware and software.* Providing for use by the observer a per-

sonal computer in working condition that contains a full 486DX 66Mhz or greater capacity processing chip, at least 16 megabytes of RAM, at least 75 megabytes of free hard disk storage, DOS version 6.0 or a successor version of the DOS operating system, Windows 3.1, 3.11, or Windows95 (or equivalent and compatible software approved by NMFS), a mouse, and a 3.5-inch floppy disk drive. The computer equipment specified in this paragraph (B) must be connected to either an INMARSAT Standard C unit capable of transmitting binary files or a communication device that provides a point-to-point modem connection to the NMFS host computer and supports one or more of the following protocols: ITU V.22, ITU V.22bis, ITU V.32, ITU V.32bis, or ITU V.34. Those processors that use other than an INMARSAT Standard C unit must have at least a 28.8kbs Hayes-compatible modem. The above-specified hardware and software requirements do not apply to processors that do not process groundfish.

(2) *NMFS-supplied Software.* Ensuring that each mothership that is required to have a second observer aboard under paragraph (c)(iii) of this section, obtains the data entry software provided by the Regional Administrator for use by the observer.

(C) *Functional and operational equipment.* Ensuring that the communication equipment that is on motherships as specified at paragraph (f)(1)(iii)(B) of this section, and that is used by observers to enter and transmit data, is fully functional and operational.

(iv) *Vessel position.* Allow observers access to, and the use of, the vessel's navigation equipment and personnel, on request, to determine the vessel's position.

(v) *Access.* Allow observers free and unobstructed access to the vessel's bridge, trawl or working decks, holding bins, processing areas, freezer spaces, weight scales, cargo holds, and any other space that may be used to hold, process, weigh, or store fish or fish products at any time.

(vi) *Prior notification.* Notify observers at least 15 minutes before fish are brought on board, or fish and fish products are transferred from the vessel, to allow sampling the catch or observing

the transfer, unless the observers specifically request not to be notified.

(vii) *Records.* Allow observers to inspect and copy the vessel's DFL, DCPL, product transfer forms, any other log-book or document required by regulations, printouts or tallies of scale weights, scale calibration records, bin sensor readouts, and production records.

(viii) *Assistance.* Provide all other reasonable assistance to enable observers to carry out their duties, including, but not limited to:

(A) Measuring decks, codends, and holding bins.

(B) Providing the observers with a safe work area adjacent to the sample collection site.

(C) Collecting bycatch when requested by the observers.

(D) Collecting and carrying baskets of fish when requested by observers.

(E) Allowing observers to determine the sex of fish when this procedure will not decrease the value of a significant portion of the catch.

(ix) *Transfer at sea.* (A) Ensure that transfers of observers at sea via small boat or raft are carried out during daylight hours, under safe conditions, and with the agreement of observers involved.

(B) Notify observers at least 3 hours before observers are transferred, such that the observers can collect personal belongings, equipment, and scientific samples.

(C) Provide a safe pilot ladder and conduct the transfer to ensure the safety of observers during transfers.

(D) Provide an experienced crew member to assist observers in the small boat or raft in which any transfer is made.

(2) *Shoreside processor responsibilities.* A manager of a shoreside processor must do the following:

(i) *Safe conditions.* Maintain safe conditions at the shoreside processing facility for the protection of observers by adhering to all applicable rules, regulations, or statutes pertaining to safe operation and maintenance of the processing facility.

(ii) *Operations information.* Notify the observers, as requested, of the planned facility operations and expected re-

ceipt of groundfish prior to receipt of those fish.

(iii) *Transmission of data.* Facilitate transmission of observer data by:

(A) *Observer use of equipment.* Allowing observers to use the shoreside processor's communication equipment and personnel, on request, for the entry, transmission, and receipt of work-related messages, at no cost to the observers or the United States.

(B) *Communication equipment requirements—(1) Hardware and software.* Making available for use by the observer a personal computer in working condition that contains a full 486DX 66Mhz or greater capacity processing chip, at least 16 megabytes of RAM, at least 75 megabytes of free hard disk storage, DOS version 6.0 or a successor version of the DOS operating system, Windows 3.1, 3.11, or Windows95 (or equivalent and compatible software approved by NMFS), at least a 28.8kbs Hayes-compatible modem, a mouse, and a 3.5-inch floppy disk drive. The computer equipment specified in this paragraph (B) must be connected to a communication device that provides a point-to-point modem connection to the NMFS host computer and supports one or more of the following protocols: ITU V.22, ITU V.22bis, ITU V.32, ITU V.32bis, or ITU V.34. The above-specified hardware and software requirements do not apply to processors that do not process groundfish.

(2) *NMFS-supplied software.* Ensuring that each shoreside processor that is required to have an additional observer under paragraph (d)(3) of this section, obtains the data entry software provided by the Regional Administrator for use by the observer.

(C) *Functional and operational equipment.* Ensuring that the communication equipment that is in the shoreside processor as specified at paragraph (f)(2)(iii)(B) of this section and that is used by observers to transmit data is fully functional and operational.

(iv) *Access.* Allow observers free and unobstructed access to the shoreside processor's holding bins, processing areas, freezer spaces, weight scales, warehouses, and any other space that may be used to hold, process, weigh, or store fish or fish products at any time.

(v) *Document access.* Allow observers to inspect and copy the shoreside processor's DCPL, product transfer forms, any other logbook or document required by regulations; printouts or tallies of scale weights; scale calibration records; bin sensor readouts; and production records.

(vi) *Assistance.* Provide all other reasonable assistance to enable the observer to carry out his or her duties, including, but not limited to:

(A) Assisting the observer in moving and weighing totes of fish.

(B) Cooperating with product recovery tests.

(C) Providing a secure place to store baskets of sampling gear.

(g) *Procurement of observer services.* Owners of vessels or shoreside processors required to carry observers under paragraphs (c) and (d) of this section must arrange for observer services from an observer contractor or contractors. A list of observer contractors is available upon request from the Observer Program Office.

(h) *Certification and decertification of observers—(1) Certification of observers—*

(i) *Requirements.* NMFS will certify individuals who:

(A) Meet education and/or experience standards available from the Observer Program Office.

(B) Have successfully completed a NMFS-approved observer training and/or briefing as prescribed by NMFS and available from the Observer Program Office.

(C) Have not been suspended or decertified under paragraph (j) of this section.

(ii) *Term.* An observer's certification expires upon completion of a deployment. Observers can be decertified or suspended by NMFS under paragraph (j) of this section.

(2) *Standards of observer conduct—(i) Conflict of interest.*

(A) Observers:

(1) May not have a direct financial interest, other than the provision of observer services, in a North Pacific fishery, including, but not limited to, vessels or shoreside facilities involved in the catching or processing of the products of the fishery, concerns selling supplies or services to these vessels or shoreside facilities, or concerns pur-

chasing raw or processed products from these vessels or shoreside facilities.

(2) May not solicit or accept, directly or indirectly, any gratuity, gift, favor, entertainment, loan, or anything of monetary value from anyone who conducts activities that are regulated by NMFS, or who has interests that may be substantially affected by the performance or nonperformance of the observers' official duties.

(3) May not serve as observers on any vessel or at any shoreside facility owned or operated by a person who previously employed the observers.

(4) May not serve as observers during the 12 consecutive months immediately following the last day of the observer's employment in a North Pacific fishery.

(5) May not solicit or accept employment as a crew member or an employee of a vessel or shoreside processor in a North Pacific fishery while under contract with an observer contractor.

(B) Provisions for remuneration of observers under this section do not constitute a conflict of interest under this paragraph (h)(2).

(ii) *Standards of behavior.* Observers must avoid any behavior that could adversely affect the confidence of the public in the integrity of the Observer Program or of the government, including but not limited to the following:

(A) Observers must diligently perform their assigned duties.

(B) Observers must accurately record their sampling data, write complete reports, and report honestly any suspected violations of regulations relevant to conservation of marine resources or their environment that are observed.

(C) Observers must not disclose collected data and observations made on board the vessel or in the processing facility to any person except the owner or operator of the observed vessel or processing facility, an authorized officer, or NMFS.

(D) Observers must refrain from engaging in any illegal actions or any other activities that would reflect negatively on their image as professional scientists, on other observers, or on the Observer Program as a whole. This includes, but is not limited to:

(1) Engaging in excessive drinking of alcoholic beverages;

(2) Engaging in the use or distribution of illegal drugs; or

(3) Becoming physically or emotionally involved with vessel or processing facility personnel.

(i) *Certification and decertification of observer contractors*—(1) *Certification of observer contractors*—(i) *Application*. An applicant seeking to become an observer contractor must submit an application to the Regional Administrator describing the applicant's ability to carry out the responsibilities and duties of an observer contractor as set out in paragraph (i)(2) of this section and the arrangements and methods to be used. Observer contractors certified prior to January 1, 1997, are exempt from submitting an application.

(ii) *Selection*. The Regional Administrator may select one or more observer contractors based on the information submitted by applicants under paragraph (i)(1)(i) of this section and on other selection criteria that are available from the Observer Program Office.

(iii) *Term*. Observer contractors will be certified through December 31, 1997. Observer contractors can be decertified or suspended by NMFS under paragraph (j) of this section.

(2) *Responsibilities and duties of observer contractors* include but are not limited to the following:

(i) Recruiting, evaluating, and hiring qualified candidates to serve as observers, including minorities and women.

(ii) Ensuring that only observers provide observer services.

(iii) Providing observers as requested by vessels and processors to fulfill requirements under paragraphs (c) and (d) of this section.

(iv) Providing observers' salary, benefits and personnel services in a timely manner.

(v) Providing all logistics to place and maintain the observers aboard the fishing vessels or at the site of the processing facility. This includes all travel arrangements, lodging and per diem, and any other services required to place observers aboard vessels or at processing facilities. Unless alternative arrangements are approved by the Observer Program Office:

(A) Observers must not be deployed on the same vessel or at the same

shoreside processor for more than 90 days in a 12-month period.

(B) A deployment cannot exceed 90 days.

(C) A deployment cannot include assignments to more than four vessels and/or shoreside processors.

(vi) Supplying alternate observers or prospective observers if one or more observers or prospective observers are not approved by NMFS, fail to successfully complete observer training or briefing, are injured and must be replaced, or resign prior to completion of duties.

(vii) Maintaining communications with observers at sea and shoreside facilities. Each observer contractor must have an employee responsible for observer activities on call 24 hours a day to handle emergencies involving observers, or problems concerning observer logistics, whenever observers are at sea, stationed at shoreside facilities, in transit, or in port awaiting boarding.

(viii) In cooperation with vessel or processing facility owners, ensuring that all observers' in-season catch messages and other required transmissions between observers and NMFS are delivered to NMFS within a time specified by the Regional Administrator.

(ix) Ensuring that observers complete mid-deployment data reviews when required.

(x) Ensuring that observers complete debriefing as soon as possible after the completion of their deployment and at locations specified by the Regional Administrator.

(xi) Ensuring all data, reports, and biological samples from observer deployments are complete and submitted to NMFS at the time of the debriefing interview.

(xii) Ensuring that all sampling and safety gear are returned to the Observer Program Office and that any gear and equipment lost or damaged by observers is replaced according to NMFS requirements.

(xiii) Monitoring observers' performance to ensure satisfactory execution of duties by observers and observer conformance with NMFS' standards of observer conduct under paragraph (h)(2) of this section.

(xiv) Providing the following information to the Observer Program Office by electronic transmission (e-mail) or by fax.

(A) Observer training registration consisting of a list of individuals to be hired upon approval by NMFS and a copy of each person's academic transcripts, resume, and application for observer employment. The list must include the person's name and sex. The person's social security number is requested. Observer briefing registration consisting of a list of the observer's name, requested briefing class date, and briefing location. If the Observer Program Office has excused an observer from attending a briefing, the briefing registration must also include the names of observers excused from briefing, the date the observer was excused, and the name of the NMFS staff person granting the excuse. This information must be submitted to the Observer Program Office at least 5 working days prior to the beginning of a scheduled observer certification training or briefing session.

(B) Projected observer assignments that include the observer's name; vessel or shoreside processor assignment, type, and code; port of embarkation; target species; and area of fishing. This information must be submitted to the Observer Program Office prior to the completion of the training or briefing session.

(C) Observer deployment/logistics reports that include the observer's name, cruise number, current vessel or shoreside processor assignment and code, embarkation date, and estimated and actual disembarkation dates. This information must be submitted weekly as directed by the Observer Program Office.

(D) Observer debriefing registration that includes the observer's name, cruise number, vessel or shoreside processor name(s), and requested debriefing date.

(E) Copies of "certificates of insurance" that name the NMFS Observer Program Task Leader as a "certificate holder". The certificates of insurance shall verify the following coverage provisions and state that the insurance company will notify the certificate

holder if insurance coverage is changed or cancelled:

(1) Maritime Liability to cover "seamen's" claims under the Merchant Marine Act (Jones Act) and General Maritime Law (\$1 million minimum).

(2) Coverage under the U.S. Longshore and Harbor Workers' Compensation Act (\$1 million minimum).

(3) States Workers' Compensation as required.

(4) Contractual General Liability.

(F) Notification that, based upon a physical examination during the 12 months prior to an observer's deployment, an examining physician has certified that an observer does not have any health problems or conditions that would jeopardize the observer's safety or the safety of others while deployed, or prevent the observer from performing his or her duties satisfactorily, and that prior to examination, the certifying physician was made aware of the dangerous, remote and rigorous nature of the work. This information, including the date of the physical examination, must be submitted prior to the completion of the training or briefing session.

(G) A copy of each type of signed and valid contract an observer contractor has with those entities requiring observer services under paragraphs (c) and (d) of this section and with observers. Copies of contracts with specific entities requiring observer services or with specific observers must be submitted to the Observer Program Office upon request.

(H) Reports of observer harassment, concerns about vessel or processor safety, or observer performance problems must be submitted within 24 hours after the observer contractor becomes aware of the problem.

(3) *Conflict of interest.* Observer contractors:

(i) Must not have a direct financial interest, other than the provision of observer services, in a North Pacific fishery, including, but not limited to, vessels or shoreside facilities involved in the catching or processing of the products of the fishery, concerns selling supplies or services to these vessels or shoreside facilities, or concerns purchasing raw or processed products from these vessels or shoreside facilities.

(ii) Must assign observers without regard to any preference by representatives of vessels and shoreside facilities based on observer race, gender, age, religion, or sexual orientation.

(iii) Must not solicit or accept, directly or indirectly, any gratuity, gift, favor, entertainment, loan, or anything of monetary value from anyone who conducts activities that are regulated by NMFS, or who has interests that may be substantially affected by the performance or nonperformance of the official duties of observer contractors.

(j) *Suspension and Decertification Process—(1) Applicability.* This paragraph (j) sets forth the procedures for suspension and decertification of observers and observer contractors under this section.

(2) *Policy.* (i) NMFS must certify responsible and qualified observers and observer contractors only. Suspension and decertification are discretionary actions that, taken in accordance with this section, are appropriate means to effectuate this policy.

(ii) The serious nature of suspension and decertification requires that these actions be taken only in the public interest for the promotion of fishery conservation and management and not for purposes of punishment. NMFS may impose suspension or decertification only for the causes and in accordance with the procedures set forth in this section.

(iii) In addition to suspension and decertification, observers and observer contractors who violate provisions of this part may be subject to penalties, fines, and other sanctions as authorized by law.

(3) *Public availability of suspension or decertification records.* Public availability of suspension or decertification records will depend upon the provisions of the Freedom of Information Act and other applicable law.

(4) *Effect and timing of suspension or decertification.* (i) Observers or observer contractors decertified or suspended must not provide services prescribed by this section to vessels and shoreside processors.

(ii) Suspension and decertification actions may be combined and imposed simultaneously.

(iii) Suspension or decertification of observer contractors includes all divisions or other organizational elements of observer contractors, unless the suspension or decertification decision is limited by its terms to specific divisions or organizational elements. The suspending or decertifying official may, at his or her sole discretion, include any affiliates of observer contractors if they are specifically named and given written notice of the suspension or proposed decertification and an opportunity to respond under paragraph (j)(5)(iii)(B) or (j)(6)(iii)(C) of this section.

(5) *Suspension—(i) General.* (A) The suspending official may, in the public interest, suspend observers or observer contractors for any of the causes in paragraph (j)(5)(ii) of this section, using the procedures in paragraph (j)(5)(iii) of this section.

(B) Suspension may be imposed on the basis of adequate evidence, pending the completion of investigation or legal proceedings, when NMFS determines that immediate action is necessary. In assessing the adequacy of the evidence, the suspending official should consider how much information is available, how credible it is given the circumstances, whether or not important allegations are corroborated, and what inferences can reasonably be drawn as a result.

(ii) *Causes for suspension.* The suspending official may suspend observers or observer contractors:

(A) Upon a determination, based upon adequate evidence, that observers or observer contractors committed any acts or omissions constituting a cause for decertification under paragraph (j)(6)(ii) of this section; or

(B) Upon indictment for any of the causes for decertification in (j)(6)(ii)(A)(1) or (j)(6)(ii)(B)(1) of this section.

(iii) *Procedures—(A) Review.* The suspending official must review all available evidence and must promptly determine whether or not to proceed with suspension. The suspending official may refer the matter to the NMFS investigator for further investigation, or to the decertifying officer.

(B) *Notice of suspension.* When observers or observer contractors and any

specifically named affiliates are suspended, they must be immediately advised personally or by certified mail, return receipt requested, at the last known residence or place of business:

(1) That they have been suspended and that the suspension is based on an indictment or other adequate evidence that observers or observer contractors have committed acts or omissions constituting grounds for suspension under (j)(5)(ii) of this section. Such acts or omissions may be described in terms sufficient to place observers or observer contractors on notice without disclosing NMFS' evidence.

(2) That the suspension is for a temporary period pending the completion of an investigation and such decertification proceedings as may ensue.

(3) Of the cause(s) relied upon under paragraph (j)(5)(ii) of this section for imposing suspension.

(4) Of the effect of the suspension.

(5) That, within 30 days after receipt of the notice, the observers or observer contractors may submit, in writing, documentary evidence and argument in opposition to the suspension, including any additional specific documentary evidence that raises a genuine dispute over the material facts.

(6) That additional proceedings to determine disputed material facts may be conducted unless:

(i) The action is based on an indictment; or

(ii) A determination is made, on the basis of NOAA General Counsel advice, that the substantial interests of the government in pending or contemplated legal proceedings based on the same facts as the suspension would be prejudiced.

(C) *Dispute.* For suspensions not based on an indictment, if NMFS determines that the observers' or observer contractors' submission in opposition raises a genuine dispute over facts material to the suspension and if no determination has been made, on the basis of NOAA General Counsel advice, that substantial interests of the government in pending or contemplated legal proceedings based on the same facts as the suspension would be prejudiced, the suspending official:

(1) Must afford observers or observer contractors an opportunity to submit

additional documentary evidence upon a showing that such documentary evidence was unavailable during the 30-day period following receipt of the notice of suspension.

(2) May, at his or her sole discretion, afford observers or observer contractors an opportunity to appear in person, present witnesses, and confront any person NMFS presents. The suspending official must make an audio tape of the proceedings and make a copy available at cost to observers or observer contractors upon request, unless observers or observer contractors and NMFS, by mutual agreement, waive the requirement for an audio tape.

(D) *Suspending official's decision.* (1) The suspending official's decision must be based on all the information in the administrative record, including any submission made by observers or observer contractors on action based on an indictment:

(i) In which observers or observer contractors' submissions do not raise a genuine dispute over material facts; or

(ii) In which additional proceedings to determine disputed material facts have been denied on the basis of NOAA General Counsel advice.

(2) In actions in which additional proceedings are necessary as to disputed material facts, written findings of fact must be prepared. The suspending official must base the decision on the facts as found, together with any information and argument submitted by observers or observer contractors and any other information in the administrative record.

(3) The suspending official may refer matters involving disputed material facts to another official for findings of fact. The suspending official may reject any such findings, in whole or in part.

(4) The suspending official's decision must be made after the conclusion of the proceedings with respect to disputed facts.

(5) Prompt written notice of the suspending official's decision to affirm, modify, or terminate the notice of suspension issued under this paragraph (j)(5) must be served on observers or observer contractors and any affiliates involved, personally or by certified

mail, return receipt requested, at the last known residence or place of business.

(E) *Period of suspension.* (1) Suspension is for a temporary period pending the completion of any investigation and any ensuing legal proceedings or decertification proceedings, including any administrative review under paragraph (j)(7) of this section, unless sooner terminated by the suspending official or as provided under this paragraph (j). If suspension is in effect, the decertifying official will expedite any related decertification proceedings.

(2) If legal proceedings or decertification proceedings are not initiated within 12 months after the date of the suspension notice, the suspension must be terminated.

(F) *Scope of suspension for observer contractors.* The scope of suspension must be the same as that for decertification under paragraph (j)(6)(v), except that the procedures set out under paragraph (j)(5) must be used in imposing suspension.

(6) *Decertification—(i) General.* The decertifying official may, in the public interest, decertify observers or observer contractors for any of the causes in paragraph (j)(6)(ii) of this section using the procedures in paragraph (j)(6)(iii) of this section. The existence of a cause for decertification does not necessarily require that observers or observer contractors be decertified; the seriousness of the acts or omissions and any mitigating factors should be considered in making any decertification decision. The existence or non-existence of any mitigating factors is not necessarily determinative of an observers' or observer contractors' present fitness. Accordingly, if a cause for decertification exists, observers or observer contractors have the burden of demonstrating, to the satisfaction of the decertifying official, present fitness and that decertification is not necessary.

(ii) *Causes for decertification—(A) Observers.* (1) The decertifying official may decertify observers for a conviction of or civil judgment for the following:

(i) Commission of fraud or other violation in connection with obtaining or attempting to obtain certification, or

in performing the duties of observers as prescribed by NMFS;

(ii) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; or

(iii) Commission of any other offense indicating a lack of integrity or honesty that seriously and directly affects the present fitness of observers.

(2) The decertifying official may decertify observers, based upon a preponderance of the evidence, upon a determination that observers have:

(i) Failed to satisfactorily perform the duties of observers as prescribed by NMFS; or

(ii) Failed to abide by the standards of conduct for observers as prescribed under paragraph (h)(2) of this section.

(B) *Observer contractors.* (1) The decertifying official may decertify observer contractors for a conviction of or civil judgment for the following:

(i) Commission of fraud or other violation in connection with obtaining or attempting to obtain certification, or in performing the responsibilities and duties of observer contractors as prescribed under paragraph (i)(2) of this section;

(ii) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; or

(iii) Commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects the present fitness of observer contractors.

(2) The decertifying official may decertify observer contractors, based upon a preponderance of the evidence, upon a determination that observer contractors have:

(i) Failed to satisfactorily perform the responsibilities and duties of observer contractors as prescribed under paragraph (i)(2) of this section; or

(ii) A conflict of interest as set out under paragraph (i)(3) of this section.

(iii) *Procedures—(A) Investigation and referral.* NMFS personnel must promptly report to the NMFS investigator matters appropriate for further investigation. The NMFS investigator must investigate matters so referred and

submit the investigative material to the decertifying official or, if appropriate, to the suspending official.

(B) *Review.* The decertifying official must review all available evidence and must promptly determine whether or not to proceed with decertification. The decertifying official may refer the matter to the NMFS investigator for further investigation or, if appropriate, to the suspending official.

(C) *Notice of proposed decertification.* If the decertifying official determines to proceed with decertification, he or she must serve a notice of proposed decertification upon observers or observer contractors and any specifically named affiliates, personally or by certified mail, return receipt requested, at the last known residence or place of business, advising:

(1) That decertification is being considered.

(2) Of the reasons for the proposed decertification in terms sufficient to put observers or observer contractors on notice of the conduct or transaction(s) upon which it is based.

(3) Of the cause(s) relied upon under paragraph (j)(6)(ii) of this section for proposing decertification.

(4) That, within 30 days after receipt of the notice, observers or observer contractors may submit, in writing, documentary evidence and argument in opposition to the proposed decertification, including any additional specific documentary evidence that raises a genuine dispute over the material facts.

(5) Of NMFS' procedures governing decertification decision making.

(6) Of the effect of the issuance of the notice of proposed decertification.

(7) Of the potential effect of an actual decertification.

(D) *Dispute.* In actions not based upon a conviction or civil judgment, if it is found that observers' or observer contractors' submissions raise a genuine dispute over facts material to the proposed decertification, the decertifying official:

(1) Must afford observers or observer contractors an opportunity to submit additional documentary evidence upon a showing that such documentary evidence was unavailable during the 30-

day period following receipt of the notice of proposed decertification.

(2) May, at his or her sole discretion, afford observers or observer contractors an opportunity to appear in person, present witnesses, and confront any person NMFS presents. The decertifying official must make an audio tape of the proceedings and make a copy available at cost to observers or observer contractors upon request, unless observers or observer contractors and NMFS, by mutual agreement, waive the requirement for an audio tape.

(E) *Decertifying official's decision.* (1) In actions based upon a conviction or judgment, or in which there is no genuine dispute over material facts, the decertifying official must make a decision on the basis of all the information in the administrative record, including any submission made by observers or observer contractors. The decision must be made after receipt of any timely information and argument submitted by observers or observer contractors.

(2) In actions in which additional proceedings are necessary as to disputed material facts, written findings of fact must be prepared. The decertifying official must base the decision on the facts as found, together with any information and argument submitted by observers or observer contractors and any other information in the administrative record.

(3) The decertifying official may refer matters involving disputed material facts to another official for findings of fact. The decertifying official may reject any such findings, in whole or in part.

(4) The decertifying official's decision must be made after the conclusion of the proceedings with respect to disputed facts.

(5) In any action in which the proposed decertification is not based upon a conviction or civil judgment, the cause for decertification may be established by a preponderance of the evidence.

(F) *Notice of decertifying official's decision.* (1) If the decertifying official decides to impose decertification, observers or observer contractors and any affiliates involved must be given prompt

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notice personally or by certified mail, return receipt requested, at the last known residence or place of business. Such notice must:

(i) Refer to the notice of proposed decertification.

(ii) Specify the reasons for decertification.

(iii) Advise that the decertification is effective immediately, unless the decertifying official determines that there is a compelling reason for maintaining certification for a specified period under conditions and restrictions necessary and appropriate to protect the public interest or promote fishery conservation and management and states the reasons in the notice.

(2) If decertification is not imposed, the decertifying official must promptly notify observers or observer contractors and any affiliates involved, by certified mail, return receipt requested, at the last known residence or place of business.

(iv) *Period of decertification.* (A) Decertification must be in force indefinitely or until rescinded.

(B) The decertifying official may rescind decertification, upon observers' or observer contractors' request, supported by documentation, for reasons such as:

(1) Newly discovered material evidence;

(2) Reversal of the conviction or civil judgment upon which the decertification was based;

(3) Bona fide change in ownership or management;

(4) Elimination of other causes for which the decertification was imposed; or

(5) Other reasons the decertifying official deems appropriate.

(v) *Scope of decertification.* (A) The improper conduct of any officer, director, shareholder, partner, employee, or other individual associated with observer contractors may be imputed to the observer contractors when the conduct occurred in connection with the performance of duties for or on behalf of observer contractors, or with observer contractors' knowledge, approval, or acquiescence. Observer contractors' acceptance of the benefits derived from the conduct must be evi-

dence of such knowledge, approval, or acquiescence.

(B) The improper conduct of observer contractors may be imputed to any officer, director, shareholder, partner, employee, or other individual associated with observer contractors who participated in, knew of, or had reason to know of the observer contractors' conduct.

(7) *Administrative review of suspension or decertification.*

(i) Observers or observer contractors may petition for review of a suspension decision issued under paragraph (j)(5)(iii) of this section or a decertification decision issued under paragraph (j)(6)(iii) of this section within 30 days after the date the decision was served. The petition must be addressed to the appeals officer identified in the notice of suspension or decertification. Any petitioned suspension will remain in effect pending the appeals officer's written decision to affirm, modify or terminate the suspension.

(ii) Administrative review is discretionary. Petitions for discretionary review may be filed only upon one or more of the following grounds:

(A) A finding of material fact is clearly erroneous based upon the administrative record;

(B) A substantial and important question of policy or discretion is involved; or

(C) A prejudicial error has occurred.

(iii) If the appeals officer declines review based on the written petition, observers or observer contractors must be immediately advised of the decision to decline review personally or by certified mail, return receipt requested, at the last known residence or place of business.

(iv) If the appeals officer grants review based on the written petition, he or she may request further written explanation from observers, observer contractors, or the decertifying officer or suspending officer. The appeals officer will then render a written decision to affirm, modify, or terminate the suspension or decertification or return the matter to the suspending or decertifying official for further findings. The appeals officer must base the decision on the administrative records compiled under paragraphs (j)(5) or (i)(7) of this

section, as appropriate. The appeals officer will serve the decision on observers or observer contractors and any affiliates involved, personally or by certified mail, return receipt requested, at the last known residence or place of business.

(v) An appeals officer's decision imposing suspension, or decertification or an unpetitioned suspending, or decertifying official's decision is the final administrative decision of the U.S. Department of Commerce.

(k) *Release of observer data to the public*—(1) *Summary of weekly data.* The following information collected by observers for each catcher processor and catcher vessel during any weekly reporting period may be made available to the public:

(i) Vessel name and Federal permit number.

(ii) Number of chinook salmon and "other salmon" observed.

(iii) The ratio of total round weight of halibut or Pacific herring to the total round weight of groundfish in sampled catch.

(iv) The ratio of number of king crab or *C. bairdi* Tanner crab to the total round weight of groundfish in sampled hauls.

(v) The number of observed trawl hauls or fixed gear sets.

(vi) The number of trawl hauls that were basket sampled.

(vii) The total weight of basket samples taken from sampled trawl hauls.

(2) *Haul-specific data.* (i) The information listed in paragraphs (k)(2)(i) (A) through (M) of this section and collected by observers from observed hauls on board vessels using trawl gear to participate in a directed fishery for groundfish other than rockfish, Greenland turbot, or Atka mackerel may be made available to the public:

(A) Date.

(B) Time of day gear is deployed.

(C) Latitude and longitude at beginning of haul.

(D) Bottom depth.

(E) Fishing depth of trawl.

(F) The ratio of the number of chinook salmon to the total round weight of groundfish.

(G) The ratio of the number of other salmon to the total round weight of groundfish.

(H) The ratio of total round weight of halibut to the total round weight of groundfish.

(I) The ratio of total round weight of herring to the total round weight of groundfish.

(J) The ratio of the number of king crab to the total round weight of groundfish.

(K) The ratio of the number of *C. bairdi* Tanner crab to the total round weight of groundfish.

(L) Sea surface temperature (where available).

(M) Sea temperature at fishing depth of trawl (where available).

(ii) The identity of the vessels from which the data in paragraph (k)(2)(i) of this section are collected will not be released.

(3) *Competitive harm.* In exceptional circumstances, the owners and operators of vessels may provide to the Regional Administrator written justification at the time observer data are submitted, or within a reasonable time thereafter, that disclosure of the information listed in paragraphs (k) (1) and (2) of this section could reasonably be expected to cause substantial competitive harm. The determination whether to disclose the information will be made pursuant to 15 CFR 4.7.

[61 FR 56431, Nov. 1, 1996, as amended at 61 FR 63761, Dec. 2, 1996; 61 FR 65989, Dec. 16, 1996]

### Subpart F—Scallop Fishery Off Alaska

SOURCE: 61 FR 38104, July 23, 1996, unless otherwise noted.

#### § 679.60 Gear and efficiency limits.

(a) *General.* Scallops may be taken only with dive gear or scallop dredge gear as defined at § 679.2.

(b) The inside ring diameter on all dredges used or carried by a vessel fishing for weathervane scallops (*Patinopectin caurinus*) must be 4 inches (10.16 cm) or larger.

(c) The inside ring diameter on all dredges used or carried by a vessel fishing for scallops other than weathervane scallops must be 3 inches (7.62 cm) or larger.

(d) No person may use chafing gear or other devices that decrease the legal

inside ring diameter of a scallop dredge.

(e) Except as provided in paragraph (f) of this section, no more than two scallop dredges may be operated at one time from a vessel, and the opening of a scallop dredge must be equal to or less than 15 ft (4.57 m) wide.

(f) In the Kamishak, Southern, and Central Districts of Scallop Registration Area H defined under § 679.61, no more than one scallop dredge may be operated at one time from a vessel, and the opening of a dredge may not be more than 6 ft (1.83 m) in width.

(g) Scallops must be shucked by hand only. A shucking machine must not be on board a vessel that is fishing for scallops or that has scallops on board.

(h) No vessel fishing for scallops in Federal waters may have aboard more than 12 persons, exclusive of ADF&G or NMFS observers.

#### § 679.61 Registration areas.

For the purpose of managing the scallop fishery, the Federal waters off Alaska and adjacent State waters are divided into nine scallop registration areas. Three scallop registration areas are further subdivided into districts. The scallop registration areas and districts are defined as follows:

(a) *Registration Area A* (Southeastern) has as its southern boundary the international boundary at Dixon Entrance, and as its northern boundary Loran-C line 7960-Y-29590, which intersects the western tip of Cape Fairweather at 58°47'58" N. lat., 137°56'30" W. long., except for ADF&G District 16 defined under paragraph (b) of this section.

(b) *Registration Area D* (Yakutat) has as its western boundary the longitude of Cape Suckling (143°53' W. long.), and as its southern boundary Loran-C line 7960-Y-29590, which intersects the western tip of Cape Fairweather at 58°47'58" N. lat., 137°56'30" W. long., and ADF&G District 16 defined as all waters all waters north of a line projecting west from the southernmost tip of Cape Spencer and south of a line projecting southwest from the westernmost tip of Cape Fairweather.

(c) *Registration Area E* (Prince William Sound) has as its western boundary the longitude of Cape Fairfield (148°50' W. long.), and its eastern bound-

ary the longitude of Cape Suckling (143°53' W. long.).

(d) *Registration Area H* (Cook Inlet) has as its eastern boundary the longitude of Cape Fairfield (148°50' W. long.) and its southern boundary the latitude of Cape Douglas (58°52' N. lat.).

(1) *Northern District*. North of a line extending from Boulder Point at 60°46'23" N. lat., to Shell Platform C, then to a point on the west shore at 60°46'23" N. lat.

(2) *Central District*. All waters between a line extending from Boulder Point at 60°46'23" N. lat., to Shell Platform C, to a point on the west shore at 60°46'23" N. lat., and the latitude of Anchor Point Light (59°46'12" N. lat.).

(3) *Southern District*. All waters enclosed by a line from Anchor Point Light west to 59°46'12" N. lat., 152°20' W. long., then south to 59°03'25" N. lat., 152°20' W. long., then in a northeasterly direction to the tip of Cape Elizabeth at 59°09'30" N. lat., 151°53' W. long., then from the tip of Cape Elizabeth to the tip of Point Adam at 59°15'20" N. lat., 151°58'30" W. long.

(4) *Kamishak Bay District*. All waters enclosed by a line from 59°46'12" N. lat., 153°00'30" W. long., then east to 59°46'12" N. lat., 152°20' W. long., then south to 59°03'25" N. lat., 152°20' W. long., then southwesterly to Cape Douglas (58°52' N. lat.). The seaward boundary of the Kamishak Bay District is 3 nautical miles seaward from the shoreline between a point on the west shore of Cook Inlet at 59°46'12" N. lat., 153°00'30" W. long., and Cape Douglas at 58°52' N. lat., 153°15' W. long., including a line three nautical miles seaward from the shorelines of Augustine Island and Shaw Island, and including the line demarking all state waters shown on NOAA chart 16640, 21st Ed., May 5, 1990 (Available from Alaska Region).

(5) *Barren Island District*. All waters enclosed by a line from Cape Douglas (58°52' N. lat.) to the tip of Cape Elizabeth at 59°09'30" N. lat., 151°53' W. long., then south to 58°52' N. lat., 151°53' W. long., then west to Cape Douglas.

(6) *Outer District*. All waters enclosed by a line from the tip of Point Adam to the tip of Cape Elizabeth, then south to 58°52' N. lat., 151°53' W. long., then east to the longitude of Alijo Point

(149°44'33" W. long.), then north to the tip of Alijo Point.

(7) *Eastern District*. All waters east of the longitude of Alijo Point (149°44'33" W. long.), west of the longitude of Cape Fairfield (148°50' W. long.), and north of 58°52' N. lat.

(e) *Registration Area K* (Kodiak) has as its northern boundary the latitude of Cape Douglas (58°52' N. lat.), and as its western boundary the longitude of Cape Kumlik (157°27' W. long.).

(1) *Northeast District*. All waters northeast of a line extending 168° from the easternmost tip of Cape Barnabas, east of a line from the northernmost tip of Inner Point to the southernmost tip of Afognak Point, east of 152°30' W. long. in Shuyak Strait, and east of the longitude of the northernmost tip of Shuyak Island (152°20' W. long.).

(2) *Southeast District*. All waters southwest of a line extending 168° from the easternmost tip of Cape Barnabas and east of a line extending 222° from the southernmost tip of Cape Trinity.

(3) *Southwest District*. All waters west of a line extending 222° from the southernmost tip of Cape Trinity, south of a line from the westernmost tip of Cape Ikolik to the southernmost tip of Cape Kilokak and east of the longitude of Cape Kilokak (156°19' W. long.).

(4) *Semidi Island District*. All waters west of the longitude of Cape Kilokak at 156°19' W. long. and east of the longitude of Cape Kumlik at 157°27' W. long.

(5) *Shelikof District*. All waters north of a line from the westernmost tip of Cape Ikolik to the southernmost tip of Cape Kilokak, west of a line from the northernmost tip of Inner Point to the southernmost tip of Afognak Point, west of 152°30' W. long., in Shuyak Strait, and west of the longitude of the northernmost tip of Shuyak Island (152°20' W. long.).

(f) *Registration Area M* (Alaska Peninsula) has as its eastern boundary the longitude of Cape Kumlik (157°27' W. long.), and its western boundary the longitude of Scotch Cap Light. The registration area also includes all waters of Bechevin Bay and Isanotski Strait south of a line from the easternmost tip of Chunak Point to the westernmost tip of Cape Krenitzen.

(g) *Registration Area O* (Dutch Harbor) has as its northern boundary the latitude of Cape Sarichef (54°36' N. lat.), as its eastern boundary the longitude of Scotch Cap Light, and as its western boundary 171° W. long., excluding the waters of Statistical Area Q.

(h) *Registration Area Q* (Bering Sea) has as its southern boundary a line from Cape Sarichef (54°36' N. lat.), to 54°36' N. lat., 171° W. long., to 55°30' N. lat., 171° W. long., to 55°30' N. lat., 173°30' E. long., as its northern boundary the latitude of Point Hope (68°21' N. lat.).

(i) *Registration Area R* (Adak) has as its eastern boundary 171° W. long., and as its northern boundary 55°30' N. lat.

#### § 679.62 General limitations.

(a) *Harvest limits*—(1) *General*. NMFS will establish TAC amounts and CBLs for the scallop fishery off Alaska according to the procedures described under this section. The total annual TAC amount for scallops off Alaska will be established within the OY range of 0 to 1.8 million lb (0 to 815.5 mt) of shucked scallop meat.

(2) *TACs*. (i) The annual TACs for scallops in each Registration Area or part thereof will be established as a weight in pounds of shucked scallop meat based on a review of the following:

(A) Assessments of the biological condition of each scallop species. Assessments will include, where practicable, updated estimates of MSY; historical catch trends and current catch statistics, reviews of alternative harvesting strategies; and relevant information relating to changes in scallop markets.

(B) Socioeconomic considerations that are consistent with the goals and objectives of the FMP.

(ii) Annual scallop TACs will be specified for the 12-month time period extending from July 1 through June 30 of the following year. An annual TAC amount is available for harvest only for the registration area or district specified, only during the applicable season set out in § 679.64, and only if no closure or other restriction or limitation is applicable.

## Fishery Conservation and Management

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(3) *CBLs.* (i) CBLs may be specified for red king crab and Tanner crab species for any registration area or district.

(ii) Except as provided under paragraph (a)(3)(iii) of this section, annual CBLs will be based on the biological condition of each crab species, historical bycatch rates in the scallop fishery, and other socioeconomic considerations that are consistent with the goals and objectives of the FMP.

(iii) Annual CBLs in Registration Area Q will equal the following amounts:

(A) The CBL for red king crab caught while conducting any fishery for scallops will be specified within the range of 500 to 3,000 crab based on the considerations listed in paragraph (a)(3)(ii) of this section.

(B) The CBL for *Chionoecetes opilio* Tanner crab caught while conducting any fishery for scallops is 0.003176 percent of the best available estimate of *C. opilio* abundance in Registration Area Q.

(C) The CBL for *C. bairdi* Tanner crab caught while conducting any fishery for scallops is 0.13542 percent of the best available estimate of *C. bairdi* abundance in Registration Area Q.

(iv) Annual CBLs will be specified for the 12-month time period from July 1 through June 30 of the following year. An annual CBL may be utilized only for the registration area or district specified, only if any applicable TAC amount is available for harvest, only during the applicable season set out in §679.64, and only if no closure or other limitation or restriction is applicable.

(b) *Specifications.* The following procedure is established for specifying TAC amounts and CBLs:

(1) On an annual basis, prior to the April Council meeting, the Council will distribute a summary of the State's most recent TAC and CBL recommendations and supporting documentation to the public through its mailing list, as well as provide copies of the recommendations, documentation, and the annual SAFE report to the public upon request. The Council will notify the public of its intent to develop final recommendations at the April Council meeting and solicit pub-

lic comment both before and during the April Council meeting.

(2) Following the April Council meeting, the Council will submit its TAC and CBL recommendations along with rationale and supporting information to NMFS for review and implementation.

(3) As soon as practicable after receiving recommendations from the Council, NMFS will publish in the FEDERAL REGISTER annual specifications of TAC amounts and CBLs for the succeeding 12-month period extending from July 1 through June 30 of the following year.

(c) *Closures.* (1) If the Administrator, Alaska Region, NMFS, determines that a TAC or CBL specified under paragraphs (a) and (b) of this section has been or will be reached, NMFS will publish notification in the FEDERAL REGISTER prohibiting the taking and retention of scallops in the Federal waters of the registration area or district where the notification is applicable.

(2) It is unlawful for any person to conduct any fishing for scallops contrary to the notification of closure issued pursuant to this paragraph.

(d) *Closed areas.* It is unlawful for any person to dredge for scallops in any Federal waters off Alaska that are closed to fishing with trawl gear or non-pelagic trawl gear under §679.22(a)(1)(i), (a)(2)(i), (a)(3), (a)(4), (a)(6), (a)(7), (a)(9), and (b).

[61 FR 31230, June 19, 1996, as amended at 61 FR 65989, Dec. 16, 1996]

### § 679.63 Inseason adjustments.

(a) Inseason adjustments may be issued by NMFS to implement the closure, extension, opening, or reopening of a season in all or part of a scallop registration area; and the adjustment of TAC amounts or CBLs.

(b) Determinations for any inseason adjustment authorized under paragraph (a) of this section must be consistent with §679.25(a)(2).

(c) Procedures for making inseason adjustments are specified at §679.25(c).

(d) It is unlawful for any person to conduct any fishing for scallops contrary to an inseason adjustment issued pursuant to this section.

**§ 679.64 Seasons.**

(a) Fishing for scallops in the Federal waters off Alaska is authorized from 0001 hours, A.l.t., July 1, through 2400 hours, A.l.t., June 30, subject to the other provisions of this part, except as provided in paragraphs (b) through (e) of this section.

(b) Fishing for scallops in the Federal waters of Scallop Registration Areas K, M, O, Q, and R is authorized from 1200 hours, A.l.t., July 1 through 1200 hours, A.l.t., February 15 of the following year, subject to the other provisions of this part.

(c) Fishing for scallops in the Federal waters of the Kamishak District of Scallop Registration Area H is authorized from 1200 hours, A.l.t., August 15 through 1200 hours, A.l.t., October 31, subject to the other provisions of this part.

(d) (Applicable January 1, 1997) Fishing for scallops in the Federal waters of Scallop Registration Areas A, D, and E is authorized from 1200 hours, A.l.t., January 10 through 2400 hours, A.l.t.,

June 30, subject to the other provisions of this part.

(e) (Applicable through December 31, 1996) Fishing for scallops in the Federal waters of Scallop Registration Area D is authorized from 1200 hours, A.l.t., August 1 through 2400 hours, A.l.t., December 31, subject to the other provisions of this part. Fishing for scallops in the Federal waters of Scallop Registration Areas A and E is not authorized.

**§ 679.65 Observer requirements.**

(a) Except as provided in paragraph (c) of this section, vessels must carry an ADF&G-certified scallop observer at all times while fishing for scallops in Federal waters.

(b) An operator of a vessel required to carry an observer must comply with all safety and conduct requirements set out at § 679.7(g).

(c) Vessels less than 80 ft (24.4 m) LOA are exempt from the requirements of this section while fishing for scallops in the Federal waters of Registration Area H.

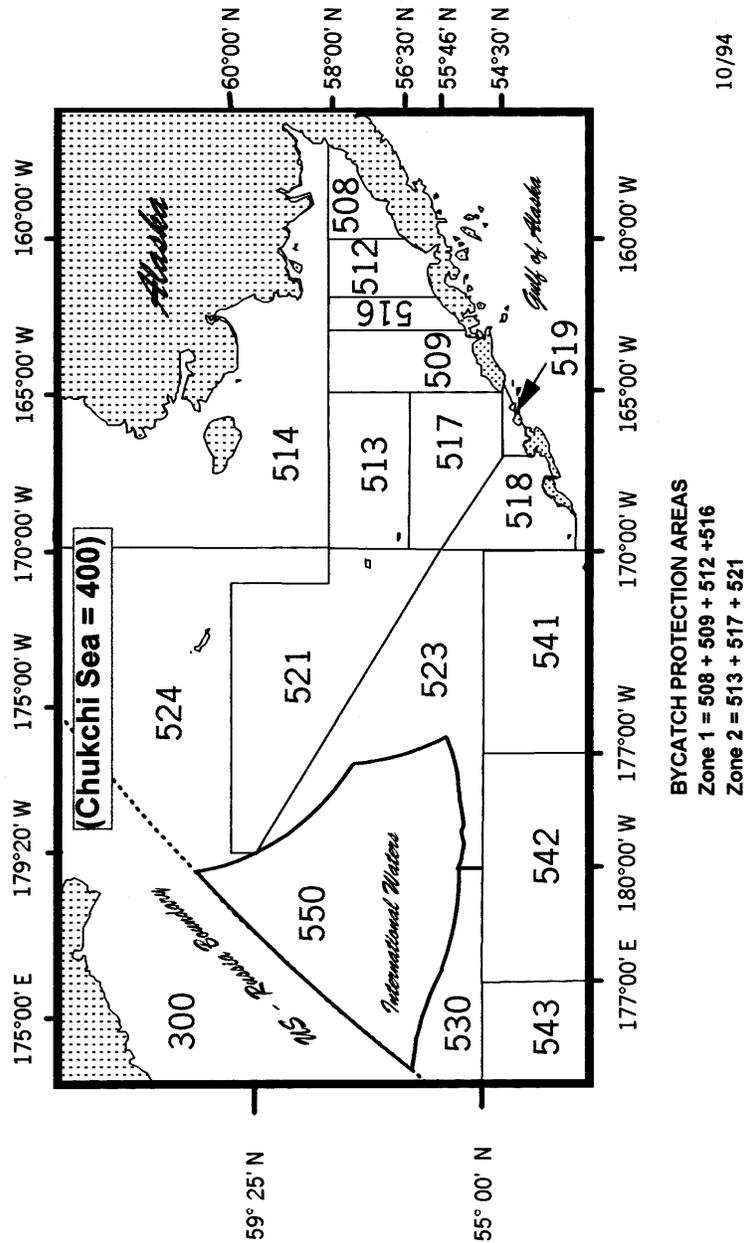


FIGURE 1 TO PART 679—BSAI STATISTICAL AND REPORTING AREAS

a. MAP

FIGURE 1 TO PART 679—BSAI STATISTICAL AND REPORTING AREAS

## b. COORDINATES OF REPORTING AREAS

Code	Description
300 .....	<i>Russian waters.</i> Those waters inside the Russian 200 mile limit as described in the current editions of NOAA chart INT 813 Bering Sea (Southern Part) and NOAA chart INT 814 Bering Sea (Northern Part).
400 .....	<i>Chukchi Sea.</i> North of a diagonal line between 66°00' N, 169°42.5' W (Cape Dezhneva, Russia); and 65°37.5' N, 168°7.5' W (Cape Prince of Wales, Alaska) and to the limits of the U.S. EEZ as described in the current edition of NOAA chart INT 814 Bering Sea (Northern Part).
508 .....	South of 58°00' N between the intersection of 58°00' N lat with the Alaska Peninsula and 160°00' W long.
509 .....	South of 58°00' N lat between 163°00' W long and 165°00' W long.
512 .....	South of 58°00' N lat, north of the Alaska Peninsula between 160°00' W long and 162°00' W long.
513 .....	Between 58°00' N lat and 56°30' N lat, and between 165°00' W long and 170°00' W long.
514 .....	North of 58°00' N to the southern boundary of the Chukchi Sea, area 400, and east of 170°00' W long.
516 .....	South of 58°00' N lat, north of the Alaska Peninsula, and between 162°00' and 163°00' W long.
517 .....	South of 56°30' N lat, between 165°00' W long and 170°00' W long; and north of straight lines between 54°30' N lat, 165°00' W long, 54°30' N lat, 167°00' W long, and 55°46' N lat, 170°00' W long.
518 .....	<i>Bogoslof District.</i> South of a straight line between 55°46' N lat, 170°00' W long and 54°30' N lat, 167°00' W long, and between 167°00' W long and 170°00' W long, and north of the Aleutian Islands and straight lines between the islands connecting the following coordinates in the order listed: 52°49.2' N, 169°40.4' W, 52°49.8' N, 169°06.3' W, 53°23.8' N, 167°50.1' W, 53°18.7' N, 167°51.4' W.
519 .....	South of a straight line between 54°30' N lat, 167°00' W long and 54°30' N lat, 164°54' W long; east of 167°00' W long; west of Unimak Island; and north of the Aleutian Islands and straight lines between the islands connecting the following coordinates in the order listed: 53°59.0' N, 166°17.2' W, 54°02.9' N, 166°03.0' W, 54°07.7' N, 165°40.6' W, 54°08.9' N, 165°38.8' W, 54°11.9' N, 165°23.3' W, 54°23.9' N, 164°44.0' W.
521 .....	The area bounded by straight lines connecting the following coordinates in the order listed: 55°46' N, 170°00' W, 59°25' N, 179°20' W, 60°00' N, 179°20' W, 60°00' N, 171°00' W, 58°00' N, 171°00' W, 58°00' N, 170°00' W, 55°46' N, 170°00' W.
523 .....	The area bounded by straight lines connecting the following coordinates in the order listed: 59°25' N, 179°20' W; 55°46' N, 170°00' W; 55°00' N, 170°00' W; 55°00' N, 180°00' W; and north to the limits of the US EEZ as described in the current edition of NOAA chart INT 813 Bering Sea (Southern Part).
524 .....	The area west of 170°00' W bounded south by straight lines connecting the following coordinates in the order listed: 58°00' N, 170°00' W 58°00' N, 171°00' W; 60°00' N, 171°00' W; 60°00' N, 179°20' W; 59°25' N, 179°20' W and to the limits of the US EEZ as described in the current edition of NOAA chart INT 813 Bering Sea (Southern Part).
530 .....	The area north of 55°00' N lat and west of 180°00' W long to the limits of the US EEZ as described in the current edition of NOAA chart INT 813 Bering Sea (Southern Part).
541 .....	<i>Eastern Aleutian District.</i> The area south of 55°00' N lat, west of 170°00' W long, and east of 177°00' W long and bounded on the south by the limits of the US EEZ as described in the current editions of NOAA chart INT 813 Bering Sea (Southern Part) and NOAA chart 530 (San Diego to Aleutian Islands and Hawaiian Islands).
542 .....	<i>Central Aleutian District.</i> The area south of 55°00' N lat, west of 177°00' W long, and east of 177°00' E long and bounded on the south by the limits of the US EEZ as described in the current editions of NOAA chart INT 813 Bering Sea (Southern Part) and NOAA chart 530 (San Diego to Aleutian Islands and Hawaiian Islands).
543 .....	<i>Western Aleutian District.</i> The area south of 55°00' N lat and west of 177°00' E long, and bounded on the south and west by the limits of the US EEZ as described in the current editions of NOAA chart INT 813 Bering Sea (Southern Part) and NOAA chart 530 (San Diego to Aleutian Islands and Hawaiian Islands).
550 .....	<i>Donut Hole.</i> International waters of the Bering Sea outside the limits of the EEZ and Russian economic zone as depicted on the current edition of NOAA chart INT 813 Bering Sea (Southern Part).

*Statistical Area.* A statistical area is the part of a reporting area contained in the EEZ.

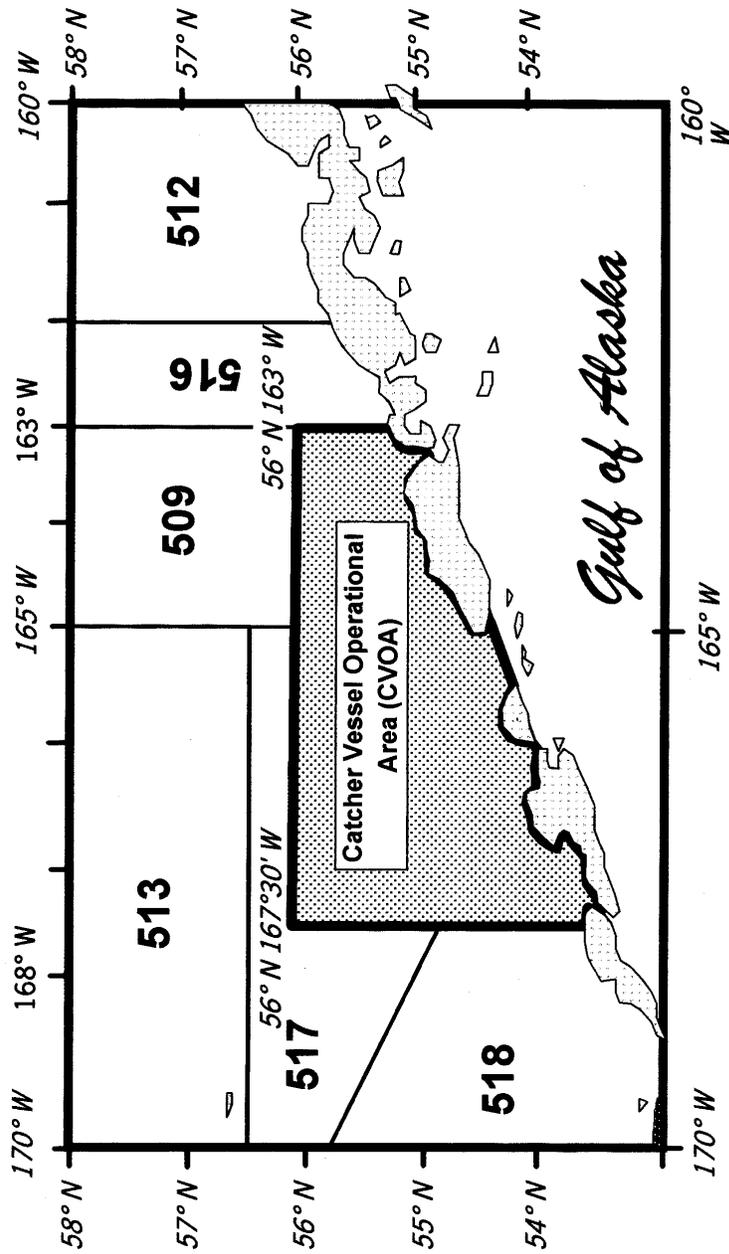


FIGURE 2 TO PART 679—BSAI CATCHER VESSEL OPERATIONAL AREA

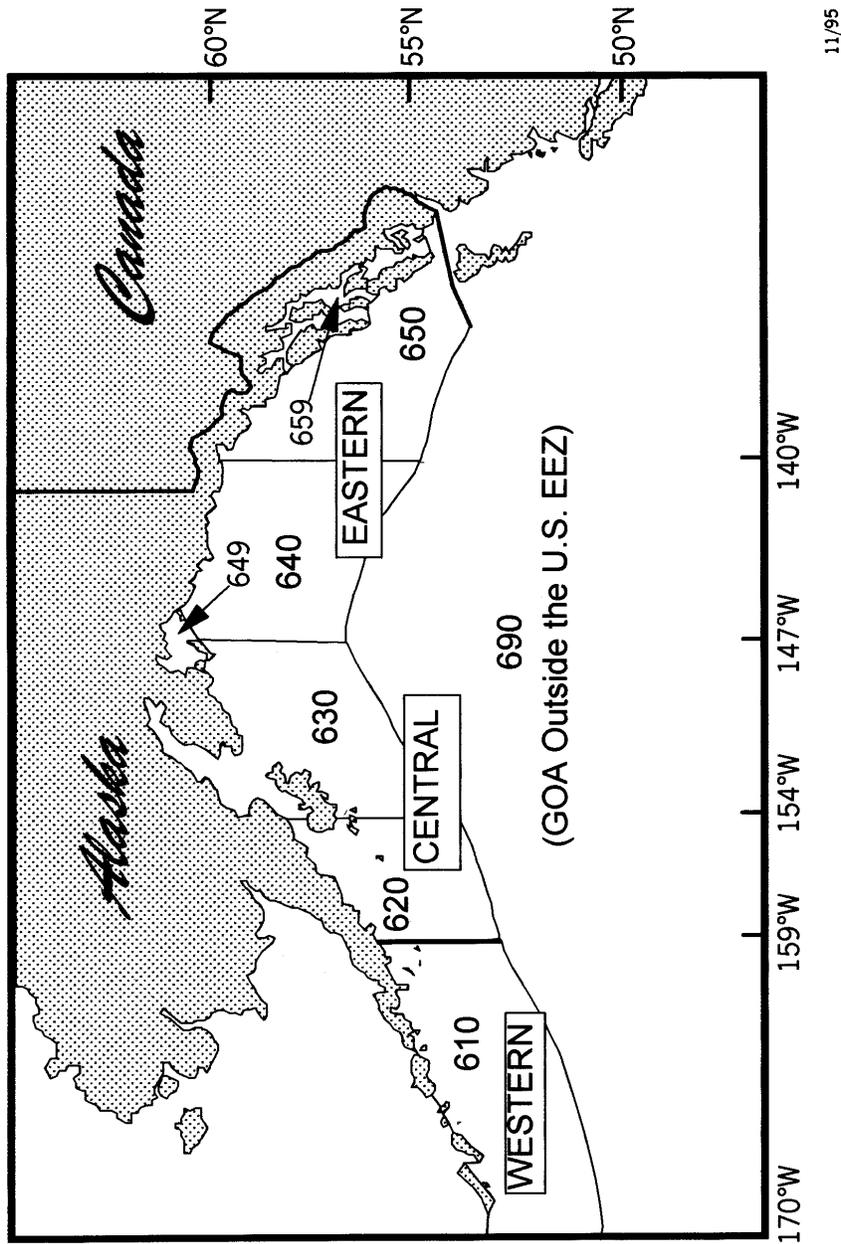


FIGURE 3 TO PART 679—GULF OF ALASKA STATISTICAL AND REPORTING AREAS

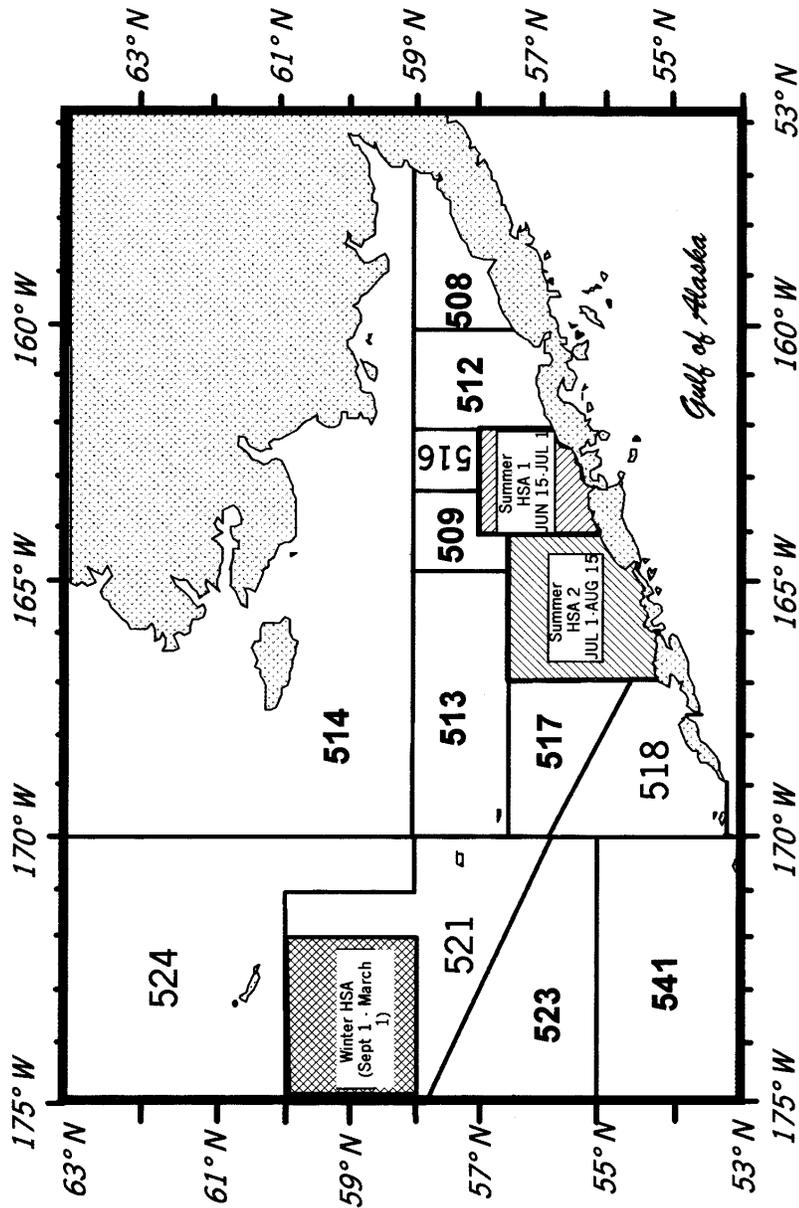
a. MAP

FIGURE 3B TO PART 679—GULF OF ALASKA STATISTICAL AND REPORTING AREAS

b. COORDINATES OF REPORTING AREAS

Code	Description
610 .....	<p><i>Western Regulatory Area, Shumagin District.</i> Along the south side of the Aleutian Islands and straight lines between the islands and the Alaska Peninsula connecting the following coordinates in the order listed:                      52° 49.2' N, 169° 40.4' W;                      52° 49.8' N, 169° 06.3' W;                      53° 23.8' N, 167° 50.1' W;                      53° 18.7' N, 167° 51.4' W;                      53° 59.0' N, 166° 17.2' W;                      54° 02.9' N, 166° 03.0' W;                      54° 07.7' N, 165° 40.6' W;                      54° 0.89' N, 165° 38.8' W;                      54° 11.9' N, 165° 23.3' W;                      54° 23.9' N, 164° 44.0' W; and southward to the limits of the US EEZ as described in the current editions of NOAA chart INT 813 (Bering Sea, Southern Part) and NOAA chart 500 (West Coast of North America, Dixon Entrance to Unimak Pass), between 170° 00' W long and 159° 00' W long.</p>
620 .....	<p><i>Central Regulatory Area, Chirikof District.</i> Along the south side of the Alaska Peninsula, between 159° 00' W long and 154° 00' W long, and southward to the limits of the US EEZ as described in the current edition of NOAA chart 500 (West Coast of North America, Dixon Entrance to Unimak Pass).</p>
630 .....	<p><i>Central Regulatory Area, Kodiak District.</i> Along the south side of continental Alaska, between 154° 00' W long and 147° 00' W long, and southward to the limits of the US EEZ as described in the current edition of NOAA chart 500 (West Coast of North America, Dixon Entrance to Unimak Pass). Excluding area 649.</p>
640 .....	<p><i>Eastern Regulatory Area, West Yakutat District.</i> Along the south side of continental Alaska, between 147° 00' W long and 140° 00' W long, and southward to the limits of the US EEZ, as described in the current edition of NOAA chart 500 (West Coast of North America, Dixon Entrance to Unimak Pass). Excluding area 649.</p>
649 .....	<p><i>Prince William Sound.</i> Includes those waters of the State of Alaska inside the base line as specified in Alaska State regulations at 5 AAC 28.200.</p>
650 .....	<p><i>Eastern Regulatory Area, Southeast Outside District.</i> East of 140° 00' W long and southward to the limits of the US EEZ as described in the current edition of NOAA chart 500 (West Coast of North America, Dixon Entrance to Unimak Pass). Excluding area 659.</p>
659 .....	<p><i>Southeast Inside District.</i> As specified in Alaska State regulations at 5 AAC 28.105(a)(1) and (2).</p>
690 .....	<p><i>Gulf of Alaska outside the U.S. EEZ</i> as described in the current editions of NOAA chart INT 813 (Bering Sea, Southern Part) and NOAA chart 500 (West Coast of North America, Dixon Entrance to Unimak Pass).</p>

*Statistical Area.* A statistical area is the part of a reporting area contained in the EEZ.



11/95

FIGURE 4 TO PART 679—HERRING SAVINGS AREAS IN THE BSAI

a. MAP

[61 FR 31230, June 19, 1996; 61 FR 40481, Aug. 2, 1996]

FIGURE 4 TO PART 679—HERRING SAVINGS AREAS IN THE BSAI

b. COORDINATES

Name	Description and effective date
Summer Herring Savings Area 1 .....	That part of the Bering Sea subarea that is south of 57° N. lat and between 162° and 164° W. long from 1200 hours, A.I.t., June 15 through 1200 hours, A.I.t. July 1 of a fishing year.
Summer Herring Savings Area 2 .....	That part of the Bering Sea subarea that is south of 56° 30' N. lat and between 164° and 167° W. long from 1200 hours, A.I.t., July 1 through 1200 hours, A.I.t. August 15 of a fishing year.
Winter Herring Savings Area .....	That part of the Bering Sea subarea that is between 58° and 60° N. lat and between 172° and 175° W. long from 1200 hours, A.I.t. September 1 of the current fishing year through 1200 hours, A.I.t. March 1 of the succeeding fishing year.

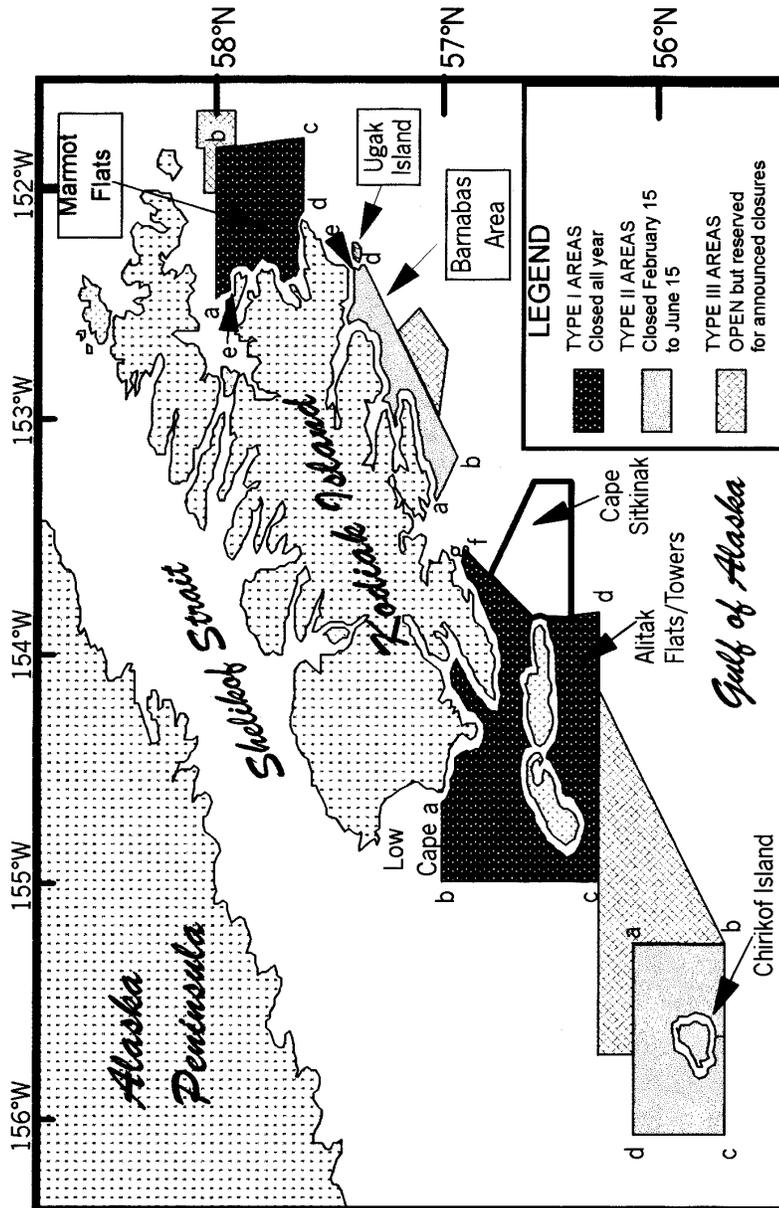


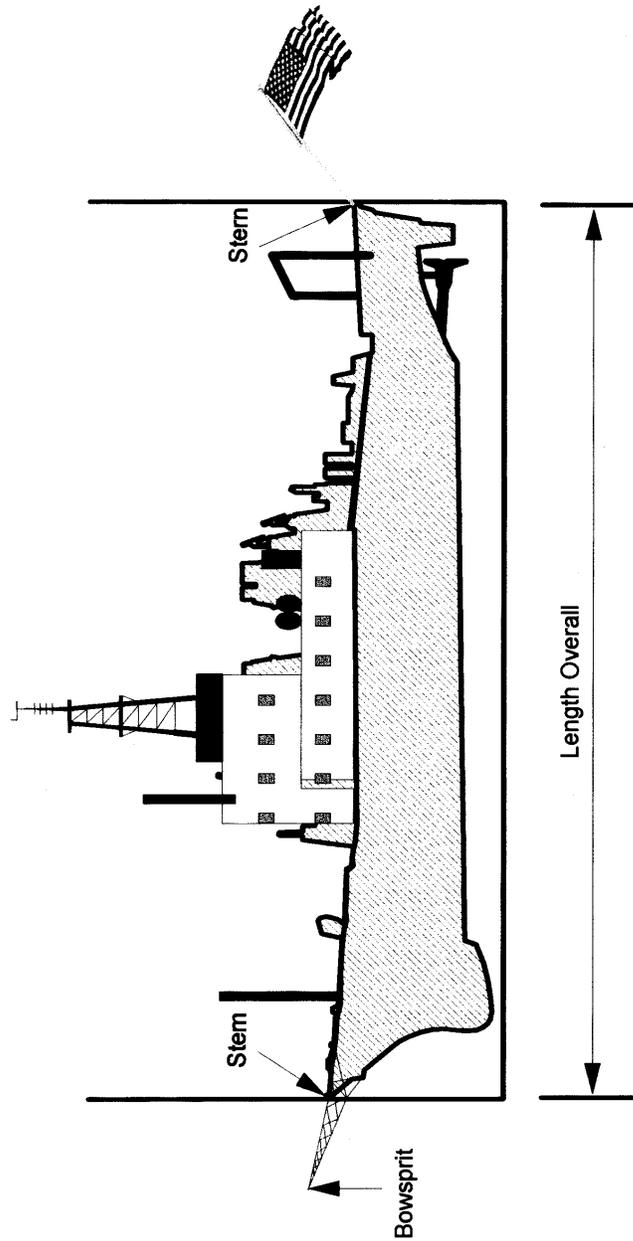
FIGURE 5 TO PART 679—KODIAK ISLAND AREAS CLOSED TO NONPELAGIC TRAWL GEAR

a. MAP

FIGURE 5 TO PART 679—KODIAK ISLAND AREAS CLOSED TO NONPELAGIC TRAWL GEAR

b. COORDINATES

Name and description of reference area	North latitude	West longitude	Reference point
<i>Alitak Flats and Towers Areas</i> —All waters of Alitak flats and the Towers Areas enclosed by a line connecting the following 7 points in the order listed:			
a .....	56°59'4"	154°31'1"	Low Cape.
b .....	57°00'0"	155°00'0"	
c .....	56°17'0"	155°00'0"	Cape Sitkinak. East point of Twoheaded Island. Kodiak Island, thence, along the coast-line. Low Cape.
d .....	56°17'0"	153°52'0"	
e .....	56°33'5"	153°52'0"	
f .....	56°54'5"	153°32'5"	
g .....	56°56'0"	153°35'5"	
a .....	56°59'4"	154°31'1"	
<i>Marmot Flats Area</i> —All waters enclosed by a line connecting the following five points in the clockwise order listed:			
a .....	58°00'0"	152°30'0"	Cape Chiniak, then along the coastline of Kodiak Island to North Cape.
b .....	58°00'0"	151°47'0"	
c .....	57°37'0"	151°47'0"	
d .....	57°37'0"	152°10'1"	
e .....	57°54'5"	152°30'0"	
a .....	58°00'0"	152°30'0"	
<i>Chirikof Island Area</i> —All waters surrounding Chirikof Island enclosed by a line connecting the following four points in the counter-clockwise order listed:			
a .....	56°07'0"	155°13'0"	
b .....	56°07'0"	156°00'0"	
c .....	55°41'0"	156°00'0"	
d .....	55°41'0"	155°13'0"	
a .....	56°07'0"	155°13'0"	
<i>Barnabas Area</i> —All waters enclosed by a line connecting the following six points in the counter clockwise order listed a57° 00' 0" 153° 18' 0" Black Point			
b .....	56°56'0"	153°09'0"	South Tip of Ugak Island. North Tip of Ugak Island. Narrow Cape, thence, along the coast-line of Kodiak Island. Cape Kasick to Black Point, including inshore waters.
c .....	57°22'0"	152°18'5"	
d .....	57°23'5"	152°17'5"	
e .....	57°25'3"	152°20'0"	
f .....	57°04'2"	153°30'0"	
a .....	57°00'0"	153°18'0"	



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FIGURE 6 TO PART 679—LENGTH OVERALL OF A VESSEL

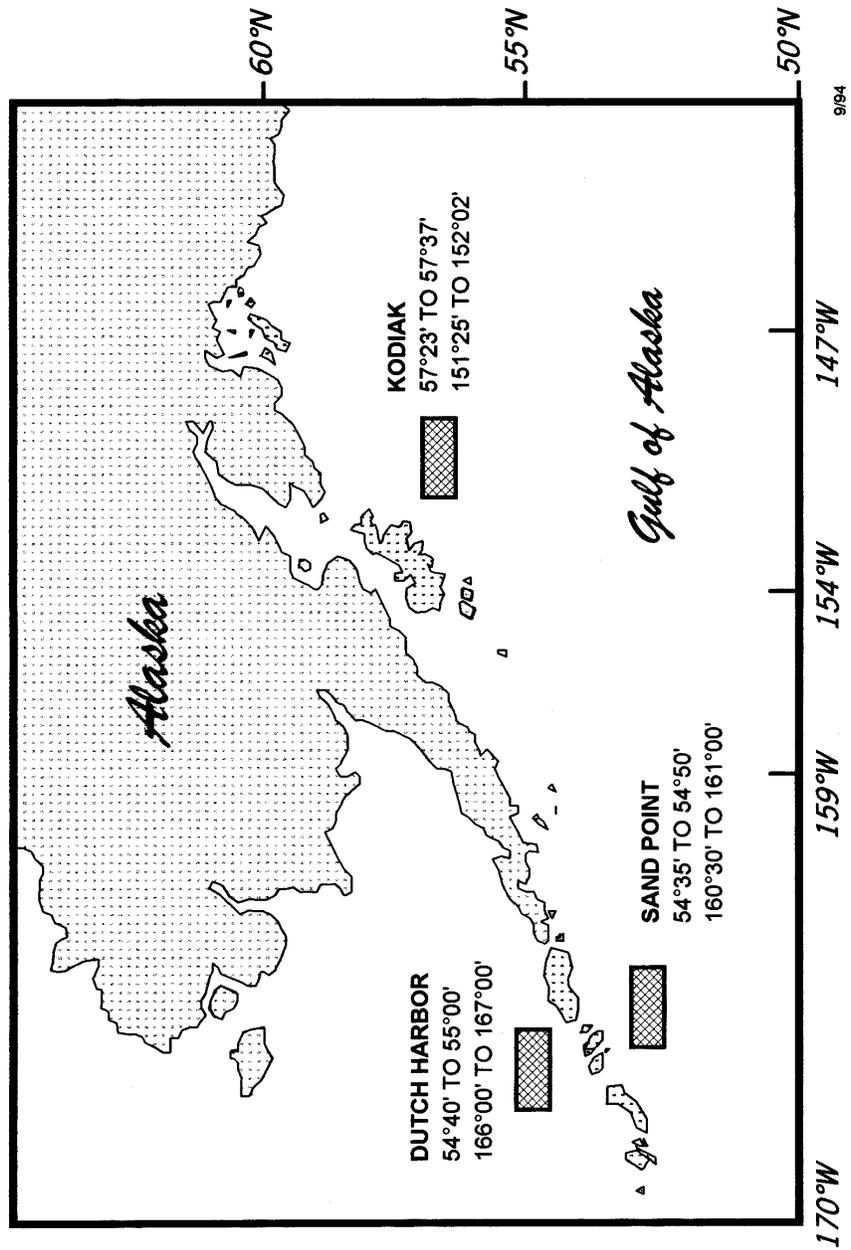


FIGURE 7 TO PART 679—LOCATION OF TRAWL GEAR TEST AREAS IN THE GOA AND THE BSAI

TABLE 1 TO PART 679—PRODUCT CODES

Fish product code	Description
1 .....	<i>Whole fish/food fish.</i>
2 .....	<i>Whole fish/bait.</i> Processed for bait.
3 .....	<i>Bled only.</i> Throat, or isthmus, slit to allow blood to drain.
4 .....	<i>Gutted only.</i> Belly slit and viscera removed.
6 .....	<i>Head and gutted, with roe.</i>
7 .....	<i>Headed and gutted, Western cut.</i> Head removed just in front of the collarbone, and viscera removed.
8 .....	<i>Headed and gutted, Eastern cut.</i> Head removed just behind the collarbone, and viscera removed.
10 .....	<i>Headed and gutted, tail removed.</i> Head removed usually in front of collar bone, and viscera and tail removed.
11 .....	<i>Kirimi.</i> Head removed either in front or behind the collarbone, viscera removed, and tail removed by cuts perpendicular to the spine, resulting in a steak.
12 .....	<i>Salted and split.</i> Head removed, belly slit, viscera removed, fillets cut from head to tail but remaining attached near tail. Product salted.
13 .....	<i>Wings.</i> On skates, side finds are cut off next to body.
14 .....	<i>Roe.</i> Eggs, either loose or in sacs, or skeins.
15 .....	<i>Pectoral girdle.</i> Collar bone and associated bones, cartilage and flesh.
16 .....	<i>Heads.</i> Heads only, regardless where severed from body.
17 .....	<i>Cheeks.</i> Muscles on sides of head.
18 .....	<i>Chins.</i> Lower jaw (mandible), muscles, and flesh.
19 .....	<i>Belly.</i> Flesh in region of pelvic and pectoral fins and behind head.
20 .....	<i>Fillets with skin and ribs.</i> Meat and skin with ribs attached, from sides of body behind head and in front of tail.
21 .....	<i>Fillets with skin, no ribs.</i> Meat and skin with ribs removed, from sides of body behind head and in front of tail.
22 .....	<i>Fillets with ribs and no skin.</i> Meat with ribs with skin removed, from sides of body behind head and in front of tail.
23 .....	<i>Fillets, skinless/boneless.</i> Meat with both skin and ribs removed, from sides of body behind head and in front of tail.
24 .....	<i>Deep-skin fillet.</i> Meat with skin, adjacent meat with silver lining, and ribs removed from sides of body behind head and in front of tail, resulting in thin fillets.
30 .....	<i>Surimi.</i> Paste from fish flesh and additives.
31 .....	<i>Minced.</i> Ground flesh.
32 .....	<i>Fish meal.</i> Meal from fish and fish parts, including bone meal.
33 .....	<i>Fish oil.</i> Rendered oil.
34 .....	<i>Milt.</i> (in sacs, or testes).
35 .....	<i>Stomachs.</i> Includes all internal organs.
36 .....	<i>Octopus/squid mantles.</i> Flesh after removal of viscera and arms.
37 .....	<i>Butterfly, no backbone.</i> Head removed, belly slit, viscera and most of backbone removed; fillets attached.
39 .....	<i>Bones</i> (if meal, report as 32).
86 .....	<i>Donated Salmon.</i> Includes salmon retained and donated under Salmon Donation Program.
97 .....	<i>Other retained product</i>
<b>DISCARD PRODUCT CODES</b>	
92 .....	<i>Discard, bait.</i> Whole fish used as bait on board vessel.
94 .....	<i>Discard, consumption.</i> Fish or fish products eaten on board or taken off the vessel for personal use.
96 .....	<i>Previously discarded fish (decomposed)</i> taken with trawl gear in current fishing efforts. Discarded.
98 .....	<i>Discard, at sea.</i> Whole groundfish and prohibited species discarded by catcher vessels, Catcher/Processors, Motherships, or Buying Stations delivering to Motherships.
99 .....	<i>Discard, dockside.</i> Discard after delivery and before processing; <i>Discard, at plant.</i> Inplant discard of whole groundfish and prohibited species by Shoreside Processors and Buying Stations delivering to Shoreside Processors before and during processing.
M99 .....	<i>Discard, off site meal reduction plant.</i> Discarded fish that are transferred to any off site facility for reduction to fish meal, fish oil and/or discard at sea.
<b>PRODUCT DESIGNATION</b>	
A .....	<i>Ancillary.</i> Product made in addition to a primary product from the same fish.
P .....	<i>Primary.</i> Product made from each fish with the highest recovery rate.
R .....	<i>Reprocessed.</i> Product that results from processing a previously reported product.

Fishery Conservation and Management

Pt. 679, Table 2

TABLE 2 TO PART 679—SPECIES CODES

Code	Species
110 .....	Pacific cod.
120 .....	Miscellaneous flatfish (all flatfish without separate codes).
121 .....	Arrowtooth flounder and/or Kamchatka flounder.
122 .....	Flathead sole.
123 .....	Rock sole.
124 .....	Dover sole.
125 .....	Rex sole.
126 .....	Butter sole.
127 .....	Yellowfin sole.
128 .....	English sole.
129 .....	Starry flounder.
131 .....	Petrale sole.
132 .....	Sand sole.
133 .....	Alaska Plaice flounder.
134 .....	Greenland turbot.
135 .....	Greenstripe rockfish.
136 .....	Northern rockfish.
137 .....	Bocaccio rockfish.
138 .....	Copper rockfish.
141 .....	Pacific ocean perch ( <i>S. alutus</i> only).
142 .....	Black rockfish.
143 .....	Thornyhead rockfish (all <i>Sebastolobus</i> species).
145 .....	Yelloweye rockfish.
146 .....	Canary rockfish.
147 .....	Quillback rockfish.
148 .....	Tiger rockfish.
149 .....	China rockfish.
150 .....	Rosethorn rockfish.
151 .....	Rougheye rockfish.
152 .....	Shortraker rockfish.
153 .....	Redbanded rockfish.
154 .....	Dusky rockfish.
155 .....	Yellowtail rockfish.
156 .....	Widow rockfish.
157 .....	Silvergray rockfish.
158 .....	Redstripe rockfish.
159 .....	Darkblotched rockfish.
160 .....	Sculpins.
166 .....	Sharpchin rockfish.
167 .....	Blue rockfish.
175 .....	Yellowmouth rockfish.
176 .....	Harlequin rockfish.
177 .....	Blackgill rockfish.
178 .....	Chilipepper rockfish.
179 .....	Pygmy rockfish.
181 .....	Shortbelly rockfish.
182 .....	Splitnose rockfish.
183 .....	Stripetail rockfish.
184 .....	Vermilion rockfish.
185 .....	Aurora rockfish.
193 .....	Atka mackerel.
270 .....	Pollock.
510 .....	Smelt.
511 .....	Eulachon.
516 .....	Capelin.
689 .....	Sharks.
700 .....	Skates.
710 .....	Sablefish.
870 .....	Octopus.
875 .....	Squid.
888 .....	Mixed species tote (for use on Product Transfer Report only).
<b>GROUP CODES. These group codes may be used if individual species cannot be identified.</b>	
144 .....	<i>Slope rockfish</i> (aurora, blackgill, Bocaccio, redstripe, silvergray, chilipepper, darkblotched, greenstriped, harlequin, pygmy, shortbelly, splitnose, stripetail, vermilion, yellowmouth, sharpchin).
168 .....	<i>Demersal shelf rockfish</i> (china, copper, quillback, rosethorn, tiger, yelloweye, canary).
169 .....	<i>Pelagic shelf rockfish</i> (blue, black, dusky, yellowtail, widow).
171 .....	Shortraker/rougheye rockfish.
<b>PROHIBITED SPECIES CODES</b>	
000 .....	Unspecified salmon.

TABLE 2 TO PART 679—SPECIES CODES—Continued

Code	Species
200 .....	Pacific halibut.
235 .....	Pacific herring.
410 .....	Salmon, Chinook.
420 .....	Salmon, Sockeye.
430 .....	Salmon, Coho.
440 .....	Salmon, Pink.
450 .....	Salmon, Chum.
540 .....	Steelhead trout.
920 .....	Unspecified king crab.
921 .....	Red king crab.
922 .....	Blue king crab.
923 .....	Gold/brown king crab.
930 .....	Unspecified tanner crab.
931 .....	Bairdi tanner crab.
932 .....	Opilio tanner crab.

[61 FR 31230, June 19, 1996, as amended at 62 FR 2047, Jan. 15, 1997]

TABLE 3 TO PART 679—PRODUCT RECOVERY RATES FOR GROUND FISH SPECIES

FMP SPECIES	SPECIES CODE	PRODUCT CODE											
		WHOLE FOOD FISH	WHOLE BAIT FISH	BLEMED	GUTTED	H&G WITH ROE	H&G WEST-ERN CUT	H&G EAST-ERN CUT	H&G W/O TAIL	KIRIMI	SALT-ED & SPLIT	WINGS	ROE
PACIFIC COD	110	1.00	1.00	0.98	0.85	0.63	0.57	0.47	0.44	0.48	0.45	0.11	0.12
ARROWTOOTH FLOUNDER	121	1.00	1.00	0.98	0.90	0.80	0.72	0.65	0.62	0.48	0.45	0.11	0.05
ROCKFISH <sup>1</sup>	121	1.00	1.00	0.98	0.90	0.80	0.72	0.65	0.62	0.48	0.45	0.11	0.08
SCULPINS	160	1.00	1.00	0.98	0.87	0.67	0.50	0.40	0.40	0.48	0.45	0.11	0.08
ATKA MACKEREL	193	1.00	1.00	0.98	0.87	0.67	0.50	0.40	0.40	0.48	0.45	0.11	0.08
POLLOCK	270	1.00	1.00	0.98	0.80	0.70	0.65	0.56	0.50	0.48	0.45	0.11	0.04
SMELTS	510	1.00	1.00	0.98	0.82	0.71	0.71	0.71	0.50	0.48	0.45	0.11	0.04
EULACHON	511	1.00	1.00	0.98	0.82	0.71	0.71	0.71	0.50	0.48	0.45	0.11	0.04
CAPLIN	516	1.00	1.00	0.98	0.83	0.72	0.72	0.72	0.50	0.48	0.45	0.11	0.04
SHARKS	689	1.00	1.00	0.98	0.83	0.72	0.72	0.72	0.50	0.48	0.45	0.11	0.04
SKATES	700	1.00	1.00	0.98	0.90	0.89	0.89	0.89	0.50	0.48	0.45	0.11	0.04
SABLEFISH	710	1.00	1.00	0.98	0.89	0.89	0.89	0.89	0.50	0.48	0.45	0.11	0.04
OCTOPUS	870	1.00	1.00	0.98	0.89	0.89	0.89	0.89	0.50	0.48	0.45	0.11	0.04
Target species categories GOA only:													
DEEP WATER FLATFISH	118	1.00	1.00	0.98	0.90	0.80	0.72	0.65	0.62	0.48	0.45	0.11	0.08
FLATHEAD SOLE	122	1.00	1.00	0.98	0.90	0.80	0.72	0.65	0.62	0.48	0.45	0.11	0.08
REX SOLE	125	1.00	1.00	0.98	0.90	0.80	0.72	0.65	0.62	0.48	0.45	0.11	0.08
SHALLOW WATER FLATFISH	119	1.00	1.00	0.98	0.90	0.80	0.72	0.65	0.62	0.48	0.45	0.11	0.08
THORNYHEAD ROCKFISH	143	1.00	1.00	0.98	0.88	0.55	0.60	0.50	0.50	0.48	0.45	0.11	0.08
Target species categories BSAI only:													
OTHER FLATFISH	120	1.00	1.00	0.98	0.90	0.80	0.72	0.65	0.62	0.48	0.45	0.11	0.08
ROCK SOLE	123	1.00	1.00	0.98	0.90	0.80	0.72	0.65	0.62	0.48	0.45	0.11	0.08
YELLOWFIN SOLE	127	1.00	1.00	0.98	0.90	0.80	0.72	0.65	0.62	0.48	0.45	0.11	0.08
GREENLAND TURBOT	134	1.00	1.00	0.98	0.90	0.80	0.72	0.65	0.62	0.48	0.45	0.11	0.08
SQUID	875	1.00	1.00	0.98	0.89	0.89	0.89	0.89	0.50	0.48	0.45	0.11	0.08

<sup>1</sup> Rockfish means all species of *Sebastes* and *Sebastiobius*.

[61 FR 31297, June 19, 1996; 61 FR 40481, Aug. 2, 1996]

TABLE 3 TO PART 679—PRODUCT RECOVERY RATES FOR GROUNDFISH SPECIES— Continued

FMP SPECIES	SPECIES CODE	PRODUCT CODE												
		15	16	17	18	19	20	21	22	23	24	30	31	32
		PEC-TORAL GIR-DLE	HEADS	CHEEKS	CHINS	BELLY	FIL-LETS W/ SKIN & RIBS	FIL-LETS SKIN ON NO RIBS	FIL-LETS W/ RIBS NO SKIN	FILLETS SKINLESS/ BONELESS	FIL-LETS DEEP SKIN	SURIMI	MINCE	MEAL
PACIFIC COD	110	0.05		0.05		0.01	0.45	0.35	0.25	0.25		0.15		0.17
ARROWTOOTH FLOUNDER	121						0.32	0.27	0.27	0.22				0.17
ROCKFISH			0.15	0.05	0.05	0.10	0.40	0.30	0.33	0.25				0.17
SCULPINS	160													0.17
ATKA MACKEREL	193											0.15		0.17
POLLOCK	270		0.15				0.35	0.30	0.30	0.21	0.16	0.15	0.22	0.17
												<sup>2</sup> 0.16		0.17
												<sup>3</sup> 0.17		0.17
SMELTS	510							0.38						0.22
EULACHON	511							0.38						0.22
CAPELIN	516													0.22
SHARKS	689							0.30	0.30	0.25				0.17
SKATES	700													0.17
SABLEFISH	710			0.05			0.35	0.30	0.30	0.25				0.22
OCTOPUS	870													0.17
Target species categories at GOA only:														
DEEP WATER FLATFISH	118						0.32	0.27	0.27	0.22				0.17
FLATHEAD SOLE	122						0.32	0.27	0.27	0.22				0.17
REX SOLE	125						0.32	0.27	0.27	0.22				0.17
SHALLOW WATER FLATFISH	119						0.32	0.27	0.27	0.22				0.17
THORNYHEAD ROCKFISH	143		0.20	0.05	0.05	0.05	0.40	0.30	0.35	0.25				0.17
Target species categories at BSIA only:														
OTHER FLATFISH	120						0.32	0.27	0.27	0.22				0.17
ROCK SOLE	123						0.32	0.27	0.27	0.22				0.17
YELLOWFIN SOLE	127						0.32	0.27	0.27	0.22		0.18		0.17
GREENLAND TURBOT	134						0.32	0.27	0.27	0.22				0.17
SQUID	875													0.17

<sup>2</sup> Standard pollock surimi rate during January through June.

<sup>3</sup> Standard pollock surimi rate during July through December.

Fishery Conservation and Management

Pt. 679, Table 3

TABLE 3 TO PART 679—PRODUCT RECOVERY RATES FOR GROUND FISH SPECIES— Continued

FMP SPECIES	SPECIES CODE	PRODUCT CODE						
		OIL	MILT	STOMACHS	MAN-TLES	BUT-TER-FLY BACK-BONE RE-MOVED	DE-COM-POSED FISH	DIS-CARDS
		33	34	35	36	37	96	92, 94, 98, 99, M99
PACIFIC COD .....	110	.....	.....	.....	.....	0.43	0.00	1.00
ARROWTOOTH FLOUNDER .....	121	.....	.....	.....	.....	.....	0.00	1.00
ROCKFISH .....	.....	.....	.....	.....	.....	.....	0.00	1.00
SCULPINS .....	160	.....	.....	.....	.....	.....	0.00	1.00
ATKA MACKEREL .....	193	.....	.....	.....	.....	.....	0.00	1.00
POLLOCK .....	270	.....	.....	.....	.....	0.43	0.00	1.00
SMELTS .....	510	.....	.....	.....	.....	.....	0.00	1.00
EULACHON .....	511	.....	.....	.....	.....	.....	0.00	1.00
CAPELIN .....	516	.....	.....	.....	.....	.....	0.00	1.00
SHARKS .....	689	.....	.....	.....	.....	.....	0.00	1.00
SKATES .....	700	.....	.....	.....	.....	.....	0.00	1.00
SABLEFISH .....	710	.....	.....	.....	.....	.....	0.00	1.00
OCTOPUS .....	870	.....	.....	.....	0.85	1.00	0.00	1.00
Target species categories at GOA only:								
DEEP WATER FLATFISH .....	118	.....	.....	.....	.....	.....	0.00	1.00
FLATHEAD SOLE .....	122	.....	.....	.....	.....	.....	0.00	1.00
REX SOLE .....	125	.....	.....	.....	.....	.....	0.00	1.00
SHALLOW WATER FLATFISH .....	119	.....	.....	.....	.....	.....	0.00	1.00
THORNYHEAD ROCKFISH .....	143	.....	.....	.....	.....	.....	0.00	1.00
Target species categories at BSAI only:								
OTHER FLATFISH .....	120	.....	.....	.....	.....	.....	0.00	1.00
ROCK SOLE .....	123	.....	.....	.....	.....	.....	0.00	1.00
YELLOWFIN SOLE .....	127	.....	.....	.....	.....	.....	0.00	1.00
GREENLAND TURBOT .....	134	.....	.....	.....	.....	.....	0.00	1.00
SQUID .....	875	.....	.....	.....	0.75	1.00	0.00	1.00

TABLE 4 TO PART 679—BERING SEA SUBAREA STELLER SEA LION PROTECTION AREAS

Island	From		To	
	Latitude	Longitude	Latitude	Longitude
<b>3-nm NO TRANSIT ZONES described at part 227.12(a)(2) of this title</b>				
<b>a. Year-round Trawl Closures (Trawling Prohibited Within 10 nm).</b>				
Sea Lion Rocks .....	55°28.0' N	163°12.0' W	54°13.0' N	164°48.0' W
Ugamak Island .....	54°14.0' N	164°48.0' W		
Akun Island .....	54°18.0' N	165°32.5' W	54°18.0' N	165°31.5' W
Akutan Island .....	54°03.5' N	166°00.0' W	54°05.5' N	166°05.0' W
Bogoslof Island .....	53°56.0' N	168°02.0' W		
Ogchul Island .....	53°00.0' N	168°24.0' W		
Adugak Island .....	52°55.0' N	169°10.5' W		
Walrus Island .....	57°11.0' N	169°56.0' W		
<b>b. Seasonal Trawl Closures (During January 1 through April 15, or a date earlier than April 15, if adjusted under part 679, Trawling Prohibited Within 20 nm).</b>				
Sea Lion Rocks .....	55°28.0' N	163°12.0' W	54°18.0' N	165°31.5' W
Akun Island .....	54°18.0' N	165°32.5' W		
Akutan Island .....	54°03.5' N	166°00.0' W	54°05.5' N	166°05.0' W
Ugamak Island .....	54°14.0' N	164°48.0' W	54°13.0' N	164°48.0' W
Seguam Island .....	52°21.0' N	172°35.0' W	52°21.0' N	172°33.0' W
Agligadak Island .....	52°06.5' N	172°54.0' W		

**Note:** The bounds of each rookery extend in a clockwise direction from the first set of geographic coordinates, along the shoreline at mean lower low water, to the second set of coordinates; if only one set of geographic coordinates is listed, the rookery extends around the entire shoreline of the island at mean lower low water.

TABLE 5 TO PART 679—ALEUTIAN ISLANDS SUBAREA STELLER SEA LION PROTECTION AREAS

Island	From		To	
	Latitude	Longitude	Latitude	Longitude
<b>3-nm NO TRANSIT ZONES described at part 227.12(a)(2) of this title</b>				
<b>a. Year-round Trawl Closures (Trawling Prohibited Within 10 nm).</b>				
Yunaska Island .....	52°42.0' N	170°38.5' W	52°41.0' N	170°34.5' W
Seguam Island .....	52°21.0' N	172°35.0' W	52°21.0' N	172°33.0' W
Agligadak Island .....	52°06.5' N	172°54.0' W		
Kasatochi Island .....	52°10.0' N	175°31.0' W	52°10.5' N	175°29.0' W
Adak Island .....	51°36.5' N	176°59.0' W	51°38.0' N	176°59.5' W
Gramp Rock .....	51°29.0' N	178°20.5' W		
Tag Island .....	51°33.5' N	178°34.5' W		
Ulak Island .....	51°20.0' N	178°57.0' W	51°18.5' N	178°59.5' W
Semisopchnoi .....	51°58.5' N	179°45.5' E	51°57.0' N	179°46.0' E
Semisopchnoi .....	52°01.5' N	179°37.5' E	52°01.5' N	179°39.0' E
Amchitka Island .....	51°22.5' N	179°28.0' E	51°21.5' N	179°25.0' E
Amchitka Is./Column Rocks .....	51°32.5' N	178°49.5' E		
Ayugadak Point .....	51°45.5' N	178°24.5' E		
Kiska Island .....	51°57.5' N	177°21.0' E	51°56.5' N	177°20.0' E
Kiska Island .....	51°52.5' N	177°13.0' E	51°53.5' N	177°12.0' E
Buldir Island .....	52°20.5' N	175°57.0' E	52°23.5' N	175°51.0' E
Agattu Is./Gillion Pt .....	52°24.0' N	173°21.5' E		
Agattu Island .....	52°23.5' N	173°43.5' W	52°22.0' N	173°41.0' E
Attu Island .....	52°54.5' N	172°28.5' W	52°57.5' N	172°31.5' E
<b>b. Seasonal Trawl Closures (During January 1 through April 15, or a date earlier than April 15, if adjusted under part 679.20. Trawling Prohibited Within 20 nm).</b>				
Seguam Island .....	52°21.0' N	172°35.0' W	52°21.0' N	172°33.0' W
Agligadak Island .....	52°06.5' N	172°54.0' W		

**Note:** Each rookery extends in a clockwise direction from the first set of geographic coordinates, along the shoreline at mean lower low water, to the second set of coordinates; if only one set of geographic coordinates is listed, the rookery extends around the entire shoreline of the island at mean lower low water.

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TABLE 6 TO PART 679—GULF OF ALASKA STELLER SEA LION PROTECTION AREAS

Island	From		To	
	Latitude	Longitude	Latitude	Longitude
<b>3-nm NO TRANSIT ZONES described at part 227.12(a)(2) of this title</b>				
<b>a. Year-round Trawl Closures (Trawling Prohibited Within 10 nm).</b>				
Outer Island .....	59°20.5' N	150°23.0' W	59°21.0' N	150°24.5' W
Sugarloaf Island .....	58°53.0' N	152°02.0' W		
Marmot Island .....	58°14.5' N	151°47.5' W	58°10.0' N	151°51.0' W
Chirikof Island .....	55°46.5' N	155°39.5' W	55°46.5' W	155°43.0' W
Chowiet Island .....	56°00.5' N	156°41.5' W	56°00.5' N	156°42.0' W
Atkins Island .....	55°03.5' N	159°18.5' W		
Chernabura Island .....	54°47.5' N	159°31.0' W	54°45.5' N	159°33.5' W
Pinnacle Rock .....	54°46.0' N	161°46.0' W		
Clubbing Rocks-N .....	54°43.0' N	162°26.5' W		
Clubbing Rocks-S .....	54°42.0' N	162°26.5' W		
Ugamak Island .....	54°14.0' N	164°48.0' W	54°13.0' N	164°48.0' W
Akun Island .....	54°18.0' N	165°32.5' W	54°18.0' N	165°31.5' W
Akutan Island .....	54°03.5' N	166°00.0' W	54°05.5' N	166°05.0' W
Ogchul Island .....	53°00.0' N	168°24.0' W		
<b>b. Seasonal Trawl Closures (During January 1 through April 15, or a date earlier than April 15, if adjusted under part 679.20. Trawling Prohibited Within 20 nm).</b>				
Akun I. ....	54°18.0' N	165°32.5' W	54°18.0' N	165°31.5' W
Akutan I. ....	54°03.5' N	166°00.0' W	54°05.5' N	166°05.0' W
Ugamak I. ....	54°14.0' N	164°48.0' W	54°13.0' N	164°48.0' W

**Note:** The bounds of each rookery extend in a clockwise direction from the first set of geographic coordinates, along the shoreline at mean lower low water, to the second set of coordinates; if only one set of geographic coordinates is listed, the rookery extends around the entire shoreline of the island at mean lower low water.

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TABLE 7 TO PART 679—COMMUNITIES DETERMINED TO BE ELIGIBLE TO APPLY FOR COMMUNITY DEVELOPMENT QUOTAS (OTHER COMMUNITIES THAT DO NOT APPEAR ON THIS TABLE MAY ALSO BE ELIGIBLE)

- Aleutian Region:
  1. Akutan
  2. Atka
  3. False Pass
  4. Nelson Lagoon
  5. Nikolski
  6. St. George
  7. St. Paul
- Bering Strait:
  1. Brevig Mission
  2. Diomede/Inalik
  3. Elim
  4. Gambell
  5. Golovin
  6. Koyuk
  7. Nome
  8. Savoonga
  9. Shaktoolik
  10. St. Michael
  11. Stebbins
  12. Teller
  13. Unalakleet
  14. Wales
  15. White Mountain
- Bristol Bay:
  1. Alegnagik
  2. Clark's Point
  3. Dillingham
  4. Egegik
  5. Ekuik
  6. Manokotak
  7. Naknek
  8. Pilot Point/Ugashi
  9. Port Heiden/Meschick
  10. South Naknek
  11. Sovonoski/King Salmon
  12. Togiak
  13. Twin Hills
- Southwest Coastal Lowlands:

TABLE 7 TO PART 679—COMMUNITIES DETERMINED TO BE ELIGIBLE TO APPLY FOR COMMUNITY DEVELOPMENT QUOTAS (OTHER COMMUNITIES THAT DO NOT APPEAR ON THIS TABLE MAY ALSO BE ELIGIBLE)—Continued

- 1. Alakanuk
- 2. Chefornak
- 3. Chevak
- 4. Eek
- 5. Emmonak
- 6. Goodnews Bay
- 7. Hooper Bay
- 8. Kipnuk
- 9. Kongiganak
- 10. Kotlik
- 11. Kwigilingok
- 12. Mekoryuk
- 13. Newtok
- 14. Nightmute
- 15. Platinum
- 16. Quinhagak
- 17. Scammon Bay
- 18. Sheldon's Point
- 19. Toksook Bay
- 20. Tununak
- 21. Tuntutuliak

[61 FR 31230, June 19, 1996, as amended at 61 FR 41745, Aug. 12, 1996]

TABLE 8 TO PART 679—Harvest Zone Codes for Use with Product Transfer Reports and Vessel Activity Reports

Harvest zone	Description
A .....	EEZ off Alaska.
D .....	Donut Hole.
F .....	Foreign Waters Other than Russia.
I .....	International Waters other than Donut Hole and Seamounts.
R .....	Russian waters.
S .....	Seamounts in International waters.
U .....	U.S. EEZ other than Alaska.

TABLE 9 TO PART 679—REQUIRED LOGBOOKS, REPORTS AND FORMS FROM PARTICIPANTS IN THE FEDERAL GROUND FISH FISHERIES

Name of logbook/Form	Catcher-vessel	Catcher-processor	Mothership	Shoreside processor	Buying station
Daily Fishing Logbook (DFL) .....	Yes	No	No	No	No
Daily Cumulative Production Logbook (DCPL) .....	No	Yes	Yes	Yes	No
Daily Cumulative Logbook (DCL) .....	No	No	No	No	Yes
Check-in/Check-out Report .....	No	Yes	Yes	Yes	Yes
U.S. Vessel Activity Report (VAR) .....	Yes	Yes	Yes	No	No
Weekly Production Report (WPR) .....	No	Yes	Yes	Yes	No
Daily Production Report (DPR)* .....	No	Yes	Yes	Yes	No
Product Transfer Report (PTR) .....	No	Yes	Yes	Yes	No

\*When required by Regional Administrator.

[61 FR 31302, June 19, 1996; 61 FR 40481, Aug. 2, 1996]

TABLE 10 TO PART 679.—CURRENT GULF OF ALASKA RETAINABLE PERCENTAGES

	Pollock	Pacific cod	Deep flatfish	Rex sole	Bycatch species <sup>1</sup>			Aggregated rockfish <sup>2</sup>	DSR SEEO <sup>4</sup>	Atka mackerel	Other species
					Flathead sole	Shallow flatfish	Arrowtooth				
<b>Basis Species:</b>											
Pollock .....	<sup>3</sup> na	20	20	20	20	35	1	5	10	20	20
Pacific cod .....	20	<sup>3</sup> na	20	20	20	35	1	5	10	20	20
Deep flatfish .....	20	20	<sup>3</sup> na	20	20	35	7	15	1	20	20
Rex sole .....	20	20	20	<sup>3</sup> na	20	35	7	15	1	20	20
Flathead sole .....	20	20	20	20	<sup>3</sup> na	35	7	15	1	20	20
Shallow flatfish .....	20	20	20	20	<sup>3</sup> na	35	1	5	10	20	20
Arrowtooth .....	5	5	0	0	0	<sup>3</sup> na	0	0	0	0	0
Sablefish .....	20	20	20	20	20	35	<sup>3</sup> na	15	1	20	20
Pacific Ocean perch .....	20	20	20	20	20	35	7	15	1	20	20
Shorthead/rougheye .....	20	20	20	20	20	35	7	15	1	20	20
Other rockfish .....	20	20	20	20	20	35	7	15	1	20	20
Northern rockfish .....	20	20	20	20	20	35	7	15	1	20	20
Pelagic rockfish .....	20	20	20	20	20	35	7	15	1	20	20
DSR-SEEO .....	20	20	20	20	20	35	7	15	<sup>3</sup> na	20	20
Thornyhead .....	20	20	20	20	20	35	7	15	1	20	20
Atka mackerel .....	20	20	20	20	20	35	1	5	<sup>3</sup> na	20	20
Other species .....	20	20	20	20	20	35	1	5	10	<sup>3</sup> na	20
Aggregated amount	20	20	20	20	20	35	1	5	10	20	<sup>3</sup> na
non-groundfish species .....	20	20	20	20	20	35	1	5	10	20	20

<sup>1</sup> For definition of species, see Table 1 of the Gulf of Alaska groundfish specifications.  
<sup>2</sup> Aggregated rockfish means rockfish of the genera Sebastes and Sebastolobus except in the southeast Outside District where demersal shelf rockfish (DSR) is a separate category.  
<sup>3</sup> na=not applicable.  
<sup>4</sup> SEEO=Southeast Outside District.  
 [62 FR 11109, Mar. 11, 1997]

TABLE 11 TO PART 679—BERING SEA AND ALEUTIAN ISLANDS MANAGEMENT AREA RETAINABLE PERCENTAGES

Basis species <sup>1</sup>	Bycatch species <sup>1</sup>												
	Pollock	Pacific cod	Atka mackerel	Arrowtooth	Yellowfin sole	Other flatfish	Rocksole	Flathead sole	Greenland turbot	Sablefish	Aggregated rockfish <sup>2</sup>	Squid	Other species
Pollock	<sup>3</sup> na	20	20	35	20	20	20	20	1	1	5	20	20
Pacific cod	20	<sup>3</sup> na	20	35	20	20	20	20	1	1	5	20	20
Atka mackerel	20	20	<sup>3</sup> na	35	20	20	20	20	1	1	5	20	20
Arrowtooth	0	0	0	<sup>3</sup> na	0	0	0	0	0	0	0	0	0
Yellowfin sole	20	20	20	35	<sup>3</sup> na	35	35	35	1	1	5	20	20
Other flatfish	20	20	20	35	35	<sup>3</sup> na	35	35	1	1	5	20	20
Rocksole	20	20	20	35	35	35	<sup>3</sup> na	35	1	1	5	20	20
Flathead sole	20	20	20	35	35	35	35	<sup>3</sup> na	35	15	15	20	20
Greenland turbot	20	20	20	35	20	20	20	20	<sup>3</sup> na	15	15	20	20
Sablefish	20	20	20	35	20	20	20	20	35	<sup>3</sup> na	15	20	20
Other rockfish	20	20	20	35	20	20	20	20	35	15	15	20	20
Other red rockfish-BS	20	20	20	35	20	20	20	20	35	15	15	20	20
Pacific Ocean perch	20	20	20	35	20	20	20	20	35	15	15	20	20
Sharpchin/Northern-AI	20	20	20	35	20	20	20	20	35	15	15	20	20
Shortraker/Rougheye-AI	20	20	20	35	20	20	20	20	35	15	15	20	20
Squid	20	20	20	35	20	20	20	20	35	15	15	20	20
Other species	20	20	20	35	20	20	20	20	1	1	5	<sup>3</sup> na	20
Aggregated amount non-groundfish species	20	20	20	35	20	20	20	20	1	1	5	20	<sup>3</sup> na

<sup>1</sup> For definition of species, see Table 1 of the Bering Sea and Aleutian Islands groundfish specifications.

<sup>2</sup> Aggregated rockfish of the genera Sebastes and Sebastolobus.

<sup>3</sup> na = not applicable.